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Presidential Documents

Title 3—

The President

Proclamation 10861 of November 17, 2024

International Conservation Day, 2024

By the President of the United States of America

A Proclamation

Today, I am proud to become the first sitting American President to visit the Amazon and to proclaim the first International Conservation Day, reflecting all that is at stake in the fight against climate change and honoring the power and promise of conservation work. On International Conservation Day, we recommit to working with partners across our Nation and around the world to safeguard our natural treasures.

When we work together to defend our lands and waters, everyone benefits. That is because conservation is about more than protecting our world's beautiful natural wonders—it is about protecting the livelihoods of the people who depend on them; preserving our diverse habitats and the wildlife that lives within them; increasing resiliency throughout our lands, seascapes, and riverscapes; and ensuring our lands and waters can be enjoyed by all.

That is why my Administration has delivered on the most ambitious land and water conservation agenda in American history—leading by the power of our example. When I first came into office, I issued an Executive Order that established the United States' first-ever conservation goal—aiming to protect at least 30 percent of our Nation's lands and waters by 2030. My America the Beautiful initiative has advanced that work by supporting voluntary, locally led conservation and restoration. These efforts have not only helped local communities, Tribes, farmers, ranchers, foresters, and fishers to address the climate crisis and protect lands and waters. They have also created jobs, strengthened the economy, and expanded access to the outdoors across our country. I also signed an Executive Order to safeguard and steward our Nation's forests and make our ecosystems more resilient in the fight against climate change. And we launched the America the Beautiful Freshwater Challenge to protect, restore, and reconnect 8 million acres of wetlands and 100,000 miles of our Nation's rivers and streams to safeguard clean water for all.

I am also proud that my Administration made the largest investment in history to confront the climate crisis through my Inflation Reduction Act and has conserved more than 45 million acres of our Nation's lands and waters. We have established, expanded, and restored 11 national monuments and protected the United States Arctic Ocean from new oil and gas leasing. And together with my Bipartisan Infrastructure Law, we have invested in restoration and conservation, including $50 billion to strengthen community and ecosystem resilience to climate change. Further, I launched the American Climate Corps to mobilize a new, diverse generation of Americans in conserving and restoring our lands and waters, bolstering community resilience, deploying clean energy, and advancing environmental justice—all while creating good jobs.

Around the world, my Administration has made extraordinary progress in advancing conservation. We moved to rejoin the Paris Agreement on day one of my Administration, and we put our country in a position to cut emissions in half by 2030 and reach net zero by 2050. In 2021, at the United Nations Climate Change Conference COP26 in Glasgow, we released

the Plan to Conserve Global Forests—a first-of-its-kind national strategy to preserve global ecosystems that serve as vital carbon sinks. We also joined other nations in pledging to end deforestation by 2030, backed by the biggest ever commitment of public funds for forest conservation and a plan to make 75 percent of forest commodity supply chains sustainable. In 2022, we helped rally countries around the world to commit to conserve at least 30 percent of lands and waters by 2030, mirroring the goal we had set at home. We also joined other countries at the United Nations to sign the High Seas Treaty, committing to working together to establish marine protected areas on the high seas—a critical step to conserve ocean biodiversity and reach the global community's goal to conserve or protect at least 30 percent of the ocean by 2030.

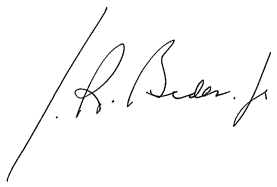
My Administration has also delivered record climate financing to support developing countries' efforts to preserve and protect these vital ecosystems that serve as critical carbon sinks, accelerate the clean energy transition, and bolster their resilience to climate change. In 2021, I pledged that our Nation would deliver $11 billion per year in climate financing by 2024. I am proud that we not only kept that promise, but surpassed it. This includes fulfilling my pledge to invest over $3 billion per year to help vulnerable countries around the world mitigate and adapt to climate change as part of my Emergency Plan for Adaptation and Resilience. I am also proud that—with our recent $50 million investment—my Administration has provided over $100 million to the Amazon Fund. At the same time, our Development Finance Corporation (DFC) has helped mobilize over $1 billion in investment to support the restoration of degraded lands in Brazil, Uruguay, and Chile, helping create a market that values keeping this vital ecosystem alive and thriving.

There is still so much to do to ensure that we protect our world's most precious ecosystems and natural treasures. That is why the DFC is investing in one of the largest reforestation projects in the world, beginning with the Brazilian Amazon. I am proud that my Administration is working with over a dozen international partners to launch the Brazil Restoration and Bioeconomy Finance Coalition to mobilize at least $10 billion for land restoration and bioeconomy-related projects by 2030. And I am proud to support President Lula of Brazil's bold vision of creating the Tropical Forest Forever Facility, a path-breaking new initiative that would incentivize countries to protect their tropical forests while supporting the local and Indigenous communities stewarding these forests and ensuring these vital ecosystems continue to thrive.

It has been said that the Amazon rainforest is the lungs of the world. Forests like these, that stretch across the Americas, Africa, and Asia—including the Amazon, Tongass, Congo, and Sundaland—represent our heart and soul. Now more than ever, we must recommit to the urgent work of addressing climate change—together, we can ensure that these treasures will be enjoyed for generations to come.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 17, 2024, as International Conservation Day.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of November, in the year of our Lord two thousand twenty-four, and of the Independence of the United States of America the two hundred and forty-ninth.



[FR Doc. 2024–27849
Filed 11–25–24; 8:45 am]
Billing code 3395–F4–P

Presidential Documents

Executive Order 14128 of November 21, 2024

Establishing a Second Emergency Board To Investigate a Dispute Between New Jersey Transit Rail Operations and Its Locomotive Engineers Represented by the Brotherhood of Locomotive Engineers and Trainmen

A dispute exists between the New Jersey Transit Rail Operations and its Locomotive Engineers represented by the Brotherhood of Locomotive Engineers and Trainmen.

The dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended, 45 U.S.C. 151–188 (RLA).

An emergency board to investigate and report on the dispute was established on July 25, 2024, by Executive Order 14125 of July 24, 2024 (Establishing an Emergency Board to Investigate a Dispute Between New Jersey Transit Rail Operations and Its Locomotive Engineers Represented by the Brotherhood of Locomotive Engineers and Trainmen). That emergency board terminated upon submission of its report to the President. Subsequently, its recommendations were not accepted by the parties.

A party empowered by the RLA has requested that the President establish a second emergency board pursuant to section 9A of the RLA (45 U.S.C. 159a).

Section 9A(e) of the RLA provides that the President, upon such request, shall appoint a second emergency board to investigate and report on the dispute.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States, including section 9A of the RLA, it is hereby ordered as follows:

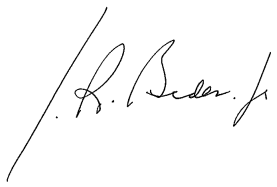
Section 1. *Establishment of a Second Emergency Board (Board).* There is established, effective 12:01 a.m. eastern standard time on November 22, 2024, a Board composed of a chair and two other members, all of whom shall be appointed by the President to investigate and report on the dispute. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier. The Board shall perform its functions subject to the availability of funds.

Sec. 2. *Report.* As provided by section 9A(f) of the RLA, within 30 days after the creation of the Board, the parties to the dispute shall submit to the Board final offers for settlement of the dispute. As provided by section 9A(g) of the RLA, within 30 days after the submission of final offers for settlement of the dispute, the Board shall submit a report to the President setting forth the Board's selection of the most reasonable offer.

Sec. 3. *Maintaining Conditions.* As provided by section 9A(h) of the RLA, from the time the request to establish the Board is made until 60 days after the Board submits its report to the President, the parties to the controversy shall make no change in the conditions out of which the dispute arose except by agreement of the parties.

Sec. 4. *Records Maintenance.* The records and files of the Board are records of the Office of the President and upon the Board's termination shall be maintained in the physical custody of the National Mediation Board.

Sec. 5. *Expiration.* The Board shall terminate upon the submission of the report to the President provided for in section 2 of this order.



THE WHITE HOUSE,
November 21, 2024.

[FR Doc. 2024–27850
Filed 11–25–24; 8:45 am]
Billing code 3395–F4–P

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

[Docket ID: OPM–2024–0012]

RIN 3206–AO70

Prevailing Rate Systems; Abolishment of Calhoun, Alabama, as a Nonappropriated Fund Federal Wage System Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to abolish the Calhoun, Alabama (AL), nonappropriated fund (NAF) Federal Wage System (FWS) wage area and define Calhoun County, AL, to the Cobb, Georgia, NAF FWS wage area, and Jefferson County, AL, to the Madison, AL, NAF FWS wage area. These changes are necessary because NAF FWS employment in the survey area is now below the minimum criterion of 26 wage employees to maintain a wage area, and the local activities no longer have the capability to conduct local wage surveys.

DATES:

Effective date: This regulation is effective December 26, 2024.

Applicability date: This change applies on the first day of the first applicable pay period beginning on or after December 26, 2024.

FOR FURTHER INFORMATION CONTACT: Ana Paunoiu, by telephone at (202) 606–2858 or by email at *paypolicy@opm.gov*.

SUPPLEMENTARY INFORMATION: On May 30, 2024, OPM issued a proposed rule (89 FR 46830) to abolish the Calhoun, AL, NAF FWS wage area and define Calhoun County, AL, to the Cobb, GA, NAF FWS wage area, and Jefferson County, AL, to the Madison, AL, NAF FWS wage area. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and recommended these changes by consensus.

The proposed rule had a 30-day comment period, during which OPM received no comments. Therefore, this final rule adopts the proposed rule at 89 FR 46830 without change.

Expected Impact of This Rule

Section 5343 of title 5, U.S. Code, provides OPM with the authority and responsibility to define the boundaries of NAF FWS wage areas. Any changes in wage area definitions can have the long-term effect of increasing pay for Federal employees in affected locations. OPM expects this final rule to impact approximately 21 NAF FWS employees. Considering the small number of employees affected, OPM does not anticipate this rule will substantially impact local economies or have a large impact in local labor markets. As this and future wage area changes may impact higher volumes of employees in geographical areas and could rise to the level of impacting local labor markets, OPM will continue to study the implications of such impacts in this or future rules as needed.

Regulatory Review

Executive Orders 13563, 12866, and 14094 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). This rule is not a ''significant regulatory action'' under the provisions of Executive Order 14094 and, therefore, was not reviewed by OMB.

Regulatory Flexibility Act

The Acting Director of OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

OPM has examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This rule meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately $183 million. This rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

Congressional Review Act

OMB's Office of Information and Regulatory Affairs has determined this rule does not satisfy the criteria listed in 5 U.S.C. 804(2).

Paperwork Reduction Act

This rule does not impose any reporting or record-keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

■ 2. In appendix D to subpart B, amend the table by revising the wage area listing for the States of Alabama and Georgia to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

DEFINITIONS OF WAGE AREAS AND WAGE AREA SURVEY AREAS

* * * * *

ALABAMA
Madison
Survey Area
Alabama:
Madison
Area of Application. Survey area plus:
Alabama:
Jefferson
Tennessee:
Coffee
Davidson
Hamilton
Rutherford

Montgomery
Survey Area
Alabama:
Montgomery
Area of Application. Survey area plus:
Alabama:
Dale
Dallas
Macon

* * * * *

GEORGIA
Chatham
Survey Area
Georgia:
Chatham
Area of Application. Survey area plus:
Georgia:
Glynn
Liberty
South Carolina:
Beaufort

Cobb
Survey Area
Georgia:
Cobb
Area of Application. Survey area plus:
Alabama:
Calhoun
Georgia:
Bartow
De Kalb
Fulton

Columbus
Survey Area
Georgia:
Columbus
Area of Application. Survey area plus:
Georgia:
Chattahoochee

DOUGHERTY
Survey Area
Georgia:
Dougherty
Area of Application. Survey area.

HOUSTON
Survey Area
Georgia:
Houston
Area of Application. Survey area plus:
Georgia:
Laurens

Lowndes
Survey Area
Georgia:

DEFINITIONS OF WAGE AREAS AND WAGE AREA SURVEY AREAS—Continued

Lowndes
Area of Application. Survey area plus:
Florida:
Leon

Richmond
Survey Area
Georgia:
Richmond
Area of Application. Survey area plus:
South Carolina:
Aiken

* * * * *

[FR Doc. 2024–27662 Filed 11–25–24; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Doc. No. AMS–SC–24–0039]

Walnuts Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This final rule implements a recommendation from the California Walnut Board (Board) to increase the assessment rate established for the 2024–2025 and subsequent marketing years from $0.011 to $0.0125 per inshell pound of California walnuts. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective December 26, 2024.

FOR FURTHER INFORMATION CONTACT: Joshua R. Wilde, Marketing Specialist, or Barry Broadbent, Chief, Northwest Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, or Email: *Joshua.R.Wilde@usda.gov* or *Barry.Broadbent@usda.gov*.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: *Richard.Lower@usda.gov*.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 984, as amended (7 CFR part 984), regulating the handling of walnuts grown in California. Part 984 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Board locally administers the Order and comprises growers and handlers of California walnuts operating within the area of production, and a public member.

The Agricultural Marketing Service (AMS) is issuing this final rule in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Orders 12866 and further directs agencies to solicit *and consider input from a wide range of affected and interested parties through a variety of means.* This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This final rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires Federal agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this rule is unlikely to 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.

This final rule has been reviewed under Executive Order 12988—Civil Justice Reform. Under the Order now in effect, California walnut handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate will be applicable to all assessable California walnuts for the 2024–2025 marketing year, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any

obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule increases the assessment rate for California walnuts handled under the Order from $0.011 per inshell pound, the rate that was established for the 2023–2024 and subsequent marketing years, to $0.0125 per inshell pound for the 2024–2025 and subsequent marketing years.

Sections 984.68 and 984.69 authorize the Board, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are familiar with the Board's needs and with the costs of goods and services in their local area and are able to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2023–2024 and subsequent marketing years, the Board recommended, and AMS approved, an assessment rate of $0.011 per inshell pound of California walnuts within the production area. That rate continues in effect from marketing year to marketing year until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Board or other information available to AMS.

The Board met on May 15, 2024, and unanimously recommended 2024–2025 marketing year expenditures of $19,886,800 and an assessment rate of $0.0125 per inshell pound of California walnuts for the 2024–2025 marketing year. In comparison, last year's budgeted expenditures were $16,811,250. The assessment rate of $0.0125 per inshell pound is $0.0015 higher than the rate currently in effect. The Board recommended increasing the assessment rate to better align assessment revenue with budgeted expenses, due in part to a smaller estimated crop. The Board projects handler receipts of 730,000 tons (equivalent to 1.46 billion pounds) of assessable California walnuts for the 2024–2025 marketing year, down from the approximately 820,000 tons (1.64 billion pounds) handled during the 2023–2024 marketing year.

The major expenditures recommended by the Board for the 2024–2025 marketing year include $13,330,200 for domestic marketing, $2,838,600 for employee expenses, $2,425,000 for production and post-harvest research, $435,000 for office expenses, $473,000 for travel and other operating expenses, and $385,000 for crop and acreage reporting. For comparison, budgeted expenses for these items during the 2023–2024 marketing year were $10,588,750, $2,472,500, $2,425,000, $350,000, $390,000, and $585,000, respectively.

The Board derived the recommended assessment rate by considering anticipated expenses, the estimated volume of assessable walnuts, and the amount of funds available in the authorized reserve. The estimated 730,000 tons (1.46 billion pounds) of California walnuts from the 2024–2025 marketing year crop is expected to generate approximately $18,250,000 in assessment revenue at the amended assessment rate (1.46 billion pounds multiplied by the $0.0125 assessment rate). The remaining $1,636,800 needed to cover budgeted expenditures will come from an approved administrative services agreement with the California Walnut Commission, which shares staff and office expenses with the Board. The income generated from assessments, along with non-assessment revenue, is expected to be sufficient to meet the Board's estimated program expenditures of $19,886,800. Funds available in the financial reserve (currently about $14,665,274) will be kept within the maximum permitted by the Order (approximately two years' budgeted expenses as authorized in § 984.69).

The assessment rate established herein will continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Board or other available information. Although this assessment rate will be in effect for an indefinite period, the Board will continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or AMS. Board meetings are open to the public and interested persons may express their views at these meetings. AMS will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2024–2025 marketing year budget, and those for subsequent marketing years, will be reviewed and, as appropriate, approved by AMS.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this final rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 68 handlers subject to regulation under the Order and approximately 4,500 growers of California walnuts in the production area. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural service firms as those having annual receipts of less than $34,000,000 (North American Industry Classification System (NAICS) code 115114, Postharvest Crop Activities), and small agricultural producers of walnuts as those having annual receipts of less than $3,750,000 (NAICS code 111335, Tree Nut Farming) (13 CFR 121.201).

Data from USDA's National Agricultural Statistics Service (NASS), indicate a three-year average value of utilized walnut production of $828.2 million for the most recent seasons for which data is available (2020–2021 through 2022–2023 marketing years). Dividing that figure by the number of walnut growers (4,500) yields an average annual crop value per grower of approximately $184,000. This figure is well below the SBA small agricultural producer threshold of $3,750,000 in annual sales. Assuming a normal distribution, this provides evidence that a large majority of walnut growers would likely be considered small agricultural producers according to the SBA definition. Additionally, data from NASS's 2017 Agricultural Census show that 86 percent of California farms growing walnuts at the time had walnut sales of less than $1 million.

Based on information from the Board, approximately 78 percent of California's walnut handlers shipped assessable walnuts valued under $34 million during the 2023–2024 marketing year and would, therefore, be considered small handlers according to the SBA definition. Considering the abovementioned, it is reasonable to conclude that a substantial majority of both walnut growers and handlers would be considered small business entities according to current SBA definitions.

This final rule increases the assessment rate collected from handlers for the 2024–2025 and subsequent marketing years from $0.011 to $0.0125 per inshell pound of California walnuts. The Board unanimously recommended 2024–2025 marketing year expenditures of $19,886,800 and an assessment rate of $0.0125 per inshell pound of California walnuts. The $0.0125 assessment rate is $0.0015 higher than the rate previously in effect. The Board expects the industry to handle 730,000 tons (1.46 billion pounds) of California walnuts during the 2024–2025 marketing year. Thus, the $0.0125 per inshell pound assessment rate is expected to provide $18,250,000 in assessment income (1.4 billion pounds multiplied by $0.0125). The Board also expects to receive $1,636,800 from an administrative services agreement with the California Walnut Commission. Income derived from these sources should be adequate to meet budgeted expenditures for the 2024–2025 marketing year.

The major expenditures recommended by the Board for the 2024–2025 marketing year include $13,330,200 for domestic marketing, $2,838,600 for employee expenses, $2,425,000 for production and post-harvest research, $435,000 for office expenses, $473,000 for travel and other operating expenses, and $385,000 for crop and acreage reporting. For comparison, budgeted expenses for these items during the 2023–2024 marketing year were $10,588,750, $2,472,500, $2,425,000, $350,000, $390,000, and $585,000, respectively.

The Board recommended increasing the assessment rate to meet necessary expenses, due in part to a smaller estimated crop for the 2024–2025 marketing year. The Board estimates shipments for the 2024–2025 marketing year to be approximately 730,000 tons (equivalent to 1.46 billion pounds). Given the Board's estimate for 2024–2025 marketing year walnut shipments, the current assessment rate of $0.011 would generate $16,060,000 in assessment income (1.46 billion pounds multiplied by $0.011 assessment rate), which would not cover budgeted expenses. By increasing the assessment rate to $0.0125, assessment income is expected to be $18,250,000 (1.46 billion pounds multiplied by $0.0125 assessment rate). This amount should provide sufficient funds to meet anticipated 2024–2025 marketing year expenses without needing to draw from the Board's financial reserve.

Prior to arriving at this budget and assessment rate recommendation, the Board considered information from various sources, such as the Board's Executive Committee, and discussed various alternatives, including maintaining the current assessment rate of $0.011 per inshell pound of assessable walnuts and increasing the assessment rate by a different amount. However, the Board determined that the recommended assessment rate is necessary to effectively achieve the Board's goals of covering budgeted expenses for the 2024–2025 marketing year and maintaining adequate funds in its financial reserve. Consequently, these alternative assessment rates were rejected.

Based upon information from the National Agricultural Statistics Service (NASS), the average grower price reported for walnuts over the past three crop years (2020–2023) was approximate $1,093 per ton ($0.547 per pound). In order to determine the estimated assessment revenue as a percentage of the total grower revenue, we calculate the assessment rate ($0.0125 per inshell pound) divided by the grower price ($0.547 per pound) and multiply that number by 100. Therefore, estimated assessment revenue as a percentage of total grower revenue for the 2024–2025 marketing year is expected to be about 2.3 percent (0.0125/0.547 * 100 = 2.29)

This action increases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to growers. However, these costs are expected to be offset by the benefits derived by the operation of the Order.

The Board's meetings are widely publicized throughout the California walnut industry and all interested persons are invited to attend the meetings and participate in Board deliberations on all issues. Like all Board meetings, the May 15, 2024, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit comments on this rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements will be necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule was published in the **Federal Register** on August 16, 2024 (89 FR 66639). A 30-day comment period ending September 16, 2024, was provided to all interested persons to respond to the proposal. AMS received one comment in opposition to the proposal from a walnut grower who expressed that the Board should rely on financial reserve funds during difficult years, instead of increasing assessments, because the Board is ''flush with money.'' However, consideration of the Board's reserve fund was part of the Board's public deliberations. In recent years, the Board has relied more on its financial reserves to fund expenditures, and the current reserve balance is now below what the Board generally considers to be ideal. The Order authorizes the Board to maintain a financial reserve ''not to exceed two years' budgeted expenses.'' The Board's financial reserve at the end of the 2024–25 marketing year is expected to be approximately $14,665,274, which is within the maximum amount permitted under the Order. Accordingly, AMS made no changes to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses*. Any questions

about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board and other available information, AMS has determined that this rule is consistent with and will effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 984 as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 984.347 is revised to read as follows:

§ 984.347 Assessment rate.

On and after September 1, 2024, an assessment rate of $0.0125 per inshell pound is established for California walnuts.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–27605 Filed 11–25–24; 8:45 am]

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FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 2024–26]

Requirement To File FEC Form 3–Z

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: This final rule amends Federal Election Commission regulations by removing the requirement that the principal campaign committee of a candidate with multiple authorized committees must report information on FEC Form 3–Z.

DATES: The effective date is February 1, 2025.

FOR FURTHER INFORMATION CONTACT: Amy Rothstein, Assistant General Counsel for Policy, or Jennifer Waldman, Attorney, 1050 First Street NE, Washington, DC, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is amending its regulations to remove the requirement that the principal campaign committee of a candidate with multiple authorized committees must report information on FEC Form 3–Z.

Transmitting Final Rules to Congress

Before promulgating rules or regulations to carry out the provisions of the Federal Election Campaign Act, the Commission transmits the rules or regulations to the Speaker of the House of Representatives and the President of the Senate for a thirty-legislative-day review period. 52 U.S.C. 30111(d). These final rules were transmitted to Congress on November 19, 2024.

Explanation and Justification

I. Background

A. Act and Commission Regulations

The Federal Election Campaign Act (the ''Act'') [1] and Commission regulations require each candidate to register a principal campaign committee within 15 days of becoming a candidate.[2] A candidate may also authorize other political committees to receive contributions or make expenditures on the candidate's behalf by designating the committees in writing and filing the designations with the candidate's principal campaign committee.[3]

The Act requires ''each designation, statement or report of receipts or disbursements made by an authorized committee'' to be filed with the candidate's principal campaign committee.[4] The Act further requires each principal campaign committee, in turn, to ''receive'' these designations, statements and reports and to ''compile and file'' them pursuant to the Act.[5]

In 1980, the Commission promulgated a regulation (11 CFR 104.3(f)) to implement these requirements: Section 104.3(f) requires each candidate's principal campaign committee to file reports submitted to it by the candidate's other authorized committees, along with its own report.[6] In addition, § 104.3(f) requires the principal campaign committee to file FEC Form 3–Z to report specific consolidated information gleaned from the authorized committees' reports when it submits those reports to the Commission.[7] It is this FEC Form 3–Z that the Commission is now removing.

When the Commission first started requiring FEC Form 3–Z, political committees filed their reports only in paper form and the Commission made the reports publicly available on paper and microfiche in the Commission's Public Records room. By requiring a candidate's principal campaign committee to consolidate information about the financial activity of all of the candidate's authorized committees on FEC Form 3–Z, the Commission made it easier for the public to obtain a comprehensive picture of the candidate's receipts and disbursements during the reporting period.

B. Electronic Filing

Public access to political committees' reports has expanded dramatically since 1980, however, due in large part to statutory revisions and technological developments. In 1999, Congress amended the Act to provide for electronic filing; [8] as a result, all political committees that have or reasonably expect to have contributions or expenditures exceeding $50,000 in a calendar year must electronically file their reports directly with the Commission, and other persons may do so if they choose.[9] Further, Congress amended the Act to require the Commission to make all reports filed electronically with the Commission publicly available on the internet within 24 hours of receipt and within 48 hours of receipt for reports not filed electronically.[10]

More recently, Congress amended the Act to require the Commission to maintain a central website ''to make accessible to the public all publicly available election-related reports and information'' required to be filed under

[1] 52 U.S.C. 30101–45.

[2] *Id.* 30102(e)(1); 11 CFR 101.1(a); *see also* 52 U.S.C. 30101(5) (''The term 'principal campaign committee' means a political committee designated and authorized by a candidate under section 30102(e)(1) of this title.''); 11 CFR 100.5(e)(1).

[3] 52 U.S.C. 30102(e)(1); 11 CFR 101.1(b); *see also* 52 U.S.C. 30101(6) (''The term 'authorized committee' means the principal campaign committee or any other political committee authorized by a candidate under section 30102(e)(1) of this title to receive contributions or make expenditures on behalf of such candidate.''); 11 CFR 100.5(f)(1).

[4] 52 U.S.C. 30102(f)(1).

[5] *Id.* 30102(f)(2).

[6] 11 CFR 104.3(f).

[7] *Id.*

[8] Appropriations, 2000, Public Law 106–58, sec. 639(a), 113 Stat. 430, 476 (1999); 52 U.S.C. 30104(a)(11)(A).

[9] 11 CFR. 104.18(a) (requiring electronic filing for certain political committee); *id.* § 104.18(b) (authorizing other committees to file electronically if they choose to do so); Electronic Filing of Reports by Political Committees, 65 FR 38415 (June 21, 2000), *https://sers.fec.gov/fosers/showpdf.htm?docid=382*.

[10] 52 U.S.C. 30104(a)(11)(B), (d)(2).

the Act.[11] The posted reports and related information can be searched, sorted, and downloaded.[12]

C. Notice of Proposed Rulemaking

On August 1, 2024, the Commission published in the **Federal Register** a notice of proposed rulemaking (''NPRM'') soliciting comments on whether it should remove the requirement that principal campaign committees file Form 3–Z in light of statutory changes and technological advances.[13] The NPRM comment period ended on September 3, 2024. The Commission received two substantive comments in response to the NPRM, both in favor of the Commission's proposal.

II. Revised Changes to 11 CFR 104.3

After reviewing the public comments received in response to the NPRM, the Commission is amending § 104.3(f) by eliminating the requirement that principal campaign committees file FEC Form 3–Z. Although FEC Form 3–Z served a useful purpose when it was introduced more than 40 years ago, the information that it provides essentially duplicates information that is now filed directly with the Commission and readily available to the public in a searchable, sortable, and downloadable format. Accordingly, FEC Form 3–Z has been rendered obsolete.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The Commission certifies that the amendment will not have a significant economic impact on a substantial number of small entities. The amendment will simplify the reporting requirements for a principal campaign committee of a candidate with multiple authorized committees. The change will not impose new recordkeeping, reporting, or financial obligations on any political committees. The Commission therefore certifies that the amendment will not have a significant economic impact on a substantial number of small entities.

[11] Bipartisan Campaign Reform Act of 2002, Public Law 107–155, sec. 502, 116 Stat. 115 (2002); 52 U.S.C. 30112(a).

[12] *See, e.g.,* 52 U.S.C. 30104(i)(4) (requiring Commission to ensure, ''to the greatest extent practicable,'' that certain information is publicly available on its website ''in a manner that is searchable, sortable, and downloadable'').

[13] Requirement to File FEC Form 3–Z, 89 FR 62672 (Aug. 1, 2024), *https://www.govinfo.gov/content/pkg/FR-2024-08-01/pdf/2024-16843.pdf.*

List of Subjects in 11 CFR Part 104

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Federal Election Commission amends 11 CFR part 104 as follows:

PART 104—REPORTS BY POLITICAL COMMITTEES AND OTHER PERSONS (52 U.S.C. 30104)

■ 1. The authority citation for part 104 is revised to read as follows:

Authority: 52 U.S.C. 30101(1), 30101(8), 30101(9), 30102(f), (g), and (i), 30104, 30111(a)(8) and (b), 30114, and 30116 and 36 U.S.C. 510.

■ 2. Amend § 104.3 by revising paragraph (f) to read as follows:

§ 104.3 Contents of reports (52 U.S.C. 30104(b), 30114).

* * * * *

(f) *Consolidated reports.* Each principal campaign committee shall consolidate in each report those reports required to be filed with it. Such consolidated reports shall include:

(1) Reports submitted to it by any authorized committees; and

(2) The principal campaign committee's own reports.

* * * * *

Dated: November 19, 2024.

On behalf of the Commission.

Sean J. Cooksey,

Chairman, Federal Election Commission.

[FR Doc. 2024–27395 Filed 11–25–24; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–1888; Project Identifier MCAI–2024–00190–T; Amendment 39–22879; AD 2024–22–08]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model Airbus A350–941 and –1041 airplanes. This AD was prompted by a determination that the lower attachment studs on the aft galley complex may be installed incorrectly due to a missing instruction in the maintenance procedure task. This AD requires a one-time inspection of the lower attachment studs on the aft galley complex, and depending on findings, accomplishment of applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 31, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 31, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–1888; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2024–1888.

FOR FURTHER INFORMATION CONTACT: Dat Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model Airbus A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on July 17, 2024 (89 FR 58081). The NPRM was prompted by AD 2024–0073, dated March 18, 2024, issued by EASA, which is the Technical Agent for

the Member States of the European Union (EASA AD 2024–0073) (also referred to as the MCAI). The MCAI states that the maintenance procedure task of the galley lower attachment stud installation did not provide the required maximum distance between the top of the threaded sleeve and the top of the threaded stud, which could lead to a wrong installation of the lower attachment stud having part number (P/N) XP14–070–007800, P/N XP14–070–019100, P/N XP14–070–005400, P/N XP14–070–008400, and P/N XP14–070–001100 on the aft galley complex. The MCAI also states that the affected parts are the lower attachment stud having P/N XP14–070–007800, P/N XP14–070–019100, P/N XP14–070–005400, P/N XP14–070–008400, and P/N XP14–070–001100, for which the incomplete maintenance procedure task has been accomplished after the airplane date of manufacture and before January 2024; and the lower attachment stud having P/N XP14–070–019100, which has been installed after the airplane date of manufacture and before January 2024, in accordance with the instructions of Airbus Alert Operators Transmission A25P023–22, Revision 01, dated September 27, 2022.

In the NPRM, the FAA proposed to require a one-time inspection of the affected lower attachment studs on the aft galley complex, and depending on findings, accomplishment of applicable corrective actions, as specified in EASA AD 2024–0073. The FAA is issuing this AD to address possible wrong installation for the lower attachment stud having P/N XP14–070–007800, P/N XP14–070–019100, P/N XP14–070–005400, P/N XP14–070–008400, and P/N XP14–070–001100 on the aft galley complex. This condition, if not detected and corrected, could lead to galley module detachment, with possible consequent injury to cabin crew and passengers, and reduced evacuation capacity from the airplane in case of an emergency.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–1888.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from an individual who supported the NPRM without change.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0073 specifies procedures for a one-time installation inspection of the lower attachment stud having P/N XP14–070–007800, P/N XP14–070–019100, P/N XP14–070–005400, P/N XP14–070–008400, and P/N XP14–070–001100 on the aft galley complex; and depending on findings (the distance between the top of the threaded sleeves and the top of the threaded studs exceeds specified limits), accomplishment of applicable corrective actions (tightening the applicable threaded stud(s)). This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 32 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 3 work-hours × $85 per hour = $255	$0	Up to $255	Up to $8,160.

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 airplanes that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
1 work-hour × $85 per hour = $85 per stud adjustment	$10	$95

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:

2024–22–08 Airbus SAS: Amendment 39–22879; Docket No. FAA–2024–1888; Project Identifier MCAI–2024–00190–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 31, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model Airbus A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0073, dated March 18, 2024 (EASA AD 2024–0073).

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by a determination that the lower attachment studs on aft galley complex may be installed incorrectly due to a missing instruction in the maintenance procedure task. The FAA is issuing this AD to address a possible wrong installation for the lower attachment stud having part number (P/N) XP14–070–007800, P/N XP14–070–019100, P/N XP14–070–005400, P/N XP14–070–008400, and P/N XP14–070–001100 on the aft galley complex. This condition, if not detected and corrected, could lead to galley module detachment, with possible consequent injury to cabin crew and passengers, and reduced evacuation capacity from the airplane in case of an emergency.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0073.

(h) Exceptions to EASA AD 2024–0073

(1) Where EASA AD 2024–0073 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the ''Remarks'' section of EASA AD 2024–0073.

(i) 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, send it to the person identified in paragraph (j) of this AD and email to: *AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material referenced in EASA AD 2024–0073 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, 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.

(j) Additional Information

For more information about this AD, contact Dat Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2024–0073, dated March 18, 2024.

(ii) [Reserved]

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

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

(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 October 29, 2024.

Peter A. White,

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

[FR Doc. 2024–27589 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2008; Project Identifier AD–2024–00122–T; Amendment 39–22876; AD 2024–22–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. This AD was prompted by a report that during manufacture of drag brace lower lock link assemblies for the main landing gear (MLG), a certain required

inspection was not performed. This AD requires doing a check of maintenance records or an inspection to determine if certain drag brace lower lock link assemblies are installed, and applicable on-condition actions. This AD also prohibits the installation of affected parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 31, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 31, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–2008; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2024–2008.

FOR FURTHER INFORMATION CONTACT: Joseph Hodgin, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3962; email: *joseph.j.hodgin@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 The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. The NPRM published in the **Federal Register** on August 1, 2024 (89 FR 62685). The NPRM was prompted by a report that during manufacture of drag brace lower lock link assemblies for the MLG, a certain required inspection was not performed. In the NPRM, the FAA proposed to require doing a check of maintenance records or an inspection to determine if certain drag brace lower lock link assemblies are installed, and applicable on-condition actions. The FAA is issuing this AD to address unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from an individual who supported the NPRM without change.

The FAA received additional comments from three commenters, including Boeing, United Airlines, and American Airlines. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Correct Part Number

American Airlines, United Airlines, and Boeing requested that the affected landing gear drag brace lower lock link assembly part number be corrected from part number 531Z2010–501, to part number 513Z2010–501. American Airlines, United Airlines, and Boeing stated that paragraph (i) of the proposed AD contains a typo for the affected landing gear drag brace lower lock link assembly part number. The commenters stated that the part number listed in the proposed AD is 531Z2010–501, the correct part number is 513Z2010–501. American Airlines stated it reviewed Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023, and confirmed that the correct part number is 513Z2010–501. Boeing noted that the part number in the proposed AD does not match Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023.

The FAA agrees that the correct affected landing gear drag brace lower lock link assembly part number is 513Z2010–501. The FAA has revised paragraph (i) of this AD to reflect the correct part number.

Request To Withdraw the NPRM

American Airlines stated that it appears that an airworthiness directive is not necessary as the safety issue is being addressed between Boeing and the affected operator(s) via the alert service bulletin. American Airlines also stated that compliance will require the unnecessary burden at all worldwide operators and MROs (*i.e.,* certified repair stations) to create safeguards to look for these four serial numbers any time maintenance is performed on the life limited part component of the lock link assembly, the lower lock link assembly itself, the next higher assembly lock link assembly, the next higher assembly drag brace assembly, the next higher level landing gear, and the airplane throughout the remaining life of the entire 787 worldwide fleet. The FAA infers that American Airlines is requesting that the NPRM be withdrawn.

The FAA disagrees with the request to withdraw the NPRM. Operators are not required to accomplish Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023, until an AD mandates accomplishment. This AD addresses the identified unsafe condition by mandating the actions in that material, which ensures that the affected (unsafe) parts are removed from the airplanes identified in paragraph (g) of this AD. In addition, due to rotability of the affected parts, the parts installation prohibition specified in paragraph (i) of this AD is the only way to ensure the affected parts are not installed on all airplanes identified in paragraph (c) of this AD. The FAA has not changed this AD in this regard.

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.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023. This material specifies procedures for doing a check of maintenance records or an inspection of the drag brace lower lock link assembly on the right and left MLG for affected serial numbers and applicable on-condition actions. On-condition actions include replacing any affected drag brace lower lock link assembly on the MLG with a serviceable drag brace lower lock link assembly.

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

Costs of Compliance

The FAA estimates that this AD affects 156 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
Inspection or records check	1 work-hour × $85 per hour = $85	$0	$85	$13,260

The FAA estimates the following costs to do any necessary replacement that would be required based on the results of the inspection. The agency has no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of one drag brace lower lock link assembly.	18 work-hours × $85 per hour = $1,530	$39,119	$40,649

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–22–05 The Boeing Company: Amendment 39–22876; Docket No. FAA–2024–2008; Project Identifier AD–2024–00122–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 31, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by a report that during manufacture of drag brace lower lock link assemblies for the main landing gear (MLG), a certain inspection was not performed. The FAA is issuing this AD to address undetected cracks that could lead to fracture of the drag brace lower lock link assembly. The unsafe condition, if not addressed, could result in MLG collapse, which could result in loss of directional control while the airplane is on the ground, with the potential for off-runway excursion or penetration of the wing box fuel tank.

(f) Compliance

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

(g) Required Actions

For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before the effective date of this AD: Except as specified by paragraph (h) of this AD, at the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023. The actions specified in Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023, apply to airplanes not listed in Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin B787–81205–SB320048–00, Issue 001, dated November 20, 2023, which is

referred to in Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023.

(h) Exceptions to Service Information Specifications

Where the Compliance Time column of the table in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023, refers to the Issue 001 date of Requirements Bulletin B787–81205–SB320048–00 RB, this AD requires using the effective date of this AD.

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install a drag brace lower lock link assembly, part number 513Z2010–501 and serial number 19ZHQ00772, 19ZHQ00773, 19ZHQ00890, or 19ZHQ00891, on any airplane.

(j) 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 responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Joseph Hodgin, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3962; email: *joseph.j.hodgin@faa.gov.*

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (l)(3) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin B787–81205–SB320048–00 RB, Issue 001, dated November 20, 2023.

(ii) [Reserved]

(3) For the material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*

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

(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-locationsoremailfr.inspection@nara.gov.*

Issued on October 24, 2024.

Peter A. White,

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

[FR Doc. 2024–27596 Filed 11–25–24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–1285; Project Identifier MCAI–2023–01146–T; Amendment 39–22872; AD 2024–22–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2023–05–08, which applied to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. AD 2023–05–08 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD continues to require certain actions in AD 2023–05–08 and requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a Transport Canada AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 31, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 31, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 12, 2023 (88 FR 20751, April 7, 2023).

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of March 30, 2021 (86 FR 10799, February 23, 2021).

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2024–1285; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca.* You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation.*
- For Airbus Canada Limited Partnership material identified in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus*; website *a220world.airbus.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at regulations.gov under Docket No. FAA–2024–1285.≤

FOR FURTHER INFORMATION CONTACT: Gabriel D. Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7343; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2023–05–08, Amendment 39–22377 (88 FR 20751, April 7, 2023) (AD 2023–05–08). AD 2023–05–08 applied to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. AD 2023–05–08 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2023–05–08 to address reduced structural integrity of the airplane or reduced controllability of the airplane.

The NPRM published in the **Federal Register** on April 29, 2024 (89 FR 33300). The NPRM was prompted by AD CF–2023–69, dated October 5, 2023, issued by Transport Canada, which is the aviation authority for Canada (Transport Canada AD CF–2023–69) (also referred to as the MCAI).

In the NPRM, the FAA proposed to continue to require certain actions in AD 2023–05–08 and require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing 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–2024–1285.

Discussion of Final Airworthiness Directive

Comments

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

The FAA received additional comments from Delta Air Lines (Delta). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Incorporate by Reference the MCAI

Delta requested that the FAA update the language in the proposed AD to mandate Transport Canada AD CF–2023–69 via incorporation by reference (IBR) instead of mandating Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 017.01, dated August 17, 2023, by IBR. Delta stated this would allow operators to incorporate the following language: ''The use of superseding Interim Revisions or later revisions of the AWL Publication, approved by TC, is acceptable for compliance [. . .]'' in Transport Canada AD CF–2023–69. Delta noted that transitioning to IBR of the Transport Canada AD versus the IBR of a specific manufacturer airworthiness limitation (AWL) revision is necessary as AWL Issue 017.02 has already been published and AWL Issue 018.00 is estimated to be released later in 2024. Delta noted it could be at risk of grounding its fleet while waiting for an alternative method of compliance (AMOC) to allow incorporating more up to date AWL revisions.

The FAA agrees to mandate Transport Canada AD CF–2023–69 via IBR in this AD for the reasons provided by the commenter. Incorporating by reference the MCAI instead of the service information does not change the required action to incorporate Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 017.01, dated August 17, 2023, into their maintenance or inspection program. Instead incorporating by reference of the MCAI relieves the burden of applying for AMOCs to use later approved revisions of the service information. By mandating Transport Canada AD CF–2023–69 via IBR, operators are allowed to use applicable later AWL revisions to comply with the requirements of this AD. Transport Canada AD CF–2023–69 includes paragraph C., which accepts the use of later revisions, approved by Transport Canada, of the referenced AWL document for compliance. The FAA concurs this change will minimize any disruption to an operator's existing maintenance or inspection program due to any potential delays in an AMOC approval.

The FAA has revised paragraph (k) of this AD to incorporate by reference Transport Canada AD CF–2023–69 and added paragraph (l) to this AD to specify exceptions to Transport Canada AD CF–2023–69. The exceptions in paragraph (l) of this AD are standard for ADs that incorporate MCAI by reference.

The FAA has also revised paragraph (m) of this AD (paragraph (l) of the proposed AD) to refer to Transport Canada AD CF–2023–69.

Although Delta indicated that all of Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 017.01, dated August 17, 2023, should be mandated via the IBR of Transport Canada AD CF–2023–69, the FAA has still excluded Section 03, ''Candidate CMR Limitations—General.'' Paragraph (g) of this AD is for the CCMRs and paragraph (k) of this AD incorporates all AWLs except for CCMRs, as specified in the paragraph (l)(3) of this AD.

Request To Allow AMOCs

Delta requested that the FAA add a paragraph to allow the use of AMOCs approved for AD 2023–05–08 as AMOCs to the proposed AD paragraphs that require revising the existing maintenance or inspection program. Delta stated it has received many AMOCs for AD 2023–05–08, including one that approves the use of A220 AWL Issue 017.02, or later revisions approved by Transport Canada or Airbus Canada Limited Partnership's Transport Canada Design Approval Organization (DAO), except for the use of candidate certification maintenance requirements (CCMRs). Delta noted that the CCMRs in Table 2 of Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020, are still mandatory for airplanes with an original certificate of airworthiness issued on or before June 18, 2020. Delta concluded that the extension of these AMOCs to the proposed AD would allow Delta to continue to use the latest AWL revision and not be responsible for requesting/receiving an AMOC between the AD's publication date and the AD's effective date, preventing the grounding of its fleet.

The FAA agrees that previous AMOCs are acceptable for certain paragraphs in this AD. The FAA has added paragraph (n)(1)(ii) to this AD to allow AMOCs approved previously for AD 2023–05–08 as AMOCs for the corresponding provisions of paragraphs (g) and (i) of this AD. The FAA has also added paragraph (n)(1)(iii) to this AD to allow AMOCs approved previously for AD 2023–05–08 as AMOCs for the corresponding provisions of paragraph (k) of this AD, except for AMOCs that allow the use of revisions earlier than Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 017.01, dated August 17, 2023.

Request To Remove the Requirement Mandating CCMRs

Delta requested that the FAA remove the requirement mandating the CCMR section of the AWL document. Delta noted that new airplanes are required by the CFR to have the corresponding AWL revision incorporated into their maintenance program. Delta stated the A220 AWL revisions have a CCMR section and thus are required to be incorporated into its maintenance program. Delta pointed out that the FAA has stated CCMR sections should not be mandated by the FAA (as specified in the FAA's response to comments to the NPRM for AD 2023–05–08). Delta

concluded their maintenance program is split as follows:

- Newly delivered airplanes: not affected by an AD, CCMRs are required.
- Airplanes delivered after AWL Issue 011.00: CCMR are not required per ADs or CFR.
- Airplanes delivered before AWL Issue 011.00: CCMRs are required per ADs.

The FAA agrees to clarify. In AD 2023–05–08, the FAA explained that equivalent airplane maintenance manual (AMM) tasks may be mandated in lieu of CCMRs in future rulemaking. The FAA also explained that CCMRs that were previously mandated can continue to be mandated. This AD only mandates the previously mandated CCMRs from AD 2021–04–05, Amendment 39–21426 (86 FR 10799, February 23, 2021), as specified in the retained requirements of paragraph (g) of this AD. For this AD, there are no new CCMRs. For future rulemaking where the MCAI includes new CCMRs, the FAA will mandate equivalent AMM tasks in lieu of the CCMRs.

Regarding Delta's comment that their maintenance program is split, the FAA notes that, for Model BD–500–1A10 and BD–500–1A11 airplanes, the CCMRs are mandated either by an AD action or the CFR as follows:

- Newly delivered airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after August 17, 2023: These airplanes are not affected by this AD. However, complying with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet is required per the CFR (14 CFR 91.403(c)). These airplanes were certified with AWL documents that include CCMRs.
- Airplanes delivered after AWL Issue 011.00 (airplane with an original airworthiness certificate or original export certificate of airworthiness issued after June 18, 2020, but on or before August 17, 2023): These airplanes are affected by this AD. This AD does not require incorporating CCMRs for these airplanes but the CCMRs in the AWL delivered with the airplane are required by the CFR. These airplanes must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; these airplanes were certified with AWL Issue 011.00 (or later issues). Those AWL issues include the CCMRs that operators must comply with.
- Airplanes delivered before AWL Issue 011.00 (airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 18, 2020) are affected by this AD, which requires the CCMRs.

The FAA has not changed this AD regarding this issue.

Request To Add Exception Paragraph

Delta requested that the FAA add an exception paragraph to the proposed AD to allow FAA operators to omit the 10,000-flight hour life limit for the fuel pump cartridge. In addition, Delta requested that Airbus Canada's latest petition (submitted Dec. 2023) to update Exemption 16779A be approved. Delta noted that the FAA has published Docket No.: FAA–2016–4198; Summary Notice No. 2024–18, which summarizes the petition to request relief from the 10,000-flight hour life limit for the fuel pump cartridge.

Delta stated that in Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 017.00, Airbus Canada removed, for European Union Aviation Safety Agency (EASA) and Transport Canada operators, the 13,000 flight hour life limit for all fuel boost pump cartridges with manufacturer part number (MPN) 9C208–3 except for ''SN AAM4613 to AAM4622; AAF8325; AAF8326; AAJ6639; AAK5612; AAL6169; AAL6170; AAL6173; AAL6174 (PRE SB 9C208–3–28–001)''. Delta stated that Airbus Canada was not able to remove the 10,000-flight hour life limit for FAA operators as FAA Exemption 16779A still requires it.

Delta explained that these fuel boost pump cartridges, MPN 9C208–3, cost approximately $85,000/pump, and there are two pumps per airplane. In addition, Delta explained that it takes approximately 3 years to reach the 10,000-flight hour life limit. At its present fleet size, Delta estimated that it must spend a minimum of $11.7 million every 3 years to replace the fuel boost pump cartridges and once its fleet is fully delivered, it will spend approximately $24.6 million every 3 years. Delta concluded that it is unreasonable to force FAA operators to be burdened with additional costs of compliance over that of other operators who are operating under Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue No. 017.00.

Delta proposed that the FAA include the following exception to paragraph (l) of the proposed AD: ''Where TCCA AD CF–2023–69 paragraph A. requires incorporation of the AWL, this AD does not require a 10,000 FH life limit on Part Number 9C208–3 (Cartridge, boost pump) unless it falls within the effectivity definition in Parker SB 9C208–3–28–001.''

Delta requested that if the FAA does not agree to add an exception as stated above, then the Costs of Compliance section of the NPRM be updated to include these exceptional material costs.

The FAA does not agree with the commenter's requests. The FAA cannot grant or deny petitions for exemptions within an AD as that process is outside the scope of this AD action. In addition, the FAA has determined that this AD cannot include relief from the fuel boost pump cartridge life limits in an AD in regards to the petition for relief from FAA Exemption 16779A.

Regarding the costs, the FAA does not agree to revise the Cost of Compliance section of this AD to include the cost of accomplishing repetitive replacements. The FAA recognizes such costs are part of complying with airworthiness limitations, but the costs of accomplishing maintenance actions specified in airworthiness limitations are not directly required by this AD. Instead, this AD requires operators to revise their existing maintenance or inspection program, as applicable, to incorporate the new airworthiness limitations. Compliance with any airworthiness limitation is required by 14 CFR 91.403(c). Therefore, compliance with the airworthiness limitations is not a requirement of this AD, and including the cost of a replacement part would be inappropriate. The FAA has not changed this AD regarding this issue.

Request To Clarify AMOC Process

Delta requested clarification if an AMOC to deviate from the proposed AD (once published as a final rule) will be needed or if U.S. operators will be able to deviate from the life limit for certain fuel boost pump cartridges once the petition to exemption 16779A is published. Delta stated it believes this exemption will allow Airbus Canada to remove the life limit from the AWL at the next revision. Delta stated it may need to continue to comply with the specific AWL revision until the next AWL revision is published and the FAA has provided approval to use the latest AWL. Delta concluded that due to the significant operational and financial impacts, Delta would like to introduce this relief as soon as possible.

The FAA agrees to clarify. Once the petition to the exemption 16779A is approved and published, operators may request an AMOC to this AD, under the provisions of paragraph (n)(1) of this AD, to allow relief from the fuel boost pump cartridge life limits.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

Transport Canada AD CF–2023–69 describes airworthiness limitations for fuel tank systems, safe life limits, and certification maintenance requirements.

This AD also requires Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 014.00, dated February 3, 2022, which the Director of the Federal Register approved for incorporation by reference as of May 12, 2023 (88 FR 20751, April 7, 2023).

This AD also requires Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020, which the Director of the Federal Register approved for incorporation by reference as of March 30, 2021 (86 FR 10799, February 23, 2021).

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

Costs of Compliance

The FAA estimates that this AD affects 99 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2023–05–08 to be $7,650 (90 work-hours × $85 per work-hour).

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2023–05–08, Amendment 39–22377 (88 FR 20751, April 7, 2023); and

■ b. Adding the following new AD:

2024–22–01 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–22872; Docket No. FAA–2024–1285; Project Identifier MCAI–2023–01146–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 31, 2024.

(b) Affected ADs

This AD replaces AD 2023–05–08, Amendment 39–22377 (88 FR 20751, April 7, 2023) (AD 2023–05–08).

(c) Applicability

This AD applies to Airbus Canada Limited Partnership airplanes, certificated in any category, as identified in paragraphs (c)(1) and (2) of this AD.

(1) Model BD–500–1A10 airplanes, serial numbers 50001 and subsequent with an original airworthiness certificate or original export certificate of airworthiness issued on or before August 17, 2023.

(2) Model BD–500–1A11 airplanes, serial numbers 55001 and subsequent with an original airworthiness certificate or original export certificate of airworthiness issued on or before August 17, 2023.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address reduced structural integrity of the airplane or reduced controllability of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With Revised Language

This paragraph restates the requirements of paragraph (g) of AD 2023–05–08, with revised language. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 18, 2020: Within 90 days after March 30, 2021 (the effective date of AD 2021–04–05, Amendment 39–21426 (86 FR 10799, February 23, 2021)), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Section 03, ''Candidate CMR Limitations—General,'' of Airbus Canada Limited Partnership A220 Airworthiness

Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020. The initial compliance time for doing the tasks is at the time specified in Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020, or within 90 days after March 30, 2021, whichever occurs later.

(h) Retained No Alternative Actions, Intervals, or Critical Design Configuration Control Limitations (CDCCLs), With Revised Language

This paragraph restates the requirements of paragraph (h) of AD 2023–05–08 with revised language. After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an alternative method of compliance.

(i) Retained Revision of the Existing Maintenance or Inspection Program, With a New Terminating Action

This paragraph restates the requirements of paragraph (i) of AD 2023–05–08, with a new terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before February 3, 2022: Within 90 days after May 12, 2023 (the effective date of AD 2023–05–08), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Sections 01, ''Airworthiness limitations—Introduction;'' 02, ''Certification maintenance requirements—General;'' 04, ''ALI structural inspections—General;'' 05, ''Life limited parts—General;'' 06, ''Fuel system limitations—General;'' 07, ''Critical design configuration control limitations—General;'' 08, ''Power plant limitations—General;'' 09, ''Structural repair limitations—General;'' and 10, ''Limit of validity—General;'' inclusive of Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 014.00, dated February 3, 2022. The initial compliance time for doing the tasks is at the time specified in Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 014.00, dated February 3, 2022, or within 90 days after May 12, 2023, whichever occurs later. Accomplishing the revision of the existing maintenance or inspection program required by paragraph (k) of this AD terminates the requirements of this paragraph.

(j) Retained No Alternative Actions, Intervals, or CDCCLs, With a New Exception

This paragraph restates the requirements of paragraph (j) of AD 2023–05–08, with a new exception. Except as required by paragraph (k) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (n)(1) of this AD.

(k) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (l) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2023–69, dated October 5, 2023 (Transport Canada AD CF–2023–69). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (i) of this AD.

(l) Exception to Transport Canada AD CF–2023–69

(1) Where Transport Canada AD CF–2023–69 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph A. of Transport Canada AD CF–2023–69 specifies to ''amend the TC-approved maintenance schedule,'' this AD requires replacing that text with ''revise the existing maintenance or inspection program, as applicable.''

(3) Where paragraph A. of Transport Canada AD CF–2023–69 specifies incorporating Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 017.01, dated August 17, 2023, for this AD, incorporating the information specified in Section 03, ''Candidate CMR Limitations—General'' of Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 017.01, dated August 17, 2023, is not required.

(4) The initial compliance time for doing the tasks specified in paragraph A. of Transport Canada AD CF–2023–69 is at the applicable ''thresholds'' as incorporated by the requirements of paragraph A. of Transport Canada AD CF–2023–69, or within 90 days after the effective date of this AD, whichever occurs later.

(5) This AD does not adopt paragraph B. of Transport Canada AD CF–2023–69.

(m) New Provisions for Alternative Actions, Intervals, or CDCCLs

After the existing maintenance or inspection program has been revised as required by paragraph (k) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless they are approved as specified in the provisions of the ''Corrective Actions'' section of Transport Canada AD CF–2023–69.

(n) 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 (o) of this AD. Information may be emailed to: *AMOC@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) AMOCs approved previously for AD 2023–05–08 are approved as AMOCs for the corresponding provisions of paragraphs (g) and (i) of this AD.

(iii) AMOCs approved previously for AD 2023–05–08 are approved as AMOCs for the corresponding provisions of paragraph (k) of this AD, except AMOCs that allow issues earlier than Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 017.01, dated August 17, 2023.

(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 Transport Canada; or Airbus Canada Limited Partnership's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(o) Additional Information

For more information about this AD, contact Gabriel D. Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7343; email *9-avs-nyaco-cos@faa.gov.*

(p) 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.

(3) The following service information was approved for IBR on December 31, 2024.

(i) Transport Canada AD CF–2023–69, dated October 5, 2023.

(ii) [Reserved]

(4) The following service information was approved for IBR on May 12, 2023 (88 FR 20751, April 7, 2023).

(i) Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 014.00, dated February 3, 2022.

(ii) [Reserved]

(5) The following service information was approved for IBR on March 30, 2021 (86 FR 10799, February 23, 2021).

(i) Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020.

(ii) [Reserved]

(6) For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca*; website at *tc.canada.ca/en/aviation.*

(7) For Airbus Canada Limited Partnership material identified in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus*; website *a220world.airbus.com.*

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

(9) 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 November 20, 2024.

Peter A. White,

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

[FR Doc. 2024–27591 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–1692; Project Identifier MCAI–2024–00050–T; Amendment 39–22878; AD 2024–22–07]

RIN 2120–AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain De Havilland Aircraft of Canada Limited Model DHC–8–401 and –402 airplanes. This AD was prompted by a report of an in-flight event where isolation valve caution messages were received. This AD requires inspecting the fuse/shuttle valve serial numbers, and replacing certain fuse/shuttle valves, as specified in a Transport Canada AD, which is incorporated by reference (IBR). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 31, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 31, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2024–1692; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca*. You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at regulations.gov under Docket No. FAA–2024–1692.

FOR FURTHER INFORMATION CONTACT: Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; email: *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain De Havilland Aircraft of Canada Limited Model DHC–8–401 and –402 airplanes. The NPRM published in the **Federal Register** on June 21, 2024 (89 FR 51988). The NPRM was prompted by AD CF–2024–01, dated January 11, 2024, issued by Transport Canada, which is the aviation authority for Canada (Transport Canada AD CF–2024–01) (also referred to as the MCAI). The MCAI states that an in-service event was reported where the crew received a number two isolation valve (ISO #2) caution message followed by a number one isolation valve (ISO #1) caution message. The landing gear was extended via an alternate extension system as the crew prepared for landing. Upon landing, the crew used the emergency brake to stop the airplane. The airplane stopped safely within the runway limits.

Subsequent maintenance activity discovered an external leak from the main landing gear (MLG) brake assembly, and it was found that the fuse/shuttle valve assembly did not function properly. Further investigation revealed that the fuse/shuttle valve assembly failure resulted from a factory assembly error, which occurred on a limited number of fuse/shuttle valves.

The assembly error can cause valve deformation leading to premature wear, and eventually fuse/shuttle valve failure. This condition, if not corrected, could result in the loss of powered landing gear extension/retraction, outboard and inboard spoilers, nose wheel steering, and normal braking, and possibly a runway excursion.

In the NPRM, the FAA proposed to require inspecting the fuse/shuttle valve serial numbers, and replacing certain fuse/shuttle valves, as specified in Transport Canada AD CF–2024–01. The FAA is issuing 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–2024–1692.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from Air Line Pilots Association, International (ALPA). The following presents the comment received on the NPRM and the FAA's response to the comment.

Request To Reduce Compliance Time

ALPA stated the compliance time of 8,000 flight hours or 48 months whichever occurs first after the effective date of the proposed AD is excessive for such unsafe condition, that could result in the loss of powered landing gear extension/retraction, outboard and inboard spoilers, nose wheel steering, normal braking, and possibly a runway excursion. The FAA infers that ALPA is requesting the FAA reduce the compliance time.

The FAA does not agree with the request. The FAA has determined that Transport Canada's compliance time calculation is adequate. The low probability of a critical event is due to the single occurrence and high flight hours. In addition, multiple isolation valves can effectively mitigate hydraulic fluid leaks. After considering all the available information, the FAA has determined that the compliance time, as proposed, represents an appropriate interval of time in which the required actions can be performed in a timely manner within the affected fleet, while still maintaining an adequate level of safety. Additionally, the FAA notes that there has been only one event of an in-service aircraft, and in that event, the aircraft landed safely. With only one event and the high amount of flight hours in the fleet, the probability of the

unsafe condition occurring is low. It is possible that all the systems listed in this AD could fail simultaneously; however, that is unlikely. Aircraft hydraulic systems typically have an isolation valve, which in this case was activated and annunciated. The isolation valve was effective, and although hydraulic fluid leaked, the hydraulic pressure remained at normal levels. This AD has not been changed regarding this request.

Clarification of Unsafe Condition

Paragraph (e) of the proposed AD states the FAA is issuing this AD to address certain fuse/shuttle valves. The FAA has revised paragraph (e) of this AD to state the FAA is issuing this AD to address failure of certain fuse/shuttle valves to clarify it is the failure of the fuse/shuttle valves that could lead to the unsafe condition.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and the change described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

Transport Canada AD CF–2024–01 specifies procedures for inspecting the fuse/shuttle valve serial numbers, and if any fuse/shuttle valve assemblies with the listed serial numbers are found, replacing the affected fuse/shuttle valves.

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** section.

Costs of Compliance

The FAA estimates this AD affects 54 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	$4,590

The FAA estimates the following costs to do any necessary on-condition action 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
5 work-hours × $85 per hour = $425 per fuse/shuttle valve	$64,453 per fuse/shuttle valve assembly	$64,878

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–22–07 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–22878; Docket No. FAA–2024–1692; Project Identifier MCAI–2024–00050–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 31, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to De Havilland Aircraft of Canada Limited Model DHC–8–401 and –402 airplanes, certificated in any category, as identified in Transport Canada AD CF–2024–01, dated January 11, 2024 (Transport Canada AD CF–2024–01).

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls; 29, Hydraulic Power; and 32, Landing Gear.

(e) Unsafe Condition

This AD was prompted by a report of an in-flight event where isolation valve caution messages were received. The FAA is issuing this AD to address failure of certain fuse/shuttle valves. The unsafe condition, if not addressed, could result in the loss of powered landing gear extension/retraction, outboard and inboard spoilers, nose wheel steering, normal braking, and possibly a runway excursion.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2024–01.

(h) Exceptions to Transport Canada AD CF–2024–01

(1) Where Transport Canada AD CF–2024–01 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2024–01 refers to hours air time, this AD requires using flight hours.

(i) 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 (j) of this AD. Information may be emailed to: *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 Transport Canada; or De Havilland Aircraft of Canada Limited's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Additional Information

For more information about this AD, contact Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; email: *9-avs-nyaco-cos@faa.gov.*

(k) 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) Transport Canada AD CF–2024–01, dated January 11, 2024.

(ii) [Reserved]

(3) For Transport Canada AD CF–2024–01, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website *tc.canada.ca/en/aviation.*

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

(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 October 28, 2024.

Victor Wicklund,

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

[FR Doc. 2024–27593 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 738, 740, 742 and 774

[Docket No. 241113–0293]

RIN 0694–AJ63

Implementation of Additional Controls on Pakistan

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

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by imposing new licensing requirements on exports, reexports, and transfers (in-country) to and within Pakistan of certain items identified on the Commerce Control List (CCL) that are not currently subject to a license requirement when destined for Pakistan. This change is being made to ensure that such transactions receive U.S. government review to reduce the risk of diversion to an end use or end user of concern.

DATES: This rule is effective November 25, 2024, except for amendatory instruction 6, which is effective November 25, 2024.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact Philip Johnson at *RPD2@bis.doc.gov* or (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

BIS implements export controls on dual-use and certain munitions items (commodities, software, and technology) under the EAR (15 CFR parts 730–774) to advance U.S. national security and foreign policy interests. Among other controls, the EAR restricts the export, reexport, and transfer (in-country) of items based on their classification on the CCL (supp. no. 1 to 15 CFR part 774) and relevant reason(s) for control (see 15 CFR part 742) applicable to the country of destination, as generally determined by the Commerce Country Chart (supp. no. 1 to 15 CFR part 738). BIS also maintains end-use and end-user controls pursuant to part 744 of the EAR, including controls on transactions involving less-sensitive items designated as EAR99, and controls that apply to specific activities of U.S. persons. Additionally, BIS maintains embargoes and special controls pursuant to part 746 of the EAR. With respect to Pakistan, BIS maintains a combination of CCL-based, end-use, and end-user controls. The end-use controls

include a license requirement for the export, reexport, or transfer (in-country) of items subject to the EAR to or within Pakistan when there is knowledge that the items will be used in certain nuclear end uses (see 15 CFR 744.2) or in certain rocket system or unmanned aerial vehicle (*e.g.,* missile) end uses (see 15 CFR 744.3). The end-user controls include Entity List and Unverified List restrictions on exports, reexports, and transfers (in-country) of certain items subject to the EAR that apply when specific entities in Pakistan are parties to the transaction pursuant to part 744 of the EAR (see supps. no. 4 and 6 to 15 CFR part 744).

In 1998, Pakistan detonated a nuclear explosive device. In response, BIS imposed further licensing requirements on certain entities in Pakistan determined to have been involved in nuclear or missile activities by adding those entities to the Entity List (63 FR 64322, November 19, 1998). Since that time, BIS has added additional entities in Pakistan to the Entity List. There are currently over 100 entities on the Entity List under the destination of Pakistan. Pursuant to § 744.11(b) of the EAR, BIS has added such entities consistent with the interagency End-User Review Committee's determination that there was reasonable cause to believe, based on specific and articulable facts, that such entities are involved, have been involved, or pose a significant risk of being or becoming involved in, activities contrary to U.S. national security or foreign policy interests. For example, in 2021, BIS added 11 entities to the Entity List, under the destination of Pakistan for, *inter alia,* contributions to Pakistan's unsafeguarded nuclear activities and ballistic missile program (86 FR 67317, November 26, 2021). In 2022, BIS added three entities to the Entity List, under the destination of Pakistan, because the entities pose an unacceptable risk of using or diverting items subject to the EAR to certain nuclear end-uses and certain rocket systems and unmanned aerial vehicles end-uses (87 FR 38920, June 28, 2022).

This rule addresses BIS's concern that certain CCL items controlled only for antiterrorism (AT) reasons (and hence not currently subject to a CCL-based license requirement for export or reexport, or transfer (in-country) to or within Pakistan) have been sought by entities listed on the Entity List, as well as front companies acting on behalf of such entities. Specifically, entities on the Entity List have sought items classified under the following Export Control Classification Numbers (ECCNs): (1) 1B999 (''Specific Processing Equipment, n.e.s.''); (2) 2A992 (''Piping, fittings and valves made of, or lined with stainless, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium''); (3) 2B999 (''Specific Processing Equipment, n.e.s.''); (4) 3A992 (''General purpose electronic equipment not controlled by 3A002''); (5) 3A999 (''Specific Processing Equipment, n.e.s.''); and (6) 6A996 ('''Magnetometers' not controlled by ECCN 6A006, 'Superconductive' electromagnetic sensors, and 'specially designed' 'components' therefor'').

BIS previously controlled certain of these nuclear- or missile-related items to Pakistan unilaterally for nuclear nonproliferation (NP2) reasons (see 81 FR 85138, November 25, 2016), and for Anti-Terrorism (AT) reasons to sanctioned and embargoed destinations (see 65 FR 38148, June 19, 2000 and 72 FR 3722, January 26, 2007). Accordingly, BIS has determined that prior U.S. government review of proposed exports, reexports, and transfers (in-country) of items controlled under the six ECCNs specified above to or within Pakistan, and the potential denial or approval with limiting conditions of such exports, reexports, and transfers (in-country), would advance U.S. national security and foreign policy interests by reducing the risk of diversion to unauthorized end uses and/or end users. BIS reminds exporters, reexporters, and transferors of items subject to the EAR to Pakistan that as a best practice, they should review BIS's Pakistan Due Diligence Guidance located on the BIS website at: *https://www.bis.doc.gov/index.php/policy-guidance/pakistan-due-diligence-guidance.*

Revisions to the EAR

Additional CCL-Based License Requirements

In this final rule, BIS is imposing additional CCL controls on exports and reexports to, as well as transfers (in-country) within, Pakistan pursuant to part 742 of the EAR. Specifically, BIS is adding a new paragraph to § 742.6 of the EAR to impose a license requirement on the export, reexport, or transfer (in-country) of certain items to or within Pakistan, for regional stability (RS) reasons. Pursuant to new paragraph (a)(12) of § 742.6, there will be a license requirement for exports, reexports, and transfers (in-country) to or within Pakistan of all items classified under ECCNs 1B999, 2A992, 2B999 (other than 2B999.h.2), 3A992, 3A999, and 6A996. Pursuant to new § 740.2(a)(25), the only license exceptions that will be available for the export, reexport, or transfer (in-country) to or within Pakistan of items subject to the new license requirement in § 742.6(a)(12) are TMP (limited to 740.9(a)(1), (a)(4), (a)(5), (a)(10), (b)(2), and (b)(3)), RPL (740.10), and GOV (limited to 740.11(a), (b), and (d)). However, BIS notes that consistent with § 744.16(b), license exceptions are generally unavailable when a party on the Entity List is a party to the transaction. For example, the Chashma and Karachi Nuclear Power Plants are subject to International Atomic Energy Agency (IAEA) safeguards but are listed on the Entity List under the entry for the Pakistan Atomic Energy Commission, under the subordinate entity ''Nuclear reactors (including power plants).'' The Organization for the Prohibition of Chemical Weapons (OPCW)-designated laboratory in Pakistan, the Analytical Laboratory of the Defense Science and Technology Organization (DESTO) is also listed on the Entity List. Accordingly, GOV (§ 740.11(a)) (IAEA shipments for international safeguards use) and GOV (§ 740.11(d)) (OPCW-related shipments), would not be available for exports or reexports of the foregoing items to these entities in support of IAEA/OPCW activities.

Review Policy

New paragraph (b)(13) of § 742.6 provides that license applications for exports, reexports, and transfers (in-country) to or within Pakistan of items controlled under ECCNs 1B999, 2A992, 2B999 (other than 2B999.h.2), 3A992, 3A999, and 6A996 will be reviewed on a case-by-case basis to determine whether the proposed export, reexport, or transfer (in-country) presents an unacceptable risk of use in, or diversion to, an end use or end user of concern, as set forth in part 744 of the EAR. If it is determined that the proposed export, reexport, or transfer (in-country) presents an unacceptable risk of use in, or diversion to, an end use or end user of concern, the application will be denied.

Accordingly, as of the effective date of this rule, exporters, reexporters, and transferors must seek a license from BIS to export, reexport, or transfer (in-country) items controlled under ECCNs 1B999, 2A992, 2B999 (other than 2B999.h.2), 3A992, 3A999, and 6A996 to Pakistan, regardless of end use or end user, unless a license exception specified in § 740.2(a)(25) is available.

Additional Revision

This rule also adds and reserves two new paragraphs § 742.6(a)(11) and (b)(12) in anticipation of future BIS rulemaking.

Savings Clause

For the changes being made in this final rule, shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR), or for which EEI filing is required as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport on December 26, 2024, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR), and/or without an EEI filing, unless such filing is otherwise required by law or regulation independent of this action.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule. In particular, Section 1753 of ECRA (50 U.S.C. 4812) authorizes the regulation of exports, reexports, and transfers (in-country) of items subject to U.S. jurisdiction. Further, Section 1754(a)(1)–(16) of ECRA (50 U.S.C. 4813(a)(1)–(16)) authorizes, inter alia, the establishment of a list of controlled items; the prohibition of unauthorized exports, reexports, and transfers (in-country); the requirement of licenses or other authorizations for exports, reexports, and transfers (in-country) of controlled items; apprising the public of changes in policy, regulations, and procedures; and any other action necessary to carry out ECRA that is not otherwise prohibited by law. Pursuant to Section 1762(a) of ECRA (50 U.S.C. 4821(a)), these changes may be imposed in a final rule without prior notice and comment.

Rulemaking Requirements

1. BIS has examined the impact of this rule as required by Executive Orders (E.O.) 12866, 13563, and 14094, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (*e.g.,* potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). Pursuant to E.O. 12866, as amended, this final rule is not a ''significant regulatory action.''

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves the following OMB-approved collections of information subject to the PRA:

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

BIS estimates that these new controls on Pakistan under the EAR will result in an increase of 55 license applications submitted annually to BIS. However, the additional burden falls within the existing estimates currently associated with these control numbers. Additional information regarding these collections of information—including all background materials—can be found at: *https://www.reginfo.gov/public/do/PRAMain* by using the search function to enter either the title of the collection or the OMB Control Number.

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

4. As noted in the preamble, pursuant to Section 1762(a) of ECRA (50 U.S.C. 4821(a)), BIS may issue final rules that are exempt from certain rulemaking requirements. Specifically, this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While Section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)).

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

List of Subjects

15 CFR Part 738

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

15 CFR Part 740

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

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements, Terrorism.

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

PART 738—[AMENDED]

■ 1. The authority citation for 15 CFR part 738 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287(c); 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 2. Supplement no. 1 to part 738 is amended by revising the entries for Pakistan and Ukraine in the Commerce Country chart to read as follows:

SUPPLEMENT NO. 1 TO PART 738—COMMERCE COUNTRY CHART

[Reason for control]

Countries	Chemical and biological weapons			Nuclear non proliferation		National security		Missile tech	Regional stability		Firearms convention	Crime control			Anti-terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
*		*		*			*		*			*		*		
Pakistan [8]	X	X	X	X	X	X	X	X	X	X		X	X	X		
*		*		*			*		*			*		*		
Ukraine [9]	X					X	X	X	X	X		X	X			
*		*		*			*		*			*		*		

[8] See § 742.6(a)(12) for additional license requirements for exports, reexports, and transfers (in-country) of certain items to or within Pakistan.

[9] See § 746.6 of the EAR for additional license requirements for exports and reexports to the Crimea region of Ukraine and the so-called Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR) regions of Ukraine and transfers (in-country) within the Crimea, DNR, and LNR regions of Ukraine for all items subject to the EAR, other than food and medicine designated as EAR99 and certain EAR99 or ECCN 5D992.c software for internet-based communications.

PART 740—[AMENDED]

■ 3. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 4. Amend § 740.2 by adding paragraph (a)(25) to read as follows:

§ 740.2 Restrictions on all license exceptions.

(a) * * *

(25) No license exception is available for the export, reexport, or transfer (in-country) to or within Pakistan of items controlled under ECCNs 1B999, 2A992, 2B999 (except 2B999.h.2), 3A992, 3A999, or 6A996 (see § 742.6(a)(12) of the EAR), apart from TMP (limited to 740.9(a)(1), (a)(4), (a)(5), (a)(10), (b)(2), and (b)(3)), RPL (740.10), or GOV (740.11(a), (b), or (d)).

* * * * *

PART 742—[AMENDED]

■ 5. The authority citation for part 742 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 7, 2024, 89 FR 88867 (November 8, 2024).

■ 6. Effective November 25, 2024, amend § 742.6 by adding reserved paragraphs (a)(11) and (b)(12) to read as follows:

§ 742.6 Regional stability.

(a) * *–*

(11) [Reserved]

(b) * * *

(12) [Reserved]

* * * * *

■ 7. Amend § 742.6 by adding paragraphs (a)(12) and (b)(13) to read as follows:

§ 742.6 Regional stability.

(a) * * *

(12) *RS requirements that apply to Pakistan.* A license is required to export, reexport, or transfer (in-country) to or within Pakistan the following items: 1B999 (''Specific Processing Equipment, n.e.s.''); 2A992 (''Piping, fittings and valves made of, or lined with stainless, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium''); 2B999 (''Specific Processing Equipment, n.e.s.''), except 2B999.h.2; 3A992 (''General purpose electronic equipment not controlled by 3A002''); 3A999 (''Specific Processing Equipment, n.e.s.''); and 6A996 (''‘Magnetometers' not controlled by ECCN 6A006, ‘Superconductive' electromagnetic sensors, and ‘specially designed' ‘components' therefor'').

(b) * * *

(13) Applications for the export, reexport, or transfer (in-country) of any item that requires a license pursuant to paragraph (a)(12) of this section will be reviewed on a case-by-case basis to determine whether the proposed export, reexport, or transfer (in-country) presents an unacceptable risk of use in, or diversion to, an end use or end user of concern, as set forth in part 744 of the EAR. If it is determined that the proposed export, reexport, or transfer (in-country) poses an unacceptable risk of use in, or diversion to, an end use or end user of concern, the application will be denied.

* * * * *

PART 774—COMMERCE CONTROL LIST

■ 8. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 9. Supplement no. 1 to part 774 is amended by revising ECCNs 1B999, 2A992, 2B999, 3A992, 3A999, and 6A996 to read as follows:

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

* * * * *

1B999 Specific processing equipment, n.e.s., as follows (see List of Items Controlled).

License Requirements

Reason for Control: RS, AT

Control(s)	Country chart (see supp. no. 1 to part 738)
RS applies to entire entry.	A license is required for items controlled by this entry for export or reexport to Iraq or Pakistan or transfer within Iraq or Pakistan for regional stability reasons. The Commerce Country Chart is not designed to determine RS license requirements for this entry. See §§ 742.6 and 746.3 of the EAR for additional information.

Control(s)	Country chart (see supp. no. 1 to part 738)
AT applies to entire entry	A license is required for items controlled by this entry to North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT license requirements for this entry. See § 742.19 of the EAR for additional information.

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: See also 1B001, 1B101, 1B201, 1B225, and 1D999
Related Definitions: N/A
Items:

a. Electrolytic cells for fluorine production, n.e.s.

b. Particle accelerators.

c. Industrial process control hardware/systems designed for power industries, n.e.s.

d. Freon and chilled water cooling systems capable of continuous cooling duties of 100,000 BTU/hr (29.3 kW) or greater.

e. Equipment for the production of structural composites, fibers, prepregs and preforms, n.e.s.

* * * * *

2A992 Piping, fittings and valves made of, or lined with stainless, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium.

License Requirements

Reason for Control: RS, AT

Control(s)	Country chart (see supp. no. 1 to part 738)
RS applies to entire entry.	A license is required for items controlled by this entry for export or reexport to Pakistan or transfer within Pakistan for regional stability reasons. The Commerce Country Chart is not designed to determine RS license requirements for this entry. See § 742.6(a)(12) of the EAR for additional information.
AT applies to entire entry	AT Column 1.

List Based License Exceptions (See part 740 for a description of all license exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls:

(1) See ECCN 2D993 for software for items controlled under this entry.

(2) See ECCNs 2E001 (''development''), 2E002 (''production''), and 2E993 (''use'') for technology for items controlled under this entry.

(3) Also see ECCNs 2A226, 2B350 and 2B999. Related Definitions: N/A

Items:

a. Pressure tube, pipe, and fittings of 200 mm (8 in.) or more inside diameter, and suitable for operation at pressures of 3.4 MPa (500 psi) or greater;

b. Pipe valves having all of the following characteristics that are not controlled by ECCN 2B350.g:

b.1. A pipe size connection of 200 mm (8 in.) or more inside diameter; *and*

b.2. Rated at 10.3 MPa (1,500 psi) or more.

* * * * *

2B999 SPECIFIC PROCESSING EQUIPMENT, N.E.S., AS FOLLOWS (SEE LIST OF ITEMS CONTROLLED).

License Requirements

Reason for Control: RS, AT

Control(s)	Country chart (see supp. no. 1 to part 738)
RS applies to entire entry except 2B999.h.2	A license is required for items controlled by this entry, other than 2B999.h.2, for export or reexport to Pakistan or transfer within Pakistan for regional stability reasons. The Commerce Country Chart is not designed to determine RS license requirements for this entry. See § 742.6(a)(12) of the EAR for additional information.
AT applies to entire entry	A license is required for items controlled by this entry to North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. See § 742.19 of the EAR for additional information.

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See also 1B233, 2A992, 2A993, 2B001.f, 2B004, 2B009, 2B104, 2B109, 2B204, 2B209, 2B228, 2B229, 2B231, and 2B350. (2) Certain nuclear related processing equipment is subject to the export licensing authority of the Nuclear Regulatory Commission (see *10 CFR part 110*).
Related Definitions: N/A
Items:

a. Isostatic presses, n.e.s.

b. Bellows manufacturing equipment, including hydraulic forming equipment and bellows forming dies.

c. Laser welding machines.

d. MIG welders.

e. E-beam welders.

f. Monel equipment, including valves, piping, tanks and vessels.

g. 304 and 316 stainless steel valves, piping, tanks and vessels.

Note: Fittings are considered part of ''piping'' for purposes of 2B999.g.

h. Mining and drilling equipment, as follows:

h.1. Large boring equipment capable of drilling holes greater than two feet in diameter.

h.2. Large earth-moving equipment used in the mining industry.

i. Electroplating equipment designed for coating parts with nickel or aluminum.

j. Pumps designed for industrial service and for use with an electrical motor of 5 HP or greater.

k. Vacuum valves, piping, flanges, gaskets and related equipment ''specially designed'' for use in high-vacuum service, n.e.s.

l. Spin forming and flow forming machines, n.e.s.

m. Centrifugal multiplane balancing machines, n.e.s.

n. Austenitic stainless-steel plate, valves, piping, tanks and vessels.

* * * * *

3A992 GENERAL PURPOSE ELECTRONIC EQUIPMENT, NOT CONTROLLED BY 3A002, AS FOLLOWS (SEE LIST OF ITEMS CONTROLLED).

License Requirements

Reason for Control: RS, AT

Control(s)	Country chart (see supp. no. 1 to part 738)
RS applies to entire entry..	A license is required for items controlled by this entry for export or reexport to Pakistan or transfer within Pakistan for regional stability reasons. The Commerce Country Chart is not designed to determine RS license requirements for this entry. See § 742.6(a)(12) of the EAR for additional information.
AT applies to entire entry	AT Column 1.

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items:

a. Electronic test equipment, n.e.s.

b. Digital instrumentation magnetic tape data recorders having any of the following characteristics;

b.1. A maximum digital interface transfer rate exceeding 60 Mbit/s and employing helical scan techniques;

b.2. A maximum digital interface transfer rate exceeding 120 Mbit/s and employing fixed head techniques; *or*

b.3. ''Space qualified''.

c. Equipment, with a maximum digital interface transfer rate exceeding 60 Mbit/s, designed to convert digital video magnetic tape recorders for use as digital instrumentation data recorders.

d. Non-modular analog oscilloscopes having a bandwidth of 1 GHz or greater.

e. Modular analog oscilloscope systems having either of the following characteristics:

e.1. A mainframe with a bandwidth of 1 GHz or greater; *or*

e.2. Plug-in modules with an individual bandwidth of 4 GHz or greater.

f. Analog sampling oscilloscopes for the analysis of recurring phenomena with an effective bandwidth greater than 4 GHz.

g. Digital oscilloscopes and transient recorders, using analog-to-digital conversion techniques, capable of storing transients by sequentially sampling single-shot inputs at successive intervals of less than 1 ns (greater than 1 gigasample per second), digitizing to 8 bits or greater resolution and storing 256 or more samples.

Note: This ECCN controls the following ''specially designed'' ''parts'' and ''components'' for analog oscilloscopes:

1. Plug-in units;
2. External amplifiers;
3. Pre-amplifiers;
4. Sampling devices;
5. Cathode ray tubes.

* * * * *

3A999 SPECIFIC PROCESSING EQUIPMENT, N.E.S., AS FOLLOWS (SEE LIST OF ITEMS CONTROLLED).

License Requirements

Reason for Control: RS, AT

Control(s)	Country Chart (See Supp. No. 1 to part 738)
RS applies to entire entry..	A license is required for items controlled by this entry for export or re-export to Iraq or Pakistan or transfer within Iraq or Pakistan for regional stability reasons. The Commerce Country Chart is not designed to determine RS license requirements for this entry. See §§ 742.6 and 746.3 of the EAR for additional information.
AT applies to entire entry	A license is required for items controlled by this entry to North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT license requirements for this entry. See § 742.19 of the EAR for additional information.

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See also 3A225 (for frequency changers capable of operating in the frequency range of 600 Hz and above), and 3A233. (2) Certain auxiliary systems, equipment, ''parts'' and ''components'' for isotope separation plants, made of or protected by UF_6 resistant materials are subject to the export licensing authority of the Nuclear Regulatory Commission (see *10 CFR part 110*).

Related Definitions: N/A

Items:

a. Frequency changers capable of operating in the frequency range from 300 up to 600 Hz, n.e.s.

b. Mass spectrometers n.e.s.

c. All flash x-ray machines, and ''parts'' or ''components'' of pulsed power systems designed thereof, including Marx generators, high power pulse shaping networks, high voltage capacitors, and triggers.

d. Pulse amplifiers, n.e.s.

e. Electronic equipment for time delay generation or time interval measurement, as follows:

e.1. Digital time delay generators with a resolution of 50 nanoseconds or less over time intervals of 1 microsecond or greater.

e.2. Multi-channel (three or more) or modular time interval meter and chronometry equipment with resolution of 50 nanoseconds or less over time intervals of 1 microsecond or greater.

f. Chromatography and spectrometry analytical instruments.

* * * * *

6A996 ''MAGNETOMETERS'' NOT CONTROLLED BY ECCN 6A006, ''SUPERCONDUCTIVE'' ELECTROMAGNETIC SENSORS, AND ''SPECIALLY DESIGNED'' ''COMPONENTS'' THEREFOR, AS FOLLOWS (SEE LIST OF ITEMS CONTROLLED).

License Requirements

Reason for Control: RS, AT

Control(s)	Country chart (see supp. no. 1 to part 738)
RS applies to entire entry..	A license is required for items controlled by this entry for export or re-export to Pakistan or transfer within Pakistan for regional stability reasons. The Commerce Country Chart is not designed to determine RS license requirements for this entry. See § 742.6(a)(12) of the EAR for additional information.
AT applies to entire entry	AT Column 1.

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items:

a. ''Magnetometers'', n.e.s., having a 'sensitivity' lower (better) than 1.0 nT (rms) per square root Hz.

Technical Note: For the purposes of 6A996, 'sensitivity' (noise level) is the root mean square of the device-limited noise floor which is the lowest signal that can be measured.

b. ''Superconductive'' electromagnetic sensors, ''components'' manufactured from ''superconductive'' materials and having all the following:

b.1. Designed for operation at temperatures below the ''critical temperature'' of at least one of their ''superconductive'' constituents (including Josephson effect devices or ''superconductive'' quantum interference devices (SQUIDS));

b.2. Designed for sensing electromagnetic field variations at frequencies of 1 KHz or less; *and*

b.3. Having any of the following characteristics:

b.3.a. Incorporating thin-film SQUIDS with a minimum feature size of less than 2 μm and with associated input and output coupling circuits;

b.3.b. Designed to operate with a magnetic field slew rate exceeding 1×10^6 magnetic flux quanta per second;

b.3.c. Designed to function without magnetic shielding in the earth's ambient magnetic field; *or*

b.3.d. Having a temperature coefficient less (smaller) than 0.1 magnetic flux quantum/K.

* * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2024–27648 Filed 11–25–24; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

National Marine Sanctuary Program Regulations

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 15 of the Code of Federal Regulations, Part 800 to End, revised as of January 1, 2024, amend § 922.132(f) by adding a second to last sentence to read as follows:

§ 922.132 Prohibited or otherwise regulated activities.

* * * * *

(f) * * * For the purposes of this subpart, the disposal of dredged material does not include the beneficial use of dredged material as defined by § 922.131. * * *

* * * * *

[FR Doc. 2024–27869 Filed 11–25–24; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF STATE

22 CFR Part 121

[Public Notice: 12591]

International Traffic in Arms Regulations: Extension of an Existing Temporary Modification of Category VIII of the U.S. Munitions List

AGENCY: Department of State.

ACTION: Final rule; notification of extension of temporary modification.

SUMMARY: The Department of State (the Department), pursuant to its regulations and in the interest of the national security and foreign policy of the United States, extends a previous temporary modification of the United States Munitions List (USML) Category VIII.

DATES: As of November 26, 2024, the end of the effective period for the temporary modification published at 88 FR 84072 on December 4, 2023, is extended from December 1, 2024, to December 1, 2026, or when terminated by the Department, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rasmussen, Office of Defense Trade Controls Policy, Department of State, telephone (771) 204–4442; email *DDTCCustomerService@state.gov,* SUBJECT: Temporary Modification—Note to paragraph (h)(1) of USML Category VIII.

SUPPLEMENTARY INFORMATION: On December 4, 2023, the Department published a final rule in the **Federal Register** at 88 FR 84072 temporarily modifying the note to USML Category VIII(h)(1), such that parts, components, accessories, and attachments specially designed for aircraft identified in paragraph (h)(1) are not released from that paragraph due to their use in the KF–21 aircraft.

The Department previously determined it is in the national security and foreign policy interests of the United States to allow manufacturers to apply for export authorizations to participate in development of the KF–21 aircraft by using certain defense articles described in paragraph (h)(1) without removing those defense articles from the USML simply because they are used in the KF–21.

Now, the Department again determines it is in the security and foreign policy interests of the United States to extend the validity period of this temporary modification. Accordingly, pursuant to International Traffic in Arms Regulations (ITAR) § 126.2, the Acting Assistant Secretary of State for Political-Military Affairs hereby extends the previous temporary modification of the Note to paragraph (h)(1) of USML Category VIII.

Section 126.2 of the ITAR provides that the Deputy Assistant Secretary for Defense Trade Controls may order the temporary suspension or modification of any or all provisions of the ITAR when in the interest of the security and foreign policy of the United States. Section 120.1(b) of the ITAR authorizes the Assistant Secretary of State for Political-Military Affairs to exercise this authority for the Department.

This temporary modification, already effective and currently reflected in the USML at ITAR § 121.1, is hereby extended until December 1, 2026, or when terminated by the Department, whichever occurs first.

Regulatory Analysis and Notices

Administrative Procedure Act

This rulemaking is exempt from section 553 of the Administrative Procedure Act (APA) pursuant to section 553(a)(1) as a military or foreign affairs function of the United States.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

The Department assesses that this rule is not a major rule under the criteria of 5 U.S.C. 804.

Executive Orders 12372 and 13132

This rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866, 13563, and 14094

Executive Orders 12866 (as amended by Executive Order 14094) and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been deemed a ''significant regulatory action'' under Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

The Department of State has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not preempt Tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. chapter 35.

Stanley L. Brown,

Acting Assistant Secretary, Bureau of Political-Military Affairs, U.S. Department of State.

[FR Doc. 2024–27592 Filed 11–25–24; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 10010]

RIN 1545–BQ85

Advanced Manufacturing Production Credit; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to Treasury Decision 10010 published in the **Federal Register** on Monday, October 28, 2024. Treasury Decision 10010 sets forth final regulations regarding the advanced manufacturing production credit established by the Inflation Reduction Act of 2022 to incentivize the production of eligible components within the United States.

DATES:

Effective date: These corrections are effective on December 27, 2024.

Applicability date: For date of applicability, *see* §§ 1.45X–1(j), 1.45X–2(f), 1.45X–3(g), and 1.45X–4(d).

FOR FURTHER INFORMATION CONTACT: Mindy Chou or Derek Gimbel at (202) 317–6853 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 10010) subject to these corrections are issued under section 45X of the Internal Revenue Code.

Correction of Publication

Accordingly, FR Doc. 2024–24840 (TD 10010), appearing on page 85798 in the **Federal Register** of Monday, October 28, 2024, is corrected as follows:

1. On page 85798, in the second column, in the second partial paragraph, in the third line from the bottom of the paragraph, the language ''1818 (August 16, 2022)'' is corrected to read ''1818, 1971 (August 16, 2022)''.

2. On page 85800, in the first column, in the first full paragraph, in the eighth line, ''193'' is corrected to read ''194''.

3. On page 85800, in the first column, the heading ''A. In general'' is corrected to read ''A. In General''.

4. On page 85801, in the second column, in the sixth line from the bottom of the first partial paragraph, the language ''considered to produce'' is corrected to read ''considered to have produced''.

5. On page 85801, in the third column, in the fifth line of the first full paragraph, the language ''produced by the taxpayer'' is corrected to read ''''produced by the taxpayer''''.

6. On page 85803, in the second column, in the twenty-fourth line of the first full paragraph, the language ''clarified'' is corrected to read ''clarified the''.

7. On page 85803, in the second column, in the fifth line from the bottom of the first full paragraph, the language ''have'' is corrected to read ''have the''.

8. On page 85803, in the second column, in the sixth line of the first partial paragraph, the language ''United States,'' is corrected to read ''United States, including continental shelf areas''.

9. On page 85806, in the third column, in the sixth line of the first partial paragraph, the word ''batteries'' is corrected to read ''eligible components''.

10. On page 85806, in the third column, in the eighth line of the first full paragraph, the word ''both'' is corrected to read ''the''.

11. On page 85807, in the third column, in the last line from the bottom of the first partial paragraph, the language ''sale.'' is corrected to read ''sale. Accordingly, the Treasury Department and the IRS decline to adopt the commenter's suggestion and finalize the proposed rule without modification.''.

12. On page 85807, in the third column, in the eighth line of the second full paragraph, the language ''as commenter'' is corrected to read ''as the commenter''.

13. On page 85809, in the third column, in the fifth line from the bottom of the third full paragraph, the word ''if'' is corrected to read ''provided that''.

14. On page 85809, in the third column, in the fourth line from the bottom of the third full paragraph, the word ''polysilicon'' is corrected to read ''polysilicon,''.

15. On page 85813, in the first column, in the seventh line from the bottom of the third full paragraph, the language ''(Standard)'' is removed.

16. On page 85813, in the first column, in the fifth line from the bottom of the third full paragraph, the language ''Standards'' is corrected to read ''standards''.

17. On page 85815, in the third column, in the second line of the third full paragraph, the language ''that generally,'' is corrected to read ''that, generally,''.

18. On page 85816, in the second column, the first partial paragraph, the language ''as electrode active materials, battery cells, or battery modules'' is corrected to read ''as an electrode active material, a battery cell, or a battery module''.

19. On page 85820, in the second column, in the twentieth line of the first full paragraph, the word ''at'' is corrected to read ''an''.

§§ 1.45X–1 [Corrected]

■ 20. On page 85832, in the second column, correct paragraph (a)(2)(xi) to read as follows: ''(xi) *Produced by the taxpayer.* The term *produced by the taxpayer* is defined in paragraph (c) of this section.''.

■ 21. On page 85833, in the first column, in the fifth line from the bottom of paragraph (c)(2)(i), the language ''1.45X–3(e)(2)(ii)(A)'' is corrected to read ''1.45X–3(e)(2)(iii)(A)''.

■ 22. On page 85833, in the first column, in the second line from the bottom of paragraph (c)(2)(i), the language ''3(e)(2)(ii)(B)'' is corrected to read ''3(e)(2)(iii)(B)''.

■ 23. On page 85833, in the second column, in the third line of paragraph (c)(2)(ii), the language ''45X(c)(6)(P)'' is corrected to read ''45X(c)(6)(P)(ii)''.

■ 24. On page 85833, in the second column, in the last line from the bottom of paragraph (c)(2)(ii), the language ''45X(c)(6)(P)'' is corrected to read ''45X(c)(6)(P)(ii)''.

■ 25. On page 85834, in the second column, in the second line from the bottom of paragraph (c)(3)(v)(D), the language ''paragraph (c)(2)(i)'' is corrected to read ''paragraph (c)(3)(i).

■ 26. On page 85834, in the third column, in the fifth line of paragraph (c)(4)(ii), the language ''45X(4)(B)(iv)'' is corrected to read ''45X(c)(4)(B)(iv)''.

■ 27. On page 85836, in the first column, in the fourth line from the bottom of paragraph (g)(4)(iii)(B), the language ''Production Unit A or B'' is corrected to read ''Equipment A or B''.

■ 28. On page 85836, in the second column, the heading for paragraph (g)(4)(v) is corrected to read ''*Example 5: Multiple tangible property used to produce separate eligible components—*''.

§ 1.45X–3 [Corrected]

■ 29. On page 85842, in the second column, in the tenth line of paragraph (e)(2)(iv)(A)(1), the word ''material'' is corrected to read ''material only,''.

■ 30. On page 85842, in the third column, in the third line of paragraph (e)(3)(ii), the language ''(e)(2)(iv)(A)(2)(i)'' is corrected to read ''(e)(2)(iv)(A)(3)(i)''.

■ 31. On page 85843, in the third column, in the seventh line from the bottom of paragraph (e)(4)(i)(A), the word ''individually'' is removed.

§ 1.45X–4 [Corrected]

■ 32. On page 85845, in the second column, in the ninth line of paragraph (c)(3)(i), the word ''mineral,'' is corrected to read ''mineral only,''.

Oluwafunmilayo A. Taylor,

Section Chief, Publications and Regulations Section, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2024–27588 Filed 11–25–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 10013]

RIN 1545–BQ74

Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce, Including the Bureau of the Census, for Certain Statistical Purposes and Related Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that amend existing regulations relating to the disclosure of specified return information to the Bureau of the Census (Bureau). The final regulations ensure the efficient and appropriate transfer of return information to the Bureau and permit the disclosure of additional return information pursuant to a request from the Secretary of Commerce. These regulations require no action by taxpayers and have no effect on their tax liabilities.

DATES:

Effective date: These final regulations are effective on November 26, 2024.

Applicability date: For the date of applicability, *see* § 301.6103(j)(1)–1.

FOR FURTHER INFORMATION CONTACT: Elizabeth Erickson of the Office of the Associate Chief Counsel (Procedure and Administration), at (202) 317–6834; (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document amends the Procedure and Administration Regulations, 26 CFR part 301, relating to section 6103(j)(1)(A) of the Internal Revenue Code (Code), by adding final regulations under section 6103 (final regulations). Section 6103(j)(1) provides an express delegation of authority to the Secretary of the Treasury or her delegate (Secretary), stating that, ''[u]pon request in writing by the Secretary of Commerce, the Secretary shall furnish . . . such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census'' and ''such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis'' ''as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.'' Section 6103(q) further authorizes the Secretary to ''prescribe such other regulations as are necessary to carry out the provisions of'' section 6103. The final regulations are also issued under the express delegation of authority under section 7805(a) of the Code.

Background

There is a long history of providing return information to the Bureau under section 6103(j)(1)(A), and the regulations promulgated under this section have been amended periodically to increase the amount of return information provided to facilitate the statistical activities of the Bureau. *See e.g.,* TD 9037, 68 FR 2693, January 21, 2003; TD 9188, 70 FR 12141, March 11, 2005; TD 9267, 71 FR 38263, July 6, 2006; TD 9372, 72 FR 73262, December 27, 2007; TD 9439, 73 FR 79361, December 29, 2008; TD 9500, 75 FR 52459, August 26, 2010; TD 9631, 78 FR 52857, August 27, 2013; TD 9754, 81 FR 9767, February 26, 2016; TD 9856, 84 FR 14011, April 9, 2019.

The existing regulations under section 6103(j)(1)(A) are set forth in 26 CFR 301.6103(j)(1)–1. They authorize the Bureau to receive return information that supports many different Bureau projects and programs, including the Economic Census, the Longitudinal Employer-Household Dynamics program, and the Small Area Income and Poverty Estimates program, among others.

Pursuant to section 6103(p)(4), the IRS sets stringent privacy and security requirements for agencies receiving return information, including the Bureau. These requirements are currently detailed in IRS Publication 1075, *Tax Information Security Guidelines For Federal, State and Local Agencies. See also* § 301.6103(p)(4)–1.

By letter dated February 29, 2024, the Secretary of Commerce requested the Secretary amend existing § 301.6103(j)(1)–1 to provide for the disclosure of additional items of return information to the Bureau to enable the Bureau to perform mission critical statistical functions. The Secretary of Commerce further stated that the additional items would allow the Bureau to conduct its economic, demographic, decennial, and research statistics programs, censuses, and related program evaluations. The amendments to the existing regulations would permit the Bureau to publish statistical information, enhance the use of administrative records, improve the quality of program estimates, and support the reduction of burden. The Secretary of Commerce's letter lists the additional items of return information requested based on the Bureau's specific need for each item of information.

On March 29, 2024, a notice of proposed rulemaking (REG–123376–22) was published in the **Federal Register** (89 FR 22101) (proposed regulations). The proposed regulations proposed amending the regulations that authorize disclosure of specified return information to the Bureau. The proposed regulations would allow the disclosure of additional items of return information requested by the Secretary of Commerce to enable the Bureau to perform mission critical statistical functions. The proposed regulations would also permit the disclosure of return information if an item of return information currently listed in the regulations is subsequently reported in a substantially similar format or on a substantially similar document.

The proposed regulations would formalize existing practice to include (1) the requirement that all projects that use return information disclosed under these regulations be approved by the IRS Director of Statistics of Income, and (2) language related to the IRS's and the Bureau's disclosure review obligations.

Summary of Comments and Explanation of Revisions

The Department of the Treasury (Treasury Department) and the IRS received eighteen comments in response to the proposed regulations. The comments are available for public inspection at *https://www.regulations.gov* or upon request. There was no request for a public hearing, and none was held. After full consideration of the comments received, which are described in this Summary of Comments and Explanation of Revisions, these final regulations adopt the proposed regulations with minor changes.

A. Comments Supporting the Proposed Regulations

Nine of the comments received did not seek to modify the items of return information permitted to be disclosed to the Bureau pursuant to the proposed regulations. Of these comments, six were supportive of the proposed regulations. One comment noted the importance of administrative tax data in measuring and understanding income and wealth in the United States. Another comment noted that the proposed regulations would improve the Bureau's ability to accurately estimate household income and otherwise evaluate and improve the

Bureau's statistical products. This same comment also encouraged the IRS and the Bureau, along with the Office of Management and Budget and other statistical agencies, to explore additional pathways for increasing the statistical agencies' access to Federal tax data, as well as a greater sharing of administrative data across statistical agencies, noting that increased use of administrative data has significant promise for improving statistics on U.S. households and businesses. Finally, this comment noted its support for further consideration of possible means of expanding access to tax data for appropriate purposes in a reliably secure and confidential way.

Another comment supported the proposed regulations and stated that the data that could be disclosed as outlined in the proposed regulations was crucial for the IRS's efforts to advance equity. As one example, this comment noted that, if finalized, the proposed regulations would provide an important opportunity for government and independent researchers to understand demographic trends regarding the Child Tax Credit (CTC) and other refundable credits, as well as to identify and track potential disparities in tax administration. Another comment noted that the proposed changes to the existing regulations would enable the Bureau to produce data that provides more detail about the economic conditions of various populations across the United States, including populations that have been historically underserved, marginalized, and adversely affected by health inequity.

These comments reflect support for the proposed regulations' items of return information permitted to be disclosed to the Bureau. The Treasury Department and IRS agree that disclosure of this information will further the needs of the Bureau by authorizing the Bureau to receive return information that supports many different Bureau projects and programs, including the Economic Census, the Longitudinal Employer-Household Dynamics program, and the Small Area Income and Poverty Estimates program, among others.

B. Comments Proposing That Additional Items of Return Information Be Disclosed to the Bureau

Two comments suggested that additional information on the variety of energy credits under the Inflation Reduction Act of 2022 (IRA) be furnished to the Bureau. The IRA, Public Law 117–169, 136 Stat. 1818 (August 16, 2022), featured a significant number of new tax provisions related to clean energy. Section 6103(j)(1)(A) provides that the Secretary ''shall furnish'' returns or return information requested by the Secretary of Commerce ''for the purpose of, but only to the extent necessary in, the structuring of the censuses and national economic accounts and conducting related statistical activities authorized by law.'' In her request to the Secretary, the Secretary of Commerce did not request the furnishing of the return information recommended by the comments. Because the Secretary of Commerce did not request that information, the final regulations do not adopt these comments.

Similarly, two other comments recommended that additional data regarding partnership returns be furnished to the Bureau—specifically, the zip code of partners included on Form 1065, *U.S. Return of Partnership Income,* Schedule K–1. The Secretary of Commerce in her request to the Secretary did not request the return information recommended by the comments. Accordingly, the final regulations do not adopt these comments.

One comment suggested that it is important for the Bureau to have access to the series of Forms 1099 for both filers and non-filers because such information is important for measuring and understanding income and its distribution, and that the accuracy of income estimates would improve. The comment in particular identified Forms 1099–INT, *Interest Income,* and 1099–DIV, *Dividends and Distributions,* along with certain data from Form 1098–T, *Tuition Statement* (identifiers of the college attended, and tuition amount). The Secretary of Commerce in her request to the Secretary did not request the disclosure of the Form 1099 series in general or the Forms 1099–INT or 1099–DIV specifically. The proposed regulations would permit the disclosure of payments received for qualified tuition and related expenses as well as the identity of the eligible educational institution filing Form 1098–T. Accordingly, no change to the final regulations is necessary to adopt these comments.

Two other comments requested that payer and payee taxpayer identification numbers (TINs) from information returns be disclosed to the Bureau. Payer and payee TINs may already be disclosed to the Bureau under the existing regulations. *See* §§ 301.6103(j)(1)–1(b)(1) (relating to individual taxpayers); 301.6103(j)(1)–1(b)(2)(i) (relating to taxpayers engaged in a trade or business); 301.6103(j)(1)–1(b)(3) (relating to business-related return information); and 301.6103(j)(1)–1(b)(4) (relating to tax-exempt organizations). The proposed regulations similarly provide for the ability to disclose payer and payee TINs. *See* proposed §§ 301.6103(j)(1)–1(b)(1)(i)(A) (relating to individual taxpayers); 301.6103(j)(1)–1(b)(1)(ii) (relating to returns filed on behalf of a trade or business); 301.6103(j)(1)–1(b)(1)(iii) (relating to tax-exempt organizations). Accordingly, no change to the final regulations is necessary to adopt these comments.

A comment supported the language in the proposed regulations that would provide the Bureau with information on health coverage (such as marketplace coverage parameters, and employer coverage on Forms 1095–A, *Health Insurance Marketplace Statement,* 1095–B, *Health Coverage,* and 1095–C, *Employer-Provided Health Insurance Offer and Coverage*) noting that the information reported on these forms provides a comprehensive record of health coverage nationwide and fills important gaps in data. The comment also noted that information regarding health savings accounts (HSAs) from Form 5498–SA, *HSA, Archer MSA, or Medicare Advantage MSA Information,* would also be valuable to policymakers, as the policy considerations with respect to HSAs are a frequent and important focus of ongoing research. The Treasury Department and the IRS note that certain data from Form 5498–SA are already included in the information that would be permitted to be disclosed to the Bureau under the proposed regulations. The final regulations in this regard adopt the proposed regulations without modification.

This same comment requested that the Bureau release (a) enhanced Annual Social and Economic Supplement (ASEC) of the Current Population Survey (CPS) data with new IRS data matched to it, and (b) detailed cross tabulations of newly released tax data by income, geographic area, filing type, and other available tax return statistics. In addition, this comment also encouraged the IRS to continue to carefully evaluate technical and policy solutions for safely sharing the various blended data and implement data governance principles such as accessibility and transparency, through the blending of IRS and Bureau data.

This same comment suggested that various data elements should be disclosed to the Bureau to allow the Bureau to have a more accurate understanding of the impact of current tax benefits and the potential impact of modifications to these provisions. The

suggested data elements included: tax-filing status, income from various sources, the number of earned income tax credit (EITC) eligible qualifying children, the amount of tax credits like EITC and the CTC that families receive, and tax liabilities. Each of these data elements may be disclosed either directly or indirectly under the existing regulations and also under the proposed regulations. *See* proposed §§ 301.6103(j)(1)–1(b)(1)(i) (reflecting returns and return information related to individual taxpayers); 301.6103(j)(1)–1(b)(1)(i)(B) (regarding tax-filing status); 301.6103(j)(1)–1(b)(1)(i)(O) (regarding earned income as defined under section 32(c)(2)); 301.6103(j)(1)–1(b)(1)(i)(GG) (regarding the EITC); 301.6103(j)(1)–1(b)(1)(i)(P) (regarding EITC-eligible qualifying children); 301.6103(j)(1)–1(b)(1)(i)(PP) (regarding the CTC). The overall tax liability of an individual taxpayer, which the Treasury Department and IRS interpret to mean the total amount of tax due or paid by an individual taxpayer, may be ascertained through the items of income, gain, deduction, and credit, that may similarly be disclosed under the proposed and final regulations. Accordingly, the final regulations adopt the proposed regulations in this respect without modification.

C. Comments Expressing Concerns Regarding Data Security

One comment suggested that in its finalized form, the proposed regulations should state affirmatively that, in addition to IRS data privacy protections, data are and will remain confidential under 13 U.S.C. 9, whether in their original form or when comingled or linked.

The final regulations do not adopt this recommendation. The provision cited in the comment, 13 U.S.C. 9, governs the protection and use of confidential data by the Department of Commerce. Section 214 of title 13, United States Code governs criminal penalties against employees or staff members of the Bureau for prohibited disclosure of such confidential data. The disclosures that would be permitted by the proposed regulations concern disclosures made by the IRS under section 6103(j) of Title 26, United States Code (Title 26). The proposed regulations, as well as these final regulations, do not govern data privacy or confidentiality requirements outside of Title 26. The Secretary of Commerce affirmed the application of 13 U.S.C. 9 and 214 in her February 29, 2024, request to the Secretary.

Two other comments expressed concerns that the data sharing contemplated by the proposed regulations would weaken the confidentiality of personal tax data held by the IRS, encourage the inappropriate release of personal tax information, and increase the vulnerability of individual tax return information to data breaches, intrusion, data theft, and abuse.

The Treasury Department and the IRS take taxpayer confidentiality seriously. Section 6103(a) prohibits the unauthorized disclosure of tax returns and return information by officers or employees of the United States, which includes officers or employees of the Treasury Department, the IRS, the Department of Commerce, and the Bureau. Unauthorized disclosure of returns and return information, if willful, is a felony. *See* section 7213 of the Code. Unauthorized disclosure may also be punishable through civil damages. *See* section 7431 of the Code. Pursuant to section 6103(p)(4), the IRS sets stringent privacy and security requirements for agencies receiving return information, including the Bureau. *See* § 301.6103(p)(4)–1. Proposed § 301.6103(j)(1)–1(d) did not propose to modify the requirements set forth in section 6103(p)(4) and, instead, noted their applicability, stating that if the IRS determines that the Bureau fails to satisfy those requirements, the IRS may take action to ensure that the requirements are satisfied, ''including suspension of disclosures of return information'' until the IRS determines that the requirements of section 6103(p)(4) have been, or will be, satisfied.

No comments were received regarding proposed § 301.6103(j)(1)–1(d), and accordingly, the final regulations adopt the proposed regulation in this respect without modification. The regulation ensures that disclosures of returns and return information are made consistent with the requirements set forth in the Code and regulations, and that the IRS may suspend any disclosures to the Bureau should either entity fail to satisfy the requirements under section 6103(p)(4).

D. Comments Expressing Concerns About the Impacts of the Use of Data for Certain Classes of Taxpayers

One comment requesting that the proposed regulations be withdrawn expressed concerns that sharing additional tax data with the Bureau would result in unintended adverse consequences for immigrant communities. Specifically, the comment noted that additional data sharing could result in a ''chilling effect'' for immigrant taxpayers, suggesting that individuals may not file tax returns because they are concerned that their tax return data will be shared with immigration enforcement agencies. The comment also expressed a concern that the proposed regulations could result in the creation of a list of taxpayers who file returns using Individual Taxpayer Identification Numbers that could be used to target individuals presumed to be undocumented for immigration enforcement purposes. The comment noted that the IRS should continue to assure taxpayers that their data is secure and that they can safely file their taxes without being concerned that their information will be used for reasons beyond tax administration.

As discussed previously in this Summary of Comments and Explanation of Revisions, return information that a taxpayer provides to the IRS may not be disclosed unless otherwise permitted by Title 26, and unauthorized disclosures of returns or return information may be subject to criminal and civil penalties. There is no provision in the United States Code that authorizes the disclosure or redisclosure of returns or return information for enforcement of immigration laws. Comments regarding other possible lawful disclosures of taxpayer information are outside the scope of these regulations because the proposed regulations relate to the disclosure of specified return information to the Bureau, as permitted by law, and not to any other agency, such as U.S. Immigration and Customs Enforcement or the U.S. Department of Homeland Security.

Another comment requested that the proposed regulations be withdrawn because sharing such personal and entity tax data encourages a racial and/or gender diversity impact analysis of tax policy decisions. The comment further stated that such a racial or gender diversity impact analysis is inappropriate where no discriminatory intent has been demonstrated and where tax provisions have been introduced by Congress based on independent considerations of tax policy without any design or purpose to create disproportionate racial or gender impact. The Treasury Department and the IRS do not adopt this comment. As previously described in this preamble, section 6103(j) states that the Secretary ''shall furnish'' returns and return information, upon the request of the Secretary of Commerce, to the Bureau ''for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.'' These regulations provide for disclosure to the Bureau that is fully consistent with that statutory mandate.

E. Modification To Clarify ''Taxpayer Identity Information''

No comments were received regarding the definition of *taxpayer identity information.* Proposed § 301.6103(j)(1)–1(b)(1)(i)(A) is the first instance of where that term is used and includes the parenthetical ''(as defined under section 6103(b)(6) of the Code).'' Other references to taxpayer identity information in the proposed regulations lack that parenthetical descriptor. To provide consistency, the final regulations modify the proposed regulations to include that descriptor. *See* §§ 301.6103(j)(1)–1(b)(1)(ii)(A) (regarding taxpayer identity information of taxpayers engaged in a trade or business); 301.6103(j)(1)–1(b)(1)(ii)(P) (regarding taxpayer identity information of a parent corporation, shareholder, partner, and employer identity information); 301.6103(j)(1)–1(b)(1)(iii)(A) (regarding taxpayer identity information of a tax-exempt organization); 301.6103(j)(1)–1(b)(3)(i)(A)(*1*) (regarding taxpayer identity information reflected on returns of corporations); 301.6103(j)(1)–1(b)(3)(i)(B)(*2*) (regarding taxpayer identity information from Form SS–4, *Application for Employer Identification Number*).

Special Analyses

I. Regulatory Planning and Review

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

II. Regulatory Flexibility Act

Because these regulations would not impose any requirements on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business. The Chief Counsel for the Office of Advocacy of the Small Business Administration did not provide any written comments.

III. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2024, that threshold was $200 million. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

IV. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Drafting Information

The principal author of these regulations is Elizabeth Erickson of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS also participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 is amended by revising the entry for § 301.6103(j)(1)–1 and removing the entry for § 301.6103(j)(1)–1T to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 301.6103(j)(1)–1 also issued under 26 U.S.C. 6103(j)(1) and 6103(q).

* * * * *

■ **Par 2.** Section 301.6103(j)(1)–1 is amended by adding a sentence to the end of paragraph (a) and revising paragraphs (b), (d), and (e) to read as follows:

§ 301.6103 (j)(1)–1 Disclosures of return information reflected on returns to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

(a) * * * To the extent a particular form, schedule, or other document filed with the Internal Revenue Service is referenced in this section, such information shall continue to be disclosable pursuant to this section even if subsequently reported in a substantially similar format or on a substantially similar document filed with the Internal Revenue Service.

(b) *Disclosure of return information reflected on returns to officers and employees of the Bureau of the Census.* (1) Officers or employees of the Internal Revenue Service will disclose the following return information reflected on returns to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

(i) With respect to returns filed by individual taxpayers:

(A) Taxpayer identity information (as defined in section 6103(b)(6) of the Internal Revenue Code (Code)), validity code with respect to the taxpayer identifying number (as described in section 6109 of the Code), and taxpayer identity information of spouse and dependents, if reported.

(B) Filing status.

(C) Number and classification of reported exemptions.

(D) Wage and salary income.

(E) Dividend income.

(F) Interest income.

(G) Gross rent and royalty income.

(H) Total of—

(*1*) Wages, salaries, tips, etc.;

(*2*) Interest income;

(*3*) Dividend income;

(*4*) Alimony received;

(*5*) Business income;

(*6*) Pensions and annuities;

(*7*) Income from rents, royalties, partnerships, estates, trusts, etc.;

(*8*) Farm income;

(*9*) Unemployment compensation; and

(*10*) Total Social Security benefits.

(I) Adjusted gross income.

(J) Type of tax return filed.

(K) Entity code.

(L) Code indicators for Form 1040, Form 1040 (Schedules A, C, D, E, F, and SE), and Form 8814.

(M) Posting cycle date relative to filing.

(N) Social Security benefits.

(O) Earned income (as defined in section 32(c)(2) of the Code).

(P) Number of Earned income credit-eligible qualifying children.

(Q) Electronic filing system indicator.

(R) Return processing indicator.

(S) Paid preparer code.

(T) Dependent Social Security numbers.

(U) Total income.

(V) Ordinary dividends.

(W) Taxable refunds, credits, or offsets of State and local income taxes.

(X) Business income or (loss).

(Y) Capital gain or (loss).

(Z) Other gains or (losses).

(AA) Individual Retirement Arrangement (IRA) distributions.

(BB) Taxable amount of IRA distributions.

(CC) Pensions and annuities.

(DD) Taxable amount of pensions and annuities.

(EE) Rental real estate, royalties, partnerships, S corporations, trusts, etc.

(FF) Farm income or (loss).

(GG) Earned income credit.

(HH) Taxable amount of Social Security benefits.

(II) Other income.

(JJ) Itemized deductions.

(KK) Taxable income.

(LL) Tax.

(MM) Credit for child and dependent care expenses.

(NN) Education credits.

(OO) Retirement savings contributions credit.

(PP) Child tax credit.

(QQ) Nontaxable combat pay election.

(RR) Additional Child Tax Credit.

(SS) American Opportunity Tax Credit.

(TT) Medical and dental expenses.

(UU) State and local income taxes.

(VV) State and local general sales taxes.

(WW) State and local personal property taxes.

(XX) State and local real estate taxes.

(YY) Other taxes (amount).

(ZZ) Home mortgage interest and points.

(AAA) Mortgage interest not on a Form 1098.

(BBB) Points not on a Form 1098.

(CCC) Investment interest.

(DDD) Total gifts to charity, including carryover from prior year.

(EEE) Casualty and theft losses.

(FFF) Total itemized deductions.

(GGG) Ordinary dividends.

(HHH) Qualified dividends.

(III) Tax-exempt interest.

(JJJ) Unemployment compensation.

(KKK) From Form 1098—

(*1*) Borrower taxpayer identification number;

(*2*) Mortgage interest;

(*3*) Outstanding mortgage principal;

(*4*) Refund of overpaid interest;

(*5*) Mortgage insurance premiums;

(*6*) Points paid on purchase of principal residence;

(*7*) Payee/payer/employee taxpayer identification number;

(*8*) Payee/payer/employee name (first, middle, last, suffix);

(*9*) Street address;

(*10*) City;

(*11*) State;

(*12*) Zip code (9 digit);

(*13*) Posting cycle week;

(*14*) Posting cycle year; and

(*15*) Document code.

(LLL) From Form 1098–E—Student loan interest.

(MMM) From Form 1098–T—

(*1*) Payments received for qualified tuition and related expenses;

(*2*) Scholarships or grants;

(*3*) Check box indicating that the amount in box 1 or 2 includes amounts for an academic period beginning in the following year;

(*4*) Check box indicating that student is at least a half-time student; and

(*5*) Check box indicating that student is a graduate student.

(NNN) From Form 5498—

(*1*) IRA contributions (other than amounts in certain boxes);

(*2*) Rollover contributions;

(*3*) Roth IRA conversion amount;

(*4*) Fair market value of account;

(*5*) Checkboxes: IRA, Simplified Employee Pension (SEP), Savings Incentive Match Plan for Employees of Small Employers (SIMPLE), Roth IRA;

(*6*) SEP contributions; and

(*7*) SIMPLE contributions.

(OOO) From Form SSA–1099/RRB–1099—

(*1*) Net benefits;

(*2*) Address; and

(*3*) Trust fund description.

(PPP) From Form 1099–G—Unemployment compensation.

(QQQ) From Form 1099–K—

(*1*) Filer name;

(*2*) Filer address;

(*3*) Filer taxpayer identification number;

(*4*) Payee taxpayer identification number;

(*5*) Payee name;

(*6*) Payee address;

(*7*) Gross payments;

(*8*) Card not present transactions;

(*9*) Merchant category code;

(*10*) Number of payment transactions; and

(*11*) Payments by month.

(RRR) From Form 1099–MISC—Nonemployee compensation.

(SSS) From Form 1099–NEC—Nonemployee compensation.

(TTT) From Form 1099–Q—

(*1*) Gross distribution; and

(*2*) Plan type checkboxes.

(UUU) From Form 1099–R/RRB–1099–R—

(*1*) Gross distribution;

(*2*) Distribution code(s); and

(*3*) Plan type checkboxes.

(VVV) From Form W–2—

(*1*) Employee's Social Security number;

(*2*) Employer identification number;

(*3*) Employer's name, address, and Zip code;

(*4*) Employee's name and address;

(*5*) Social Security tips;

(*6*) Medicare wages and tips;

(*7*) Box 12 codes and values; and

(*8*) Statutory employee, retirement plan, and third-party sick pay checkboxes.

(WWW) From Form 1040, Schedule D—

(*1*) Net short-term capital gain/loss; and

(*2*) Net long-term capital gain/loss.

(XXX) From Form 1040, Schedule E—

(*1*) Total rental real estate and royalty income or (loss); and

(*2*) Total estate and trust income or (loss).

(YYY) From Form 1040, Schedule F—

(*1*) Gross income;

(*2*) Total expenses;

(*3*) Net farm profit (or loss); and

(*4*) Gross income (accrual).

(ii) With respect to taxpayers filing a return on behalf of a trade or business—

(A) The taxpayer name directory and entity records consisting of taxpayer identity information (as defined in section 6103(b)(6) of the Code) with respect to taxpayers engaged in a trade or business.

(B) The principal industrial activity code.

(C) The filing requirement code.

(D) The employment code.

(E) The physical location.

(F) Monthly corrections of, and additions to, the information described in paragraphs (b)(1)(ii)(A) through (E) of this section.

(G) From Form SS–4, all information reflected on such form.

(H) From an employment tax return—

(*1*) Taxpayer identifying number of the employer;

(*2*) Total compensation reported;

(*3*) Master file tax account code (MFT);

(*4*) Taxable period covered by such return;

(*5*) Employer code;

(*6*) Document locator number;
(*7*) Record code;
(*8*) Total number of individuals employed in the taxable period covered by the return;
(*9*) Total taxable wages paid for purposes of chapter 21 of the Code;
(*10*) Total taxable tip income reported for purposes of chapter 21 of the Code;
(*11*) If a business has closed or stopped paying wages;
(*12*) Final date a business paid wages; and
(*13*) If a business is a seasonal employer and does not have to file a return for every quarter of the year.
(I) From Form 1040, Schedule C—
(*1*) Purchases less cost of items withdrawn for personal use;
(*2*) Materials and supplies;
(*3*) Gross income;
(*4*) Total expenses; and
(*5*) Net profit or loss.
(J) From Form 1040 (Schedule SE)—
(*1*) Taxpayer identifying number of self-employed individual;
(*2*) Business activities subject to the tax imposed by chapter 21 of the Code;
(*3*) Net earnings from farming;
(*4*) Net earnings from nonfarming activities;
(*5*) Total net earnings from self-employment;
(*6*) Taxable self-employment income for purposes of chapter 2 of the Code;
(*7*) Net profit and loss; and
(*8*) Church employee income.
(K) Total Social Security taxable earnings.
(L) Quarters of Social Security coverage.
(M) From Form 940—
(*1*) State of state unemployment tax; and
(*2*) Total payments to all employees.
(N) From Form 941—
(*1*) Number of employees who received wages, tips, or other compensation for the pay period including: March 12 (Quarter 1), June 12 (Quarter 2), September 12 (Quarter 3), or December 12 (Quarter 4); and
(*2*) Wages, tips, and other compensation.
(O) From Form 943—
(*1*) Agricultural employees; and
(*2*) Total wages subject to Social Security tax.
(P) Taxpayer identity information (as defined in section 6103(b)(6) of the Code) including parent corporation, shareholder, partner, and employer identity information.
(Q) Gross income, profits, or receipts.
(R) Returns and allowances.
(S) Cost of labor, salaries, and wages.
(T) Total expenses or deductions, including totals of the following components thereof:
(*1*) Repairs (and maintenance) expense;
(*2*) Rents (or lease) expense;
(*3*) Taxes and licenses expense;
(*4*) Interest expense, including mortgage or other interest;
(*5*) Depreciation expense;
(*6*) Depletion expense;
(*7*) Advertising expense;
(*8*) Pension and profit-sharing plans (retirement plans) expense;
(*9*) Employee benefit programs expense;
(*10*) Utilities expense;
(*11*) Supplies expense;
(*12*) Contract labor expense; and
(*13*) Management (and investment advisory) fees.
(U) Total assets.
(V) Beginning- and end-of-year inventory.
(W) Royalty income.
(X) Interest income, including portfolio interest.
(Y) Rental income, including gross rents.
(Z) Tax-exempt interest income.
(AA) Net gain from sales of business property.
(BB) Other income.
(CC) Total income.
(DD) Percentage of stock owned by each shareholder.
(EE) Percentage of capital ownership of each partner.
(FF) Principal industrial activity code, including the business description.
(GG) Consolidated return indicator.
(HH) Wages, tips, and other compensation.
(II) Social Security wages.
(JJ) Deferred wages.
(KK) Social Security tip income.
(LL) Total Social Security taxable earnings.
(MM) From Form 1099–R—Gross distributions from employer-sponsored and individual retirement plans.
(NN) From Form 3921—
(*1*) Date option granted;
(*2*) Date option exercised;
(*3*) Exercise price paid per share;
(*4*) Fair market value per share on exercise date; and
(*5*) Number of shares transferred.
(OO) From Form 6765 (when filed with corporation income tax returns)—
(*1*) Indicator that total qualified research expenses is greater than zero, but less than $1 million; greater than or equal to $1 million, but less than $3 million; or, greater than or equal to $3 million;
(*2*) Cycle posted; and
(*3*) Research tax credit amount to be carried over to a business return, schedule, or form.
(PP) Total number of documents reported on Form 1096 transmitting Forms 1099—MISC.
(QQ) Total amount reported on Form 1096 transmitting Forms 1099—MISC.
(RR) From Form 1125—A, purchases.
(SS) From Form 1041—
(*1*) Interest income;
(*2*) Total ordinary dividends;
(*3*) Total income;
(*4*) Charitable deduction; and
(*5*) Taxable income.
(TT) From Form 1041, Schedule K–1—
(*1*) Beneficiary identifying number;
(*2*) Beneficiary name;
(*3*) Interest income;
(*4*) Total ordinary dividends;
(*5*) Net short-term capital gain;
(*6*) Net long-term capital gain;
(*7*) Other portfolio and non-business income;
(*8*) Ordinary business income;
(*9*) Net rental and real estate income; and
(*10*) Other rental income.
(UU) From Form 1120—
(*1*) Cost of goods sold;
(*2*) Compensation of officers; and
(*3*) Salaries and wages (less employment credits).
(VV) From Form 1120–REIT—
(*1*) Compensation of officers;
(*2*) Salaries and wages (less employment credits);
(*3*) Total assets;
(*4*) Principal Business Activity (PBA) code; and
(*5*) Type of real estate investment trust (REIT).
(WW) From Form 1120–S—
(*1*) Cost of goods sold; and
(*2*) Salaries and wages (less employment credits).
(XX) From Form 1120–S, Schedule K–1—
(*1*) Ordinary business income (loss);
(*2*) Net rental real estate income;
(*3*) Other net rental income;
(*4*) Interest income;
(*5*) Total ordinary dividends;
(*6*) Royalties;
(*7*) Net short-term capital gain;
(*8*) Net long-term capital gain;
(*9*) Other income (loss); and
(*10*) Current year allocation percentage.
(YY) From Form 1065—
(*1*) Gross receipts or sales less returns and allowances;
(*2*) Cost of goods sold; and
(*3*) Ordinary dividends.
(ZZ) From Form 1065, Schedule K–1—
(*1*) Publicly-traded partnership indicator;
(*2*) Partner's share of nonrecourse, qualified nonrecourse, and recourse liabilities;
(*3*) Ordinary business income;
(*4*) Net rental real estate income;
(*5*) Other net rental income;

(*6*) Total guaranteed payments;
(*7*) Interest income;
(*8*) Total ordinary dividends;
(*9*) Dividend equivalents;
(*10*) Royalties;
(*11*) Net short-term capital gain;
(*12*) Net long-term capital gain; and
(*13*) Other income.
(AAA) From Form 3800 Part II (Current Year General Business Credit from Form 6765).
(BBB) From Form 3800, Part III, Increasing research activities (Form 6765).
(CCC) Dividends, including ordinary or qualified.
(iii) With respect to returns filed on behalf of a tax-exempt organization—
(A) Taxpayer identity information (as defined in section 6103(b)(6) of the Code).
(B) Activity codes.
(C) Filing requirement code.
(D) Monthly corrections of, and additions to, the information described in paragraphs (b)(1)(iii)(A) through (C) of this section.
(E) From Form 990, Salaries, other compensation, employee benefits.
(F) From Form 990–PF—
(*1*) Compensation of officers, directors, trustees, etc.; and
(*2*) Pension plans, employee benefits.
(G) From Form 990–EZ, Salaries, other compensation, employee benefits.
(iv) With respect to taxpayers filing information returns relating to health insurance:
(A) From Form 1095–A—
(*1*) Marketplace information;
(*2*) Policy issuer's name;
(*3*) Recipient's name;
(*4*) Recipient's Social Security number;
(*5*) Recipient's spouse's name;
(*6*) Recipient's spouse's Social Security number;
(*7*) Policy start date;
(*8*) Policy termination date;
(*9*) Covered individual Social Security number;
(*10*) Coverage start date;
(*11*) Coverage termination date;
(*12*) Monthly enrollment premium;
(*13*) Monthly second lowest cost silver plan premium;
(*14*) Monthly advance payment of premium tax credit;
(*15*) Annual premium;
(*16*) Annual second lowest cost silver plan premium; and
(*17*) Annual advance payment of premium tax credit.
(B) From Form 1095–B—
(*1*) Name;
(*2*) Social Security number;
(*3*) Date of birth;
(*4*) Origin of health coverage;
(*5*) Employer name;
(*6*) Employer identification number of issuer or other coverage provider;
(*7*) Employer address;
(*8*) Employer identification number;
(*9*) Name control validation;
(*10*) Social Security number of covered individuals;
(*11*) Date of birth of covered individuals; and
(*12*) Coverage by month of covered individuals.
(C) From Form 1095–C—
(*1*) Name of employee;
(*2*) Social Security number or other taxpayer identification number of employee;
(*3*) Address of employee;
(*4*) Name of employer;
(*5*) Employer identification number;
(*6*) Employer address;
(*7*) Offer of coverage code;
(*8*) Checkbox for employer provided self-insured coverage;
(*9*) Employee required contribution, all 12 months;
(*10*) Name control validation;
(*11*) Social Security number or other taxpayer identification number of covered individuals; and
(*12*) Coverage by month of covered individuals.
(v) With respect to taxpayers filing information returns related to health savings accounts, from Form 5498–SA—
(A) Taxpayer identification number;
(B) Total contributions;
(C) Fair market value of accounts; and
(D) Account type checkboxes.
(2) Subject to the requirements of paragraph (d) of this section and § 301.6103(p)(2)(B)-1, officers or employees of the Social Security Administration to whom the following return information reflected on returns has been disclosed as provided by section 6103(l)(1)(A) or (l)(5) may disclose such information to officers and employees of the Bureau of the Census for necessary purposes described in paragraph (b)(1) of this section:
(i) From Form SS–4, all information reflected on such form.
(ii) From Form 1040 (Schedule SE)—
(A) Taxpayer identifying number of self-employed individual;
(B) Business activities subject to the tax imposed by chapter 21 of the Code;
(C) Net earnings from farming;
(D) Net earnings from nonfarming activities;
(E) Total net earnings from self-employment; and
(F) Taxable self-employment income for purposes of chapter 2 of the Code.
(iii) From Form W–2, and related forms and schedules—
(A) Social Security number;
(B) Employer identification number;
(C) Wages, tips, and other compensation;
(D) Social Security wages; and
(E) Deferred wages.
(iv) Total Social Security taxable earnings.
(v) Quarters of Social Security coverage.
(3)(i) Officers or employees of the Internal Revenue Service will disclose the following return information (but not including return information described in section 6103(o)(2)) reflected on returns of corporations with respect to the tax imposed by chapter 1 of the Code to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, developing and preparing, as authorized by law, the Quarterly Financial Report:
(A) From the business master files of the Internal Revenue Service—
(*1*) Taxpayer identity information (as defined in section 6103(b)(6) of the Code), including parent corporation identity information;
(*2*) Document code;
(*3*) Consolidated return and final return indicators;
(*4*) Principal industrial activity code;
(*5*) Partial year indicator;
(*6*) Annual accounting period;
(*7*) Gross receipts less returns and allowances; and
(*8*) Total assets.
(B) From Form SS–4—
(*1*) Month and year in which such form was executed;
(*2*) Taxpayer identity information (as defined in section 6103(b)(6) of the Code); and
(*3*) Principal industrial activity, geographic, firm size, and reason for application codes.
(C) From Form 1120–REIT—
(*1*) Type of REIT; and
(*2*) Gross rents from real property.
(D) From Form 1120F, corporation's method of accounting.
(E) From Form 1096, total amount reported.
(ii) Subject to the requirements of paragraph (d) of this section and § 301.6103(p)(2)(B)–1, officers or employees of the Social Security Administration to whom return information reflected on returns of corporations described in paragraph (b)(3)(i)(B) of this section has been disclosed as provided by section 6103(l)(1)(A) or (l)(5) may disclose such information to officers and employees of the Bureau of the Census for a purpose described in paragraph (b)(3)(i) of this section.
(iii) Return information reflected on employment tax returns disclosed pursuant to paragraphs (b)(1)(ii)(H)(*1*), (*2*), (*4*), (*9*), or (*10*) of this section may

be used by officers and employees of the Bureau of the Census for the purpose described in and subject to the limitations of paragraph (b)(3)(i) of this section.

* * * * *

(d) *Procedures and restrictions.* (1) Disclosure of return information reflected on returns by officers or employees of the Internal Revenue Service or the Social Security Administration as provided by paragraphs (b) and (c) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Secretary of Commerce describing—

(i) The particular return information reflected on returns to be disclosed;

(ii) The taxable period or date to which such return information reflected on returns relates; and

(iii) The particular purpose for which the return information reflected on returns is to be used, and designating by name and title the officers and employees of the Bureau of the Census or the Bureau of Economic Analysis to whom such disclosure is authorized.

(2) No officer or employee of the Bureau of the Census or the Bureau of Economic Analysis to whom return information reflected on returns is disclosed pursuant to the provisions of paragraph (b) or (c) of this section may disclose such information to any person, other than, pursuant to section 6103(e)(1), the taxpayer to whom such return information reflected on returns relates or other officers or employees of such bureau whose duties or responsibilities require such disclosure for a purpose described in paragraph (b) or (c) of this section, except in a form that cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. If the Internal Revenue Service determines that the Bureau of the Census or the Bureau of Economic Analysis, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) of the Code or regulations in this part or published procedures (*see* § 601.601(d)(2) of this chapter), the Internal Revenue Service may take such actions as are deemed necessary to ensure that such requirements are or will be satisfied, including suspension of disclosures of return information reflected on returns otherwise authorized by section 6103(j)(1) and paragraph (b) or (c) of this section, until the Internal Revenue Service determines that such requirements have been or will be satisfied.

(3) All projects using returns or return information disclosed to the Bureau of Census under this section must be approved by the Internal Revenue Service Director of Statistics of Income, the Director's successor, or the Director's delegate, prior to the release of such information.

(4) In its sole discretion, the Internal Revenue Service may authorize the use of the Bureau of Census's disclosure review processes prior to any public disclosure by the Bureau of Census of a project using information provided pursuant to this section. Any Bureau of Census disclosure review process authorized under this paragraph (d)(4) must ensure that all releases meet or exceed all requirements set by the Internal Revenue Service for protecting the confidentiality of returns and return information. Additionally, in its sole discretion, the Internal Revenue Service Statistics of Income Disclosure Review Board may review a Bureau of Census project using information provided pursuant to this section prior to disclosure of that project to the public to ensure that any proposed releases meet or exceed all requirements set by the Internal Revenue Service for protecting the confidentiality of returns and return information. This review requirement may be imposed at any stage of the project.

(e) *Applicability date.* This section applies to disclosures of return information made on or after November 26, 2024.

Heather C. Maloy,

Acting Deputy Commissioner.

Approved: November 6, 2024.

Aviva R. Aron-Dine,

Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2024–27072 Filed 11–25–24; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Investment Security

31 CFR Parts 800 and 802

[Docket ID TREAS–DO–2024–0006]

RIN 1505–AC85

Penalty Provisions, Provision of Information, Negotiation of Mitigation Agreements, and Other Procedures Pertaining to Certain Investments in the United States by Foreign Persons and Certain Transactions by Foreign Persons Involving Real Estate in the United States

AGENCY: Office of Investment Security, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule revises certain provisions of the regulations of the Committee on Foreign Investment in the United States (CFIUS) pertaining to penalties for violations of statutory or regulatory provisions or agreements, conditions, or orders issued pursuant thereto; negotiation of mitigation agreements; requests for information by CFIUS; and certain other procedures.

DATES: This final rule is effective on December 26, 2024.

FOR FURTHER INFORMATION CONTACT: Meena R. Sharma, Director, Office of Investment Security Policy and International Relations at U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220; telephone: (202) 622–3425; email: *CFIUS.Regulations@treasury.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The regulations at parts 800 and 802 to title 31 of the Code of Federal Regulations (parts 800 and 802, respectively) implement the provisions of section 721 of the Defense Production Act of 1950 (DPA), as amended, which is codified at 50 U.S.C. 4565 (section 721) and which establishes the authorities of the Committee on Foreign Investment in the United States (CFIUS or the Committee). Section 721 authorizes the President or his designee (*i.e.,* CFIUS) to review mergers, acquisitions, and takeovers by or with any foreign person that could result in foreign control of any U.S. business, certain noncontrolling investments by foreign persons in a subset of U.S. businesses, as well as certain real estate transactions involving foreign persons. When in the course of its review CFIUS identifies a national security risk that arises as a result of a transaction within its jurisdiction (referred to in the regulations as a ''covered transaction'' or ''covered real estate transaction'' as appropriate), it is authorized to negotiate and enter into agreements with the transaction parties or impose conditions on the transaction parties, including through the issuance of orders, to mitigate the risk. CFIUS is further authorized to enforce those agreements, conditions, and orders, including through assessing a penalty.

On April 15, 2024, the U.S. Department of the Treasury (Treasury Department) published in the **Federal Register** a notice of proposed rulemaking (proposed rule) (89 FR 26107) that proposed amendments to certain provisions of parts 800 and 802. Specifically, the proposed rule included amendments that would: (1) expand the categories of information that CFIUS

may request from transaction parties and other persons; (2) introduce a time frame within which parties would ordinarily be required to respond to a Committee proposal to mitigate identified national security risk (including any revision of such a proposal); (3) expand the instances in which CFIUS may use its subpoena authority; (4) expand the circumstances in which a civil monetary penalty may be imposed; (5) increase the maximum civil monetary penalty available for certain violations of CFIUS's statute or regulations, including as related to mitigation agreements, conditions, or orders; and (6) extend the time frames for a party's submission of a petition for reconsideration of a penalty and the Committee's response to such a petition.

Further explanation of the proposed changes can be found at 89 FR 26107. The public was given an opportunity to comment on the proposed rule, and comments were due by May 15, 2024. The Treasury Department received 728 comment submissions, of which 718 were duplicates or near duplicates. Comments are discussed in the following section along with the changes made in this final rule.

II. Summary of Comments and Changes From the Proposed Rule

During the public comment period, the Treasury Department received 728 comment submissions reflecting a range of views. The Treasury Department considered each comment submitted on the proposed rule and made one revision to this final rule in response to the comments. The section-by-section analysis below discusses the comments received, explains the Treasury Department's responses to the comments, and describes changes made in this final rule in light of the comments.

A. Requesting Information From Transaction Parties and Other Persons—Sections 800.501, 802.501, 800.801, and 802.801

One commenter expressed the view that the provisions pertaining to requesting information from ''other persons'' are without any limitation and recommended that the provisions be modified to make clear that such other persons must have a connection to a particular transaction. Additionally, the commenter recommended that the Committee's evaluation of the adequacy of a non-party's response to a CFIUS request for information should be based on whether the response sufficiently addressed the specific questions posed, rather than whether the Committee derived any benefit from the response. Finally, the commenter proposed that if such other persons or transaction parties omit information from a response to a CFIUS inquiry about a transaction, a determination of whether that omission constitutes a violation of the statute or regulations should be subject to a ''knowledge qualifier''—*i.e.,* the Committee should determine a person's omission constitutes a violation if the person ''knew or should have known,'' for example, that the information omitted was responsive to the Committee's inquiry. Such a qualifier would be warranted, according to the commenter, because persons who are not transaction parties may not be familiar with CFIUS and its authorities.

The final rule makes no change in response to this comment. As discussed in the proposed rule, CFIUS, acting on behalf of the President, currently has authority pursuant to section 705 of the DPA to obtain information from ''any person as may be necessary or appropriate . . . to the enforcement or administration of [section 721 and the regulations thereunder].'' Therefore, CFIUS may, if appropriate, request and compel through issuance of a subpoena the production of information not only from transaction parties but also from other persons to aid in the enforcement or administration of the CFIUS statute and regulations. The proposed rule addressed requests for information when such information pertains to a transaction that has been notified or declared to the Committee or, in certain circumstances, a transaction for which no notice or declaration has been submitted (a non-notified transaction). The Committee proposed to be able to seek and compel information to enable it to determine whether a transaction is a covered transaction, whether it may raise national security concerns such that the Committee should review it (if it is a covered transaction), and whether the transaction is of a type for which submission of a declaration was mandatory. Because any request made or subpoena issued must be in furtherance of one of the foregoing purposes, as specified in the proposed rule, the Committee's authority is not ''without any limitation whatsoever,'' as suggested by the commenter. Furthermore, in determining the sufficiency of a party's response to an inquiry, the Committee would assess whether the information provided adequately responded to the question posed, as the commenter suggests. In determining whether to issue a request for information or (as appropriate) subpoena to a person other than the transaction parties, CFIUS will consider the relationship of the other person to the relevant transaction and the information sought and will comply with applicable confidentiality provisions in section 721(c). In addition, as with information submitted by transaction parties, CFIUS will treat information submitted by third parties in accordance with its confidentiality obligations. It would be challenging to specify in regulations an exhaustive list of ''other persons'' to whom CFIUS may issue requests (or, as appropriate, subpoenas) for information. The identity of such other persons may vary depending on the nature of the transaction and transaction parties as well as the information that CFIUS needs to obtain. The Committee can envision situations in which it would seek information from third persons such as banks, underwriters, or service providers to transaction parties. There may be situations in which relevant information is possessed by other third parties and the Committee would consider it appropriate to seek information from such third parties.

Moreover, the Committee does not consider it appropriate to put in place what the commenter refers to as a ''knowledge qualifier'' for purposes of determining whether a third party's omission of information from a submission to CFIUS constitutes a violation of the statute or regulations. (As noted above, while the commenter used the phrase ''knowledge qualifier,'' CFIUS understood it to be referring to the responding party's knowledge with respect to whether information is appropriate to include in response to the Committee's information request.) For CFIUS to impose a penalty on a transaction party or other person for an omission of information, the omission would have to be *material.* That condition appears to address the concern underlying the comment at issue. Further, when CFIUS requests information—whether from a transaction party or a third party—it identifies its authority for doing so, and that enables the respondent to evaluate applicable obligations itself or with legal counsel.

Another commenter addressed the proposal to expand the categories of information that CFIUS can request from parties to non-notified transactions. As noted above, under the proposed rule CFIUS would be able to request not only information relevant to determining whether a transaction is a covered transaction but also information relevant to national security risk (and whether a transaction is subject to the mandatory declaration provisions). The commenter expressed concern that, if

adopted, this provision would allow CFIUS to inquire about transactions that are outside its jurisdiction (*i.e.,* transactions that are not covered transactions), and parties to those transactions would be obligated to respond.

The final rule makes no change in response to this comment. Consistent with its statutory obligation to establish a process to identify certain non-notified transactions (section 721(b)(1)(H)) and the current regulations (*see* § 800.501(b), and with respect to covered real estate transactions, *see* § 802.501(b)), CFIUS requests information about non-notified transactions only where the Committee has determined that the transaction ''may be a covered transaction and may raise national security considerations.'' Before requesting that parties notify their transaction to CFIUS, the Committee assesses jurisdiction and issues a request only if the Committee determines that the transaction is, in fact, a covered transaction and may raise national security considerations. Expanding the information that CFIUS may request from parties to non-notified transactions to include information pertaining to national security risk would not replace the full risk-based assessment that occurs during the formal review of a declaration or notice. Nor would it replace or circumvent the threshold determination made by CFIUS as to whether a transaction is a covered transaction. Engaging in preliminary fact-finding relevant to national security considerations, however, could help the Committee determine whether and when to request a notice from transaction parties. As explained in the proposed rule, this fact-finding should help focus the transactions the Committee requests for filing, benefitting both transaction parties and national security.

B. Time Frame for Responding to Proposed Mitigation Terms—Sections 800.504 and 802.504

Several commenters expressed the view that three business days is not enough time for transaction parties to substantively respond to mitigation proposals, and that imposing such a time frame will not improve the mitigation negotiation process. These comments are discussed in more detail below along with the change in the final rule made in response to these comments.

One commenter expressed the view that mitigation proposals can introduce measures that would significantly impact the efficiency and competitiveness of the U.S. business and can also reflect an imperfect understanding of the U.S. business, including its technology and operations. Under such circumstances, transaction parties may struggle to determine the appropriate response to the Committee, making it a challenge to respond in three days. Another commenter expressed the view that the initial draft of a mitigation agreement, which is often developed by CFIUS, may not reflect a full understanding of the transaction parties' operations, which in turn may necessitate extensive analysis and revision by the transaction parties that often takes more than three business days. The commenter also expressed strong support for earlier engagement between the Committee and transaction parties in the mitigation proposal process and a standardized and transparent process for implementing mitigation agreements for both CFIUS and transaction parties. The commenter suggested the Committee create a standard and transparent process to create a record of how mitigation agreements are to be interpreted and applied post-execution to bring clarity and facilitate compliance, particularly when there is staff turnover or when enforcement personnel are different from the personnel involved in the negotiation of the agreement. A third commenter expressed the view that a three-day deadline could preclude input on mitigation measures from relevant business units. A fourth commenter expressed the view that the majority of transaction parties are incentivized to work collaboratively with the Committee to negotiate mitigation proposals as transactions are often notified to CFIUS prior to their completion, in some cases with CFIUS clearance as a condition for closing the transaction. The commenter noted that the Committee and transaction parties are better served when there is additional time to fully consider how proposed mitigation terms would be implemented. Though the proposed rule included the option for extension requests, the commenter expressed that transaction parties may spend too much time preparing such a request as opposed to preparing a substantive response to the Committee. Another commenter expressed the view that three business days is not enough time for transaction parties to review proposed mitigation measures, analyze the operational considerations of such measures, coordinate internally, reach agreement, and prepare a substantive response to CFIUS. The commenter further expressed that such a time frame is not analogous to the time frame for transaction parties to respond to information requests given the complexity of the issues associated with mitigation agreements. The final commenter on this topic noted that a three-day time frame may result in transaction parties accepting mitigation terms without conducting the requisite analysis and assessment.

Several commenters also proposed alternatives to a standard three-day response time frame. Some of these commenters suggested that CFIUS impose a time frame not as a routine matter but only when, in the discretion of the Staff Chairperson, a fixed deadline is determined to be warranted by relevant circumstances, with extensions available upon request and as needed. For example, the Staff Chairperson might impose a deadline if prior interaction with the transaction parties has shown them to be insufficiently responsive. Commenters also suggested that the three-day time frame be extended to five business days, and one commenter suggested 10 business days. To help resolve mitigation proposals in the time required by statute, one commenter suggested that a time frame be implemented for the Committee's proposal of mitigation terms. Additionally, commenters expressed the view that rejection of a notice, the remedy for failure to respond in the time frame specified, would not be in the interest of national security, because removing the case from CFIUS review until the transaction parties refile the transaction would delay the implementation of effective mitigation measures. The commenters noted that this is most relevant for closed transactions, where an extant risk may be present and transaction parties are not as incentivized to finalize review of the transaction with CFIUS. One commenter suggested that rejection in this instance should require approval of a Secretary or Deputy Secretary from each CFIUS member agency, akin to the current requirement in CFIUS regulations with respect to a 15-day extension of the statutory investigation period in extraordinary circumstances. The commenters suggested that CFIUS utilize its existing authority to impose interim mitigation measures to address national security risk pending a finalized mitigation agreement.

One commenter expressed the view that interim mitigation measures better address risks to national security that arise from closed transactions, and that such measures are also effective at addressing immediate national security risks that arise from pre-closing

transactions. Another commenter further cited to the Committee's authority to *impose* mitigation measures (beyond interim measures) which, in the commenter's view, is a more effective tool to facilitate efficient negotiation of mitigation agreements.

In response to these comments, the final rule does not contain a three-day time frame for responding to mitigation proposals as a default rule in each instance the Committee sends mitigation terms to parties. Instead, it provides that the Staff Chairperson may impose a time frame of no fewer than three business days on a discretionary basis in consideration of certain factors identified in the regulations. As discussed in the preamble to the proposed rule, in CFIUS's experience there have been instances in which transaction parties have been relatively less motivated to respond promptly to a mitigation proposal, and in some of those instances delayed responses have impeded the Committee's ability to address national security risks and fulfill its statutory obligation to complete an investigation in 45 days. Based on that experience, allowing the Staff Chairperson, at their discretion, to impose a time frame for response to a mitigation proposal is warranted. In exercising that discretion, the Staff Chairperson may consider the nature of the transaction, the time remaining in the investigation, and the transaction parties' past responsiveness, among other factors. This change from the proposed rule was made in consideration of the comments articulating specific challenges in negotiating effective mitigation terms that a U.S. business can operationalize within a three-day, broadly applicable time frame. Because CFIUS must coordinate input from subject matter experts and Committee staff across the nine member agencies, a time frame for CFIUS to provide mitigation proposals, as one commenter suggested, is similarly not feasible. The Committee recognizes the importance of allowing sufficient time for consideration and negotiation, and also appreciates that many transaction parties negotiate with the Committee expeditiously. However, there are some instances in which the timeliness of resolution is not a compelling motivation for the transaction parties, and it is in those situations that the Staff Chairperson may determine it appropriate to impose a time frame for a party's response.

Additionally, the final rule retains the proposal to allow CFIUS to reject a notice as a remedy for parties' failure to respond to proposed mitigation terms in the time frame specified for two independent reasons. First, rejection is consistent with the Staff Chairperson's existing authority to reject a notice for any of the reasons listed under §§ 800.504(a) and 802.504(a), including for a failure to provide follow-up information within three business days of CFIUS's request. Approval by a Secretary or Deputy Secretary, as suggested by one commenter, would not be consistent with this existing rejection framework. Second, while rejection of the notice may not be an appropriate remedy in every instance of a missed deadline, as the commenters point out, there are circumstances in which rejection due to failure to substantively respond to a mitigation proposal within the specified time frame would be appropriate and in the interest of national security (for instance, where parties have not provided timely responses but are interested in receiving CFIUS approval in a timely manner). Accordingly, to account for the unique circumstances of each transaction, the authority of the Committee, acting through the Staff Chairperson, to reject the notice on this basis would be discretionary.

In response to comments that CFIUS's authority to impose conditions to mitigate national security risk is a better remedy than rejection for failure to respond to mitigation proposals, and that interim mitigation conditions are already an effective tool, the final rule makes no changes. However, when parties fail to respond to such proposals and when otherwise necessary, the Committee may exercise its existing authority under section 721(b)(2)(A) and (*l*)(3)(A) to impose and enforce any condition with any party to a covered transaction to mitigate any risk to the national security of the United States that arises as a result of a covered transaction. CFIUS has the authority to impose such measures on a final or interim basis at any point during a covered transaction's review or investigation. For example, CFIUS may impose measures on the parties to a covered transaction to address specific national security concerns identified during the review or investigation of a covered transaction until such time that the Committee has concluded action. Pursuant to section 721(*l*)(1), CFIUS also has the authority to, on an interim basis, suspend a proposed or pending covered transaction that may pose a risk to the national security of the United States for such time as the covered transaction is under review or investigation. Conditions may also be imposed on a final basis for transactions prior to closing, as well as for completed transactions. CFIUS will consider the appropriateness and effectiveness of imposing conditions on an interim or final basis in determining whether to specify a time frame to respond to mitigation proposals. Any condition imposed would be based on a risk-based analysis conducted by the Committee and would be reasonably calculated to be effective, allow for compliance in an appropriately verifiable way, and enable effective monitoring of compliance with and enforcement of the terms of the condition.

C. Civil Monetary Penalties—Sections 800.901 and 802.901

One commenter requested that the Treasury Department clarify the rationale for the increase in the maximum civil monetary penalty, and that the maximum not be increased to $5,000,000 in certain contexts. The commenter suggested that only transactions valued at less than $5,000,000 should be subject to a penalty up to $5,000,000 and that for transactions valued at $5,000,000 or more, where transaction value can serve as the maximum, the penalty maximum should not be revised or revised only modestly. With respect to imposing monetary penalties for breaches of a mitigation agreement, the commenter also expressed the view that most breaches occur due to human error or a lack of understanding of the mitigation terms. Alternatively, several commenters expressed support for increasing the penalty maximum. One commenter expressed support for a penalty up to $5,000,000, and two commenters suggested that the penalty maximum be higher than $5,000,000. The final rule makes no changes to the proposed text of §§ 800.901 and 802.901 in response to these comments.

Under the regulations being amended, CFIUS has the authority to impose a maximum civil monetary penalty of $250,000 for submission of a declaration or notice with a material misstatement or omission, or the making of a false certification. CFIUS also had the authority to impose a maximum civil monetary penalty of the greater of $250,000 or the value of the transaction for failure to file a mandatory declaration and for violating a material provision of a mitigation agreement, condition, or order. The Committee's statutory penalty authority at section 721(h)(2)(A) provides no maximum dollar amount. The current penalty maximum of $250,000 was established through regulations issued over 15 years ago and has never been adjusted. CFIUS's experience in reviewing hundreds of transactions annually and

monitoring compliance with over 200 national security agreements is that a higher maximum penalty for transactions of any size would be more effective to address the conduct that occurred and to deter future violations. Independent of that experience, as discussed in the proposed rule, some transactions have a low transaction value, which makes the value of the transaction an inadequate cap for an appropriate penalty. In response to the comment that most violations are unintentional, the Treasury Department notes that consistent with current practice, the finding of a violation will not necessarily lead to a monetary penalty. The maximum penalty will serve as an upper limit in cases where a penalty is appropriate; each penalty assessment will continue to be based on the nature of the violation; and CFIUS will continue to take into account the aggravating and mitigating factors surrounding the conduct (*see* the CFIUS Enforcement and Penalty Guidelines at 87 FR 66220).

D. Additional Comments Received

One commenter expressed the view that the proposed rule would deter foreign investment into the United States. The Treasury Department notes that CFIUS operates within the United States' longstanding open investment policy and focuses solely on the national security risks posed by transactions before it. Not all foreign direct investment in the United States is subject to CFIUS's jurisdiction, and this rule does not change that jurisdiction or national security mandate. As such, the final rule makes no change in response to this comment.

Additionally, over 700 comment submissions included duplicate or near-duplicate comments that broadly expressed support for CFIUS, including the expansion of CFIUS's investigative capabilities and the Committee's authority to impose penalties. Several of these submissions also included comments expressing views that are outside the scope of CFIUS and the proposed rule. For example, one commenter suggested that foreign investment into residential real estate should be curtailed to alleviate homelessness, and another suggested that large corporations should be broken up to benefit consumers. Two other comment submissions included comments on topics not addressed in the proposed rule. One commenter discussed their views regarding marijuana production in Maine, and another expressed views on the U.S. political system and increases in the cost of certain goods. In addition, one comment submission was a test comment with no other content. The final rule makes no changes in response to these comments.

III. Applicability of Provisions

The amendments published in this final rule will apply from the effective date set forth herein. Many of the provisions in this final rule pertain to CFIUS processes and will apply to all Committee actions after the effective date. For example, parties to a transaction not submitted to CFIUS will be required to provide requested information to enable the Committee to determine whether a transaction may raise national security considerations in connection with any information request the Committee makes pursuant to § 800.501(b)(1) after the effective date. Transaction parties currently subject to a mitigation agreement, condition, or order may be required to provide requested information to enable the Committee to monitor and enforce any agreement pursuant to § 800.801(a)(3) or § 802.801(a)(3) after the effective date.

For transactions already under review or investigation by the Committee at the time of the effective date of this final rule, the amendments to §§ 800.504 and 802.504, which allow the Committee to impose deadlines for responses to proposed national security agreements, will not apply. So that transaction parties have sufficient notice of the new requirements, those sections will apply only to notices accepted by the Committee after the effective date. Similarly, the extended deadlines in §§ 800.901(f) and 802.901(e) will not apply to penalty notices and petitions pending at the time of the effective date. The 20-business-day deadline for responses and the Committee's authority to extend such a time frame under compelling circumstances will apply to parties that receive a notice of penalty issued by CFIUS after the effective date.

For transaction parties subject to a mitigation agreement, condition, or order as of the effective date of this final rule, the penalty provisions for a violation of such agreement, condition, or order in effect at the time of the agreement, condition, or order will continue to apply, as specified in §§ 800.901(c)(1) and (2) and 802.901(b)(1), as amended. However, conduct by such parties that is not governed by an agreement, condition, or order, such as a material misstatement or omission made to the Committee, will be subject to enforcement under the regulations as amended by this final rule after the effective date. CFIUS may impose a maximum civil monetary penalty of $5,000,000 for any violation of any national security agreement executed after the effective date of the final rule.

IV. Severability

The provisions of this final rule are separate and severable from one another. If any provision of this rule is stayed or determined to be invalid, it is the Treasury Department's intention that the remaining provisions shall continue in effect. Each of the amendments in this rule pertains to a different part of CFIUS's process—including non-notified information requests, mitigation proposals during review and investigation, compliance monitoring, and penalty determinations—and the changes to each of these processes are not dependent on one another.

V. Rulemaking Requirements

Executive Order 12866

This rule is not subject to the general requirements of Executive Order 12866, as amended, which covers review of regulations by the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB), because it relates to a foreign affairs function of the United States, pursuant to section 3(d)(2) of that order. In addition, this rule is not subject to review under section 6(b) of Executive Order 12866 pursuant to section 1(d) of the June 9, 2023, Memorandum of Agreement between the Treasury Department and OMB, which states that CFIUS regulations are not subject to OMB's standard centralized review process under Executive Order 12866.

Paperwork Reduction Act

The collection of information contained in this rule has been previously submitted to the OMB for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and approved under OMB Control Number 1505–0121. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB Control Number.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to prepare a regulatory flexibility analysis, unless the agency certifies that the rule will not, once implemented, have a significant economic impact on a substantial number of small entities. The RFA applies whenever an agency is required to publish a general notice of proposed rulemaking under section 553(b) of the

Administrative Procedure Act (APA) (5 U.S.C. 553), or any other law. As set forth below, because regulations issued pursuant to the DPA, such as these regulations, are not subject to the rulemaking requirements of the APA or other law requiring the publication of a general notice of proposed rulemaking, the RFA does not apply.

The final rule makes amendments to the regulations implementing section 721 of the DPA (85 FR 3112 and 85 FR 3158), which the Treasury Department previously determined would not significantly impact a substantial number of small entities. The amendments in this final rule do not change that analysis or determination. The Treasury Department also invited public comment on how the proposed rule would affect small entities and did not receive any specific comments on this topic.

Congressional Review Act

This final rule has been submitted to the OMB's Office of Information and Regulatory Affairs, which has determined that the rule is not a ''major'' rule under the Congressional Review Act.

List of Subjects

31 CFR Part 800

Foreign investments in the U.S., Investment companies, Investments, Penalties, Reporting and recordkeeping requirements.

31 CFR Part 802

Foreign investments in the U.S., Investment companies, Investments, Land sales, National defense, Penalties, Public lands, Real property acquisition, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Treasury Department amends 31 CFR parts 800 and 802 as follows:

PART 800—REGULATIONS PERTAINING TO CERTAIN INVESTMENTS IN THE UNITED STATES BY FOREIGN PERSONS

■ 1. The authority citation for part 800 continues to read as follows:

Authority: 50 U.S.C. 4565; E.O. 11858, as amended, 73 FR 4677.

■ 2. Amend § 800.104 by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 800.104 Applicability rule.

(a) Except as provided in paragraphs (b) through (f) of this section and otherwise in this part, the regulations in this part apply from February 13, 2020.

* * * * *

(f) Notwithstanding paragraphs (b) through (d) of this section, the amendments to this part published in the **Federal Register** on November 26, 2024 apply from December 26, 2024.

■ 3. Amend § 800.501 by revising paragraph (b) to read as follows:

§ 800.501 Procedures for notices.

* * * * *

(b)(1) If the Committee determines that a transaction for which no voluntary notice or declaration has been submitted under this part, and with respect to which the Committee has not informed the parties in writing that the Committee has concluded all action under section 721, may be a covered transaction and may raise national security considerations, the Staff Chairperson, acting on the recommendation of the Committee, may request the parties to the transaction or other persons to provide to the Committee information necessary to determine whether the transaction is a covered transaction, whether the transaction may raise national security considerations, or, as appropriate, whether the transaction is a transaction for which a submission is or was required under § 800.401.

(2) If the Committee determines that a transaction referred to under paragraph (b)(1) of this section is a covered transaction and may raise national security considerations, the Staff Chairperson, acting on the recommendation of the Committee, may request the parties to file a notice of such covered transaction under paragraph (a) of this section.

* * * * *

■ 4. Amend § 800.504 by:

■ a. In paragraph (a)(3), removing the period at the end of the paragraph and adding a semicolon in its place;

■ b. In paragraph (a)(4), removing ''or'' at the end of the paragraph;

■ c. In paragraph (a)(5), removing the period at the end of the paragraph and adding ''; or'' in its place;

■ d. Adding paragraph (a)(6);

■ e. Redesignating paragraph (d) as paragraph (e); and

■ f. Adding new paragraph (d).

The additions read as follows:

§ 800.504 Deferral, rejection, or disposition of certain voluntary notices.

(a) * * *

(6) Reject any voluntary notice at any time after the notice has been accepted, and so inform the parties promptly in writing, if the Committee has proposed risk mitigation terms, including revisions to such terms, and if the Staff Chairperson has imposed a time frame for responding to such terms as set forth in paragraph (d) of this section, to the party or parties that submitted the notice, and the party or parties have failed to substantively respond to such terms within the time frame specified.

* * * * *

(d) The Staff Chairperson may impose a time frame of no fewer than three business days for the party or parties to provide a substantive response to proposed risk mitigation terms, including revisions to such terms. The time frame may be extended if the parties so request in writing and the Staff Chairperson grants that request in writing. In determining whether to impose such a time frame, the Staff Chairperson may consider:

(1) The statutory deadline for completing an investigation under section 721(b)(2)(C)(i);

(2) The risk to the national security of the United States arising from the transaction;

(3) The party's or parties' responsiveness to the Committee;

(4) The nature of the transaction;

(5) The appropriateness of suspending, or imposing conditions on, the transaction under section 721(*l*); and

(6) Other such factors the Staff Chairperson may determine to be appropriate in connection with a specific transaction.

* * * * *

■ 5. Amend § 800.801 by revising the section heading and paragraph (a) to read as follows:

§ 800.801 Obligation of parties or other persons to provide information.

(a) This paragraph (a) sets forth requirements for parties to a transaction or other persons to provide information to the Staff Chairperson or requesting lead agency in the circumstances specified in paragraphs (a)(1) through (6) of this section.

(1) Parties to a transaction that is notified or declared under subpart D or E of this part shall provide information to the Staff Chairperson that will enable the Committee to conduct a full assessment, review, and/or investigation of the transaction.

(2) For a transaction for which no voluntary notice or declaration has been submitted and for which the Staff Chairperson has requested information as provided for in § 800.501(b), parties to the transaction or other persons shall provide information to the Staff Chairperson that will enable the Committee to determine:

(i) Whether the transaction is a covered transaction;

(ii) Whether the transaction may raise national security considerations; or

(iii) As appropriate, whether the transaction is a transaction for which a submission is or was required under § 800.401.

(3) Independent of any obligations under an agreement, condition, or order authorized under section 721(*l*), parties shall provide information to the Staff Chairperson or the requesting lead agency so as to enable the Committee to assess compliance with section 721 and the regulations in this part or to monitor compliance with, enforce or modify the terms of, or decide to terminate any agreement entered into, condition imposed, or order issued.

(4) Any person that has submitted information to the Committee shall respond to requests from the Staff Chairperson for information to enable the Committee to determine whether the person made any material misstatement or omitted material information from any such submission.

(5) Parties to a transaction that have filed information with the Committee shall promptly advise the Staff Chairperson of any material changes to such information.

(6) If deemed appropriate by the Committee, the Staff Chairperson may obtain information from parties to a transaction or other persons through subpoena or otherwise, under the Defense Production Act, as amended (50 U.S.C. 4555(a)).

* * * * *

■ 6. Amend § 800.901 by:

■ a. Revising paragraph (a);

■ b. In paragraph (b), removing ''$250,000'' and adding in its place ''$5,000,000''; and

■ c. Revising paragraphs (c) and (f).

The revisions read as follows:

§ 800.901 Penalties and damages.

(a)(1) Any person who submits a declaration or notice with a material misstatement or omission or makes a false certification under § 800.404, § 800.405, or § 800.502 may be liable to the United States for a civil penalty not to exceed $5,000,000 per violation.

(2) Any person who, in response to a request from the Staff Chairperson or a lead agency, submits to the Committee any information pursuant to § 800.801(a)(2), (3), or (4) or (c) with a material misstatement or omission may be liable to the United States for a civil penalty not to exceed $5,000,000 per violation. This paragraph (a)(2) shall apply only with respect to responses to requests that were made in writing, specified a time frame for response, and indicated the applicability of this paragraph (a).

(3) The amount of the penalty imposed for a violation as provided for in this paragraph (a) shall be based on the nature of the violation.

* * * * *

(c)(1) Any person who, after December 22, 2008, violates, intentionally or through gross negligence, a material provision of a mitigation agreement entered into before October 11, 2018, with, a material condition imposed before October 11, 2018, by, or an order issued before October 11, 2018, by, the United States under section 721(*l*) may be liable to the United States for a civil penalty not to exceed $250,000 per violation or the value of the transaction, whichever is greater. For clarification, under the previous sentence, whichever penalty amount is greater may be imposed per violation, and the amount of the penalty imposed for a violation shall be based on the nature of the violation.

(2) Any person who violates a material provision of a mitigation agreement entered into on or after October 11, 2018, and before December 26, 2024, with, a material condition imposed on or after October 11, 2018, and before December 26, 2024, by, or an order issued on or after October 11, 2018, and before December 26, 2024, by, the United States under section 721(*l*) may be liable to the United States for a civil penalty per violation not to exceed $250,000 or the value of the transaction, whichever is greater. For clarification, under the previous sentence, whichever penalty amount is greater may be imposed per violation, and the amount of the penalty imposed for a violation shall be based on the nature of the violation.

(3)(i) Any person who violates a material provision of a mitigation agreement entered into on or after December 26, 2024, with, a material condition imposed on or after December 26, 2024, by, or an order issued on or after December 26, 2024, by, the United States under section 721(*l*) may be liable to the United States for a civil penalty per violation not to exceed the greatest of:

(A) $5,000,000;

(B) The value of the person's interest in the U.S. business (or, as applicable, the parent of the U.S. business) at the time of the transaction;

(C) The value of the person's interest in the U.S. business (or, as applicable, the parent of the U.S. business) at the time of the violation in question or the most proximate time to the violation for which assessing such value is practicable; or

(D) The value of the transaction filed with the Committee.

(ii) For clarification, under paragraphs (c)(3)(i)(A) through (D) of this section, whichever penalty amount is greatest may be imposed per violation, and the amount of the penalty imposed for a violation shall be based on the nature of the violation.

* * * * *

(f) Upon receiving notice of a penalty to be imposed under any of paragraphs (a) through (c) of this section, the subject person may, within 20 business days of receipt of such notice, submit a petition for reconsideration to the Staff Chairperson, including a defense, justification, or explanation for the conduct to be penalized. The Committee will review the petition and issue any final penalty determination within 20 business days of receipt of the petition. The Staff Chairperson and the subject person may extend either such period through written agreement or, where there is a compelling circumstance and it is deemed appropriate by the Committee, the Staff Chairperson may extend either period by notifying the subject person in writing of the extended time frame. The Committee and the subject person may reach an agreement on an appropriate remedy at any time before the Committee issues any final penalty determination.

* * * * *

PART 802—REGULATIONS PERTAINING TO CERTAIN TRANSACTIONS BY FOREIGN PERSONS INVOLVING REAL ESTATE IN THE UNITED STATES

■ 7. The authority citation for part 802 continues to read as follows:

Authority: 50 U.S.C. 4565; E.O. 11858, as amended, 73 FR 4677.

■ 8. Amend § 802.104 by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 802.104 Applicability rule.

(a) Except as provided in paragraphs (b) and (c) of this section and otherwise in this part, the regulations in this part apply from February 13, 2020.

* * * * *

(c) Notwithstanding paragraph (b) of this section, the amendments to this part published in the **Federal Register** on November 26, 2024 apply from December 26, 2024.

■ 9. Amend § 802.501 by revising paragraph (b) to read as follows:

§ 802.501 Procedures for notices.

* * * * *

(b)(1) If the Committee determines that a transaction for which no voluntary notice or declaration has been submitted under this part, and with respect to which the Committee has not informed the parties in writing that the Committee has concluded all action under section 721, may be a covered real estate transaction and may raise national security considerations, the Staff Chairperson, acting on the recommendation of the Committee, may request the parties to the transaction or other persons to provide to the Committee information necessary to determine whether the transaction is a covered real estate transaction or whether the transaction may raise national security considerations.

(2) If the Committee determines that a transaction referred to under paragraph (b)(1) of this section is a covered real estate transaction and may raise national security considerations, the Staff Chairperson, acting on the recommendation of the Committee, may request the parties to file a notice of such covered real estate transaction under paragraph (a) of this section.

* * * * *

■ 10. Amend § 802.504 by:

■ a. In paragraph (a)(3), removing the period at the end of the paragraph and adding a semicolon in its place;

■ b. In paragraph (a)(4), removing ''or'' at the end of the paragraph;

■ c. In paragraph (a)(5), removing the period and adding ''; or'' in its place;

■ d. Adding paragraph (a)(6);

■ e. Redesignating paragraph (d) as paragraph (e); and

■ f. Adding new paragraph (d).

The additions read as follows:

§ 802.504 Deferral, rejection, or disposition of certain voluntary notices.

(a) * * *

(6) Reject any voluntary notice at any time after the notice has been accepted, and so inform the parties promptly in writing, if the Committee has proposed risk mitigation terms, including revisions to such terms, and if the Staff Chairperson has imposed a time frame for responding to such terms as set forth in paragraph (d) of this section, to the party or parties that submitted the notice and the party or parties have failed to substantively respond to such terms within the time frame specified.

* * * * *

(d) The Staff Chairperson may impose a time frame of no fewer than three business days for the party or parties to provide a substantive response to proposed risk mitigation terms, including revisions to such terms. The time frame may be extended if the parties so request in writing and the Staff Chairperson grants that request in writing. In determining whether to impose such a time frame, the Staff Chairperson may consider:

(1) The statutory deadline for completing an investigation under section 721(b)(2)(C)(i);

(2) The risk to the national security of the United States arising from the transaction;

(3) The party's or parties' responsiveness to the Committee;

(4) The nature of the transaction;

(5) The appropriateness of suspending, or imposing conditions on, the transaction under section 721(*l*); and

(6) Other such factors the Staff Chairperson may determine to be appropriate in connection with a specific transaction.

* * * * *

■ 11. Amend § 802.801 by revising the section heading and paragraph (a) to read as follows:

§ 802.801 Obligation of parties or other persons to provide information.

(a) This paragraph (a) sets forth requirements for parties to a transaction or other persons to provide information to the Staff Chairperson or requesting lead agency in the circumstances specified in paragraphs (a)(1) through (6) of this section.

(1) Parties to a transaction that is notified or declared under subpart D or E of this part shall provide information to the Staff Chairperson that will enable the Committee to conduct a full assessment, review, and/or investigation of the transaction.

(2) For a transaction for which no voluntary notice or declaration has been submitted and for which the Staff Chairperson has requested information as provided for in § 802.501(b), parties to the transaction or other persons shall provide information to the Staff Chairperson that will enable the Committee to determine whether the transaction is a covered real estate transaction or whether the transaction may raise national security considerations.

(3) Independent of any obligations under an agreement, condition, or order authorized under section 721(*l*), parties shall provide information to the Staff Chairperson or the requesting lead agency so as to enable the Committee to assess compliance with section 721 and the regulations in this part or to monitor compliance with, enforce or modify the terms of, or decide to terminate any agreement entered into, condition imposed, or order issued.

(4) Any person that has submitted information to the Committee shall respond to requests from the Staff Chairperson for information to enable the Committee to determine whether the party made any material misstatement or omitted material information from any such submission.

(5) Parties to a transaction that have filed information with the Committee shall promptly advise the Staff Chairperson of any material changes to such information.

(6) If deemed appropriate by the Committee, the Staff Chairperson may obtain information from parties to a transaction or other persons through subpoena or otherwise, under the Defense Production Act, as amended (50 U.S.C. 4555(a)).

* * * * *

■ 12. Amend § 802.901 by revising paragraphs (a), (b), and (e) to read as follows:

§ 802.901 Penalties and damages.

(a)(1) Any person who submits a declaration or notice with a material misstatement or omission or makes a false certification under § 802.402, § 802.403, or § 802.502 may be liable to the United States for a civil penalty not to exceed $5,000,000 per violation.

(2) Any person who, in response to a request from the Staff Chairperson or a lead agency, submits to the Committee any information pursuant to § 802.801(a)(2), (3), or (4) or (c), with a material misstatement or omission may be liable to the United States for a civil penalty not to exceed $5,000,000 per violation. This paragraph (a)(2) shall apply only with respect to responses to requests that were made in writing, specified a time frame for response, and indicated the applicability of this paragraph (a).

(3) The amount of the penalty imposed for a violation as provided for in this paragraph (a) shall be based on the nature of the violation.

(b)(1) Any person who violates a material provision of a mitigation agreement entered into on or after February 13, 2020, and before December 26, 2024, with, a material condition imposed on or after February 13, 2020, and before December 26, 2024, by, or an order issued on or after February 13, 2020, and before December 26, 2024, by, the United States under section 721(*l*) may be liable to the United States for a civil penalty per violation not to exceed $250,000 or the value of the transaction, whichever is greater. For clarification, under the previous sentence, whichever penalty amount is greater may be imposed per violation, and the amount of the penalty imposed for a violation shall be based on the nature of the violation.

(2)(i) Any person who violates a material provision of a mitigation agreement entered into on or after December 26, 2024, with, a material condition imposed on or after December 26, 2024, by, or an order issued on or after December 26, 2024, by, the United States under section 721(*l*) may be liable to the United States for a civil penalty per violation not to exceed the greatest of:

(A) $5,000,000;

(B) The value of the person's interest in the covered real estate (or, as applicable, the owner of the covered real estate) at the time of the transaction;

(C) The value of the person's interest in the covered real estate (or, as applicable, the owner of the covered real estate) at the time of the violation in question or the most proximate time to the violation for which assessing such value is practicable; or

(D) The value of the transaction filed with the Committee.

(ii) For clarification, under paragraphs (b)(2)(i)(A) through (D) of this section, whichever penalty amount is greatest may be imposed per violation, and the amount of the penalty imposed for a violation shall be based on the nature of the violation.

* * * * *

(e) Upon receiving notice of a penalty to be imposed under any of paragraphs (a) through (c) of this section, the subject person may, within 20 business days of receipt of such notice, submit a petition for reconsideration to the Staff Chairperson, including a defense, justification, or explanation for the conduct to be penalized. The Committee will review the petition and issue any final penalty determination within 20 business days of receipt of the petition. The Staff Chairperson and the subject person may extend either such period through written agreement or, where there is a compelling circumstance and if it is deemed appropriate by the Committee, the Staff Chairperson may extend either period by notifying the subject person in writing of the extended time frame. The Committee and the subject person may reach an agreement on an appropriate remedy at any time before the Committee issues any final penalty determination.

* * * * *

Paul M. Rosen,

Assistant Secretary for Investment Security.

[FR Doc. 2024–27310 Filed 11–25–24; 8:45 am]

BILLING CODE 4810–AK–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[EPA–HQ–OAR–2021–0863; EPA–R03–OAR–2023–0179; FRL–12161–02–OAR]

Excess Emissions During Periods of Startup, Shutdown, and Malfunction; Partial Withdrawals of Findings of Failure To Submit State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final action.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to partially withdraw two final actions finding that 13 States and/or local air pollution control agencies failed to submit State Implementation Plan (SIP) revisions required by the Clean Air Act (CAA) in a timely manner to address the EPA's 2015 findings of substantial inadequacy and ''SIP calls'' for provisions applying to excess emissions during periods of startup, shutdown, and malfunction (SSM). This final action would render no longer applicable certain CAA deadlines for the EPA to impose sanctions if a State does not submit a complete SIP revision addressing the outstanding requirements and to promulgate a Federal Implementation Plan (FIP). Concurrently, the EPA is also issuing a parallel proposal of this withdrawal action. *See* the proposed action published in the Proposed Rules section of this issue of the **Federal Register**.

DATES: This action is effective on January 10, 2025, without further notice, unless the EPA receives significant adverse comment by December 26, 2024. If significant adverse comments are received on the accompanying proposed action, the EPA will publish a timely withdrawal of this direct final action in the **Federal Register**. If the direct final action is withdrawn, all comments will be addressed in a subsequent final action based on the accompanying proposed action. The EPA will not institute a second comment period pertaining to the revisions on the subsequent final action. Any parties interested in commenting should do so at this time.

ADDRESSES: You may send comments, identified by Docket ID Nos. EPA–HQ–OAR–2021–0863 and EPA–R03–OAR–2023–0179, 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 Nos. EPA–HQ–OAR–2021–0863 and EPA–R03–OAR–2023–0179.
- *Fax:* (202) 566–9744
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or 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. to 4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: General questions concerning this notice should be addressed to, Sydney Lawrence, Office of Air Quality Planning and Standards, Air Quality Policy Division, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711; by telephone (919) 541–4768; or by email at *lawrence.sydney@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How is the preamble organized?

The information presented in this preamble is organized as follows:

Table of Contents

B. Why is the EPA issuing a direct final action and parallel proposed action?

As is discussed in further detail later, the EPA is taking this action as a result of the United States Court of Appeals for the District of Columbia mandate in *Environ. Comm. Fl. Elec. Power* v. *EPA,* 94 F.4th 77 (D.C. Cir. 2024). In that decision, the D.C. Circuit vacated portions of the EPA's 2015 findings of substantial inadequacy and SIP calls for provisions applying to excess emissions during periods of SSM (''2015 SSM SIP Call'')[1] as it applied to State provisions including automatic exemptions, director's discretion provisions, and affirmative defenses that are functionally exemptions. Subsequent to the issuance of the 2015 SIP Call, EPA issued two findings of failure to submit (FFS) impacting multiple States.[2] [3] This action seeks to withdraw relevant parts of the FFS that were invalidated by the D.C. Circuit's vacatur. Because of the D.C. Circuit's vacatur, there is no longer a legally valid predicate submission obligation for those particular SIP-called provisions. As a result, the EPA's findings that such obligation was not met are also no longer valid and must be withdrawn. Concurrently, the EPA is also issuing a parallel proposal of this withdrawal action. See the proposed action published in the Proposed Rules section of this issue of the **Federal Register**. If we receive no significant adverse comment, we will not take further action on the proposed action and this direct final action will become effective as prescribed.

C. Written Comments

Submit your comments, identified by Docket ID Nos. EPA–HQ–OAR–2021–0863 and EPA–R03–OAR–2023–0179, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Our preferred method to receive CBI, PBI, or other information who disclosure is restricted by statue is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office using the email address, *oaqpscbi@epa.gov,* and should include clear CBI or PBI markings. 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. If sending CBI or PBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID Nos. EPA–HQ–OAR–2021–0863 and EPA–R03–OAR–2023–0179. The mailed CBI or PBI material should be double wrapped and clearly marked. Any CBI or PBI markings should not show through the outer envelope. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

D. How can I get copies of this document and other related information?

The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2021–0863 (as it pertains to the January 2022 national FFS) and Docket ID No. EPA–R03–OAR–2023–0179 (as it pertains to the April 2023 West Virginia FFS). All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *https://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, EPA Docket Center, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. 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 Office of Air and Radiation Docket is (202) 566–1742.

E. Where do I go if I have specific air agency questions?

For questions related to specific air agencies mentioned in this notice, please contact the appropriate EPA Regional Office:

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[1] *See* ''*State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction,*'' 80 FR 33840 (June 12, 2015).

[2] *See* ''*Findings of Failure To Submit State Implementation Plan Revisions in Response to the 2015 Findings of Substantial Inadequacy and SIP Calls To Amend Provisions Applying To Excess Emissions During Periods of Startup, Shutdown, and Malfunction,*'' 87 FR 1680 (January 12, 2022).

[3] *See* ''*West Virginia; Finding of Failure To Submit State Implementation Plan Revision in Response to the 2015 Findings of Substantial Inadequacy and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction,*'' 88 FR 23353 (April 17, 2023).

EPA regional office	Air agencies
EPA Region 1: Alison Simcox, Air Quality Branch, EPA Region 1, 5 Post Office Square, Boston, Massachusetts 02109. *simcox.alison@epa.gov*.	Rhode Island.
EPA Region 3: Sean Silverman, Planning and Implementation Branch, EPA Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103. *silverman.sean@epa.gov*.	District of Columbia.
EPA Region 3: Serena Nichols, Planning and Implementation Brach, EPA Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103. *nichols.serena@epa.gov*.	West Virginia.
EPA Region 4: Faith Goddard, Air Planning and Implementation Branch, EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303. *goddard.faith@epa.gov*.	Alabama; North Carolina-Forsyth; Tennessee-Shelby (Memphis).
EPA Region 5: Michael Leslie, Air Planning and Maintenance Section, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. *leslie.michael@epa.gov*.	Illinois; Ohio.
EPA Region 6: Michael Feldman, Air Program Branch, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270. *feldman.michael@epa.gov*.	Arkansas.
EPA Region 8: Adam Clark, Air Quality Planning Branch, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202. *clark.adam@epa.gov*.	South Dakota.
EPA Region 9: Eugene Chen, Control Measures Section, Air and Radiation Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. *chen.eugene@epa.gov*.	California-San Joaquin Valley Air Pollution Control District (APCD).
EPA Region 10: Randall Ruddick, Air Planning Section, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. *ruddick.randall@epa.gov*.	Washington-Energy Facility Site Evaluation Council (EFSEC); Washington-Southwest Clean Air Agency (SWCAA).

II. Background

On January 12, 2022, the EPA took final action (''January 2022 FFS'')[4] to find that 12 States and local air agencies failed to submit SIP revisions required by the CAA in a timely manner to address the EPA's 2015 findings of substantial inadequacy and ''SIP calls'' for provisions applying to excess emissions during periods of SSM (''2015 SSM SIP Call''[5]) that were statutorily due no later than November 22, 2016. On April 17, 2023, the EPA Region 3 took final action (''April 2023 FFS'') to find that the State of West Virginia failed to timely submit a SIP revision required by the CAA to address the deficiencies identified in the EPA's 2015 SSM SIP Call that was statutorily due no later than November 22, 2016.[6] In total, the 13 States and/or local air agencies that were issued an FFS can be found in Table 1. For those States and/or local air agencies subject to the FFS for which EPA has fully approved their submitted SIP revision—Arkansas, California-San Joaquin Valley Air Pollution Control District, and North Carolina-Forsyth—the FFS obligation has been fulfilled, and there is no need to for the EPA or those States to take further action. The States and/or local air agencies which have not submitted a SIP revision in response to the FFS or for which the EPA has not taken final action on their submittal—*i.e.,* the States for which some obligation still exists—can be found in Table 2.

TABLE 1—13 STATES AND/OR LOCAL AIR POLLUTION CONTROL AGENCIES INCLUDED IN THE JANUARY 2022 FFS AND APRIL 2023 FFS

EPA region	State and/or local air agency
1	Rhode Island.
3	District of Columbia.
3	West Virginia.
4	Alabama.
4	North Carolina-Forsyth.
4	Tennessee-Shelby (Memphis).
5	Illinois.
5	Ohio.
6	Arkansas.
8	South Dakota.
9	California-San Joaquin Valley Air Pollution Control District.
10	Washington-Energy Facility Site Evaluation Council.
10	Washington-Southwest Clean Air Agency.

TABLE 2—STATES AND/OR LOCAL AIR AGENCIES WITHOUT FULLY APPROVED SIP REVISIONS IN RESPONSE TO THE JANUARY 2022 FFS AND APRIL 2023 FFS[7]

EPA region	State and/or local air agency
1	Rhode Island.
3	District of Columbia.

[4] *See* 87 FR 1680.

[5] *See* 80 FR 33840.

[6] *See* 88 FR 23353.

TABLE 2—STATES AND/OR LOCAL AIR AGENCIES WITHOUT FULLY APPROVED SIP REVISIONS IN RESPONSE TO THE JANUARY 2022 FFS AND APRIL 2023 FFS [7]—Continued

EPA region	State and/or local air agency
3	West Virginia.
4	Alabama.
4	Tennessee-Shelby (Memphis).
5	Illinois.
5	Ohio.
8	South Dakota.
10	Washington-Energy Facility Site Evaluation Council.
10	Washington-Southwest Clean Air Agency.

On March 1, 2024, the United States Court of Appeals for the District of Columbia Circuit issued a decision in *Environ. Comm. Fl. Elec. Power* v. *EPA,* 94 F.4th 77 (D.C. Cir. 2024). The Court granted the petitions in part, vacating the SIP calls that were based on SIP provisions that included automatic exemptions, director's discretion provisions, and ''complete affirmative defenses'' (*i.e.* affirmative defenses that are functionally exemptions); and denied the petitions in part, affirming the SIP calls based on SIP provisions that included overbroad enforcement discretion provisions and affirmative defenses against specific relief. As a result of the D.C. Circuit's decision in *Environ. Comm. Fl. Elec. Power* v. *EPA,* the EPA is partially withdrawing the January 2022 FFS and the April 2023 FFS. Because certain portions of the SIP call were vacated by the D.C. Circuit and therefore have no legal effect, the States and/or local air agencies with provisions to which those vacated portions of the SIP call previously applied no longer have a legal obligation to submit the revisions that the EPA had originally determined were required pursuant to the 2015 SSM SIP Call.[8] Further, as there is no longer a predicate submission obligation for those particular SIP-called provisions, the EPA's findings that such obligation was not met are no longer valid and must be withdrawn.

III. Partial Withdrawals of Findings of Failure To Submit

As a result of this final action, the January 22, 2022, national FFS and April 17, 2023, FFS are partially withdrawn with respect to the State and/or local air agency SIP provisions listed in Table 3.

TABLE 3—SIP PROVISIONS FOR WHICH THE EPA IS WITHDRAWING THE AGENCY'S FINDINGS OF FAILURE TO SUBMIT [9]

Region	State/local air agency	Applicable provisions for which the FFS are withdrawn
1	Rhode Island	25–4–13 R.I. Code R. § 16.2.
3	District of Columbia	D.C. Mun. Regs. tit. 20 § 107.3.
		D.C. Mun. Regs. tit. 20 § 606.1.
		D.C. Mun. Regs. tit. 20 § 606.2.
	West Virginia	W. Va. Code R. § 45–2–9.1.
		W. Va. Code R. § 45–7–10.3.
		W. Va. Code R. § 45–40–100.8.
		W. Va. Code R. § 45–2–10.1.
		W. Va. Code R. § 45–3–7.1.
		W. Va. Code R. § 45–5–13.1.
		W. Va. Code R. § 45–6–8.2.
		W. Va. Code R. § 45–7–9.1.
		W. Va. Code R. § 45–7–10.4.
		W. Va. Code R. § 45–10–9.1.
		W. Va. Code R. § 45–21–9.3.
		W. Va. Code R. § 45–3–3.2.
		W. Va. Code R. § 45–2–10.2.
4	Alabama	Ala Admin Code Rule 335–3–14–.03(1)(h)(1).
		Ala Admin Code Rule 335–3–14– .03(1)(h)(2).

[7] The EPA and its state partners work regularly on SIP requirements including plan development, review and approval. Often, national actions like this partial FFS withdrawal overlap with ongoing actions for specific areas. At or about the same time this direct final action is promulgated, the EPA is also taking separate final action on two SIP revisions related to today's action: (1) Tennessee-Shelby (Memphis) SIP call revision submitted to the EPA on March 2, 2022. *See* 89 FR 74165, September 12, 2024. Once finalized, Tennessee-Shelby (Memphis) will have a fully approved SIP revision that partially responds to the January 2022 FFS. The FFS obligations will remain in effect for a portion of the Tennessee-Shelby (Memphis) SIP. For more information, see the Tennessee-Shelby (Memphis) Final Rule, (Docket ID No. EPA–R4–OAR–2023–0361) at *https://www.regulations.gov/docket/EPA-R04-OAR-2023-0361*. (2) Washington-Energy Facility Site Evaluation Council (EFSEC) SIP call revision submitted on June 15, 2023. *See* 89 FR 84322, October 22, 2024. Once finalized, Washington-EFSEC will have a fully approved SIP revision in response to the January 2022 FFS and will have fulfilled their FFS obligations. For more information, see the Washington-EFSEC Final Rule, (Docket ID EPA–R10–OAR–2024–0372) at *https://www.regulations.gov/docket/EPA-R10-OAR-2024-0372*.

[8] In vacating certain portions of the 2015 SSM SIP Action, the D.C. Circuit's decision did not determine whether the SIP-called provisions were otherwise lawful under the CAA. *See e.g.* slip op. at 55 (''We thus do not reach the question whether the called SIPs' relevant emission restrictions in fact amount to (or must amount to) ''emission limitations'' per the statutory definition.).

[9] Because the D.C. Circuit only vacated certain portions of the EPA's 2015 SSM SIP Action, the 2015 SIP Call is still applicable for certain provisions in some states. As such, the EPA is only withdrawing the FFS as they apply to those provisions corresponding to the vacatur. As a result, the FFS remain in place for provisions that correspond to the portions of the 2015 SSM SIP Action that were not vacated (*i.e.* provisions that were SIP called because they include an affirmative defense that provides specific relief and provisions that constitute overbroad enforcement discretion). Some states were included in the FFS for both types of provision.

TABLE 3—SIP PROVISIONS FOR WHICH THE EPA IS WITHDRAWING THE AGENCY'S FINDINGS OF FAILURE TO SUBMIT [9]—Continued

Region	State/local air agency	Applicable provisions for which the FFS are withdrawn
5	Ohio	Ohio Admin. Code 3745–15–06(A)(3). Ohio Admin. Code 3745–17–07(A)(3)(c). Ohio Admin. Code 3745–17– 07(B)(11)(f). Ohio Admin. Code 3745– 14–11(D). Ohio Admin. Code 3745– 15–06(C).
8	South Dakota	S.D. Admin. R. 74:36:12:02(3).

IV. Consequences of Withdrawn Portions of Findings of Failure To Submit and Remaining Air Agency Obligations

For those State and/or local air agency SIP provisions listed in Table 3 of Section III for which the FFS are withdrawn, the CAA deadlines for the EPA to impose sanctions under CAA sections 179(a) and (b) and promulgate a FIP under CAA section 110(c) are no longer applicable. For those State and/or local jurisdiction SIP provisions in which the FFS are not withdrawn and are still applicable, the CAA deadlines for the EPA to impose sanctions under CAA sections 179(a) and (b) and promulgate a FIP under CAA section 110(c) remain in effect as previously established.[10] [11] The States and/or local air agencies for which the FFS are not withdrawn and mandatory CAA deadlines remain in effect can be found in Table 4.

TABLE 4—STATES AND/OR LOCAL AIR AGENCIES WITH REMAINING FFS OBLIGATIONS

EPA region	State and/or local air agency	Applicable provisions for which the FFS remain in effect
3	District of Columbia	D.C. Mun. Regs. tit. 20 § 606.4.
3	West Virginia	W. Va. Code R. § 45–2–9.4.
4	Tennessee-Shelby (Memphis)	Shelby County Code § 16–87.
5	Illinois	Ill. Admin. Code tit. 35 § 201.261. Ill. Admin. Code tit. 35 § 201.262. Ill. Admin. Code tit. 35 § 201.265.
10	Washington-Energy Facility Site Evaluation Council.	Wash. Admin. Code § 463–39–005.
10	Washington-Southwest Clean Air Agency.	SWCAA 400–107.

IV. Final Action

In light of the D.C. Circuit's decision in *Environ. Comm. Fl. Elec. Power* v. *EPA,* the EPA is taking final action to partially withdraw its finding that 12 air agencies have failed to submit SIP revisions in response to the 2015 SSM SIP Action that were statutorily due no later than November 22, 2016, and to partially withdraw the EPA Region 3's finding that West Virginia failed to submit a SIP revision in response to the 2015 SSM SIP Action that was statutorily due no later than November 22, 2016. The six States and/or local air agencies affected by this final withdrawal action are: Alabama, District of Columbia, Ohio, Rhode Island, South Dakota, and West Virginia.

V. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the PRA. This final action does not establish any new information collection requirement apart from what is already required by law. This action relates to the requirement in the CAA for States to submit SIPs in response to findings of substantial inadequacy under CAA section 110(k)(5).

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action relates to the requirement in the CAA for States to submit SIPs in response to findings of substantial inadequacy under CAA section 110(k)(5).

E. Unfunded Mandates Reform Act of 1995 (UMRA)

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

F. Executive Order 13132: Federalism

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

[10] *See* 87 FR 1680, 1682.

[11] *See* 88 FR 88 FR 23353, 23354–23355.

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

This action does not have Tribal implications as specified in Executive Order 13175. This action finds that several air agencies have failed to submit SIP revisions in response to findings of substantial inadequacy under section 110(k)(5) of the CAA. No Tribe is subject to the requirement to submit an implementation plan under the findings of inadequacy relevant to this action. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it relates to the requirement in the CAA for States to submit SIPs in response to findings of substantial inadequacy under CAA section 110(k)(5) and does not directly or disproportionately affect children.

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This final action does not involve technical standards.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on communities with EJ concerns.

The EPA believes it is not practicable to assess whether the conditions that exist prior to this proposed action result in disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples. While it is difficult to assess the environmental justice implications of this proposed action because the EPA cannot geographically identify or quantify the resulting source-specific emission reductions, the EPA recognizes the potential for neutral or adverse environmental justice issues associated with this action. However, the EPA views this action as a necessary procedural step following the D.C. Circuit decision and vacatur of portions of the 2015 SSM SIP call.

L. Congressional Review Act (CRA)

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

M. Judicial Review

Section 307(b)(1) of the CAA governs judicial review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the United States Court of Appeals for the District of Columbia Circuit: (i) when the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, but ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' For locally or regionally applicable final actions, the CAA reserves to the EPA complete discretion whether to invoke the exception in (ii).

This final action is ''nationally applicable'' within the meaning of CAA section 307(b)(1). In the alternative, to the extent a court finds this final action to be locally or regionally applicable, the Administrator is exercising the complete discretion afforded to him under the CAA to make and publish a finding that this action is based on a determination of ''nationwide scope or effect'' within the meaning of CAA section 307(b)(1).[12] This final action consists of a partial withdrawal of findings of failure to submit required SIPs from six States and/or local air jurisdictions, including the District of Columbia, located in 5 of the 10 EPA regions, and in 6 different federal judicial circuits.[13] This final action is also based on a common core of factual findings concerning the receipt and completeness of the relevant SIP submittals. For these reasons, this final action is nationally applicable or, alternatively, the Administrator is exercising the complete discretion afforded to him by the CAA and hereby finds that this final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1) and is hereby publishing that finding in the **Federal Register**.

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 District of Columbia Circuit within 60 days from the date this final action is published in the **Federal Register**. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of the action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review must be filed and shall not postpone the effectiveness of such rule or action.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedures, Air pollution control, Approval and promulgation of implementation plans, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

Joseph Goffman,

Assistant Administrator.

[FR Doc. 2024–27263 Filed 11–25–24; 8:45 am]

BILLING CODE 6560–50–P

[12] In deciding whether to invoke the exception by making and publishing a finding that this final action is based on a determination of nationwide scope or effect, the Administrator has also taken into account a number of policy considerations, including his judgment balancing the benefit of obtaining the D.C. Circuit's authoritative centralized review versus allowing development of the issue in other contexts and the best use of Agency resources.

[13] In the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that the ''nationwide scope or effect'' exception applies would be appropriate for any action that has a scope or effect beyond a single judicial circuit. *See* H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–118

[FMR Case 2023–02; Docket No. GSA–FMR–2023–0014; Sequence No. 2]

RIN 3090–AK73

Federal Management Regulation; Transportation Payment and Audit Regulations

AGENCY: Office of Government-Wide Policy (OGP), General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The United States General Services Administration (GSA) is issuing a final rule amending the Federal Management Regulation (FMR). This amendment executes changes that include the removal, addition, and revision of definitions, the elimination of gender pronouns, the simplification of requirements, the alteration of statutory references, and the clarification of GSA's role in adjudicating disputes arising from audits of transportation bills. These adjustments are necessary to furnish accurate guidance for agencies, facilitate proper management and compliance with transportation invoice payment and audit obligations.

DATES: *Effective date:* December 26, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Siegel, Policy Analyst, at 202–702–0840 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 2023–02.

SUPPLEMENTARY INFORMATION:

I. Background

The Travel and Transportation Reform Act of 1998 (Pub. L. 105–264) established the statutory requirement for agencies to perform an audit of transportation expenses prior to payment, assigned to the Administrator of GSA (Administrator) the authority to prescribe regulations for the audit of transportation invoices prior to payment, and the statutory authority for audit oversight of transportation invoices to protect the financial interests of the Government (31 U.S.C. 3726). The law also provides the Administrator the power to conduct prepayment or postpayment audits of transportation bills of any Federal agency. GSA has codified these requirements in 41 CFR part 102–118, Transportation Payment and Audit (Federal Management Regulation (FMR) part 102–118).

Certain other statutes collectively empower the Administrator to create regulations governing various aspects of Federal procurement for transportation, ensuring compliance with Federal laws, and promoting the efficient use of Government resources. These include 40 U.S.C. 501, which grants the Administrator the authority to establish regulations for executive agencies regarding the procurement and supply of personal property, nonpersonal services, and related functions, including transportation and transportation services. Additionally, 49 U.S.C. 40118 authorizes the Administrator to prescribe regulations allowing agencies to expend appropriations for transportation in violation of the requirements of said section.

GSA last amended FMR part 102–118 on May 31, 2022 (87 FR 32320), to perform editorial and technical changes. That direct final rule introduced the GSA Transportation Audit Management System (TAMS), corrected inaccurate and outdated information, and removed obsolete references to programs, legal citations, and forms. It revised general contact information, corrected hyperlinks, clarified conditions for using certain forms and revised outdated and inaccurate administrative procedures.

This final rule modifies definitions that apply to this part, which include incorporating previously undefined terms such as Civilian Board of Contract Appeals (CBCA), refund, and Transportation Audits Management System (TAMS). Furthermore, definitions of forms used exclusively by the GSA Transportation Audits Division have been removed from individual sections and added to the definitions, while terms such as EDI signature, reparation, statement of difference rebuttal, and virtual Government Bill of Lading (GBL), have been removed from the definitions section because the terms are not utilized in this part. Additionally, some definitions have been amended to enhance clarity including the terms cash, Government contractor-issued charge card, and offset. GSA updated the definition of a Government contractor-issued charge card and introduced a new definition for an individually billed travel card. This change was made to define and explain the distinction between the two types of charge cards that the Government may use to procure transportation. The revised definitions clarify agency responsibilities, thereby significantly reducing ambiguity and the potential for non-compliance.

This final rule continues to improve upon the changes introduced in the aforementioned direct final rule published on May 31, 2022. That rule eliminated unnecessary procedures for agencies to request GBL and Government Transportation Request (GTR) forms, along with their corresponding control numbers. GSA has amended this FMR part to provide agencies with additional information regarding the requirement to assign numbers to these forms and to manage and track each issued GBL and GTR transportation document.

With the publication of this rule, GSA grants agencies discretion in using a GBL for domestic shipping. Agencies, and not GSA, are responsible for maintaining physical control and accountability of the GBLs they issue. In its present form, this FMR part restricts the use of a GBL to international shipments, however GSA acknowledges that agencies might occasionally need to issue a GBL for domestic shipments. Therefore, since agencies are obligated to manage the GBLs they issue, they should have the flexibility to decide when using a GBL is necessary to fulfill their mission. Providing Federal agencies with the latitude to issue GBLs when it is mission-essential enhances their ability to respond promptly and efficiently to critical needs, ensures better control and oversight of transportation processes, optimizes resource use, and can result in cost savings and legal protections. This flexibility is crucial for maintaining the effectiveness and efficiency of Federal operations, especially in times of urgency. Additionally, GSA clarifies that a bill of lading can be used to procure both transportation and transportation services.

This rule updates the requirement for agencies to provide a copy of each quotation, tender, or contract of special rates, fares, charges, or concessions with TSPs to the GSA Transportation Audits Division. The revised regulation now requires agencies to send copies of rates provided by pipeline carriers as well. GSA corrected information including legal references related to actions by and against the Government. The revised information now lists proper authorities and deadlines for filing freight charges, loss and damage claims, and filing claims against a TSP for the collection of overcharges.

Lastly, GSA has removed gender pronouns from this FMR part. The removal of gender pronouns promotes inclusivity and modernizes the language of the regulation.

II. Discussion of the Final Rule

A. Summary of Significant Changes

This final rule provides agencies with additional clarification on the role of the TAMS and its benefit to TSPs, specifically when filing certain claims. It also outlines the circumstances under which Federal agencies use the TAMS. Additionally, when agencies submit their paid transportation invoices and other documentation through the TAMS, it allows the GSA Transportation Audits Division to

maintain and store these transportation records in accordance with the General Records Schedule.

The GSA Transportation Audits Division maintains a central repository of electronic transportation billing records for legal and auditing purposes. Therefore, to comply with the Office of Management and Budget Memorandum M–23–07, GSA now requires agencies to submit their payment documentation for a post payment audit via the TAMS. Other documents that may need to be sent to GSA Transportation Audits Division will only be accepted electronically via email. Consequently, physical mailing addresses have been removed from this FMR part. This change is expected to reduce costs for agencies, streamline the reporting process, and eliminate the need for mailing documents to the GSA Transportation Audits Division. TSPs are also permitted to use the TAMS to file a claim with the GSA Transportation Audits Division; however, its use by TSPs is not required. It is also important to note that as of July 2022, all department level agencies were compliant with this requirement, therefore mandating this requirement should have no additional effect on agency procedures.

GSA has also included updated regulatory language addressing the agency's role in adjudicating disputes arising from audits of transportation bills. The Administrator of GSA has the authority to ''adjudicate transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill'' (31 U.S.C. 3726(c)). GSA acknowledges that its notice of proposed rulemaking (89 FR 12296, February 16, 2024) did not expressly state that such authority is limited to ''transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill.'' 31 U.S.C. 3726(c). Upon further review of the statute and other relevant factors, including judicial decisions interpreting these provisions, GSA has updated the regulatory text in this final rule to accurately reflect the statutory text.

GSA's procedures for performing an audit are incorporated in subpart F of this FMR part and apply to all procurement vehicles and methods available to agencies to procure transportation and transportation services. This language is included for clarity, creates no additional cost, and requires no additional effort by the TSP.

B. Analysis of Public Comments

In the proposed rule published at 89 FR 12296 on February 16, 2024, GSA provided the public a 60-day comment period which ended on April 16, 2024. GSA received one timely comment, which is from an anonymous source. As a result of the comment, minor changes were made from the proposed rule to the final rule.

Comment: ''I agree that a change is needed to § 102–118.460(a)(5) [sic] because the current reference is incorrect however I think the timeline for filing a claim with the court should remain at 1 year.''

Response: After review, GSA restored the time limit in the ''loss and damage'' column of § 102–118.460(a)(5) to 1-year. Only the legal references have been revised in this section.

In addition, GSA received an untimely comment from Crowley Maritime Services. In the comment, Crowley requested that the agency ''extend'' the comment period, but Crowley provided no explanation as to why an extension would be appropriate. GSA therefore declines to consider the late-filed comment. GSA also notes that Crowley's comment primarily concerns the scope of the agency's dispute-resolution authority. This rule's discussion of that authority is consistent with the relevant statutory language. *See* 31 U.S.C. 3726.

III. Executive Orders 12866, 13563, and 14094

Executive Order (E.O.) 12866 (Regulatory Planning and Review) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 14094 (Modernizing Regulatory Review) amends section 3(f) of E.O. 12866 and supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866 and E.O. 13563. The Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) has determined that this rule is not a significant regulatory action, and therefore, is not subject to review under section 6(b) of E.O. 12866.

IV. Congressional Review Act

OIRA has determined that this rule is not a ''major rule'' under 5 U.S.C. 804(2). Title II, Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801–808), also known as the Congressional Review Act or CRA, generally provides that before a rule may take effect, unless excepted, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. This rule is excepted from CRA reporting requirements prescribed under 5 U.S.C. 801 as it relates to agency management or personnel under 5 U.S.C. 804(3)(B).

V. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This final rule is also exempt from the Administrative Procedure Act pursuant to 5 U.S.C. 553(a)(2) because it applies to agency management or personnel. Therefore, an Initial Regulatory Flexibility Analysis was not performed.

VI. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that requires the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 41 CFR Part 102–118

Accounting, Claims, Government property management, Reporting and recordkeeping requirements, Transportation.

Robin Carnahan,

Administrator, General Services Administration.

For the reasons set forth in the preamble, GSA amends 41 CFR part 102–118 as follows:

PART 102–118—TRANSPORTATION PAYMENT AND AUDIT

■ 1. The authority citation for 41 CFR part 102–118 continues to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 121(c); 40 U.S.C. 501, *et seq.;* 46 U.S.C. 55305; 49 U.S.C. 40118.

§ 102–118.25 [Amended]

■ 2. Amend § 102–118.25 by removing ''may request'' and adding ''is required'' in its place.

■ 3. Amend § 102–118.35 by:

■ a. Adding, in alphabetical order, the definitions ''ACH (automated clearinghouse)'' and ''Agency purchase card'';

■ b. Revising the definition of ''Cash'';

■ c. Adding, in alphabetical order, the definitions of ''Certificate of Settlement'' and ''Civilian Board of Contract Appeals (CBCA)'';

■ d. Removing the definition of ''EDI signature'';

■ e. Removing the definitions of ''Electronic data interchange'' and ''Government contractor-issued charge card'' and adding the definitions of ''Electronic data interchange (EDI)'' and ''Government contractor issued charge card'' in their places, respectively;

■ f. Adding, in alphabetical order, the definitions of ''Individually billed travel card'', ''Notice of Indebtedness'', and ''Notice of Overcharge'';

■ g. Revising the definition of ''Offset'';

■ h. Adding, in alphabetical order, the definition of ''Refund'';

■ i. Removing the definition of ''Reparation'';

■ j. Revising the definition of ''Statement of difference'';

■ k. Removing the definition of ''Statement of difference rebuttal'';

■ l. Adding, in alphabetical order, the definition of ''Transportation Audits Management System (TAMS)''; and

■ m. Removing the definition of ''Virtual GBL (VGBL)''.

The additions and revisions read as follows:

§ 102–118.35 What definitions apply to this part?

* * * * *

ACH (automated clearinghouse) means a nationwide network through which depository institutions send each other batches of electronic credit and debit transfers.

* * * * *

Agency purchase card means a charge card used by an authorized agency purchaser to procure, order, and pay for supplies and services.

* * * * *

Cash means cash, personal checks, personal charge/credit cards, and traveler's checks.

Certificate of Settlement means a formal notice to an agency that provides a complete explanation of any amount that is disallowed. GSA produces and transmits the Certificate of Settlement (GSA Form 7931) to the agency whose funds are to be charged for processing and payment.

Civilian Board of Contract Appeals (CBCA) means an independent court within GSA that settles transportation payment claims disputes between Federal agencies and transportation service providers (TSPs). For additional information on the CBCA see *https://www.cbca.gov/index.html.*

* * * * *

Electronic data interchange (EDI) means electronic techniques for carrying out transportation transactions using electronic transmissions of the information between computers instead of paper documents. These electronic transmissions must use established and published formats and codes as authorized by the applicable Federal Information Processing Standards.

* * * * *

Government contractor issued charge card means an individually billed travel card or an agency purchase card.

* * * * *

Individually billed travel card means the charge card used by authorized individuals to pay for official travel and transportation related expenses for which the contractor bills the employee. This is different from a centrally billed account paying for official travel and transportation related expenses for which the agency is billed.

Notice of Indebtedness means a formal notice issued to a TSP that owes an ordinary debt to an agency. This notice states the basis for the debt, the TSP's rights, interest, penalty, and other results of nonpayment. The debt is due immediately and is subject to interest charges, penalties, and administrative cost under 31 U.S.C. 3717.

Notice of Overcharge means a formal notice to a TSP that owes a debt to the agency. It shows the TSP the amount paid and the basis for the proper charge for the document reference number (DRN), and cites applicable contract, tariff, or tender, along with other data relied on to support the overcharge.

Offset means withholding money from a payment. In this part, money withheld refers to the funds owed a TSP that are not released by the agency but instead used to repay the Government for a debt incurred by the TSP.

* * * * *

Refund means the amount collected from outside sources for payments made in error, overpayment, or adjustments for previous amounts disbursed.

* * * * *

Statement of difference means a statement issued by an agency or its designated audit contractor during a prepayment audit when it has been determined that a TSP has billed the agency for more than the proper amount for the services. This statement tells the TSP the amount allowed and the basis for the proper charges. The statement also cites the applicable rate references and other data relied on for support. The agency issues a separate statement of difference for each transportation transaction. This can be an electronic process.

* * * * *

Transportation Audits Management System (TAMS) means the GSA's cloud-based postpaid transportation invoice auditing solution for Federal agencies and TSPs.

* * * * *

§ 102–118.40 [Amended]

■ 4. Amend § 102–118.40 by:

■ a. In paragraph (a), removing ''Government contractor-issued charge card, purchase order (or electronic equivalent), or a Government bill of lading for international shipments (including domestic overseas shipments)'' and adding ''Government contractor issued charge card, purchase order (or electronic equivalent), or a bill of lading including a Government bill of lading'' in its place; and

■ b. In paragraph (b), removing ''Government issued charge card (or centrally billed travel account citation), Government issued individual travel charge card, personal charge card,'' and adding ''Government contractor issued charge card, centrally billed travel account, personal charge/credit card,'' in its place.

■ 5. Amend § 102–118.45 by revising paragraphs (a)(1)(i) and (a)(3)(i) and (ii) to read as follows:

§ 102–118.45 How does a transportation service provider (TSP) bill my agency for transportation and transportation services?

* * * * *

TRANSPORTATION SERVICE PROVIDER BILLING

(a) Ordering method	* * * * *
(1)(i) Government contractor issued charge card; and ...	* * * * *
* * * * *	
(3)(i) Government contractor issued charge card (individually billed travel card);	* * * * *
(ii) Personal charge/credit card; and	* * * * *
* * * * *	

■ 6. Amend § 102–118.50 by:

■ a. Revising paragraph (a); and

■ b. In paragraph (c), removing ''(31 CFR part 208)''.

The revision reads as follows:

§ 102–118.50 How does my agency pay for transportation services?

* * * * *

(a) *Electronic funds transfer (EFT).* Your agency is required by statute (31 U.S.C. 3332, *et seq.*) to make all payments by EFT unless your agency receives a waiver from the Department of the Treasury.

* * * * *

■ 7. Revise § 102–118.75 to read as follows:

§ 102–118.75 What if my agency or the TSP does not have an account with a financial institution or approved payment agent?

Under 31 U.S.C. 3332, *et seq.,* your agency must obtain an account with a financial institution or approved payment agent in order to meet the statutory requirements to make all Federal payments via EFT unless your agency receives a waiver from the Department of the Treasury. To obtain a waiver, your agency must contact the Secretary of the Treasury. For information visit: *https://www.fiscal.treasury.gov/*

■ 8. Amend § 102–118.80 by revising the third sentence to read as follows:

§ 102–118.80 Who is responsible for keeping my agency's electronic commerce transportation billing records?

* * * Therefore, your agency must utilize the Transportation Audits Management System (TAMS) (*https://tams.gsa.gov*) to submit all relevant electronic transportation billing documents or submit via email to: *qmcatariffs@gsa.gov.*

■ 9. Revise § 102–118.115 to read as follows:

§ 102–118.115 Must my agency use a GBL?

No. Your agency is required to use commercial payment practices to the maximum extent possible. Your agency may use a GBL as needed for domestic shipments and should use a GBL for international shipments. When used for shipments, a GBL is a receipt of goods, evidence of title, and a contract of carriage for Government shipments and was developed to protect the interest of the U.S. Government.

§ 102–118.130 [Amended]

■ 10. Amend § 102–118.130 by removing the last sentence.

■ 11. Amend § 102–118.150 by revising paragraph (a) to read as follows:

§ 102–118.150 What are the major mandatory terms and conditions governing the use of passenger transportation documents?

* * * * *

(a) Government travel must be via the lowest cost available that meets travel requirements (*e.g.,* Government contract, fare, through, excursion, or reduced one way or round trip fare);

* * * * *

■ 12. Revise § 102–118.235 to read as follows:

§ 102–118.235 Must my agency keep physical control and accountability of the GBL and GTR forms or GBL and GTR numbers?

Yes, your agency is responsible for the physical control, use, and accountability of GBLs and GTRs and must have procedures in place to track, manage, and account for these documents when necessary.

■ 13. Revise § 102–118.255 to read as follows:

§ 102–118.255 Are GBL and GTR forms numbered and used sequentially?

Yes, GBLs and GTRs must be sequentially numbered by agencies when used.

■ 14. Amend § 102–118.260 by revising paragraph (a) to read as follows:

§ 102–118.260 Must my agency send all quotations, tenders, or contracts with a TSP to GSA?

(a) Yes, your agency must send a copy of each quotation, tender, or contract of special rates, fares, charges, or concessions with TSPs including those authorized by 49 U.S.C. 10721, 13712, and 15504 upon execution to *qmcatariffs@gsa.gov.*

* * * * *

■ 15. Amend § 102–118.285 by:

■ a. Revising paragraph (e);

■ b. Removing paragraph (f); and

■ c. Redesignating paragraphs (g) through (m) as paragraphs (f) through (l), respectively.

The revision reads as follows:

§ 102–118.285 What must be included in an agency's transportation prepayment audit program?

* * * * *

(e) Agencies must use GSA Transportation Audits Division's electronic commerce system, TAMS, to fulfill all monthly reporting requirements. Filing all documents through TAMS ensures that GSA Transportation Audits Division will properly maintain and store transportation records, including paid transportation bills, in accordance with the General Records Schedule 1.1 *et seq.* (36 CFR part 1220). GSA will also arrange for storage of any document requiring special handling, such as bankruptcy and court cases. These bills will be retained pursuant to 44 U.S.C. 3309 until claims have been settled.

* * * * *

§ 102–118.300 [Amended]

■ 16. Amend § 102–118.300 by, in paragraph(a), removing ''by email at *Audit.Policy@gsa.gov,* or by mail to: U.S. General Services Administration, 1800 F St. NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405'' and adding ''via TAMS (*https://tams.gsa.gov*), or by email to *Audit.Policy@gsa.gov*'' in its place.

■ 17. Amend § 102–118.425 by revising the section heading and paragraph (a) to read as follows:

§ 102–118.425 Is my agency required to forward all transportation documents (TDs) to GSA Transportation Audits Division, and what information must be on these documents?

(a) Yes, your agency must provide all TDs, via TAMS, to GSA Transportation Audits Division (see § 102–118.35 for the definition of TD).

* * * * *

■ 18. Amend § 102–118.430 by:

■ a. Revising paragraph (f); and

■ b. In paragraph (g), removing the second and third sentences.

The revision reads as follows:

§ 102–118.430 What is the process the GSA Transportation Audits Division employs to conduct a postpayment audit?

* * * * *

(f) Issues a Notice of Overcharge stating that a TSP owes a debt to the agency; and

* * * * *

§ 102–118.435 [Amended]

■ 19. Amend § 102–118.435 by, in paragraph (a)(7), removing ''freight or passenger'' and adding ''all'' in its place.

§ 102–118.440 [Amended]

■ 20. Amend § 102–118.440 by, in the second sentence, removing ''type'' and adding ''types'' in its place.

■ 21. Revise § 102–118.455 to read as follows:

§ 102–118.455 What is the time limit for a TSP to file a transportation claim with the GSA Transportation Audits Division against my agency?

The time limits on a TSP transportation claim against the Government differ by mode as shown in the following table:

TIME LIMITS ON ACTIONS TAKEN BY TSP

Mode	Freight charges	Statute
(a) Air domestic	6 years	28 U.S.C. 2401, 2501.
(b) Air international	6 years	28 U.S.C. 2401, 2501.
(c) Freight forwarders (subject to 49 U.S.C. chapter 135)	3 years	49 U.S.C. 14705(f).
(d) Motor	3 years	49 U.S.C. 14705(f).
(e) Rail	3 years	49 U.S.C. 11705(f).
(f) Water (subject to 49 U.S.C. chapter 135)	3 years	49 U.S.C. 14705(f).
(g) Water (not subject to 49 U.S.C. chapter 135)	2 years	46 U.S.C. 30905.
(h) TSPs not specified in paragraphs (a) through (g) of this section.	6 years	28 U.S.C. 2401, 2501.

■ 22. Revise § 102–118.460 to read as follows:

§ 102–118.460 What is the time limit for my agency to file a court claim with a TSP for freight charges, refund of overpayment, and loss or damage to the property?

Statutory time limits vary depending on the mode and the service involved and may involve freight charges. The following tables list the time limits:

(a) *Time limits on actions taken by the Federal Government against TSPs.*

Mode	Freight charges	Refund for overpayment	Loss and damage
(1) Rail	3 years. 49 U.S.C. 11705	3 years. 49 U.S.C. 11705	6 years. 28 U.S.C. 2415.
(2) Motor	3 years. 49 U.S.C. 14705(f)	3 years. 49 U.S.C. 14705(f)	6 years. 28 U.S.C. 2415.
(3) Freight forwarders (subject to 49 U.S.C. chapter 135).	3 years. 49 U.S.C. 14705(f)	3 years. 49 U.S.C. 14705(f)	6 years. 28 U.S.C. 2415.
(4) Water (subject to 49 U.S.C. chapter 135).	3 years. 49 U.S.C. 14705(f)	3 years. 49 U.S.C. 14705(f)	6 years. 28 U.S.C. 2415.
(5) Water (not subject to 49 U.S.C. chapter 135).	6 years. 28 U.S.C. 2415	3 years. 46 U.S.C. 41301	1 year; Carriage of Goods By Sea Act, 46 USC 30701 Notes.
(6) Domestic air	6 years. 28 U.S.C. 2415	6 years. 28 U.S.C. 2415	6 years. 28 U.S.C. 2415.
(7) International air	6 years. 28 U.S.C. 2415	6 years. 28 U.S.C. 2415	2 years. 49 U.S.C. 40105.

(b) *Time limits on actions taken by the Federal Government against TSPs not specified in paragraph (a) of this section.*

Mode	Freight	Refund for overpayment	Loss and damage
(1) All	6 years. 28 U.S.C. 2415	6 years. 28 U.S.C. 2415	6 years. 28 U.S.C. 2415.
(2) [Reserved].			

■ 23. Amend § 102–118.470 by revising the section heading and introductory text to read as follows:

§ 102–118.470 Are there statutory time limits for a TSP on filing a claim with the GSA Transportation Audits Division?

Yes, a claim must be received by the GSA Transportation Audits Division or its designee (the agency where the claim arose) within 3 years beginning the day after the latest of the following dates (except in time of war):

* * * * *

■ 24. Revise § 102–118.490 to read as follows:

§ 102–118.490 What if my agency fails to settle a disputed claim with a TSP within 30 days?

(a) If your agency fails to settle a disputed claim with a TSP within 30 days, the TSP may appeal to GSA via TAMS—*https://tams.gsa.gov.*

(b) If the TSP disagrees with the administrative settlement by the GSA Transportation Audits Division, the TSP may appeal to the Civilian Board of Contract Appeals (CBCA) (see § 102–118.35 for a definition of Civilian Board of Contract Appeals (CBCA)).

■ 25. Amend § 102–118.500 by revising paragraph (a) to read as follows:

§ 102–118.500 How does my agency handle a voluntary refund submitted by a TSP?

(a) An agency must report all voluntary refunds to the GSA Transportation Audits Division (so that no Notice of Overcharge or financial offset occurs), unless other arrangements are made (*e.g.,* charge card refunds, etc.). These reports must be sent via email to: *audit.policy@gsa.gov.*

* * * * *

■ 26. Amend § 102–118.510 by:

■ a. Revising the section heading; and

■ b. Removing ''GSA Form 7931'' and adding ''Certificate of Settlement'' in its place.

The revision reads as follows:

§ 102–118.510 Can my agency revise or alter a Certificate of Settlement?

* * * * *

■ 27. Revise § 102–118.540 to read as follows:

§ 102–118.540 Who has the authority to audit and settle bills for all transportation services provided for my agency?

(a) The Administrator of GSA has the authority and responsibility to audit and settle all transportation bills. The number and types of bills audited shall be based on the Administrator's judgment (31 U.S.C. 3726(b)). The Administrator has authority to administratively adjudicate transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill pursuant to 31 U.S.C. 3726(c).

(b) The Administrator has delegated the responsibility set out in paragraph

(a) of this section to the Director of the GSA Transportation Audits Division because the Director has access to Governmentwide data including TSP rates, agency paid TSP invoices, and transportation billings with the Government. Your agency must correctly pay individual transportation invoices (see 31 U.S.C. 3351(4), *Improper Payment* definition).

■ 28. Revise § 102–118.545 to read as follows:

§ 102–118.545 What information must a TSP claim include?

All claims filed with GSA Transportation Audits Division either using TAMS (preferred) or via email (*protests@gsa.gov*) must include:

(a) The transportation document.

(b) An explanation for the claim.

(c) Any additional supporting documentation.

■ 29. Amend § 102–118.550 by revising the section heading to read as follows:

§ 102–118.550 How does a TSP file a claim using EDI or other electronic means?

* * * * *

■ 30. Amend § 102–118.555 by:

■ a. Revising the section heading; and

■ b. Removing ''administrative'' from the first sentence.

The revision reads as follows:

§ 102–118.555 Can a TSP file a supplemental claim?

* * * * *

■ 31. Revise § 102–118.560 to read as follows:

§ 102–118.560 What is the required format that a TSP must use to file a claim?

There is no required format for filing claims. TSPs should file a claim through TAMS or by sending the required information and documentation (see §§ 102–118.545 and 102–118.565) to GSA Transportation Audits Division via email to *protests@gsa.gov.*

■ 32. Amend § 102–118.565 by:

■ a. Revising the section heading; and

■ b. Removing ''An administrative claim'' and adding ''A claim'' in its place.

The revision reads as follows:

§ 102–118.565 What documentation is required when filing a claim?

* * * * *

■ 33. Revise § 102–118.600 to read as follows:

§ 102–118.600 When a TSP disagrees with a Notice of Overcharge resulting from a postpayment audit, what are the appeal procedures?

A TSP that disagrees with the Notice of Overcharge may submit a protest to the GSA Transportation Audits Division via TAMS (*https://tams.gsa.gov*) or email to *protests@gsa.gov.*

■ 34. Revise § 102–118.610 to read as follows:

§ 102–118.610 Is a TSP notified when GSA allows a claim?

Yes, the GSA Transportation Audits Division will acknowledge each payable claim using a Certificate of Settlement.

■ 35. Revise § 102–118.615 to read as follows:

§ 102–118.615 Will GSA notify a TSP if they internally offset a payment?

Yes, the GSA Transportation Audits Division will notify the TSP via TAMS or email if GSA offsets a payment.

■ 36. Revise § 102–118.630 to read as follows:

§ 102–118.630 How must a TSP refund amounts due to GSA?

(a) TSPs must promptly refund amounts due to GSA, preferably via TAMS or by ACH. If an ACH is not used, checks must be made payable to the ''General Services Administration'', including the document reference number, TSP name, bill number(s), taxpayer identification number and standard carrier alpha code, then mailed to the appropriate address listed on the Accounts and Collections web page at *https://www.gsa.gov/transaudits.*

(b) If an ACH address is needed, visit *https://www.gsa.gov/transaudits* (Accounts and Collections web page) or contact the GSA Transportation Audits Division via email at: *audits.collections@gsa.gov.*

■ 37. Revise § 102–118.645 to read as follows:

§ 102–118.645 Can a TSP file a claim on collection actions?

Yes, a TSP may file a claim involving collection actions resulting from the transportation audit performed by the GSA directly with the GSA Transportation Audits Division. Any claims submitted to GSA will be subject to the Prompt Payment Act (31 U.S.C. 3901, *et seq.*). The TSP must file all other transportation claims with the agency out of whose activities they arose. If this is not feasible (*e.g.,* where the responsible agency cannot be determined or is no longer in existence) claims may be sent to the GSA Transportation Audits Division for forwarding to the responsible agency or for direct settlement by the GSA Transportation Audits Division. Submit claims using Transportation Audits Management System (TAMS) at *https://tams.gsa.gov* or via email to *protests@gsa.gov.*

[FR Doc. 2024–27552 Filed 11–25–24; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–117

[FMR Case 2024–03; Docket No. GSA–FMR–2024–0015; Sequence No. 1]

Federal Management Regulation; Updating Transportation Management, With Diversity, Equity, Inclusion, and Accessibility Language

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The United States General Services Administration (GSA) is issuing a final rule amending the Federal Management Regulation (FMR). This amendment introduces changes specific to Transportation Management. Following a comprehensive review, GSA decided to eliminate the use of gendered pronouns in this FMR part. The modifications aim to ensure the language aligns with the principles of inclusivity, particularly concerning gender, and to further incorporate language that supports diversity, equity, inclusivity, and accessibility. These changes are grammatical and technical in nature and will not result in additional costs or related policy changes for agencies.

DATES: This final rule is effective on November 26, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Siegel, Policy Analyst, at 202–702–0840 or *gsa-ogp-transportationpolicy@; 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 2024–03''.

SUPPLEMENTARY INFORMATION:

I. Background

Executive Order (E.O.) 13988, *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation,* dated January 20, 2021, establishes a policy ''to prevent and combat discrimination on the basis of gender identity or sexual orientation, and to fully enforce Title VII and other laws that prohibit discrimination on the basis of gender identity or sexual orientation.''

The Federal Government must be a model for diversity, equity, inclusion,

and accessibility, where all employees are treated with dignity and respect. While GSA is not aware of any specific instances where language in this FMR part has been used to discriminate against an employee, GSA believes it is important to prevent any potential discrimination or the appearance of it.

Consistent with the American Psychological Association (APA) Style Guide, 7th Edition, Publication Manual Section 5.5 guidance on ''Gender and Pronoun Usage'', GSA is replacing gender-specific pronouns, such as he, she, his, or her, with more inclusive terminology.

II. Discussion of the Final Rule

A. Summary of Significant Changes

This final rule removes gender-based pronouns from this FMR part and replaces them with more inclusive language. The grammatical and technical changes do not alter any definition, operation, or interpretation of the FMR.

B. Expected Cost Impact to the Public

There is no expected cost imposed upon the public as a result of this rule since the changes are technical.

III. Executive Orders 12866, 13563, and 14094

Executive Order (E.O.) 12866 (Regulatory Planning and Review) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 14094 (Modernizing Regulatory Review) amends Section 3(f) of E.O. 12866 and supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866 and E.O. 13563. The Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) has determined that this rule is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of E.O. 12866.

IV. Congressional Review Act

OIRA has determined that this rule is not a ''major rule'' under 5 U.S.C. 804(2). Title II, Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801–808), also known as the Congressional Review Act or CRA, generally provides that before a rule may take effect, unless excepted, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. This rule is excepted from CRA reporting requirements prescribed under 5 U.S.C. 801, as it relates to agency management or personnel under 5 U.S.C. 804(3)(B).

V. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This final rule is also exempt from the Administrative Procedure Act pursuant to 5 U.S.C. 553(a)(2) because it applies to agency management or personnel. Therefore, an Initial Regulatory Flexibility Analysis was not performed.

VI. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

List of Subjects in 41 CFR Part 102–117

Freight, Government property management, Moving of household goods, Reporting and recordkeeping requirements, Transportation.

Robin Carnahan,

Administrator of General Services.

For the reasons set forth in the preamble, GSA amends 41 CFR part 102–117 as set forth below:

PART 102–117—TRANSPORTATION MANAGEMENT

■ 1. The authority citation for 41 CFR part 102–117 continues to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 121(c); 40 U.S.C. 501, *et seq.;* 46 U.S.C. 55305; 49 U.S.C. 40118.

■ 2. Revise the section heading for § 102–117.240 to read as follows:

§ 102–117.240 What is my agency's financial responsibility to an employee who chooses to move all or part of their HHG under the commuted rate system?

* * * * *

§ 102–117.295 [Amended]

■ 3. Amend § 102–117.295 by, in paragraph (b), removing the words ''his/her'' from the second sentence.

[FR Doc. 2024–27565 Filed 11–25–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571

[Docket No. NHTSA–2023–0021]

RIN 2127–AM37

Federal Motor Vehicle Safety Standards; Automatic Emergency Braking Systems for Light Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This document grants parts of petitions for reconsideration of a May 9, 2024, final rule that adopted Federal Motor Vehicle Safety Standard (FMVSS) No. 127, ''Automatic Emergency Braking for Light Vehicles,'' which requires automatic emergency braking (AEB), pedestrian automatic emergency braking (PAEB), and forward collision warning (FCW) systems on all new light vehicles. This final rule clarifies requirements applicable to FCW visual signals and audio signals, corrects an error in the test scenario for obstructed pedestrian crossing the road, and removes superfluous language from the performance test requirement for lead vehicle AEB. This notice denies other requests in the petitions. This document also denies a petition for reconsideration, which is treated as a petition for rulemaking because it was received more than 45 days after publication of the rule.

DATES:

Effective: January 27, 2025.

Compliance date: Compliance with FMVSS No. 127 and related regulations, as amended in this rule, is required for all vehicles by September 1, 2029. However, vehicles produced by small-volume manufacturers, final-stage manufacturers, and alterers must be equipped with a compliant AEB system by September 1, 2030.

Petitions for reconsideration: Petitions for reconsideration of this final action must be received not later than January 10, 2025.

ADDRESSES: Correspondence related to this rule, including petitions for

reconsideration and comments, should refer to the docket number set forth above (NHTSA–2023–0021) and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical issues: Mr. Markus Price, Office of Crash Avoidance Standards, Telephone: (202) 366–1810, Facsimile: (202) 366–7002. For legal issues: Mr. Eli Wachtel, Office of the Chief Counsel, Telephone: (202) 366–2992, Facsimile: (202) 366–3820. The mailing address for these officials is: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background and Executive Summary

In November 2021, the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117–58), was signed into law. BIL directed the Secretary of Transportation to promulgate a rule to establish minimum performance standards with respect to crash avoidance technology and to require that all passenger motor vehicles manufactured for sale in the United States be equipped with forward collision warning (FCW) and automatic emergency braking (AEB) systems that alert the driver if a collision is imminent and automatically apply the brakes if the driver fails to do so.

In accordance with BIL, NHTSA issued a Notice of Proposed Rulemaking (NPRM) (88 FR 38632) in June 2023, followed by a final rule (89 FR 39686) in May 2024, establishing FMVSS No. 127, ''Automatic Emergency Braking Systems for Light Vehicles.'' This FMVSS requires AEB, including pedestrian AEB (PAEB), systems on light vehicles. In addition to the mandate in BIL, the final rule was also issued under the authority of the National Traffic and Motor Vehicle Safety Act of 1966 (Safety Act). Under 49 U.S.C. chapter 301, the Secretary of Transportation is responsible for prescribing motor vehicle safety standards that are practicable, meet the need for motor vehicle safety, and are stated in objective terms. The responsibility for promulgation of FMVSSs is delegated to NHTSA.

The final rule includes four requirements for AEB systems for both lead vehicles and pedestrians. First, there is an equipment requirement that vehicles have an FCW system that provides an auditory and visual signal to the driver of an impending collision with a lead vehicle or a pedestrian. The system must operate at any forward speed greater than 10 km/h (6.2 mph) and less than 145 km/h (90.1 mph) for a warning involving a lead vehicle, at any forward speed greater than 10 km/h (6.2 mph) and less than 73 km/h (45.3 mph) for a warning involving a pedestrian. Similarly, the final rule includes an equipment requirement that light vehicles have an AEB system that applies the brakes automatically when a collision with a lead vehicle or pedestrian is imminent. The system must operate at any forward speed that is greater than 10 km/h (6.2 mph) and less than 145 km/h (90.1 mph) for AEB involving a lead vehicle, and at any forward speed greater than 10 km/h (6.2 mph) and less than 73 km/h (45.3 mph) for PAEB.

Second, the AEB system is required to prevent the vehicle from colliding with the lead vehicle or pedestrian test devices when tested according to the standard's test procedures. These track test procedures have defined parameters, including travel speeds up to 100 km/h (62.2 mph), that ensure that AEB systems prevent crashes in a controlled testing environment.

Third, the final rule includes two false activation tests.

Finally, the final rule requires that a vehicle must detect AEB system malfunctions, including performance degradation caused solely by sensor obstructions, and notify the driver of any malfunction that causes the AEB system not to meet the minimum proposed performance requirements. If the system detects a malfunction, or if the system adjusts its performance such that it will not meet the requirements of the finalized standard, the system must provide the vehicle operator with a telltale notification.

The final rule applies to vehicles manufactured on or after September 1, 2029. An additional year is provided for small-volume manufacturers.

Petitions for Reconsideration Received

NHTSA regulations allow any interested person to petition the Administrator for reconsideration of a rule. Under NHTSA's regulations, petitions for reconsideration must provide an explanation why compliance with the rule is not practicable, is unreasonable, or is not in the public interest. Additionally, petitions must be received within 45 days of the publication of the final rule. Untimely petitions for reconsideration are considered to be petitions for rulemaking. The Administrator may consolidate petitions relating to the same rule.[1]

NHTSA received petitions for reconsideration from the Alliance for Automotive Innovation (the Alliance),[2] Toyota Motor North America (Toyota),[3] Volkswagen Group of America (Volkswagen),[4] and Scuderia Cameron Glickenhaus, LLC (Glickenhaus).[5] NHTSA also received a letter from Hyundai Motor Group (Hyundai), styled as a ''supplemental comment,'' that provides its perspective on FMVSS No. 127, which we have considered in this response to the petitions for reconsideration.[6] NHTSA also received a petition from Autotalks that NHTSA is treating as a petition for rulemaking because it was received more than 45 days after publication of the final rule.[7] The petitions requested a variety of amendments to FMVSS No. 127. These, and NHTSA's reasoning and response to each petitioned-for item, are summarized below and discussed in detail in the respective sections of the preamble of this notice.

Summary of Responses to the Petitions for Reconsideration

In response to these petitions, NHTSA is granting in part and denying in part. The changes made to FMVSS No. 127 are summarized as follows.

[1] 49 CFR 553.35, 553.37.

[2] Alliance for Automotive Innovation, Docket No. NHTSA–2023–0021–1071.

[3] Toyota Motor North America, Docket No. NHTSA–2023–0021–1074.

[4] Volkswagen Group of America, Docket No. NHTSA–2023–0021–1073.

[5] Scuderia Cameron Glickenhaus, Docket No. NHTSA–2023–0021–1078.

[6] Hyundai Motor Group, Docket No. NHTSA–2023–0021–1072.

[7] Autotalks, Docket No. NHTSA–2023–0021–1075.

• FMVSS No. 127 contains an equipment requirement that AEB systems activate the service brakes when a collision is imminent and that they operate under certain conditions. It also contains a performance test requirement for lead vehicle AEB that contains similar language. Petitioners requested definitions for the terms ''operate'' and ''imminent.'' NHTSA is amending the language in the performance test requirement to remove refence to ''imminent'' from the performance test requirement for lead vehicle AEB, to clarify that the performance test does not evaluate AEB activation timing. NHTSA is not providing a definition for ''operate'' because the definition of ''automatic emergency braking system'' in the final rule sufficiently describes how an AEB system operates. NHTSA is not providing a definition for ''imminent'' because the term is used consistent with its plain meaning.

• FMVSS No. 127 contains a test scenario that, when tested with very narrow vehicles at the extreme of the tolerances allowed by the test condition, resulted in a stringency beyond that intended by NHTSA. This final rule amends the test scenario to ensure the correct level of stringency.

• FMVSS No. 127 contains specifications for the FCW visual signal location. Petitioners requested additional clarity. This final rule amends the regulatory text to clarify these specifications.

• FMVSS No. 127 contains requirements for the FCW audio signal, including that in-vehicle audio must be suppressed when the FCW auditory signal is presented. Petitioners expressed several concerns about the clarity and objectivity of these requirements as well as test conditions. This final rule clarifies these requirements by stating the location of the microphone, additional vehicle conditions under which testing will occur, and amending the definitions to simplify the requirement for suppression.

This rule also denies the petitions with regards to several other requested amendments. These are as follows. For the items for which petitioners restate arguments made during the comment period for FMVSS No. 127, the reasons given for denial are the same as those stated in the final rule.

• The performance requirement for both lead vehicle and pedestrian AEB testing is collision avoidance (referred to throughout the final rule and this document as ''no contact''). Petitioners requested relaxation of this requirement to allow contact at low speeds, specifically requesting 10 km/h (6.2 mph). NHTSA is rejecting this request because the no contact requirement is practicable and meets the need for safety.

• Petitioners requested that multiple test runs be allowed to achieve the no contact performance requirement (for example, that vehicles must pass on 5 out of 7 test runs) to account for variability. Petitioners noted that FMVSS No. 135, which regulates light vehicle brake systems, allows multiple test runs to meet some of the performance requirements. NHTSA is rejecting this request because FMVSS No. 127 testing is distinct from FMVSS No. 135 testing such that not allowing multiple test runs in FMVSS No. 127 is practicable and meets the need for safety.

• FMVSS No. 127 test scenarios state that the vehicle can be driven for any amount of time. Additionally, it does not place a cap on the number of tests that could be run on any given subject vehicle. Petitioners expressed concern that this standard would allow excessive driving or testing of vehicles to wear out components such that they can no longer meet the performance required by the standard. NHTSA finds further specification is unnecessary because the test does not evaluate the endurance or durability of wear parts and will not be used in such a manner.

• FMVSS No. 127 requires that vehicles illuminate a malfunction identification lamp (MIL) upon detection of a malfunction or if the AEB system adjusts its performance such that it is below the performance required by the standard. Petitioners requested additional specificity regarding the terminology in this requirement as well as a test procedure. NHTSA is rejecting this request because the requirement meets the Safety Act as written.

• FMVSS No. 127 does not permit installation of a manual control with the sole purpose of deactivating the AEB system. It does contain a provision allowing automatic deactivation in certain situations. Petitioners requested permission to install a manual deactivation control, as well as modifications to the automatic deactivation provision. NHTSA is rejecting this request because the final rule already addresses petitioners' concerns.

• Petitioners stated that NHTSA did not fully consider costs associated with compliance. No change is needed in response to this request because the final rule fully considered the costs associated with compliance.

• Volkswagen requested additional specifications for the brake pedal robot used in testing with manual brake application. NHTSA is rejecting this request for the reasons stated in the May 9, 2024 final rule.

• Petitioner Glickenhaus requested the AEB requirements not be applicable to vehicles with manual transmission. NHTSA is rejecting this request because vehicles equipped with manual transmissions and AEB are widely available.

• Petitioner Glickenhaus requested additional flexibility for very small volume manufacturers. NHTSA is rejecting this request because AEB systems are available for purchase and, in the case that a manufacturer is unable to acquire systems, the exemption processes in the Safety Act may provide relief.

II. Petitions for Reconsideration Received by NHTSA and Analysis

A. No Contact

The final rule requires that, when tested according to the procedures therein, the subject vehicle not collide with the test device (vehicle test device or pedestrian mannequin). The test data, discussed at length in the final rule, demonstrates that this requirement is practicable. A tested vehicle was able to meet the performance requirements in the final rule and recent NHTSA testing revealed significant improvement throughout much of the fleet in a relatively short time. These facts show that compliance by 2029 is practicable.

In the final rule we also emphasized that practicability must be viewed from the perspective that under the Safety Act, NHTSA has the authority to issue standards that are technology-forcing.[8] That is, NHTSA is empowered under the Safety Act to issue safety standards that ''impel automobile manufacturers to develop and apply new technology to the task of improving the safety design of automobiles as readily as possible'' such that they ''require improvements in existing technology or which require the development of new technology, and is not limited to issuing standards based solely on devices already fully developed.'' [9] NHTSA acknowledged that the final rule is technology-forcing, but emphasized that the standard is practicable and no single current vehicle must meet every requirement for an FMVSS to be considered practicable under the Safety Act.

Petitioners requested reconsideration on two broad grounds: first that the no-contact requirement is not practicable,

[8] *Chrysler Corp.* v. *Dep't of Transp.,* 472 F.2d 659 (6th Cir. 1972) (*Chrysler).*

[9] *Id.* at 671, 673.

and second that it does not meet the need for safety.

1. Practicability and Test Data

a. PAEB and AEB Test Data

The Alliance stated that NHTSA has not demonstrated that the no contact requirement is practicable for the fleet. Other than the simulation data for the obstructed pedestrian crossing road scenario, the Alliance did not present any new data or analysis regarding the practicability of requiring collision avoidance in AEB compliance testing that the agency had not previously considered.[10] The Alliance noted that the final rule states that NHTSA agrees with the IIHS's comment to the NPRM that some current AEB systems are already completely avoiding collisions under the proposed AEB testing. The Alliance added, however, that IIHS did not test any vehicles at speeds faster than 70 km/h (43.5 mph), and only three out of the six tested vehicles could avoid the lead vehicle target in all of the test runs. It also stated that NHTSA conceded that no vehicle in its 2020 AEB research was able to meet all the performance requirements of the final rule for lead vehicle and PAEB systems. It also pointed out that for lead vehicle AEB systems, NHTSA's MY 2023 research showed that only one vehicle could avoid contact in each test speed and scenario, but even that vehicle did not avoid contact on every test run at the most stringent condition. The Alliance argued that a single vehicle's ability to meet the required tests some of the time does not support NHTSA's conclusion that the no-contact requirement is practicable. The Alliance also stated that the vehicles used in NHTSA's 2023 testing don't support the final rule because those vehicles were designed only to meet the performance levels stated in the 2016 voluntary commitment.[11]

The Alliance stated the agency's analysis of test data demonstrate variation in performance that was not accounted for in the final rule. The Alliance stated that the final rule did not consider whether variability between vehicles or testing locations would make compliance more challenging by dictating the design margin that manufacturers need to meet to comply with the requirement. The Alliance reasoned that NHTSA's evaluation (in the FRIA) of the variability in time-to-collision (TTC) at brake activation demonstrates that this variability is meaningful and demonstrates variation in performance. The Alliance noted that NHTSA research that was conducted with three vehicles at the speed range from 16 km/h (9.9 mph) to 40 km/h (24.9 mph) showed a variation of at least 0.15 seconds in TTC at brake activation.

Agency Analysis

The test data demonstrates that the rule is practicable. In its petition, the Alliance acknowledged that NHTSA had considered all available information and test results from the agency's research and studies conducted by stakeholders such as IIHS. It also acknowledged that a tested vehicle was able to meet the performance requirements, despite not being designed to meet the requirements of the final rule. Additionally, the vehicle that was able to meet the requirements had a sales price below the market average, indicating that the requirements could be met without expensive new technologies.

NHTSA's recent testing also marked significant progress compared to its earlier research from 2020. The positive trend in AEB technology was further supported by IIHS, which highlighted substantial improvements between the 2023 and 2024 model years in the stationary lead vehicle test at 70 km/h (43.5 mph).[12] Notably, the percentage of vehicles avoiding the target in all test runs increased from 10 percent to 56 percent. These data all show that meeting the requirements of this rule by September 2029 is practicable.[13]

Additionally, the Alliance's framing of vehicle and test location variability and our FRIA estimates is unconvincing. Variability between vehicles in the same model line and year (vehicle-to-vehicle variability) is determined by the manufacturer, subject to the requirement that every vehicle it sells meet the minimum safety performance. NHTSA has no reason to believe that the vehicles we tested had superior performance to other vehicles in the same model line and year. Also, vehicle-to-vehicle variability is a consideration for all FMVSS, and the Alliance provided no information to indicate that there is an issue unique to AEB. Additionally, variation in brake activation timing between manufacturers is contemplated by the structure of the rule. The final rule does not dictate brake activation timing, brake force, or any other aspects of AEB performance other than that the subject vehicle not make contact with the test device.

Regarding variability across test locations, FMVSS No. 127 specifies all the needed conditions to inform manufacturers of how we will test. These conditions were proposed in the NPRM, and commenters did not raise conditions that were not included that would affect test outcomes. Finally, the variability analysis in the FRIA is our attempt to connect the idealized test conditions to the real world when conducting benefits analyses. NHTSA understands that in the real world there will be variability that cannot be tested in an efficient way through an FMVSS, which informs our benefits calculations. However, such analysis should not be used to determine the types of results achievable in an idealized testing environment. For these reasons, NHTSA will not grant reconsideration.

b. FMVSS No. 135 Test Data

The Alliance stated that the final rule improperly relied on the agency's evaluation of FMVSS No. 135 test results, which showed that braking performance of nearly all tested vehicles was much better than what the FMVSS requires. The Alliance stated that the evaluation reflects that manufacturers build compliance margins into their design for FMVSS compliance and does not support the agency's conclusion that the no-contact requirement is practicable. Furthermore, the Alliance stated that test results from FMVSS No. 135 testing are not comparable to AEB performance because the final rule requires performance from both the service brakes and a perception system, whereas FMVSS No. 135 evaluates only service brake performance. Also, the Alliance stated that the maneuvers in FMVSS No. 135 tests are conducted with a human driver putting muscular effort into the brake pedal. In contrast, there is no human input when testing the AEB system.

Agency Analysis

NHTSA's use of FMVSS No. 135 test results was justified. As an initial matter, those results were not the primary results upon which the agency

[10] The obstructed pedestrian crossing road scenario is discussed in detail in Section II.G, ''Obstructed Pedestrian Crossing Test Correction,'' of this notice.

[11] In March 2016, NHTSA and the Insurance Institute for Highway Safety (IIHS) announced a commitment by 20 manufacturers representing more than 99 percent of the U.S. light vehicle market to include low-speed AEB as a standard feature on nearly all new light vehicles not later than September 1, 2022. As part of this voluntary commitment, manufacturers are including both FCW and a crash imminent braking (CIB) system that reduces a vehicle's speed in certain rear-end crash-imminent test conditions.

[12] NHTSA–2023–0021–1076.

[13] Additionally, in the final rule we emphasized several other reasons that inform the practicability of selecting a no contact requirement over a requirement that allows contacts, such as testing repeatability and costs associated with replacing or repairing test vehicles and test devices.

determined that the requirements are practicable. They were used largely to show that the braking performance needed to meet the requirements in the final rule is present in the current fleet without the need for changes, especially with regard to heavier vehicles for which there were limitations on available test data. The results indicated that the brake performance of most vehicles surpasses the performance requirements set by FMVSS No. 135. While the results of these tests might not show exactly how the braking systems will perform under automatic actuation that does not involve human muscular inputs, they do demonstrate that braking performance is more than sufficient to permit compliance with the final rule. Indeed, we do not need to rely on FMVSS No. 135 test data to demonstrate actuation performance because AEB systems currently on the road and tested by NHTSA actuate the service brakes without human driver inputs and demonstrate the performance needed to meet FMVSS No. 127. Therefore, we disagree with the Alliance's contention that the final rule misused the FMVSS No. 135 test results.

c. Test Speeds and Headway

Toyota, Volkswagen, and the Alliance expressed concern regarding the practicability of high maximum test speeds and no contact. The Alliance stated that NHTSA's data illustrate the difficulties in complying with the decelerating lead vehicle test with both the lead and subject vehicles traveling at 50 mph (80 km/h) at any headway between 12 and 40 meters (S7.5.1(a), S7.5.2(b)(2), S7.5.3(a) and S7.5.3(d) of the final rule). To address this issue, the Alliance petitioned NHTSA to consider reducing the maximum test speed for the AEB and PAEB requirements and adjust the headway requirements. The Alliance claimed that the 2023 additional AEB research in the final rule evaluated only the test condition with a 12-meter headway and did not provide any test data to support the lead vehicle decelerating test with headways greater than 12 meters.

Agency Analysis

NHTSA is not reducing the maximum test speeds or adjusting the headway requirements for the test scenarios. Petitioners' requests for test speed reduction were addressed in the final rule, and headways above 12 meters are practicable.

Regarding test speeds, NHTSA's 2023 research showed multiple vehicles avoided contact on most tests regardless of scenario and test speed.[14] Further, one vehicle avoided contact on all lead vehicle AEB and PAEB tests except on three of the five lead vehicle decelerating tests, where it impacted the lead vehicle at approximately 5 km/h or less. [15] That vehicles not designed to meet the standard are already capable of doing so demonstrates that the performance test requirements are practicable.

Regarding headway for the lead vehicle decelerating test, the headway ranges selected are consistent with those used by Euro NCAP and NHTSA incorporated the test ranges for speed and headways to ensure AEB system robustness under a range of situations. NHTSA tested 2022 model year vehicles with headways of 40 m with and without manual brake application at 50 km/h and 80 km/h, and with a lead vehicle deceleration of 0.4 g and 0.5 g.[16] During that testing, multiple vehicles avoided contact in almost all lead vehicle decelerating test scenarios and one vehicle avoided contact in all scenarios. Additionally, the shorter headway tests are generally more stringent than tests with larger headways. In our 2023 testing, one vehicle tested by NHTSA avoided contact in the 80 km/h lead vehicle deceleration test in all trials with a 12 m headway, and another vehicle avoided contact on 2 out of 5 runs,[17] suggesting that avoiding contact under less stringent test conditions is practicable. Based on our test data, the requirements are practicable and will not be adjusted.

2. Meet the Need for Safety

Petitioners requested reconsideration of the no contact requirement, stating that it could lead to unintended consequences such as increased false positives and a rise in rear-end collisions. A false positive describes AEB system brake applications in circumstances where there is no crash-imminent situation, such as braking in the absence of a true obstacle.

a. Sufficiency of Analysis of False Positives

The Alliance stated that NHTSA has not adequately considered whether meeting the no-contact performance requirement will generate false positives and that NHTSA ''should have attempted to quantify this risk'' and assessed why those disbenefits are reasonable to accept. The Alliance suggested that a false positive in FMVSS-compliant AEB vehicles could induce rear-end collisions with vehicles that are not equipped with rule-compliant AEB systems. The Alliance's petition included simulation data indicating that a vehicle complying with the final rule must respond within 0.35 seconds to avoid contact in one of the obstructed pedestrian crossing situations, which it argues is beyond the reaction ability of human drivers that may be behind these vehicles. It claimed that this discrepancy will likely result in a rear-end crash. Furthermore, according to the Alliance, increases in relative speed may heighten the likelihood of false positives due to the need for earlier prediction and intervention. The Alliance stated that NHTSA acknowledged that false positives could generate problems with public acceptance of AEB technology. It also stated that NHTSA dismissed this concern in the final rule without demonstrating that the final rule's requirements will not significantly impact the rate of false positives, and without understanding that the final rule demands effectively different systems from those currently installed in vehicles. The Alliance did not suggest any specific alternative.

Toyota claimed that the requirements in the final rule will likely lead to an increase in false positives and can create driving behavior that neither the driver of the subject vehicle nor the drivers of surrounding vehicles will find natural or predictable, resulting in safety disbenefits. It stated that due to high maximum testable speeds, AEB will need to activate earlier to avoid a collision, and while a system can be designed to better account for curves in the road or parked cars, systems cannot be designed to predict what drivers in lead vehicles intend to do. Regarding PAEB, Volkswagen claimed that because pedestrians may change their travel path to avoid a collision themselves, AEB activations that initiate early to avoid a potential collision will result in rear end collisions with the stopping vehicle.

Agency Response

Petitioners' statements were largely speculative. In support of these

[14] NHTSA's 2023 Light Vehicle Automatic Emergency Braking Research Test Summary, Docket No. NHTSA–2023–0021–1066; NHTSA's 2023 Light Vehicle Pedestrian Automatic Emergency Braking Research Test Summary, Docket No. NHTSA–2023–0021–1068.

[15] The low impact speeds on the system that did not avoid contact on all trials suggests that slight tuning of that AEB to the requirements of FMVSS No. 127 is needed to meet the standard.

[16] NHTSA's 2022 Light Vehicle Automatic Emergency Braking Research Test Summary, Docket No. NHTSA–2023–0021–0005.

[17] NHTSA's 2023 Light Vehicle Automatic Emergency Braking Research Test Summary, Docket No. NHTSA–2023–0021–1066.

arguments, they did not present any new data or analysis beyond what the agency had already considered.[18] Petitioners have failed to provide data demonstrating the likelihood of an increase in false positives or the magnitude of the increase, nor is NHTSA aware of any source of such data.

Under the Administrative Procedure Act (APA) and the Safety Act, NHTSA's obligation is not to eliminate uncertainty. Courts have repeatedly emphasized that the agency's job is to acknowledge uncertainty, explain the available evidence, and offer a ''rational connection between the facts found and the choice made.'' [19] In coming to its determination, NHTSA dealt with each of the principal uncertainties and resolved them to the degree possible. In some cases, the requisite decisions were necessarily based on imperfect data and were inherently judgmental or predictive in part. The obligation to make such decisions and resolve such uncertainties is an integral part of NHTSA's mandate under the Safety Act and the APA. Our determination under the Safety Act, which was based on several factors including the available test data, was that collision avoidance was practicable and that any risk of increased false positives and rear collisions did not outweigh the benefits of the rule. Therefore, considering the data available and applying our expert judgment about the unquantifiable aspects of the rule, we selected the option that best meets the need for safety.

NHTSA acknowledged the uncertainties and explained our reasoning throughout the rulemaking effort. In the FRIA, we noted that there is insufficient data to quantify the frequency and dynamics of false positive scenarios.[20] We explained that the analysis had limitations regarding crash scenarios and parameters beyond those reflected in testing. We recognized from our testing that performance is variable and false positives do occur on current systems. However, this uncertainty, on its own, does not demonstrate that false positives would become more frequent under the final rule.

We also explained that it is not possible to anticipate an exhaustive list of other possible real-world scenarios that systems would face and continually repeat testing to establish a robust estimate of the frequency of false positive occurrence. Based on this reasoning and test results, the analysis in the FRIA considered false positive rates to be the same under the final rule as they are in the current fleet. These false positives are therefore included in the analysis, but do not contribute to costs or benefits in the rule. The FRIA acknowledged that removing that assumption would reduce the magnitude of the estimated safety impacts. However, as the estimated benefits from the final rule are 17 to 21 times greater than the costs, it is unlikely that disbenefits from incremental false positives resulting in an increase in rear-end crashes would render the rule not cost-beneficial.

Despite these limitations, we nonetheless considered the problem qualitatively and addressed it to the extent possible. We emphasized that because market penetration of AEB is very high, incremental disbenefits resulting from all applicable vehicles having rule-compliant lead vehicle AEB would be insignificant.[21] We also emphasized our belief that false positives would not occur in well-designed AEB systems, especially with the integration of supplemental technologies. These technologies can include providing sufficient redundancy or continuously receiving and updating information regarding a vehicle or pedestrian as the vehicle approaches.

Additionally, we did not simply disregard risks of false activations due to the speculative nature of the risks. We incorporated two false positive testing scenarios to establish a minimum level of system functionality in avoiding such events. We noted that, while certainly not comprehensive, we selected these scenarios because we believe they represent the most common scenarios systems will encounter and they address known engineering challenges for existing AEB systems.[22]

Furthermore, we also emphasized many possible benefits from the rule that the analysis also could not quantify. These include safety benefits associated with crash scenarios and parameters outside of those reflected in agency testing, safety benefits from avoiding secondary crashes, safety benefits from preventing or mitigating crashes with other vulnerable road users or animals, and property damage and traffic congestion avoided.[23]

In contrast, the petitioners simply asserted speculative disbenefits based on theoretical scenarios. The Alliance, for example, presented simulation data to support the possibility of rear-end collisions that could occur if a vehicle has a false positive with a human driver behind it, but it did not provide any evidence that the false positive events themselves would occur in greater frequency or severity under the final rule compared to no requirement or an alternative requirement.[24] Additionally, Volkswagen asserts that ''no contact'' ''will undoubtably lead to higher false positive rates'' in scenarios in which a pedestrian changes their travel path following the onset of braking, and Toyota made a similar claim with regards to lead vehicle AEB.[25] When considering the balance of costs and benefits, petitioners seek to place greater weight on speculative and unquantifiable disbenefits without considering the added benefits which may also be obtained. These assertions are insufficient to demonstrate that the speculative disbenefits outweigh the benefits of a no contact requirement. Without sufficient information to fully quantify either, it is not unreasonable for NHTSA, in its expert judgment and in consideration of the Safety Act's

[18] Petitioner's simulation data provided regarding the obstructed pedestrian crossing test is discussed in Section G.

[19] In *Motor Vehicle Mfrs. Assn. of United States, Inc.* v. *State Farm Mut. Automobile Ins. Co.,* 463 U.S. 29, 51–52 (1983), the Court recognized that ''[i]t is not infrequent that the available data does not settle a regulatory issue and the agency must then exercise its judgment in moving from the facts and probabilities on the record to a policy conclusion. Recognizing that policymaking in a complex society must account for uncertainty, however, does not imply that it is sufficient for an agency to merely recite the terms 'substantial uncertainty' as a justification for its actions.'' *See also Public Citizen, Inc.* v. *NHTSA,* 374 F.3d 1251, 1261–62 (D.C. Cir. 2004).

[20] Light Vehicle AEB FRIA, Docket No. NHTSA–2023–0021–1069, at 252 (FRIA).

[21] FRIA at 252. Petitioners argue that this analysis is unconvincing because of the timeline of fleet turnover. However, the moment of 100 percent fleet adoption is not the only relevant timeline. Table 218 in the FRIA shows cumulative exposure by year. By year 6, we anticipate that 50 percent of the fleet will have rule-compliant AEB such that concerns about additional rear-ends derived from false activations will be significantly abated.

[22] 89 FR 39686, at 39732; FRIA at 47.

[23] FRIA at 47.

[24] We also disagree with the petitioners' conclusions about these hypothetical scenarios. If the driver of the following vehicle maintains the safe distance required by law, a collision with the rule-compliant subject vehicle would not occur. Additionally, as we noted in the final rule, if an AEB activation of the subject vehicle leads to a collision with the following vehicle in a true positive situation, we believe that the AEB activation effectively reduces the likelihood of multiple collisions in a single crash. The AEB system would prevent the subject vehicle from colliding with an obstacle—whether another vehicle or a pedestrian—in its path.

[25] Nothing in the final rule prevents systems from relaxing braking once an imminent collision is no longer present or from designing AEB systems with algorithms that suppress AEB activations in certain circumstances such as after a substantial steering input or the application of additional throttle. However, when tested according to the procedures specified in the rule, the system must operate to avoid a collision.

focus on safety, to select the option that maximizes possible safety benefits.

b. Defect Authority

The Alliance stated that it is insufficient for NHTSA to address false positives through the agency's safety defect authority. The Alliance stated that false positives are an unwanted side effect, similar to an issue experienced with early higher-powered airbag technology, which NHTSA needs to address through rulemaking to amend the performance requirements rather than through recalls. The Alliance argued that after the new FMVSS, ''[i]t is not sufficient, or fair,'' to continue to ''address 'false positives' through [NHTSA's] safety defect authority.'' This argument primarily stemmed from the Alliance's claim that, due to current limitations in AEB technology, increasing the sensitivity of an AEB system to meet the performance requirements of the new FMVSS would increase the likelihood that the AEB system would also erroneously detect obstacles where none exist.

Agency Analysis

The Alliance's arguments do not support reconsideration of the final rule for several reasons.

First, the variability of false positive scenarios lends itself to the more individualized review of real-world operation that the defects process allows. As we noted, the final rule included two false activation test scenarios, but these are not comprehensive for eliminating susceptibility to false activations.[26] The best forum for such an individualized review is NHTSA's defects authority, which can accommodate investigations that consider the reasonableness of the potential safety risks in light of all of the facts and circumstances. In contrast, an FMVSS sets a static performance requirement for all systems. Therefore, the defects authority is an appropriate avenue for addressing false positive events.

Second, there is an established precedent of both NHTSA and manufacturers addressing false positive AEB events through safety recalls. In the past, vehicle manufacturers have filed recalls based on the safety risk that, for example, has been described as ''[i]f the AEB system unexpectedly activates while driving, the risk of a rear-end collision from a following vehicle may increase.'' [27] Likewise, NHTSA has undertaken multiple defect investigations of potential safety risks arising from false activations of AEB systems.[28] The public has similarly raised concerns about the safety risks associated with AEB false activations, requesting NHTSA apply its safety defect authority to the issue.[29] This established practice demonstrates that using the defects authority to address false positives has been effective and workable, and the Alliance does not explain why it will not continue to be under the final rule.

Third, the Alliance's petition suggests that current technical limits in AEB equipment, such as sensor range or definition, would make it unfair for NHTSA to act on safety risks that were a byproduct of manufacturer efforts to meet the performance requirements of the new FMVSS. However, in striving to protect the public, the Safety Act requires manufacturers to remedy all unreasonable safety risks in their vehicles, regardless of the reason for their origin. A manufacturer's good intention is not a defense to a recall.[30]

Fourth, the false positive risks that petitioners raise are speculative. No petitioner or commenter has identified an aspect of the new FMVSS that will cause future defects related to false positives. At most, the Alliance has identified challenges with existing AEB technology that could lead some manufacturers to inadvertently be imprecise or overinclusive when calibrating the sensitivity of their AEB systems to meet the new FMVSS. The Alliance has not suggested that these errors in implementation would be impossible to eliminate or mitigate once they became apparent.

Finally, the Alliance's example of early, ''high-powered'' air bags is an inapt analogy. Early versions of air bags deployed with a fixed amount of force that posed a risk of injury to occupants. These risks were not an occasional byproduct of those air bags but were inherent to the forces generated when those air bags deployed as quickly as needed to meet the performance requirements of the original air bag FMVSS. As air bag technology improved, air bags became capable of modulating the force of their deployment to limit the injurious potential of their inflation. When updating the FMVSS to require advanced air bags, NHTSA noted that ''the fact that we are requiring manufacturers to provide improved air bags in new vehicles does not mean that earlier vehicles that do not meet the new requirements have a safety-related defect.'' [31] By contrast, an AEB false positive (such as braking in the absence of a true obstacle) is not a behavior required by the final rule. Rather, it is at most an accidental engineering failure from trying to design an AEB system with sufficient sensitivity to meet the performance standard. In fact, AEB false positives are more like the safety defects posed by air bag inflator ruptures. These occur when, in an effort to design air bag systems capable of meeting the intense inflation demands of the FMVSS, engineering failures cause ruptures which project debris. In the same way, even assuming the Alliance is correct that the performance demands of the final rule may sometimes result in faulty AEB system designs that are susceptible to false positives, those false positives are a failure in the implementation of the AEB system, not an inherent performance characteristic of the standard.

For these reasons, no reconsideration is needed on this issue.

c. Comparison to a Standard That Allows Low-Speed Contact

To address false positive risks and practicability concerns, Volkswagen and Toyota petitioned for the consideration of allowing a low-speed contact, such as up to 10 km/h (6.2 mph).[32] They present two justifications. First, they make a novel assertion, not raised during the NPRM comment period, that NHTSA implicitly accepts contacts under 10 km/h because the final rule does not

[26] 89 FR 39686, at 39732.

[27] *See, e.g.,* Tesla, Part 573 Safety Recall Report, No. 21V–846, Unexpected Activation of Automatic Emergency Brake, available at *https://static.nhtsa.gov/odi/rcl/2021/RCLRPT-21V846-7836.PDF.*

[28] *See, e.g.,* NHTSA, Opening Resume: Engineering Analysis EA 24–002, *Inadvertent Automatic Emergency Braking,* available at *https://static.nhtsa.gov/odi/inv/2024/INOA-EA24002-11766P1.pdf;* NHTSA, Opening Resume: Preliminary Evaluation PE 24–008, *Inadvertent Automatic Emergency Braking,* available at *https://static.nhtsa.gov/odi/inv/2024/INOA-PE24008-10868.pdf;* NHTSA, Opening Resume: Preliminary Evaluation 24–013, *Inadvertent Automatic Emergency Braking,* available at *https://static.nhtsa.gov/odi/inv/2024/INOA-PE24013-12241.pdf;* NHTSA, Opening Resume: Preliminary Evaluation 23–017, *Inadvertent Automatic Emergency Braking,* available at *https://static.nhtsa.gov/odi/inv/2023/INOA-PE23017-10785.pdf.*

[29] *See, e.g.,* NHTSA, Opening Resume: DP 19–001, Defect Petition for False Automatic Emergency Braking, available at *https://static.nhtsa.gov/odi/inv/2019/INOA-DP19001-5499.PDF.* NHTSA also often receives customer complaints regarding the issue through Vehicle Owner Questionnaire submissions.

[30] *See* 49 U.S.C. 30116 *et seq.;* 49 U.S.C. 30102; *see also* 49 U.S.C. 30118 (establishing that general recall notification responsibilities apply to all defects and is not based on design intent).

[31] 65 FR 30680, 30705 (May 12, 2000). The same approach is true for FMVSS No. 127: the fact that vehicles manufactured before the new FMVSS takes affect may have AEB systems that do not meet the new standards (or perhaps do not have AEB at all) does not mean those earlier vehicles have safety-related defects simply because they do not meet the new standards.

[32] Hyundai also discussed this issue in its letter.

require AEB systems to operate at speeds 10 km/h and below. Second, Toyota claims that NHTSA's analysis did not establish how no contact meets the need for safety in comparison to low-speed contact alternatives.[33]

Agency Analysis

Petitioners' arguments do not support reconsideration of the final rule. As an initial matter, NHTSA's analysis fully considered this issue and the relevant alternatives in the rulemaking. In the NPRM, we sought comment on alternatives to the no contact requirement, specifically regarding allowing low-speed contact in on-track testing for both PAEB and lead vehicle. We received extensive comment both in support of and against allowing contact at low speeds. In the final rule, the agency disagreed that a low-speed approach fully resolved the safety problem, emphasizing that no contact provides maximum safety benefits and aligns with the Safety Act. We reiterated that striking a person with a vehicle is unacceptable at any speed under any conditions, and the analysis in our FRIA supports that conclusion. We believe the data and analysis in the final rule and the FRIA demonstrate the safety basis upon which ''no contact'' was selected over low-speed alternatives. Therefore, we are not amending the final rule on these bases. However, as petitioners have presented a new framing of the argument regarding the 10 km/h (6.2 mph) activation threshold, we take this opportunity to highlight the data and analysis that supports the final rule to respond to the points raised by petitioners.

Petitioners present a false equivalency between the activation threshold and contact speeds. Activation of an AEB system while moving below 10 km/h is a different scenario from continuing to move at up to 10 km/h after an activation has already occurred. The impact speed is part of the in-operation performance of the system. That is, once an AEB system detects an imminent collision with a vehicle or pedestrian, we anticipate that the systems will remain active as long as the imminent collision risk persists. The AEB minimum activation speed, on the other hand, is selected as a design specification. Petitioners attempted to conflate these circumstances, which is unpersuasive.

Additionally, the activation threshold exists to ensure practicability, not because no safety concerns exist below that speed.[34] When discussing PAEB testing in the NPRM, for example, we noted that the lower bound was chosen based on a tentative conclusion, corroborated by our 2020 testing and testing on vehicles from model years 2021 and 2022, that PAEB systems may not offer consistent performance at speeds below 16 km/h (9.9 mph) and that 10 km/h (6.2 mph) is consistent with Euro NCAP's testing lower bound.

In addition to those stated in prior notices, there are several other reasons for the practicability concerns that justify a distinction between 10 km/h as an activation threshold and as a maximum contact speed in testing. First, at speeds below 10 km/h, the driver has more time to re-engage and apply the brakes to avoid the collision without AEB intervention. Second, AEB systems can have difficulty operating in very tight spaces and at low speeds such as in crowded parking garages, where manoeuvres at low speed may need to occur in crash-imminent scenarios. Third, certain vehicles to which the regulation applies may need to push objects while operating at low speeds. Finally, our testing and data collection showed both that no systems operated at speeds under 5 km/h (3.1 mph), and that some vehicles that performed well in high-speed testing did not operate under 10 km/h (6.2 mph).[35] These data suggest design challenges specific to low-speed operation. NHTSA considered these factors and determined that it was practicable to require only that systems operate above 10 km/h. Therefore, the activation threshold and whether to allow an impact speed have distinct considerations that justify different approaches.

Furthermore, no contact better meets the need for safety in comparison to a regulation that allows low-speed contact. The data and analysis in the FRIA show that allowing for contact, at any speed, results in less safety benefits than are achieved by the final rule. In analyzing the capabilities of AEB technology, at least one vehicle tested was able to meet the no contact requirement in each scenario. Therefore, the benefits in the FRIA represent the level of safety associated with the best performer.[36] The injury risk curves in the FRIA represent the likelihood of injury based on impact speed. In general, the likelihood of injury, and more severe injuries or fatalities, increases with respect to contact speed. And, although there are limits to the precision of the conclusion that can be drawn due to data limitations, the injury risk curves show that allowing for contact at any speed results in less safety benefits than are achieved by the best performer. NHTSA's analysis therefore fully considered this issue.

The PAEB data clearly show that a low-speed contact alternative would achieve substantially less safety than no contact.[37] Even at the lowest impact speeds of 0–5 mph, there is a 75 percent chance of minor injury, 4 percent chance of a moderate severity injury, and a 1 percent chance serious injury or worse. Furthermore, at even the next impact speed group, there is a non-zero probability of a fatality.[38] NHTSA considered these risks in deciding that no contact in PAEB testing meets the need for safety.

By applying these percentages to the PAEB data across the injury severity categories in the estimated benefits of the final rule, we find significant benefits to a no contact standard.[39]

[33] Hyundai, in its letter, argued that a 10 km/h minimum allowable collision speed would preserve the safety benefits of the rule because contacts under that speed are unlikely to result in serious injuries or fatalities. One comment discussed in the final rule stated similarly. 89 FR 39686, 39272.

[34] We have been consistent in our belief that collisions under 10 km/h present a safety risk. In the NPRM, we noted that ''not requiring PAEB to be active below 10 km/h (6.2 mph) should not be construed to preclude making the AEB system active, if possible, at speeds below 10 km/h (6.2 mph). In fact, the agency anticipates that manufacturers will make the system available at the lowest practicable speed.'' 88 FR 38632, at 38667.

[35] NHTSA–2023–0021–0005, Table 3.

[36] This ties the benefits calculations directly to a vehicle's observed test performance. In contrast, fully calculating the benefits of a standard that allowed contact would require adjusting the best performer away from the test data. This would involve assumptions about best performance under the rule that are not tied to observed performance and reduce the accuracy of the benefits calculations.

[37] Injury risk data used in this paragraph is presented in the FRIA, Table 131. The table and this data are rounded to the nearest hundredth. The true figures are as follows: at a maximum contact speed of 5 mph, approximately 0.4 percent of collisions would result in fatality, 75 percent would result in minor injury, 4 percent in moderate injury, and 0.7 percent in serious injury. These descriptions correspond to the maximum abbreviated injury scale (MAIS) categories, described on pages 238–239 of the FRIA. Minor injuries can include non-superficial injuries, including those with long term effects such as whiplash, and moderate injuries include a fractured sternum.

[38] Petitioners suggested allowing contact at up to 10 km/h, which would correspond to a roughly 6 mph impact speed. The data in the FRIA is organized by miles-per-hour, so for this response we discussed injuries in the impact speed range closest to but below this figure, which is 0–5 mph.

[39] Although this discussion is new analysis in response to the petitions for reconsideration, we note that this analysis uses only data already in the FRIA and uses no proprietary statistical methods. In the FRIA, PAEB is considered in crossing path and along path scenarios. For along path scenarios, we assume that all pedestrian impacts would be avoided under a no contact requirement, so allowing contact would distribute those incidents that would have been avoided across each injury severity category by the percentage of injuries associated with each severity at the selected contact

Allowing contact at low speeds would lead to 2,192 additional minor injuries, 31 moderate injuries, 3 serious injuries, and 1 fatality annually. Monetized, this change results in $179.1 million comprehensive economic benefits lost, or 4.9 percent of the PAEB benefits generated by the final rule.[40] This is a sizable impact, and one that NHTSA considers meaningful. Indeed, $179.1 million of comprehensive economic benefits is larger than those of many entire safety rules we issue.

For lead vehicle AEB, the low-speed injury data in the FRIA has more limitations than that for PAEB. The relatively small number of severe injuries that occur in rear-end collisions at low speeds compared to those that occur in high speed collisions causes implausible analytical results that limit the precision of the conclusions that can be drawn about the exact level of safety benefit obtained at low impact speeds. Nonetheless, the available data demonstrate that benefits would be lost with a contact standard and the general magnitude of those lost benefits.

The injury data in the FRIA show that allowing contact at any speed reduces the safety benefits.[41] At a relative contact speed of 10 mph (the difference between striking vehicle speed and struck vehicle speed), the probability of minor injury increases to 21.9 percent, moderate injuries to 0.9 percent, serious injuries to 0.7 percent, and even 0.1 percent chance of a fatality. In fact, even at a relative contact speed of just 1 mph (contact at 2 mph), there is a 3.5 percent chance of minor injury and a 0.4 percent chance each of moderate and serious injuries. The FRIA contains an example calculation to show how these figures are derived and factor into NHTSA's benefits analysis.[42]

The data and analysis in the FRIA show that while low-speed collisions are less likely to result in severe or fatal injuries, reducing the number of injuries that are less severe can carry large safety benefits due to the large volume of those injuries. As the final rule states, between 2016 and 2019, there were an average of 1.75 million rear-end crashes annually (and nearly 55,000 frontal crashes with a pedestrian). Even small changes in injury risk can have sizable impacts across that volume of collisions.[43] Additionally, even injuries classified as less severe in the data cause serious harm, and these injuries, such as whiplash, can carry long-term effects. In the final rule, the agency concluded that although the data is limited, it plainly indicates that a no contact standard achieves greater safety benefits than a standard that allows contact.

In contrast to the data collection and analyses done by NHTSA, petitioners suggest that NHTSA should prioritize speculative disbenefits from false positives over the demonstrable safety benefits that a no contact requirement achieves. Petitioners did not provide any new information or data that was not already considered by the agency during the development of the final rule in response to public comments suggesting that a low-speed alternative would better meet the need for safety. Nor did they provide, at any stage in the rulemaking, compelling information regarding the increase in false positives that they fear or evidence that a no contact requirement will result in such an increase while allowing a 10 km/h (6.2 mph) contact speed would not. Although we recognized that there are unquantifiable aspects, NHTSA was well within its responsibilities to consider this risk but to weight more heavily the demonstrable safety benefits achievable by a no contact requirement. The Safety Act entrusts NHTSA with this responsibility and to exercise its judgment, and we did so. Therefore, no reconsideration is necessary, and we deny the request for reconsideration to allow low-speed contact.

B. Multiple Trials

The final rule requires that the test vehicle meet the performance test requirements in any test run and does not allow multiple test runs in which the vehicle is only required to meet the required performance in a percentage of the runs. Petitioners requested that the standard be amended to incorporate multiple test runs to allow a vehicle to meet the performance requirement in some but not all runs, and provided several reasons discussed below.

1. Comparison to FMVSS No. 135 and Forms of Variability

Petitioners argued that the final rule did not account for the variabilities in testing. They requested FMVSS No. 127 be amended to be similar to FMVSS No. 135, which allows for compliance to be determined based on multiple test runs. Petitioners suggested several variations, including passing 5 out of 7 runs (which is similar to NCAP), passing 3 out of 5 runs, and a requirement that if the vehicle fails the first run it must pass three subsequent runs.[44]

The Alliance stated that existing braking standards, specifically FMVSS No. 135, acknowledge the inherent variability in vehicle braking systems that make it unreasonable to evaluate performance based on a single test run. The Alliance suggested that since AEB is a braking system, it has these variations, which raise practicability concerns when a test requirement does not allow for multiple test trials. These variations derive from both foundational braking mechanisms and additional variability from sensing and perception responses. Therefore, the Alliance argued that NHTSA failed to recognize that FMVSS No. 127 deviates from its established practice of permitting multiple test runs for braking standards. Moreover, it claims that NHTSA did not provide any explanation in the final rule for departing from this longstanding precedent.

Agency Analysis

NHTSA received comment on and fully considered the issue of multiple trials during the rulemaking. The arguments raised in the petitions do not justify allowing multiple test trials.

That multiple test runs are used in FMVSS No. 135 does not mean that multiple test runs are necessary for FMSS No. 127. There is a critical difference between FMVSS No. 135 and FMVSS No. 127 that justifies a different approach.[45] The purpose of FMVSS No.

speed. For crossing path scenarios, even under a no contact requirement there are situations in which pedestrians enter the path of the vehicle with insufficient time for detection and braking to avoid the collision. Therefore, the expected effect of allowing contact should account for a reduced number of both avoided and mitigated injuries.

[40] Performing the same analysis as used in this paragraph on contacts up to 10 mph yields additional lost benefits of only 0.7 percent. This result suggests that most of the safety benefits lost from a low-speed contact option are lost in the contact allowance.

[41] FRIA, Table 108.

[42] FRIA at 761 (the example begins on p. 763). Note that it appears some of the values in FRIA Table 317, which summarizes input parameters, appear to be incorrect. Table 317 stated that the TTC Duration(s) were 2.01 for each FCW scenario. The correct values are as follows: Status quo (SQ) Lead Vehicle Stopped (LVS) of 2.01, SQ Lead Vehicle Moving (LVM) of 2.09, SQ Lead Vehicle Decelerating (LVD) of 2.14, Best performer (BP) LVS of 2.06, BP LVM of 2.12, and BP LVD of 2.23.

[43] FRIA, Tables 225 and 251. Note that these crash estimates were not used to estimate benefits. The target population used to estimate benefits for lead vehicle AEB and PAEB included several filters to best reflect the real-world crashes that corresponded with the test scenarios and conditions.

[44] The Alliance also noted that, if NHTSA provides sufficient relief regarding the no contact requirement, then this relief may not be necessary.

[45] Not all the tests in FMVSS No. 135 use multiple trials. Those that do include: S7.5. *Cold effectiveness;* S7.6. *High speed effectiveness,* S7.7. *Stops with Engine Off,* S7.8. *Antilock functional failure,* S7.9. *Variable brake proportioning system functional failure,* and S7.11. *Brake power unit or brake power assist unit inoperative (System depleted).* These afford up to six test runs to achieve the required performance.

135 is to ensure safe braking performance, and its testing is designed to test braking performance of the vehicle.[46] It uses multiple test runs to account for the variability in the ability of the human test driver to maximize the braking capabilities of the vehicle. The agency published the first NPRM for what would become FMVSS No. 135 in 1985. In that NPRM, the agency stated that ''[t]he purpose of specifying multiple stops is to enable test drivers to achieve a vehicle's best performance.'' [47] That preamble further stated that it normally took test drivers three or four stops to achieve the best possible braking performance. NHTSA has also rejected incorporation of multiple test runs into the standard for the ''hot stop'' test because NHTSA found in its testing that the human test drivers were capable of achieving the needed performance for the test, and the test needed to occur while the brakes were at temperature.[48] Additionally, in FMVSS No. 126, an example of a standard where NHTSA found a single test run to be sufficient, the sine-with-dwell test provides for only one test run at each steering-wheel amplitude and rotation direction combination. Further, in the final rule establishing FMVSS No. 136, ''Electronic stability control systems for heavy vehicles,'' NHTSA stated that FMVSS No. 136 allows multiple attempts to maintain the lane for J-turn testing to ensure that the ESC system activates before the vehicle becomes unstable instead of imposing a requirement that it activate prior to instability to ''account for driver variability and possible driver error in conducting the manoeuvre. Absent driver error, we do not expect any vehicle equipped with current-generation ESC systems to leave the lane during any J-turn test.'' [49] These examples make clear that a standard that permits multiple test trials is justified where testing may be affected by variability in a human test driver's ability to apply a full brake application. It may be the case that, because it allows multiple test trials to accommodate human test drivers, FMVSS No. 135 accommodates the other forms of test variability cited by petitioners. However, this result is an ancillary effect of the standard's design, not its purpose.

In contrast to FMVSS No. 135, the test procedures in FMVSS No. 127 test the AEB system and do not use human test drivers to actuate the brakes. Even for tests that include manual brake application, the test procedure specifies use of a braking robot and the performance specifications on how the brake must be actuated for the test. No variability from human operation contributes to test outcomes in FMVSS No. 127.

Indeed, the Alliance, in attempting to argue that FMVSS No. 135 test results are not informative of AEB system performance, acknowledged this distinction is meaningful. It claimed that test conditions in FMVSS No.'s 135 and 127 ''are fundamentally different such that FMVSS No. 135 results are not indicative of AEB performance'' because tests conducted under FMVSS No. 135 are ''conducted with a human driver putting muscular effort into the brake pedal.'' [50] This distinction justifies NHTSA's decision not to use multiple test runs.

a. Specific Forms of Variability Raised by Petitioners

Petitioners cited several forms of variability that they argue justify multiple test runs or render the standard impracticably stringent. The Alliance, for example, cited wear and tear of pedestrian test dummies, design of pedestrian test dummies, and headlamp aim as aspects specific to AEB system performance that can impact testing. It also emphasized track conditions that contribute to stopping distance variability, such as the age and degradation of the asphalt since it was last resurfaced, the type of aggregate used on the test track, and other variables. The Alliance also noted that compliance tests are conducted at any number of test tracks throughout the United States, which the Alliance claimed further amplifies variability of the test by contributing their own unique characteristics. It also noted ambient environmental effects such as cloud cover (or intermittent cloud cover), dust, debris, pollen effects, recent rainfall, and noise factors. It also stated that the road surface friction decreases as the road surface temperature increases, and provided a figure that shows road surface friction around 0.98 at a temperature of 2 degrees C and decreasing to around 0.92 at 50 degrees C, and that these variations in ambient conditions can translate into about 8–10 feet (2.5–3m) or more variation in absolute stopping distance on a given test surface. It also raised vehicle conditions, such as tire burnish, brake burnish, brake wear and brake bleed, which amplify these environmental effects. The Alliance stated that these factors (ambient conditions, vehicle conditions, and track conditions) support the reason why FMVSS No. 135 accommodates outcome variability by using multiple trials, justify using multiple trials, or justify a change in the no contact requirement.

The Alliance stated that NHTSA's data demonstrate the challenges of avoiding contact in every test that result from their cited variability. The Alliance emphasized that no test scenario showed that all tested vehicles could meet the performance requirements for lead vehicle AEB on every test run. Starting at 64 km/h (40 mph), fewer than half of the tested vehicle met the performance requirements in all the test trials. The Alliance further stated that, while the research conducted tests only up to 72 km/h (45 mph), at which only two models avoided contact, the standard requires compliance with lead vehicle AEB test at speeds up to 100 km/h (62 mph) without demonstrating the feasibility and practicability at those higher speeds. It also referenced PAEB testing, for which at the lowest tested speed (16 km/h (9.9 mph)), vehicles failed in over 25 percent of the test runs. At speeds of 65 km/h (40.4 mph) in dark conditions, the Alliance stated that no tested vehicle could comply with the requirements 100 percent of the time. The Alliance reasoned, therefore, that NHTSA's test data indicates that most vehicles do not meet the standard's requirements, and the agency has not provided any analysis demonstrating why these data or other information prove the practicability of avoiding contact on every test run.

Agency Analysis

NHTSA disagrees that the types of variability raised by petitioners make the rule impracticable or justify multiple test runs.

First, several of these types of variability would not be resolved if FMVSS No. 127 allowed multiple test runs. For example, test track conditions, headlamp aim, and the differences between the pedestrian test device and real pedestrians, which do contribute to variability in AEB system performance, do not contribute to variability in performance across multiple test runs in the same place with the same test devices. The test track is relatively consistent across runs. Differences in the pedestrian test device and a real pedestrian may contribute to variable

[46] 49 CFR 571.135, S2.

[47] 50 FR 19751.

[48] 60 FR 6431.

[49] 80 FR 36050.

[50] In making this argument, the Alliance is suggesting that NHTSA cannot rely on FMVSS No. 135 tests to show the practicability of the no contact requirement because these tests will have superior braking performance to FMVSS No. 127 tests due to added muscular effort from the driver. This claim is discussed in the ''no contact'' section, above.

performance between the real world and the test track, but it does not contribute to variability across multiple runs with the same test device. Therefore, allowing multiple runs would not resolve these concerns.

Additionally, other variabilities raised by petitioners are resolved by other aspects of the FMVSS. The test conditions, including temperature range, are generally consistent with those of existing FMVSSs, such as FMVSS No. 135, which have proven effective over time in resolving many issues raised by petitioners, such as concerns with thermal effects on the surface friction of the test track. Additionally, the test procedures state that headlamps will be aimed per manufacturers' instructions and that testing will not occur during periods of precipitation or when visibility is affected by fog, smoke, ash, or particulates, which resolves many concerns regarding AEB system performance variability.[51] The Alliance's concerns about the test dummies are also unfounded. Dummy wear and tear will not contribute to test performance variability because the test procedures specify the conditions for the test devices used.

The Alliance's discussion regarding vehicle and test track variability is not persuasive because it relies on studies conducted with test vehicles not specifically designed to meet the requirements of the final rule. We anticipate the variability between vehicles designed to comply with an FMVSS will be relatively small and will depend on the compliance margins set by manufacturers according to their risk acceptance strategies.

Regarding petitioners' claims that the current state of AEB technology means that multiple test runs are necessary for the standard to be practicable, we note that in the agency's 2023 research one tested vehicle was able to avoid contact on most runs, which marked significant progress compared to the 2020 testing. This and other improvements in AEB technology over time support the conclusions made in the final rule that these requirements are practicable within the allowed lead time. Under the Safety Act, the agency is empowered to issue safety standards that require advancements in existing technology or require development of new technology.[52] Given the developmental trajectory, the agency does not find arguments based around the performance of existing AEB systems to be a persuasive argument for multiple trials.

b. System Maturity

The Alliance stated that the final rule claimed that multiple trials are not necessary for mature systems. It argued that NHTSA incorrectly assumed that AEB technologies are mature, in part because AEB systems introduced under the 2016 voluntary commitment were not designed to meet the performance requirements of the final rule. The Alliance also referenced the FRIA—which stated that because many AEB systems do not meet the rule's requirements there will be significant benefits to the new rule-compliant AEB systems—to argue that the agency cannot consider an existing AEB system installed under the 2016 commitment to be mature while simultaneously claiming significant benefits from the new systems required by the final rule. The Alliance also stated that rule-compliant AEB systems should be considered new or in development. It concluded that therefore these systems are not mature and should be allowed to demonstrate compliance through multiple test trials.

Agency Analysis

NHTSA is unpersuaded by the Alliance's reframing of the issue. The fact that a current system can meet the requirements of the standard shows that the technology is mature—vehicles on the road today have the requisite technology to comply with the rule. The benefits estimates assess the improvements in outcomes generated when the entire fleet becomes compliant in comparison to the status quo baseline. As we explained in the FRIA, the status quo baseline is the average performance of the vehicles included in NHTSA's testing. Therefore, the benefits claimed are representative of mature systems being required throughout the fleet.

Therefore, no reconsideration is needed. NHTSA denies the petitions for reconsideration regarding multiple trials and will not adjust the final rule to incorporate multiple test trials.

C. Equipment Requirement

The final rule includes an equipment requirement that light vehicles have an AEB system that applies the brakes automatically at any forward speed that is greater than 10 km/h (6.2 mph) and less than 145 km/h (90.1 mph) when a collision with a lead vehicle is imminent, and at any forward speed greater than 10 km/h (6.2 mph) and less than 73 km/h (45.3 mph) when a collision with a pedestrian is imminent. It also includes a performance test requirement that, when tested according to the procedures in the rule, the subject vehicle provides a forward collision warning and subsequently applies the service brakes automatically when a collision with a lead vehicle is imminent such that the subject vehicle does not collide with the lead vehicle.

The Alliance stated that the final rule lacks objectivity because NHTSA has not established performance requirements for the equipment required by final rule. It notes that while the rule requires the lead vehicle AEB and PAEB systems to operate at speeds up to 145 km/h (90.1 mph) and 73 km/h (45.3 mph) respectively, it does not define the term ''operate,'' Additionally, the Alliance argues, although the preamble to the final rule indicated that the systems would apply brakes when a collision is imminent, NHTSA did not define an imminent crash. To address these concerns, the Alliance requested a supplemental notice of proposed rulemaking (SNPRM) proposing objective performance requirements, including specifying what it means to ''operate'' the equipment and defining when a crash is ''imminent.''

Agency Analysis

NHTSA is not incorporating definitions for ''operate'' or ''imminent'' and is not incorporating a test procedure. However, NHTSA is making one clarifying edit to remove reference to ''imminent'' in the performance test requirement for lead vehicle AEB.

NHTSA does not believe that it is necessary to provide a definition of or test procedures for the term ''operate'' in the regulatory text because the final rule's definition of AEB clarifies how an AEB system operates. FMVSS No. 127 defines ''Automatic Emergency Braking'' as ''a system that detects an imminent collision with vehicles, objects, and road users in or near the path of a vehicle and automatically controls the vehicle's service brakes to avoid or mitigate the collision.'' The definition of FCW provides similar clarity regarding FCW operation. Additionally, the requirement that these systems ''operate'' is explicitly tied to the test conditions in S6, Test Conditions, of FMVSS No. 127. In considering the meaning of ''operate'' in the context of the performance requirements applicable to AEB systems, the final rule provides sufficient clarity that manufacturers can certify with reasonable care that their systems ''operate'' in the circumstances

[51] The Alliance also petitioned for more specificity regarding ''visibility'' in the test condition. We provided a thorough discussion of this requirement and the reasons for not providing additional specificity in the NPRM and final rule.

[52] *Chrysler,* supra footnote 9.

required by the final rule. Therefore, no definition is needed.

Regarding the definition of ''imminent'' as used in the equipment requirements, no regulatory definition is needed. Certainly, not all of the terms in a regulation must be explicitly defined. Here, the term ''imminent'' comes from the regulatory mandate in BIL.[53] In BIL, Congress chose not to define the term, and we interpret this provision of BIL to use the plain meaning of the word ''imminent.'' [54] Manufacturers may refer to the plain meaning when certifying their vehicles to the equipment requirements.[55] Additionally, the term is sufficiently clear in context, and its meaning is discernable from close review of the performance requirements and test procedures in the rule, such as the set of testable ranges specified.

However, we are making a clarifying change to the performance test requirement. In its petition, the Alliance appears to conflate equipment requirements and performance requirements. The final rule and NPRM distinguished between them and explained how the equipment requirement supplements the performance requirement.[56] The equipment requirement, explicitly mandated in BIL, does not have an associated performance test and compliance with it is not evaluated based on performance testing. On the other hand, compliance with the performance requirements is evaluated through the performance testing laid out in the final rule. Critically, these tests do not evaluate the activation timing of the AEB or FCW systems (other than that FCW should not activate after AEB). Rather, the performance criterion is contact with the test device (for AEB) and whether FCW activated. We therefore left to manufacturers the discretion to determine when to apply the brakes and provide the FCW, so long as their determination is not clearly erroneous.

To resolve any confusion, we are amending the performance test requirement for lead vehicle AEB in S5.1.3 to remove the phrase ''when a collision with a lead vehicle is imminent.'' The purpose of this change is to clarify the distinction between the performance requirements and equipment requirements in FMVSS No. 127 and does not substantively alter the requirements as described in the preamble. In fact, because NHTSA's testing will not evaluate AEB and FCW timing, and the test scenarios themselves create crash-imminent scenarios, this language was superfluous in the performance test requirement. This change also aligns the text of S5.1.3 with the performance test criteria for PAEB (S5.2.3), which does not contain that phrase. Although the preamble of the final rule explained this approach, the change discussed here makes it clear in the regulatory text. Finally, following the change, the term ''imminent'' only remains in the equipment requirement. Therefore, no performance test procedure is needed to evaluate compliance.

Therefore, we are amending FMVSS No. 127 to resolve confusion in the requirements. However, we are denying the petitions for reconsideration regarding issuing an SNPRM to establish a test procedure for equipment requirements or providing a definition for ''operate'' and ''imminent.''

D. Unlimited Preconditioning and Test Runs

The final rule does not explicitly place a limit on the amount of pretest driving a vehicle may undergo and it does not place a maximum limit on the number of test runs a vehicle may be put through.[57]

The Alliance requested reconsideration, arguing that unlimited pretest driving of a subject vehicle is inconsistent with repeatable, objective test procedures. It also argued that the agency could accrue thousands of miles on the test vehicle, degrading the tires and other wear components, before running the compliance test. Petitioners expressed concern that manufacturers would have no way to predict what the agency's pretest driving scenarios will do to the subject vehicle, making it impossible to certify compliance. Similarly, it stated that, under the test procedures as written, a vehicle can be tested unlimited times until one failed test trial occurs, in which case the vehicle would be non-compliant.

Agency Analysis

NHTSA is not granting reconsideration on this issue for two reasons. First, the purpose of FMVSS No. 127 testing is not to be an endurance or durability test, but a test of as-new hardware. This purpose is apparent in the structure of the rule compared with several other FMVSSs. When there are endurance and/or wear requirements in the FMVSSs, these requirements are apparent (*i.e.,* they are titled ''durability'' or ''endurance'' tests) or are specifically written to indicate minimum required durability limits.[58] For example, FMVSS No. 106 contains a water absorption and whip resistance requirement, which identifies both the length of time the hose sample will be submerged under water, and how long the hose sample will be flexed.[59] There are numerous other examples in FMVSS No. 106 and other FMVSSs of this style of endurance testing that establishes a minimum durability performance. FMVSS No. 127 contains no such provisions. It was not written to, and is not intended to, set endurance or wear limits on the base equipment making up the AEB system. Instead, FMVSS No. 127 is intended to ensure a minimum level of performance of AEB systems. The only expected wear on the components is what is necessary for establishing a repeatable test, which is specified in the test procedures (*i.e.,* brake burnishing). In the event that wear and tear result in an apparent non-compliance during agency testing, the agency would not consider these tests valid. The Agency has demonstrated, through decades of testing, the competency to determine if wear is the source of an apparent non-compliance, be it by conducting additional testing, disassembly and visual inspection, and other similar methods. Finally, any specific limits on preconditioning driving time or test runs would be

[53] 49 U.S.C. 30129 note.

[54] Miriam-Webster defines ''imminent'' as ''ready to take place; happening soon.'' *https://www.merriam-webster.com/dictionary/imminent?utm_campaign=sd&utm_medium=serp&utm_source=jsonld* (accessed on 8/28/24). For an analogous determination, see 81 FR 85478, Vehicle Defect Reporting Requirements. In this NPRM, we specified a location that is ''accessible'' for an information label pursuant to the section 31306 of the Moving Ahead for Progress in the 21st Century Act. We noted that while the statute did not explicitly require us or the manufacturer to determine the location, selecting a standardized location would best serve the purpose of the statute by facilitating repeated consumer access to the information. We also referenced the dictionary definition of the term ''accessible.''

[55] *See, e.g., Ard* v. *O'Malley,* 110 F.4th 613, 617 (4th Cir. 2024).

[56] 88 FR at 36832, at 38655; *see also* 72 FR 17235, 17299 (Apr. 6, 2007) (discussing the understeer requirement in FMVSS No. 126). The NPRM also explained how we might approach information gathering and enforcement of this requirement. The final rule also discussed NHTSA's authorities regarding equipment requirements in response to comment regarding activation speed. 89 FR 39686, 39712–14.

[57] Specifically, test procedures state that prior to the test the subject vehicle is driven at any speed, in any direction, on any road surface, for any amount of time.

[58] *See, e.g.,* FMVSS No. 108, S14.9.3.6, Turn signal flasher durability test; FMVSS No. 111, S5.5.7, Durability and S14.3, Durability test procedures; FMVSS No. 139, S6.3 Tire Endurance; and FMVSS No. 209, S4.2(d) and S5.1(d), which establish a test for the resistance of seat belt webbing to abrasion.

[59] S5.3.7, Water absorption and whip resistance (''A hydraulic brake hose assembly, after immersion in water for 70 hours (S6.5), shall not rupture when run continuously on a flexing machine for 35 hours (S6.3).'').

arbitrary. Therefore, given that that FMVSS No. 127 does not establish an endurance or durability test, NHTSA determined it is not necessary to specify such limits.

Second, manufacturers misunderstand the purpose of the pretest conditioning language. The initial conditions contained in S6, S7, S8, and S9, are written to prevent designing the AEB system to sense specific pre-conditions of the test. They are not intended to enable the agency to conduct durability testing. For instance, petitioners expressed concern that the standard states that the agency will drive the vehicle in any direction for any amount of time prior to the start of the test. However, additional conditions listed in S6 state that consumable fluids (including fuel), or battery charge for electric vehicles, will be between 5 and 100 percent. Additionally, the initialization conditions state that the vehicle will be driven at a speed of 10 km/h or higher for at least one minute prior to testing and subsequently the starting system is not cycled off prior to testing. Because the starting system is cycled off during fuelling, these conditions provide a practical and realistic limit on the amount of time the agency can drive the vehicle during preconditioning prior to any single test. Therefore, petitioners' concerns regarding ''unlimited pretest driving'' are misplaced.

As such, reconsideration is unnecessary to resolve petitioners' concerns. Therefore, NHTSA declines to amend the final rule on this issue.

E. Malfunction Indicator Lamp

The final rule requires that vehicles must detect AEB system malfunctions and notify the driver of any malfunction that causes the AEB system not to meet the minimum proposed performance requirements.

The Alliance and Volkswagen stated that the requirement that the malfunction indicator lamp (MIL) illuminate under all malfunction conditions, including sensor degradation, and under all possible conditions of ''adjustments in performance'' lacks objectivity and practicability. The Alliance petitioned NHTSA to issue an SNPRM that would define each malfunction requiring MIL illumination and include an associated test procedure. It did not provide any additional data or analysis beyond what has already been considered in comments to the NPRM.

The Alliance noted that while the requirement for activating a MIL in the event of a malfunction in an AEB system is consistent with other FMVSSs, the final rule neither explicitly defines malfunction nor provides the associated test procedures. Several petitioners requested an objective definition of ''malfunction.'' The Alliance pointed out that FMVSS No. 135 specifies conditions for MIL activation, and FMVSS No. 138 provides malfunction conditions and test procedure for the tire pressure monitoring system. In contrast, it stated, ''malfunction'' in FMVSS No. 127 is not defined and could include sensor degradation, which exceeds typical MIL illumination requirements in the FMVSSs. It stated that without a clear definition, manufacturers may determine a malfunction at their discretion and adjust AEB performance to any performance level, including complete deactivation, that does not meet the requirements of the final rule. The Alliance stated that if its interpretation is correct, the standard should clearly specify the allowance to adjust AEB systems, including complete deactivation, during a defined malfunction state.

Additionally, the Alliance stated that NHTSA did not establish an objective test procedure for automatically detecting system changes that may affect AEB performance. The Alliance stated that the requirement to detect vehicle owner's modifications that could render the AEB system non-compliant is boundless and lacks specific, objective performance criteria and test procedures, unlike other FMVSSs. For example, FMVSS No. 138 provides specific test procedures where the MIL must illuminate when an incompatible tire is installed. In contrast, the final rule does not limit or specify the types of owner modifications that may trigger MIL illumination, making it unreasonable to expect manufacturers to anticipate and develop detection strategies for every possible modification scenario. It stated that, as a result, the MIL requirement is not objective.

Toyota petitioned for reconsideration of MIL requirements and incorporated the Alliance's petition into its own. Additionally, Toyota provided a description of its understanding of the malfunction requirements. It read the requirements to allow discretion to the manufacturer to design a malfunction detection feature—including what elements to monitor and what is considered a malfunction. It also stated that if a malfunction is identified, the standard permits the manufacturer, at its discretion, to adjust the performance of the vehicle such that it will not meet the requirements specified in paragraphs S5.1, S5.2, or S5.3, including completely deactivating the AEB system, and illuminate the telltale. It said it understood the agency's intent to be that manufacturers must design vehicles with a malfunction detection feature, and that the vehicle must display a telltale when a malfunction is detected and allow the vehicle to adjust the performance of the AEB system or deactivate it in response to malfunctions.

Toyota agreed with NHTSA that malfunctions should be detected based on the system design. Toyota argued that if the AEB system cannot be deactivated in cases of performance degradation, such as from sensor misalignment, it could result in false-positive activations potentially creating safety disbenefits. However, it nonetheless argued that the malfunction detection requirements are unclear and requested reconsideration. It noted that NHTSA had rejected suggested language from Bosch regarding malfunction detection on the basis that it was not workable for an FMVSS and lacked objectivity.

Agency Analysis

NHTSA will not adjust the malfunction detection requirements. NHTSA considered comments on malfunction detection in the final rule. Petitioners broadly expressed confusion about the term ''malfunction'' and about what conditions the indicator lamp must illuminate. However, Toyota, in its petition, correctly summarized the requirements, indicating that it understood the requirement as written. Nonetheless, we respond to certain issues raised in the petitions to clarify our intent.

Toyota is correct that, when a malfunction is detected, the system is permitted to reduce functionality and it must show the telltale. The intent behind the requirement is for systems to self-diagnose issues that cause them to perform at a level below that required by the FMVSS, adjust performance as the system determines is appropriate, and alert the operator. In contrast to how petitioners describe the requirement, the standard does not require AEB systems to detect all possible conditions (or owner modifications) that could reduce functionality. Rather it requires the system to be able to make detections regarding malfunctions and conditions that cause performance degradations, allows the system to adjust performance if it makes such a detection, and requires the system to alert the operator if such an adjustment is made.

As is customary with NHTSA's standards, the laboratory compliance

test procedures will specify how NHTSA intends to run its compliance test regarding illumination of a malfunction telltale. However, NHTSA is not specifying these in the regulation. The conditions under which the malfunction lamp are required to illuminate are sufficiently defined in the FMVSS, which is enough information for manufacturers to certify to the requirement. Although NHTSA is also not specifying in the regulatory text how an internal malfunction is generated, test procedures for MIL requirements typically involve creating an obvious failure condition, such as disconnecting the power source to the system, and determining if the MIL illuminates.

NHTSA will not specify instances of ''malfunction.'' NHTSA received and fully considered comment on this issue. The range of possible malfunctions is sufficiently broad that such an approach would be unlikely to meet the need for safety because it would omit many possible malfunctions from the MIL requirement. As Toyota stated, what constitutes a malfunction is specific to the design of each AEB system, and manufacturers are best positioned to determine when a circumstance exists that causes performance to be impeded.

Furthermore, petitioners are incorrect when they state that the MIL requirement is not objective or practicable because the term ''malfunction'' is not given a regulatory definition. The MIL requirement in FMVSS No. 127 is stated in objective terms. It ties the requirement to illuminate the MIL upon performance adjustment to the performance requirements for AEB systems. These performance requirements are stated in objective terms. The MIL requirement is therefore also stated in objective terms.

Finally, the Alliance attempts to reference the MIL requirement in FMVSS No. 138 as a contrasting example of a MIL requirement that is objective. However, FMVSS No. 138, like FMVSS No. 127, does not provide an explicit definition of ''malfunction,'' instead applying the performance requirement ''to a malfunction that affects the generation or transmission of control or response signals.'' [60] The approach undertaken in FMVSS No. 127 is analogous: it specifies the AEB system performance requirements, stated in objective terms, as the relevant comparison. Therefore, no reconsideration is necessary. NHTSA is denying the petitions for reconsideration on this issue and is not changing the MIL requirements from those stated in FMVSS No. 127.

F. Deactivation

The final rule includes an explicit prohibition against manufacturers installing a control designed for the sole purpose of deactivation of the AEB system, except in certain cases relating to law enforcement. The final rule does, however, allow for controls that have the ancillary effect of deactivating the AEB system, such as during low-range four-wheel drive configurations, when the driver selects ''tow mode,'' or when another vehicle system is activated that will have a negative ancillary impact on AEB operation. It also allows for automatic deactivation in the malfunction circumstances described in the previous section.

1. Manual Deactivation

The Alliance and Volkswagen petitioned NHTSA to allow manual deactivation of the AEB system. Petitioners pointed out scenarios in which they state that AEB operation can be inappropriate or potentially hazardous. These include racetrack usage, off-road driving that requires manoeuvring around obstacles, off-road driving without low range or gear options, road infrastructure causing false positives, support vehicles for cycling races, and similar situations or dynamic driving events involving interactions with other vehicles. The Alliance also raised several scenarios where vehicles are used on public roads but under non-normal conditions, such as during parades, car shows, or sport events where vehicles are operated in close proximity to pedestrians and other vehicles. Petitioners stated that the automatic deactivation provision is inadequate to address these scenarios. The Alliance noted that, since AEB systems might not automatically differentiate between tracks or parking lots and public roads, they could potentially intervene during dynamic driving manoeuvres, disrupting the driver and posing a risk to nearby vehicles. Moreover, the Alliance noted concerns about the ''automatic deactivation only'' approach for installed equipment, using snowplows as an example, stating that the final rule does not cover all potentially unsafe scenarios. For instance, installing equipment like a roof-mounted kayak, canoe, or ski rack with parts overhanging the front windshield could cause sensors to detect shapes that might not lead to a malfunction but could inadvertently trigger AEB operation. Thus, it requested that drivers have the ability to disable AEB systems to resolve these circumstances.

The Alliance also requested expansion of the language in S5.4.3 of the final rule, which applies only to vehicles operating in a low-range four-wheel drive configuration, to include certain modern vehicle configurations, like those with all-wheel drive system without a transfer case or electrical vehicles using only electric motors or a combination of combustion-driven axles and electric motors, which may not have a low-range system but are still capable of off-road operations. Thus, the Alliance argued, NHTSA should broaden the applicability of S5.4.3 to include vehicles operating in any off-road mode or mode designated to the driver as appropriate for low-speed off-road operations.

Agency Analysis

NHTSA will not adjust the requirements regarding deactivation. NHTSA received and considered comments on automatic and manual deactivation of AEB systems. After consideration of those comments, NHTSA determined that allowing automatic deactivation pursuant to the circumstances in S5.4.2.2 would be practicable and most effectively meet the need for safety because it allows for controls that have the ancillary effect of deactivating the AEB while preventing installation of a control with the sole purpose of enabling driver disablement of AEB systems. NHTSA believes that the current regulatory text, which allows AEB deactivation ''when another vehicle system is activated that will have a negative ancillary impact on AEB operation,'' is sufficiently broad to encompass the vehicle types that the Alliance raises. Furthermore, the purpose of S5.4.3 is to exempt vehicles that have four-wheel drive modes, selected by mechanical controls that cannot be automatically reset electrically, from the requirement that any AEB deactivation be reset by the ignition cycle. For other vehicles (such as those with all-wheel drive), the agency expects that AEB will reactivate when the vehicle is in a drive mode that allows for AEB activation, and when the vehicle's ignition/power is cycled on/off.

Petitioners' stated concerns about operation of vehicles with no manual AEB deactivation in unusual circumstances do not justify reconsideration. As we discussed in the final rule regarding front-mounted equipment, a well-designed AEB system will be able to detect and automatically deactivate to accommodate roof-mounted equipment such as kayaks or

[60] 49 CFR 571.138.

ski racks that may overhang the front windshield. We are also unpersuaded by requests that the final rule allow manual deactivation to account for various racing or track scenarios. The allowance in S5.4.2.2 provides relief for some of these vehicles. Additionally, our requirements apply to motor vehicles, which the Safety Act defines as a vehicle ''manufactured primarily for use on public streets, roads, and highways.'' [61] Therefore, if a manufacturer chooses to produce a racing vehicle designed for use on public roads it must meet the minimum safety requirements. The fact that it may be used in a racing environment does not in and of itself justify a manual deactivation feature. Manufacturers may design racing vehicles not for use on public roads that do not meet the FMVSS.

2. UNECE Regulation No. 152

Volkswagen and the Alliance requested reconsideration of the agency's decision to disallow a manual deactivation feature based on data submitted by Volkswagen. Petitioners stated that data collected in Europe showed that, among a fleet of over 30,000 UNECE Regulation No. 152 compliant vehicles which collectively took more than 12 million trips, only 0.2 percent of the vehicles deactivated their AEB systems more than 10 times. According to petitioners, this data indicates that less than 0.005 percent of all trips involved AEB deactivation and that while drivers did use the manual deactivation feature, they did so very rarely. Thus, they argued that allowing the manual deactivation feature, with appropriate multi-step procedures to prevent inadvertent deactivation, would not significantly diminish the overall benefits of AEB systems.

Agency Analysis

NHTSA is unpersuaded that the data provided by Volkswagen demonstrates that NHTSA should adopt the approach taken by UNECE Regulation No. 152. Generally, the driving environment (road and lane design, etc.) and driver habits in the United States differ substantially from those in Europe, and there is also significant variation within European nations. These differences may result in differences in how drivers interact with AEB technology. The petitioners did not present evidence that data from the European market accurately represents driver behaviour in the U.S. market. In view of the safety concerns expressed in the final rule and by commenters, harmonization alone is an insufficient justification for allowing a control to deactivate the AEB system. As a result, we will not adopt the UNECE Regulation No. 152 approach.

Therefore, no reconsideration is necessary. NHTSA is denying the petitions for reconsideration regarding amending the automatic deactivation provision or the restriction on installing a manual deactivation control.

G. Obstructed Pedestrian Crossing Test Correction

The final rule contains a test scenario in which an obstructed pedestrian enters the path of the vehicle from the right.

In its petition for reconsideration, the Alliance argued this performance test requirement demonstrates that the final rule is impracticable. The Alliance asked NHTSA to reduce the maximum test speed and align the headways more closely with the results of NHTSA's testing.

The Alliance provided a case study of a narrow vehicle avoiding contact with the test mannequin using the boundary conditions specified in the rule and realistic vehicle stopping dynamics (a peak braking acceleration of 0.9 g and an initial braking rate of 3 g/s). The Alliance stated in its analysis that, when using nominal tolerances on the location of the vehicle test device relative to the subject vehicle positioning, the vehicle with a width of 1570 mm (61.8 in) had approximately 0.35 seconds to identify the crossing pedestrian and begin braking. However, in its analysis, when that same subject vehicle was at the maximum distance away from the intended travel path, and the vehicle test device was located as close to the side of the subject vehicle, only 0.15 seconds were available to react to the crossing mannequin. The Alliance stated that a response time of 0.15 seconds is beyond the capabilities of any AEB system and is not practicable.

Agency Analysis

Agency calculations confirmed the issue raised by the Alliance regarding the perception time in obstructed pedestrian testing at the maximum allowable test tolerances. However, the agency does not agree that this finding is an indication of the standard's fundamental impracticability. Therefore, NHTSA is amending the requirement to align with the intent of the scenario to ensure that the specified tolerances do not result in an unintentionally stringent test.

The final rule specified that subject vehicles would nominally be a meter away from the side of the vehicle test device when performing obstructed pedestrian testing. As the Alliance highlighted, the tolerance of the subject vehicle relative to the intended travel path (+/- 0.15 m), and the tolerance of the vehicle test device relative to the side of the subject vehicle (+/- 0.1 m) could add up such that the minimum distance could be 0.75 m instead of the intended 1 m. The reduction of the intended distance between the vehicle and the pedestrian mannequin by 25 percent has a significant impact on how much time the system has to determine whether to initiate braking. Additionally, as the Alliance highlighted, because we were primarily determining the vehicle test device location relative to the side of the subject vehicle, the narrower the vehicle, the less time that vehicle has to perceive the obstructed pedestrian and decide to begin braking. For narrower vehicles, this scenario renders the test more stringent than NHTSA intended.

To address the issue, the agency is adjusting how the tolerances are defined in S8.3.3, so that at most, the vehicle test device is not less than 1.0 m away from the 0 percent overlap point (the right side of the vehicle). For vehicles up to 2.05 m (79.5 in) wide, which is a majority of passenger cars, the left side of the vehicle test device will be no less than 2.2 m away from the intended travel path. This standard places the left side of the vehicle test device at least 1.15 m away from the right side of the subject vehicle, which accounts for the +/- 0.15 m lateral tolerance of the subject vehicle relative to the intended travel path prior to braking. To make sure testing is consistent, and to make sure that testing stringency does not increase for vehicles wider than 2.05 m (79.5 in), the left side of the vehicle test device will be no less than 1.15 m away from the subject vehicle.

Therefore, NHTSA is amending the specifications for the obstructed pedestrian crossing test.

H. FCW Auditory Signal

1. FCW Auditory Signal Requirements

The final rule requires the FCW auditory signal to have a high fundamental frequency of at least 800 Hz, a tempo in the range of 6–12 pulses per second, and a duty cycle in the range of 0.25–0.95, and a minimum intensity of 15–30 dB above the masked threshold.

The Alliance stated that the requirements related to the auditory signal lack specificity and were therefore not objective. The Alliance stated that the threshold sound level largely depends on the ambient noise at

[61] 49 U.S.C. 30102.

a given moment in time and conditions such as vehicle speed and engine, tire/road, and wind noise. It concluded that for the requirement to be objective, NHTSA must clearly define several key characteristics, including the test conditions under which both the ambient noise and the masked threshold are measured as well as the methodology to measure and compute the sound level of the FCW warning and the noise separation amount (*i.e.,* 5 dB). The Alliance also stated that there may need to be exceptions for high ambient noise conditions, such as convertibles with an open top.

Volkswagen similarly commented that additional information relating to compliance testing is needed such as details of the means and conditions for measuring the reference noise level to which the regulation will compare the FCW auditory signal and inquired whether the vehicle's windows would be open and/or HVAC system would be active during the testing. The Alliance, as part of its comments regarding the audio suppression requirement (the remainder of which are discussed in the next subsection), also requested additional conditions regarding the ''masked threshold'' and how it will be assessed. Volkswagen also questioned the meaning of ''quietest level'' in the masked threshold definition and how to measure it. It further asked whether masked threshold would be determined based on a person with normal hearing or impaired hearing.

Agency Analysis

In response to petitions, NHTSA is incorporating additional description of the conditions in which the FCW auditory requirements must be met, detailing the location of the sound measurement device, and replacing ''masked threshold'' with ''average noise level inside the vehicle.'' We are incorporating them to ensure clarity and to facilitate compliance.

We are adding several specifications to the FCW auditory requirement. First, that the auditory signal requirements must be met at the highest SV test speed (which is 100 km/h). Second, we are specifying that the audio requirements are met with all vehicle openings closed. This language is intended to clarify for certifying entities that during the test, openings such as the windows, doors, hood, rear hatch, and trunk will be closed, as will convertible tops. Third, the provision now states that all subject vehicle sound-producing systems or functions are set to off, other than those necessary for performing testing under the rule. This language is intended to describe systems such as the HVAC, windshield wipers, and turn signals, which produce noise that may impact measurement of sound inside the vehicle, but which are not necessary for testing. These additions provide significant clarity regarding the conditions under which the signal will be measured. The FMVSS already states that FCW must operate under the conditions in S6, which includes items that may impact the in-vehicle sound environment, such as the environmental conditions, road conditions, subject vehicle conditions, and equipment. Therefore, those conditions will not be further specified.

NHTSA is also incorporating the intended sound measurement location, adjacent to a 50th percentile male driver's right ear tragion point. This point is identified in the anthropometric data from a NHTSA-sponsored study of the dimensions of 50th percentile male drivers seated with a 25-degree seatback angle (''Anthropometry of Motor Vehicle Occupants'').[62] The tragion is an anthropometric point situated in the notch just above the tragus of the ear and is located 614 mm vertically above the H point (hip location of a driver in the driver seating position), 185 mm aft of the H point, and 83 mm to the right of the H point.

We are also simplifying the baseline sound level against which the FCW auditory signal intensity is compared by replacing the term ''masked threshold'' with ''average noise level inside the vehicle.'' We are also incorporating a description of how that level will be determined: by measuring the noise level inside the vehicle over a 5-second period under the conditions described above. This change resolves items raised by petitioners regarding defining additional aspects of the ''masked threshold'' as well as Volkswagen's petition regarding the hearing ability of the reference driver by simplifying the measurement to focus solely on the noise level inside the vehicle.

Therefore, NHTSA is incorporating these three changes to clarify the requirements applicable to the FCW auditory warning.

2. In-Vehicle Audio Suppression Requirement

The final rule required that in-vehicle audio that is not related to a safety purpose or safety system (*i.e.,* entertainment and other audio content not related to or essential for safe performance of the driving task) must be muted, or reduced in volume to within 5 dB of the masked threshold during presentation of the FCW auditory signal.

The Alliance requested reconsideration of the requirement. The Alliance and Volkswagen stated that the requirement lacked objectivity and a corresponding test procedure. The Alliance requested that NHTSA eliminate the requirement or issue an SNPRM proposing to define the audio sources that must be suppressed and ''safety purpose or safety system'' sounds that are not required to be suppressed. It also asked NHTSA to propose performance requirements defining the threshold for when the audio suppression must begin, with an associated test procedure. Finally, the Alliance argued that NHTSA did not adequately consider consumer satisfaction concerns with the suppression requirement and that consumers may be unaccustomed to it, believing their audio is not working or seeking to disable the audio suppression feature.

a. Types of Sounds that Must be Suppressed

The Alliance stated that the phrase ''not related to a safety purpose or a safety system'' contains undefined terms that are not explained except with a parenthetical reference to entertainment. The Alliance, in its petition, noted that audio suppression systems cannot distinguish between certain content that may or may not have a safety purpose: for example, a radio broadcast of a talk show host versus a radio broadcast of an emergency weather alert. It noted that the language may result in suppression of broadcasts of FEMA's Integrated Public Alert and Warning System, which the Alliance noted was established by Executive Order 13407 to ensure that the public has access to critical alerts about weather and other emergencies. Petitioners also requested that NHTSA provide definitions indicating which audio sources must be suppressed and which do not. The Alliance mentioned examples for which it was not sure whether the suppression requirement would apply, such as the HVAC, defroster, seat belt reminder alarms, intelligent speeding assist indicators, and road departure alerts.

Agency Analysis

In response to this petition, NHTSA is amending the language to clarify that the requirement is to suppress audio not related to a crash avoidance warning. The intent of the requirement was to ensure that auditory signals unrelated to the vehicle's crash avoidance response in an imminent crash avoidance

[62] This report is the same as the one used as a basis for eye midpoint location set in FMVSS No. 111.

scenario would not interfere with the driver's perception of the FCW and thereby hinder their opportunity to intervene and avoid a crash. Given that petitioners' concerns appear to be regarding vagueness, NHTSA is clarifying the requirement to reference a more specific set of audio signals that should not be suppressed: in-vehicle audio that is ''not related to a crash avoidance system warning.'' [63] NHTSA is also removing the explanatory parenthetical associated with ''safety purpose or safety system,'' as it is no longer applicable. This change also resolves concerns with systems being able to distinguish between regular and emergency broadcasts, because emergency broadcasts are not related to a crash avoidance system warning and would therefore need to be suppressed.

Regarding the Alliance's question whether a vehicle's HVAC system and window defrosting system should be considered in-vehicle audio, they should not. In-vehicle audio is to be understood to refer to auditory signals and content produced or transmitted by the vehicle for the purpose of communicating information, entertainment, or other purpose not related to or essential for safe performance of the driving task. Although the regulation does not define ''audio,'' NHTSA's understanding of the term is consistent with its plain meaning. For example, Webster's dictionary defines the noun, ''audio,'' to refer to ''an audio signal.'' [64] Cambridge Dictionary defines the noun ''audio'' to mean ''a sound recording, or recorded sound.'' [65] These definitions suggest ''audio'' to refer to purposeful sounds emitted to communicate or provide some form of information (including entertainment). Noise stemming from the operation of HVAC systems or windshield defrosters would not be considered ''in-vehicle audio.'' On the other hand, auditory navigation instructions are considered audio and are subject to the suppression prevision. Therefore, the regulation is clear as written.

The arguments regarding consumer acceptance are not persuasive. An FCW alert is only required in a crash-imminent scenario, and the muting of in-vehicle audio would be accompanied by the FCW audio signal. In such a crash-imminent scenario, it is not evident that the muting of in-vehicle audio would be of any concern to a driver.

Additionally, in responding to this petition, NHTSA examined 15 model year 2016–2024 light vehicle models from 12 manufacturers to determine whether in-vehicle audio muting during FCW presentation was employed. Of 15 models examined, 11 models from 10 manufacturers were found to mute in-vehicle audio during FCW presentation. A twelfth vehicle (2022 Hyundai Tucson) reduced the volume of in-vehicle audio during FCW presentation. Three models did not appear to mute or reduce the volume of in-vehicle audio during FCW presentation (2022 Honda Odyssey, 2023 Nissan Pathfinder, and 2022 Subaru Outback). Aside from in-vehicle audio suppression during FCW, in-vehicle audio suppression under other circumstances is already present vehicles today as well. For example, some current vehicles mute in-vehicle audio while the vehicle's transmission is in reverse gear. Audio sources in the vehicle can also be muted by apps on a phone connected to the vehicle, such as the Ring app (camera motion notifications will mute vehicle audio sources) and the Waze navigation app, which mutes vehicle audio sources while audio route instructions and other app-based verbal information is provided. Given the ubiquity of suppression of in-vehicle audio during FCW presentation, as well as other vehicle features and phone apps that suppress the vehicle's entertainment system and other in-vehicle audio, the petitioner's contention that customers will find the required audio suppression during FCW presentation to be unfamiliar and cause dissatisfaction is not compelling.

b. FCW Presentation and Suppression Timing

The Alliance stated that the suppression requirement is not objective because it lacks a definition of ''presentation,'' and information regarding when the FCW must present or when suppression of in-vehicle audio must occur (such as whether it must occur immediately upon FCW presentation or within a specified period of time). It noted that NCAP, IIHS, and European procedures all contain a TTC value for when the FCW must present. Volkswagen and the Alliance also petitioned regarding the lack of an objective test methodology for the suppression requirement.

Agency Analysis

Petitioners' arguments do not justify reconsideration on this issue. NHTSA is not incorporating a specified timing at which the FCW signal's onset must occur, a definition of ''presentation,'' or a regulatory test procedure for evaluating the suppression requirement. FCW is required without an associated timing requirement because there is no regulatory safety need to require FCW at for any particular amount of time prior to automatic braking. Therefore, the FMVSS gives manufacturers flexibility in determining the timing of the FCW presentation for their vehicles.

NHTSA will also not provide a definition of ''presentation'' because the plain meaning of the term and its use in context is not vague or unclear.[66] The term is used only once in the regulatory text to describe the suppression requirement. Additionally, ''FCW onset'' is defined as the first moment in time when a forward collision warning is provided. In understanding the meaning of ''presentation,'' manufacturers may consider viewing ''FCW onset'' as the moment at which ''presentation'' begins, and that ''presentation'' encompasses the entire time that the audible signal is active. Additionally, given the short, approximately 1–2 second duration of most FCW auditory signals, any delay in suppressing other audio content could hinder the driver's ability to perceive the warning. As such, onset of the muting of in-vehicle audio should be simultaneous with the onset of the FCW auditory signal. There is no reason to believe, and petitioners did not suggest, that AEB systems are incapable of sending concurrent commands to initiate both FCW presentation and muting of in-vehicle audio or that response times for sending commands to initiate the FCW and the suppression would be different. Therefore, NHTSA does not expect substantial delay in suppression.

Regarding a test procedure, the changes in this rule resolve many of the questions petitioners had regarding vehicle state and sound measurement such that manufacturers have clear guidance on the suppression requirement. Therefore, no additional test procedure will be added. However,

[63] The examples used by the petitioners, including ''seat belt reminder alarms,'' ''intelligent speeding assist indicators,'' and ''road departure alerts,'' should be evaluated by the manufacturer based on their propensity to assist a driver in avoiding a crash. While NHTSA could have chosen to state that, for example, audio from systems other than ''Advanced Driving Assistance Systems (ADAS)'' should be muted, the term ''ADAS'' has only been in use for approximately a decade and may describe a broader array of alerts than is appropriate.

[64] *https://www.merriam-webster.com/dictionary/audio* (accessed 7/29/2024).

[65] *https://dictionary.cambridge.org/dictionary/english/audio* (accessed 7/29/2024).

[66] For example, Cambridge Dictionary defines ''presentation'' as a noun meaning ''the act of giving or showing something, or the way in which something is given or shown.'' *https://dictionary.cambridge.org/us/dictionary/english/presentation* (accessed 7/31/2024).

for clarity below we describe straightforward and readily apparent steps we expect to take in evaluating the requirement.

NHTSA anticipates recording and evaluating audio data during the performance of the test scenario including the activation of FCW, and manufacturers may reasonably certify to the suppression requirement by using any of the required test scenarios while audio content subject to the muting requirement is playing (*e.g.,* music). The first opportunity to measure the muted or reduced audio level would be during the period after the first FCW auditory signal pulse and before the start of the second pulse. Sound level would be recorded beginning some time before the onset of FCW and through the end of FCW presentation. Recorded audio data would be analyzed to extract sound level (in dB) values during the FCW pulse and the period between the first and second FCW auditory signal pulse. The sound level between pulses would be analyzed to demonstrate that the sound level had been reduced to the required level of within 5 dB of the average noise level inside the vehicle.

For these reasons, no reconsideration is needed on this issue.

I. FCW Visual Signal

The final rule states that the FCW visual signal must be located within an ellipse that extends 18 degrees vertically and 10 degrees horizontally of the driver forward line of sight based on the forward-looking eye midpoint (Mf) as described in S14.1.5. of FMVSS No. 111. It also requires that the signal include the crash pictorial symbol in SAE J2400 and that the visual signal be red and steady burning.

Both the Alliance and Volkswagen stated that the requirements are insufficient to be objective or for evaluating compliance and requested several revisions to the rule. The Alliance requested that NHTSA issue an SNPRM to propose performance requirements and test procedures.

In response to the petitions, NHTSA has determined that reconsideration is warranted on some of the items and is making changes to the regulatory text to ensure clarity in the requirements. However, comment was sought on these issues in the NPRM, and NHTSA has determined that no additional opportunity for comment is necessary, as explained in section IV. Rulemaking Analyses and Notices.[67] Therefore, NHTSA will not issue an SNPRM, and is finalizing the changes herein.

1. FCW Visual Signal Size

In its petition, the Alliance stated that the FCW visual signal requirements do not define the size of the FCW symbol.

NHTSA is not incorporating a size requirement for the FCW visual signal because there is no need for such a requirement. Not specifying a minimum or maximum FCW visual signal size provides manufacturers some flexibility in how the symbol is implemented for their system.

2. Dimensions of the FCW Visual Signal Location Elliptical Area

Volkswagen requested clarification of the regulatory language regarding the required location of the FCW visual signal. Volkswagen noted that S5.1.1(b)(1) of the regulation states that ''[t]he visual signal must be located within an ellipse that extends 18 degrees vertically . . . of the driver forward line of sight,'' but that it is not clear whether this language means ± 18 degrees or ± 9 degrees from the driver's line of sight.

NHTSA grants reconsideration on this issue and is amending the regulation to provide clarity. The regulatory language was intended to specify an elliptical cone extending ±18 degrees vertically and ±10 degrees horizontally from the driver's line of sight. Therefore, a plus-minus sign will be added.

3. Clarify Whether the FCW Visual Signal Needs To Be Fully Within the Ellipse

Volkswagen stated that the requirements were unclear as to whether the entire FCW visual icon or only a portion of it must be located within the bounds of the elliptical cone.

Reconsideration is justified on this issue. NHTSA intended the regulation to require that the required FCW symbol must be presented fully within the defined elliptical area and is updating the regulatory text to reflect this intent. NHTSA is incorporating the word ''symbol'' after ''visual signal'' in the S5.1.1(b)(1) to clarify that the symbol is what must be located within the specified area. If a manufacturer chooses to provide any additional visual warning components (*e.g.,* illuminating the perimeter of the instrument panel, or surrounding the symbol with an illuminated, color-shaded shape), the additional components are not required to be located within the specified elliptical area.

4. Reference to FMVSS No. 111

The Alliance and Volkswagen stated that S5.1.1(b) of the final rule requires the visual signal to be located in an ellipse formed around the forward-looking eye midpoint of the driver ''as described in S14.1.5 of FMVSS No. 111'' but does not specify the driver seat position and seat back angle or the steering wheel adjustment like FMVSS No. 111 does.

Reconsideration is justified on this issue. Although explicitly stating these details is not essential because to accurately locate the driver eye midpoint ''test reference point'' as defined in FMVSS No. 111 S14.1.5 it is necessary to follow the ''Driver Seat Positioning'' specifications in S14.1.2.5, NHTSA is changing the regulatory text for clarity to refer to S14 of FMVSS No. 111 instead of only S14.1.5. This change incorporates the relevant information from FMVSS No. 111.

J. Cost Estimates

The Alliance argued that the agency did not adequately consider the costs of the requirements, including consideration of the disbenefits that might be induced by the new standard. It requested that NHTSA revise its cost assessment to consider more realistic assessments of the hardware additions and other changes that will be required by the final rule, as well as identify and quantify the disbenefits in terms of increased rear-end collisions and other crashes that will be induced by the final rule, at least for several more years. In its petition, the Alliance argued that the conclusions in the FRIA are not based on the rulemaking record or on the facts in the market and led NHTSA to substantially underestimate the costs of compliance with the new standard. Based on a survey of its members, the Alliance stated that the additional costs to make current systems compliant range from $200 per vehicle on the low end to $4,200 per vehicle on the high end. The Alliance also claimed that NHTSA mischaracterized a meeting NHTSA had with Robert Bosch LLC (Bosch) regarding the percentage of vehicles in the fleet that may need hardware improvements.

Volkswagen stated the cost analysis as reported in the FRIA does not represent the true cost of the final rule. For example, Volkswagen argued, the requirements of the final rule cannot be reasonably met with existing vacuum brake systems, and the PAEB requirements under conditions of darkness may necessitate infrared cameras. It stated that NHTSA did not

[67] Pursuant to 49 CFR 553.37, and in accordance with 5 U.S.C. 553, the Administrator has the discretion to make a final decision or seek further comment when reconsidering a rule.

account for the costs for additional hardware in its analysis.

Agency Analysis

The Alliance and Volkswagen's claims that the final rule did not adequately consider costs in improvements in AEB technology are mistaken. The Alliance's cost estimates are not correct estimates of the cost of compliance with the final rule because they include the cost of including head-up display (HUD) and lidar, neither of which are required to meet the requirements and account for a large portion of that higher estimate.

Additionally, the final rule fully considered the cost concerns raised by petitioners. NHTSA sought and received comment regarding hardware costs. Comments did not indicate the incremental cost associated with additional hardware commenters believed was necessary to achieve the requirements or the percentage of new light vehicles that they believe would require additional hardware. Nevertheless, the cost analysis in the FRIA accounted for a small number of new light vehicles that may need additional hardware for their existing AEB systems, such as an additional camera or radar, by including the incremental cost of adding radar to five percent of new light vehicles.[68] The Alliance disputed the 5 percent figure, noting that the information NHTSA received from Bosch suggests larger improvements are needed, and NHTSA received a letter from Bosch clarifying the figure.[69] NHTSA appreciates Bosch's clarification. However, even if NHTSA accepts for the sake of argument that the incremental cost estimate undercounts that percentage of new light vehicles that need additional improvements in computing power or sensing technologies, NHTSA's analysis fully considered these costs because the FRIA also included a sensitivity analysis.[70] The sensitivity analysis found that even in the case that 50 percent of new light vehicles would need to add radar to their current hardware and all new light vehicles needed a software upgrade, the final rule would remain highly net beneficial. The FRIA also includes a breakeven analysis that estimates the per-vehicle cost at which net benefits would be zero. Therefore, NHTSA's cost and benefits estimates for AEB system hardware and software were sufficient to support the final rule.

NHTSA's analysis also considered comments and the available data regarding whether the final rule would necessitate improvements in vehicles' foundational braking system and found that it would not. The agency found that vehicles subject to the final rule would already be equipped with brakes that give them the braking capabilities to meet the performance requirements specified in the final rule.[71] The FRIA discussed a summary of the braking test results from FMVSS No. 135 testing.[72] In all cases, vehicles covered by the final rule exceed the minimum requirements of the braking standards. The results further indicate that baseline vehicles already have the braking capabilities necessary to meet the minimum requirements for AEB. Additionally, NHTSA believes that the most cost-effective way (lowest cost option) for manufacturers to meet the requirements of FMVSS No. 127 is through tunning and calibration of the AEB systems rather than through increased braking capacity or additional brake hardware such as electro-hydraulic brake actuators. As NHTSA's analysis focuses on the lowest cost option that is estimated to be capable of meeting the final rule and the lowest cost option does not necessitate increased braking capacity, the costs incurred by increasing the foundational braking system were not considered. That being said, the agency provides flexibility in how manufacturers construct their AEB systems to meet the requirements and they may well choose to include brakes with increased capabilities. At any rate, the breakeven and sensitivity analyses demonstrate that even with significant per-vehicle hardware costs beyond those estimated in the FRIA, the final rule would remain cost-beneficial.

Lastly, petitioners simultaneously claim that the final rule is impracticable but also that the requirements can only be met if certain hardware improvements are made. Given that the final rule would be economically practicable even with sizable increases in compliance costs, these statements are contradictory. Indeed, petitioners' claims regarding cost support the notion that the final rule is practicable by acknowledging the availability of technologies that can enable vehicles to meet the requirements.

Therefore, no reconsideration is necessary. NHTSA is denying the petitions for reconsideration regarding NHTSA's cost estimates.

K. Brake Pedal Robot

The final rule specified how the brake pedal force is applied during testing conducted with manual brake application. It left to the manufacturer the discretion to select the braking method that NHTSA will use when NHTSA tests the manufacturer's vehicles.

Volkswagen requested reconsideration of the decision not to provide specifications for the brake pedal robot used in the manual braking tests. It stated that differences in test equipment between the agency's test contractors and the vehicle manufacturer could lead to inconsistencies in performance.

NHTSA received comments on this issue (including from Volkswagen) and responded to them in the final rule. NHTSA clarified that the rule does not require use of a specified braking robot. The final rule specifies the brake pedal force application during testing, leaving it to the manufacturer's discretion to select the braking method for NHTSA's testing of its vehicles. The specification is sufficient to ensure test repeatability, especially given manufacturers' lengthy experience with braking robots in AEB testing. Since the petitioner did not present any new information that would warrant reconsidering the agency's prior conclusion, no reconsideration is necessary, and we are denying the petition for reconsideration regarding the brake pedal robot specifications.

L. Manual Transmission

Glickenhaus petitioned NHTSA to reconsider and amend the standard to only require FCW (*i.e.,* not AEB) for vehicles with manual transmission. Glickenhaus stated that substantial slowing or stopping from highway speeds in a vehicle with a manual transmission will stall the vehicle without manually shifting or engaging the clutch. It stated that sudden unnecessary braking caused by the final rule will cause a vehicle with a manual

[68] One possible result of this assumption is that the cost analysis may in fact overestimate those incremental hardware costs because some vehicle manufacturers may add an additional camera at a lower cost than radar.

[69] Docket No. NHTSA–2023–0021–1077. The letter states that the 5 percent figure ''is a significant misunderstanding and/or mischaracterization of the information provided by Bosch'' and that Bosch was describing only a rough estimate of the share of Bosch-supplied AEB systems in the U.S. market that are mono-camera. Bosch also emphasized, both in the presentation given to NHTSA and in its comments on the NPRM, that certain models may require significant hardware updates such as improved sensors as well as computing power and/or improved brake systems.

[70] The sensitivity analysis in the FRIA for hardware considered the case in which 10, 20, or 50 percent of new light vehicles would need either an additional camera or radar to meet the requirements.

[71] FRIA at 40.

[72] FRIA, Table 267. The Alliance's stated concerns with the relevance of this test data are discussed in Section II.A.1.b ''FMVSS No. 135 Test Data'' of this notice.

transmission to stall, thereby reducing the functionality of the brakes. A stalled vehicle, Glickenhaus stated, can create an unreasonable risk if the vehicle is on the highway and cannot move out of the way. Further, Glickenhaus stated that NHTSA's existing standards have a precedent of differentiating requirements and testing procedures for manual transmissions from those for automatic transmissions where the technology requires. Glickenhaus provided examples of those standards and what it stated are the relevant sections. Additionally, Glickenhaus stated that one FMVSS testing facility it works with confirmed that whenever it runs AEB tests on any vehicle with an automatic transmission,[73] the vehicle always stalls. Glickenhaus also stated that its manual gearbox supplier confirmed that will always be the case, and that this stalling could damage the drivetrain. Glickenhaus further stated that NHTSA recognizes that vehicle stalling, especially when unexpected at highway speeds, is a ''substantial'' hazard. Glickenhaus also stated that drivers using manual transmissions are more likely to be paying closer attention to the road than drivers of vehicles with cruise control, or any level of ''self driving'' vehicle functionality. Glickenhaus's petition stated that requiring only FCW for manual transmissions could increase safety by warning drivers while allowing them to place the vehicle into neutral or press the clutch to avoid stalling while braking.

Agency Analysis

NHTSA is unpersuaded that the technical limitations of AEB with manual transmission vehicles justifies excluding them from the AEB requirement. Our review of the fleet shows that AEB technology already exists for manual transmissions. Therefore, no reconsideration is needed.

There are many light vehicles sold in the US which still offer manual transmission as an option or standard.[74] Several vehicles equipped with manual transmissions, such as the 2024 Honda Civic Type R,[75] 2024 Ford Bronco [76] and 2024 Nissan Z,[77] also come with AEB and PAEB as a standard feature. Due to the wide availability of technology from various suppliers with AEB and manual transmissions, NHTSA is not persuaded that only manual application of the clutch can prevent a stall.

NHTSA is also unpersuaded that drivers of manual transmission vehicles are more engaged such that excluding them from the AEB requirement would be justified. As noted in the final rule, the timing of AEB and PAEB events do not always allow sufficient time for the driver to react and apply the brakes when a FCW is presented, regardless of the level of driver engagement.

Therefore, no reconsideration is necessary. NHTSA is denying the petition for reconsideration regarding requiring only FCW for vehicles with a manual transmission.

M. Small-Volume Manufacturers

The final rule did not alter requirements for small-volume manufacturers but allowed an additional year for compliance for small-volume manufacturers.

Glickenhaus, which produces around 30 vehicles annually subject to the final rule, petitioned for reconsideration of the requirements for small-volume manufacturers, stating that the standard would cause substantial financial hardship. Glickenhaus stated it had contacted Tier 1 suppliers about AEB systems and was informed that the hardware for these systems is typically developed by larger manufacturers, and there is not a baseline set of hardware and software available for Glickenhaus to develop an AEB system for its very low volume vehicles. It noted that developing AEB hardware takes years, and the software calibration requires millions of miles of driving. Glickenhaus claims it cannot produce enough cars and drive them long enough to gather the necessary data to create compliant hardware and software for its very low volume vehicles. Therefore, according to Glickenhaus, unless Tier 1 suppliers develop starting packages for small-volume manufacturers, it would be impossible to develop a rule compliant AEB system within the lead time provided.

Glickenhaus further emphasized the challenges of software development, vehicle testing, and calibration miles, which it considers nearly impossible to achieve within the given timeframe, even with an additional year. It argued out that some manufacturers have spent over 20 years developing and testing AEB systems, and that the costs of developing software and hardware for a driving automation system, including AEB functions, can exceed $ 10 billion annually—figures that the petitioner cannot manage.

Agency Analysis

The agency initially proposed that the requirements would not apply to small-volume manufacturers until one year after the compliance date set for other manufacturers. NHTSA received more than 1,000 comments on the NPRM, including input from sensor developers that indicated that the technologies required to meet the standard are already available.[78] In the final rule, the agency provided additional lead time for all manufacturers and continued to provide small-volume manufacturers an additional year beyond other manufacturers. Given the comments we received and the availability of these systems, we expect that small-volume manufacturers will be able to source rule-compliant AEB systems for their vehicles from existing technologies without incurring undue expenses in research and development.[79]

However, we acknowledge that there could be specific situations in which it may be particularly challenging for small-volume manufacturers to source systems. Without additional technical information regarding why Tier 1 suppliers could not provide AEB systems to the petitioner, we cannot provide further analysis regarding their circumstances. However, if the petitioner believes that the standard will cause substantial financial hardship and it has attempted to comply with the standard in good faith, it may be able to seek a temporary exemption pursuant to 49 U.S.C. 30113 and 49 CFR part 555, subject to a determination that an exemption is consistent with the public interest.

Therefore, no reconsideration is necessary. NHTSA is denying Glickenhaus's petition for reconsideration of the requirements for small-volume manufacturers.

III. Petition for Rulemaking Received by NHTSA and Analysis

A. Include V2X

In addition to the petitions for reconsideration discussed above, NHTSA also received a petition from Autotalks on June 26, 2024. Pursuant to 49 CFR 553.35, petitions for reconsideration must be received ''not later than 45 days after publication of

[73] In its petition, Petitioner may have intended to state ''manual'' instead of ''automatic'' here. Regardless, our response to the petitioned-for request is the same.

[74] *https://www.caranddriver.com/features/g20734564/manual-transmission-cars/* (accessed August 26, 2024); *https://www.caranddriver.com/features/g15379070/manual-transmission-suv/* (accessed August 26, 2024).

[75] *https://automobiles.honda.com/civic-type-r#* (accessed August 26, 2024).

[76] *https://www.ford.com/suvs/bronco/compare-models/?gnav=footer-shop* (accessed August 26, 2024).

[77] *https://www.nissanusa.com/vehicles/sports-cars/nissan-z/specs-trims.html*, accessed August 26, 2024.

[78] 89 FR 39686, 39727.

[79] *Id.* at 39726–27, 39729, 39737.

the rule in the **Federal Register**.'' Additionally, the regulation states that ''[p]etitions filed after that time will be considered as petitions filed under Part 552 of this chapter.'' [80] Part 552 governs petitions for rulemaking. Although Autotalks's petition requested revision of the final rule, given that Autotalks's petition was received by NHTSA more than 45 days after publication of the final rule, NHTSA will treat that petition as a petition for rulemaking.

Pursuant to Part 552, when deciding on a petition for rulemaking the agency conducts a technical review of the petition, which may consist of an analysis of the material submitted, together with information already in possession of the agency. In deciding whether to grant or deny a petition, the agency considers this technical review as well as appropriate factors, which include, among others, allocation of agency resources and agency priorities.

In its petition, Autotalks requests incorporating a V2X transmitter to the lead vehicle and activating it during the lead deceleration test with a 12-meter gap (Table 1 to S7.1). Autotalks argues that this requirement will allow the tested vehicle to use V2X to complement its sensors. Autotalks provides technical information regarding the capabilities and availability of V2X technology.

1. NHTSA's Consideration of the Petition and Decision

NHTSA has conducted an analysis of Autotalks's petition and, after careful consideration, has decided to deny the petition and will not initiate rulemaking proposing to require the installation and use of a V2X transmitter in lead vehicle deceleration AEB testing with 12-meter headway, for the reason stated below.

In November 2023, NHTSA withdrew a proposed rule which had proposed to establish a new FMVSS mandating V2V (vehicle-to-vehicle) communication technology in all new light vehicles.[81] After reviewing comments on the NPRM, NHTSA determined that, although V2V and V2X technologies may improve safety and offer innovative services to consumers, significant analysis would be needed before determining whether a new V2V standard is appropriate, and, if so, what that standard would encompass. NHTSA's position has not changed since then and Autotalks has not provided information to change that position. Therefore, NHTSA will not initiate a rulemaking to require V2X technologies in AEB systems as a result of this petition. As we stated in the November 2023 withdrawal notice, NHTSA will continue to monitor the development of this technology for possible future vehicle safety applications.

2. Conclusion

In accordance with 49 U.S.C. 30162 and 49 CFR part 552, the petition for rulemaking from Autotalks is denied.

IV. Rulemaking Analyses and Notices

This rule is a non-significant rule for purposes of Executive Order (E.O.) 12886, as supplemented by E.O. 13563 and amended by E.O. 14094, and will not impose any significant costs or have impacts beyond those analyzed in the final rule published on May 9, 2024.[82] DOT has determined that the regulatory analyses conducted for the May 9, 2024 final rule remain applicable to this action. DOT makes these statements on the basis that this final rule makes technical or clarifying changes to FMVSS No. 127 as established in the May 9, 2024 final rule. In addition, this final rule is not expected to impact the estimated costs and benefits detailed in the final regulatory impact analysis included in the docket listed in beginning of the final rule published on May 9, 2024.

NHTSA finds it has good cause to make these changes without notice and comment pursuant to the Administrative Procedure Act (APA, 5 U.S.C. 551, *et seq.*). Section 553(b)(B) of the APA provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The May 2024 final rule is the product of an extensive administrative record with opportunity for public comment on the issues discussed in this final rule. The changes in this final rule are made in response to petitions for reconsideration submitted to NHTSA in response to and docketed in the record of the May 2024 final rule in accordance with 49 CFR 553.35 and 49 CFR 553.37.[83] In response to those petitions, NHTSA makes only clarifying changes to the May 2024 final rule to align the regulatory text with the explanatory material in the preamble of that final rule.

Specifically, NHTSA removes the term ''imminent'' from the performance test requirement. This change resolves a point of confusion expressed by petitioners and aligns the regulatory text with the intent of the May 2024 rule as expressed in the preamble by clarifying that the performance test does not evaluate AEB activation timing. NHTSA also amends a test scenario in FMVSS No. 127 highlighted by petitioners that, when tested with very narrow vehicles at the extreme of the tolerances allowed by the test condition, resulted in a stringency beyond that intended by NHTSA. NHTSA makes that amendment to ensure the correct level of stringency. Petitioners also requested clarification of the specifications in FMVSS No. 127 for the FCW visual signal location. NHTSA amends the regulatory text to clarify these specifications. Petitioners also expressed concerns about the clarity and objectivity of the requirements and test conditions in FMVSS No. 127 for the FCW audio signal. NHTSA clarifies these requirements by stating the location of the microphone and additional vehicle conditions under which testing will occur, as well as amending the definitions to simplify the requirement for suppression.

Given the above, NHTSA finds that additional comment on the changes herein made in response to petitions for reconsideration of the May 2024 final rule is unnecessary.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et. seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. NHTSA 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 rule does not meet the criteria in 5 U.S.C. 804(2) to be considered a major rule.

V. Regulatory Text

List of Subjects in 49 CFR Part 571

Motor vehicles, Motor vehicle safety, Rubber and rubber products.

[80] 49 CFR 553.35(a).

[81] 88 FR 80685.

[82] 89 FR 39686.

[83] These regulations grant to the Administrator the authority, consistent with 5 U.S.C. 553b(B), to issue a final decision in response to petitions for reconsideration without further proceedings or with opportunity for further comment as the Administrator deems appropriate.

In consideration of the foregoing, NHTSA is amending 49 CFR part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

■ 2. Section 571.127 is amended by:
■ a. Removing the definition of ''masked threshold'' from S4;
■ b. Revising S5.1.1(a)(3) and (4), S5.1.1(b)(2), S5.1.3. and S8.3.3(g).

The revisions read as follows:

§ 571.127 Standard No. 127; Automatic emergency braking systems for light vehicles.

* * * * *

S5.1.1. * * *

(a) * * *

(3) The auditory signal as measured adjacent to a 50th percentile male driver's right ear (tragion) must have an intensity of 15–30 dB above the average noise level inside the vehicle when measured over a 5-second period under the range of test conditions specified in S6, at 100 km/h, with all vehicle openings closed, and all subject vehicle audio and sound-producing systems or functions that are not necessary for performing tests pursuant to the conditions in S6 and the procedures in S7, S8, S9 of this standard set to off.

(4) In-vehicle audio that is not related to a crash avoidance system warning must be muted, or reduced in volume during presentation of the FCW auditory signal to within 5 dB of the average noise level inside the vehicle (as measured in S5.1.1(a)(3)), for the duration of the first between-pulse period of the FCW auditory signal under the range of test conditions specified in S6, at 100 km/h, with all vehicle openings closed, and all subject vehicle audio and sound-producing systems or functions that are not necessary for performing tests pursuant to the conditions in S6 and the procedures in S7, S8, S9 of this standard set to off.

(b) * * *

(1) The visual signal symbol must be located within an ellipse that extends ±18 degrees vertically and ±10 degrees horizontally of the driver forward line of sight based on the forward-looking eye midpoint (M_f) as described in S14 of 49 CFR 571.111.

* * * * *

S5.1.3. Performance test requirements. The vehicle must provide a forward collision warning and subsequently apply the service brakes automatically such that the subject vehicle does not collide with the lead vehicle when tested using the procedures in S7 under the conditions specified in S6. The forward collision warning is not required if adaptive cruise control is engaged.

* * * * *

S8.3.3. * * *

* * * * *

(g) Two vehicle test devices are secured in stationary positions parallel to the intended travel path. The two vehicle test devices face the same direction as the intended travel path. One vehicle test device is directly behind the other separated by 1.0 ± 0.1 m. The frontmost plane of the vehicle test device furthermost from the subject vehicle is located 1.0 ± 0.1 m from the parallel contact plane (to the subject vehicle's frontmost plane) on the pedestrian test mannequin. The left side of each vehicle test device is no less than 2.2 m to the right of the vertical plane through the intended travel path. The left side of each vehicle test device is no less than 1.15 m to the right of the vertical plane parallel to the plane through the intended travel path tangent to the 0 percent overlap point.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 49 CFR Part 501.

Jack Danielson,

Executive Director.

[FR Doc. 2024–27349 Filed 11–25–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 211217–0261; RTID 0648–XE473]

Reef Fish Resources of the Gulf of Mexico; 2024 Commercial and Recreational Accountability Measure and Closures for Gulf of Mexico Lane Snapper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the lane snapper commercial and recreational sectors in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2024 fishing year through this temporary rule. NMFS projects that the 2024 stock annual catch limit (ACL) for Gulf lane snapper has been reached. Therefore, NMFS closes the commercial and recreational sectors for Gulf lane snapper on November 26, 2024, and they will remain closed through December 31, 2024. These closures are necessary to protect the Gulf lane snapper resource.

DATES: This temporary rule is effective from 12:01 a.m., local time, on November 26, 2024, through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS Southeast Regional Office, 727–824–5305, *Frank.Helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the Gulf reef fish fishery, which includes lane snapper, under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council), approved by the Secretary of Commerce, and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All lane snapper weights discussed in this temporary rule are in round weight.

The current stock ACL for Gulf lane snapper was implemented on October 18, 2024, and is 1,088,873 lb (493,904 kg) (50 CFR 622.41(k)) (89 FR 76438, September 18, 2024). As specified in 50 CFR 622.41(k), if the sum of the commercial and recreational landings reaches or is projected to reach the stock ACL, NMFS will close the commercial and recreational sectors for the remainder of the fishing year. Based on latest landings estimates, which were available in October 2024, NMFS has determined that the stock ACL for Gulf lane snapper has been reached. Accordingly, this temporary rule closes the commercial and recreational sectors for Gulf lane snapper effective at 12:01 a.m., local time, on November 26, 2024, and both sectors will remain closed through the end of the current fishing year on December 31, 2024.

During the commercial and recreational closures, all harvest or possession in or from the Gulf EEZ of lane snapper is prohibited. The prohibition on possession of Gulf lane snapper also applies in Gulf state waters for a vessel issued a valid Federal charter vessel/headboat permit for Gulf reef fish. During the closures, the operator of a vessel with a valid commercial vessel permit for Gulf reef fish having lane snapper on board must

have landed and bartered, traded, or sold such lane snapper prior to 12:01 a.m., local time, on November 26, 2024. The prohibition on the sale or purchase of lane snapper does not apply to fish that were harvested, landed, and sold prior to 12:01 a.m., local time, on November 26, 2024, and were held in cold storage by a dealer or processor.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.41(k), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, 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 opportunity for public comment on this action, as prior notice and public comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulation authorizing this temporary closure, 50 CFR 622.41(k), has already been subject to prior notice and public comment, and all that remains is to notify the public of the closure. Prior notice and opportunity for public comment are contrary to the public interest because there is a need to immediately implement this action to protect the lane snapper stock. Prior notice and opportunity for public comment would require time and allow for additional harvest in excess of the stock ACL.

For the aforementioned reasons, the Assistant Administrator also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: November 21, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–27699 Filed 11–21–24; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 240304–0068; RTID 0648–XD948]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian district (EAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access sector fishery. This action is necessary to prevent exceeding the 2024 total allowable catch (TAC) of Pacific ocean perch in the EAI allocated to vessels participating in the BSAI trawl limited access sector fishery.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), November 21, 2024, through 2400 hours, A.l.t., December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan (FMP) for Groundfish of the BSAI prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the BSAI FMP appear at subpart H of 50 CFR parts 600 and 679.

The 2024 TAC of Pacific ocean perch, in the EAI, allocated to vessels participating in the BSAI trawl limited access sector fishery was established as a directed fishing allowance of 702 metric tons by the final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the EAI by vessels participating in the BSAI trawl limited access sector fishery. While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, 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, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the closure of Pacific ocean perch directed fishery in the EAI for vessels participating in the BSAI trawl limited access sector fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 20, 2024.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: November 21, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–27700 Filed 11–21–24; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 240304–0068]

RTID 0648–XD956

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea Subarea and Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel in the Bering Sea subarea and Eastern Aleutian District (BS/EAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access sector fishery. This action is necessary to prevent exceeding the 2024 total allowable catch (TAC) of Atka mackerel in the BS/EAI allocated to vessels participating in the BSAI trawl limited access sector fishery.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), November 21, 2024, through 2400 hours, A.l.t., December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR parts 600 and 679.

The 2024 TAC of Atka mackerel, in the BS/EAI, allocated to vessels participating in the BSAI trawl limited access sector fishery was established as a directed fishing allowance of 2,787 metric tons by the final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the BS/EAI by vessels participating in the BSAI trawl limited access sector fishery. While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, 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, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Atka mackerel in the BS/EAI for vessels participating in the BSAI trawl limited access sector fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as November 20, 2024.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: November 21, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–27706 Filed 11–21–24; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 228
Tuesday, November 26, 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.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1653

Methodology for Calculating Earnings on Court-Ordered Payments

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Federal Retirement Thrift Investment Board (FRTIB) proposes to change its regulations regarding the methodology used to calculate earnings and losses in connection with court-ordered payments to spouses, former spouses, children, or dependents (*i.e.,* payees) of Thrift Savings Plan (TSP) participants.

DATES: Comments must be received on or before December 26, 2024.

ADDRESSES: You may submit comments using one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Office of General Counsel, Attn: Dharmesh Vashee, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002.

Comments will be made available to the public online at *https://www.regulations.gov.* Do not include any personally identifiable or confidential information that you do not want publicly disclosed. Anonymous comments are acceptable.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Kim Weaver at (202) 465–5220.

For information about how to comment on this proposed rule: Laurissa Stokes at (202) 308–7707.

SUPPLEMENTARY INFORMATION: The FRTIB administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)). The provisions of FERSA that govern the TSP are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79.

Section 8435(c) of FERSA requires the FRTIB to obey certain domestic relations court orders requiring payments from a TSP participant's account to the participant's spouse, former spouse, child, or dependent. A TSP account can be divided by means of a court decree of divorce, annulment, or legal separation; or a court order or court-approved property settlement agreement resulting from such a decree. A court order to divide a TSP account may be issued at any stage of a divorce, annulment, or legal separation proceeding.

Court orders sometimes award the participant's spouse, former spouse, child, or dependent (*i.e.,* the payee) earnings that accrue between the date used to calculate the payee's entitlement and the date payment is made. Currently, when a court order awards earnings, the FRTIB calculates the amount to which the payee is entitled by determining the payee's award amount (*e.g.,* the percentage or fraction of the participant's account awarded by the court) and, based on the participant's investment allocation as of the date used to calculate the payee's entitlement, the number and composition of shares that the payee's award amount would have purchased as of that date. The FRTIB then multiplies the price per share as of the payment date by the calculated number and composition of shares to determine the payee's entitlement.

The FRTIB contracts with Accenture Federal Services to provide, maintain, and operate the technology platforms necessary to deliver retirement plan record keeping services to TSP participants. These services include processing retirement benefits court orders. The FRTIB proposes to update its methodology for calculating court ordered earnings to align with the methodology used by Accenture Federal Services. Accenture Federal Services calculates earnings by using a money-weighted return commonly referred to in the financial industry as the internal rate of return. This methodology considers the influence of cash flows (for example, contributions, withdrawals, loans, and loan payments) on asset allocation, and the resulting effect on investment performance.

Specifically, the FRTIB proposes to calculate earnings by (i) identifying the beginning balance, ending balance, and the cash flows between the two balances over the period of time between the entitlement date and the payment date, (ii) calculating the rate of return that increases (or reduces in the case of a loss) the balance at the beginning of the period, accounting for all cash flows, to equal the balance at the end of the period; and then (iii) multiplying the payee's award amount by the resulting rate of return.

The proposed methodology would ensure that the payee's entitlement consists of an award component and an earnings component that each reflects the percentage or fraction specified in the court order. The award component reflects the percentage or fraction of the participant's account on the entitlement date as specified in the order. The earnings component is based on the rate of return experienced on the participant's account during the period from the entitlement date to the payment date.

Regulatory Flexibility Act

This proposed regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees, members of the uniformed services who participate in the TSP, and beneficiary participants.

Paperwork Reduction Act

This proposed regulation does not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, and 1501–1571, the effects of this regulation on State, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by State, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under 2 U.S.C. 1532 is not required.

List of Subjects in 5 CFR Part 1653

Alimony, Child support, Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB proposes to amend 5 CFR chapter VI as follows:

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

■ 1. The authority citation for part 1653 continues to read as follows:

Authority: 5 U.S.C. 8432d, 8435, 8436(b), 8437(e), 8439(a)(3), 8467, 8474(b)(5) and 8474(c)(1).

■ 2. In § 1653.1, amend paragraph (b) by adding the definition of ''Entitlement date'' in alphabetical order, and revising the definition of ''Payment date'' to read as follows:

§ 1653.1 Definitions.

* * * * *

(b) * * *

* * * * *

Entitlement date means the date determined in accordance with paragraphs (b) and (c) of section 1653.4.

Payment date refers to the date on which a temporary account is established for the payee in the TSP.

* * * * *

■ 3. Amend § 1653.3 by revising paragraph (f)(4)(ii) to read as follows:

§ 1653.3 Processing retirement benefits court orders.

* * * * *

(f) * * *

(4) * * *

(ii) The anticipated payment date;

* * * * *

■ 4. Amend § 1653.4 by revising paragraphs (a), (c), (d)(2), and (f) to read as follows:

§ 1653.4 Calculating entitlements.

(a) For purposes of computing the amount of a payee's entitlement under this section, a participant's TSP account balance will include any loan balance outstanding as of the entitlement date unless the court order provides otherwise.

* * * * *

(c) If the court order awards a percentage of an account but does not contain a specific date as of which to apply that percentage, the TSP record keeper will use the effective date of the court order.

(d) * * *

(1) * * *

(2) The vested account balance on the payment date.

* * * * *

(f) The payee's entitlement will be credited with TSP investment earnings as described:

(1) The entitlement calculated under this section will not be credited with TSP investment earnings unless the court order specifically provides otherwise. The court order may not specify a rate for earnings.

(2) If earnings are awarded, the TSP record keeper will calculate earnings by:

(i) Identifying the beginning balance, ending balance, and the cash flows between the two balances over the period of time between the entitlement date and the payment date;

(ii) Calculating the rate of return that increases (or reduces in the case of a loss) the balance at the beginning of the period, accounting for all cash flows, to equal the balance at the end of the period; and

(iii) Multiplying the payee's award amount by the resulting rate of return.

* * * * *

■ 5. Amend § 1653.5 by revising paragraphs (d) and (h) to read as follows:

§ 1653.5 Payment.

* * * * *

(d) Payment will be made pro rata from the participant's traditional and Roth balances. The distribution from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The payment from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, all payments will be distributed pro rata from all TSP core funds in which the participant's account is invested. All pro rated amounts will be based on the balances in each fund or source of contributions on the payment date. The TSP record keeper will not honor provisions of a court order that require payment to be made from a specific TSP core fund, source of contributions, or balance.

* * * * *

(h) If the payee dies before a payment is disbursed from the TSP, payment will be made to the estate of the payee, unless otherwise specified by the court order. A distribution to the estate of a deceased court order payee will be reported as income to the decedent's estate. If the participant dies before the payment date, the order will be honored so long as it is submitted to the TSP record keeper before the TSP account has been closed.

* * * * *

■ 6. Revise § 1653.14 to read as follows:

§ 1653.14 Calculating entitlements.

A qualifying legal process can only require the payment of a specified dollar amount from the TSP. Payment pursuant to a qualifying legal process will be calculated in accordance with § 1653.4(a), (d), (f) and (g), except that the term ''payment date'' shall mean to the date the payment is disbursed from the TSP.

■ 7. Revise § 1653.15 to read as follows:

§ 1653.15 Payment.

Payment pursuant to a qualifying legal process will be made in accordance with § 1653.5, except the term ''payment date'' shall mean to the date the payment is disbursed from the TSP.

■ 8. Amend § 1653.34 by revising paragraph (d)(4)(ii) to read as follows:

§ 1653.34 Processing Federal tax levies and criminal restitution orders.

* * * * *

(d) * * *

(4) * * *

(ii) The anticipated date of disbursement.

[FR Doc. 2024–27484 Filed 11–25–24; 8:45 am]

BILLING CODE 6760–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 112

[Notice 2024–25]

Contributions Through Untraceable Electronic Payment Methods

AGENCY: Federal Election Commission.

ACTION: Notification of availability of petition for rulemaking.

SUMMARY: The Commission announces its receipt of a Petition for Rulemaking submitted by Ken Paxton, Attorney General of Texas. The Petition asks the Commission to amend its regulations concerning the use of credit cards to make contributions, to address the potential use of prepaid cards to circumvent contribution amount limitations and source prohibitions.

DATES: Comments must be submitted on or before January 27, 2025.

ADDRESSES: All comments must be in writing. Commenters may submit comments electronically via the Commission's website at *https://sers.fec.gov/fosers/,* reference REG 2024–08.

Each commenter must provide, at a minimum, his or her first name, last name, city and state. All properly submitted comments, including

attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's website and in the Commission's Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

FOR FURTHER INFORMATION CONTACT: Robert M. Knop, Assistant General Counsel, or Joanna S. Waldstreicher, Attorney, 1050 First Street NE, Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On October 22, 2024, the Commission received a Petition for Rulemaking (''Petition'') from Ken Paxton, Attorney General of Texas. The Petition asks the Commission to adopt two amendments to its regulations concerning the use of credit cards to make contributions, to address the potential use of prepaid cards to circumvent contribution amount limitations and source prohibitions.

The Federal Election Campaign Act (the ''Act'') limits the total amount a contributor may contribute to any given political committee.[1] The Act and Commission regulations also prohibit certain persons from making contributions at all.[2] The Act and Commission regulations further prohibit any person from making a contribution in the name of another person.[3] In addition, the Act and Commission regulations require political committees to disclose identifying information from each contributor, including name, address, and—in some cases—the contributor's occupation and employer.[4]

The Petition asserts that ''there has been substantial public reporting regarding potentially fraudulent transactions on political committee online platforms. Certain platforms appear to facilitate straw donor transactions, where a contributor disguises his identity by attributing his contribution to another, unaware person.'' [5] The Petition further states that ''prepaid cards are a favorite tool of fraudsters,'' [6] and that ''specific security measures can mitigate this problem,'' such as comparing the identifying information supplied by contributors to the name, address, and other billing information on file with the issuer of the credit card used to make the contribution.[7]

Accordingly, the Petition states that ''new regulations governing electronic payment acceptance and related problems are critical to ensuring the integrity of campaign finance laws.'' [8] The Petition asks the Commission to adopt two amendments to 11 CFR 104.14:

- Amend 104.14(b)(5) to provide that records for contributions made by credit, debit, prepaid, or gift card must include documentation confirming that a cross-check occurred between the contributor's self-reported identifying information with the card issuing institution's own information on the name and billing address of the cardholder.
- Amend 104.14(e) to provide that contributions cannot be accepted from prepaid or gift cards unless the information from those prepaid or gift cards can be cross-checked with the card issuing institution to confirm the name and billing address required under paragraph (b)(5) of this rule.[9]

The Commission seeks comment on the Petition. The public may inspect the Petition on the Commission's website at *http://www.fec.gov/fosers/* (reference REG 2024–08).

The Commission will not consider the Petition's merits until after the comment period closes. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. The Commission will announce any action that it takes in the **Federal Register**.

Dated: November 19, 2024.

On behalf of the Commission,

Sean J. Cooksey,

Chairman, Federal Election Commission.

[FR Doc. 2024–27583 Filed 11–25–24; 8:45 am]

BILLING CODE 6715–01–P

[1] 52 U.S.C. 30116(a); *see also* 11 CFR 110.1, 110.2.

[2] 52 U.S.C. 30118, 30119, 30121; *see also* 11 CFR 110.4, 110.9(a), 110.14(c)(2), 114.2, 115.2, 300.10.

[3] 52 U.S.C. 30122; *see also* 11 CFR 110.4(b).

[4] 52 U.S.C. 30104; 11 CFR 104.3, 104.8.

[5] Petition at 1.

[6] *Id.*

[7] Petition at 3.

[8] Petition at 1.

[9] Petition at 7.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2539; Project Identifier MCAI–2023–00971–E]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Engines

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 Pratt & Whitney Canada Corp. (P&WC) Model PW535E and PW535E1 engines. This proposed AD was prompted by a manufacturer design review that indicated certain flange bolts securing the gas generator case and turbine support case are susceptible to cracking at their current low-cycle fatigue (LCF) life. This proposed AD would require repetitive borescope inspections (BSI) of the gas generator case to turbine support case retaining bolts for evidence of bolt cracks, bolt fracture, missing bolts, or loose bolts and replacement, if necessary, as specified in a Transport Canada AD, which is incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by January 10, 2025.

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–2024–2539; 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 Transport Canada material identified in this proposed AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario, K1A 0N5, Canada; phone: (888) 663–3639; email: *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website: *tc.canada.ca/en/aviation.*

• You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7146; email: *barbara.caufield@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–2024–2539; Project Identifier MCAI–2023–00971–E'' 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 Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2023–60, dated August 14, 2023 (Transport Canada AD CF–2023–60) (also referred to as the MCAI), to correct an unsafe condition for certain P&WC Model PW535E and PW535E1 engines. The MCAI states that data from a design review by the manufacturer identified insufficient LCF life for flange bolts securing the engine gas generator and turbine support case. At certain high-stress circumferential locations, LCF cracks could develop on the flange bolt and lead to fracture of the bolt. To address this potential unsafe condition, the manufacturer published material that provides instructions for repetitive BSIs and replacement of the affected parts. The FAA is proposing this AD to prevent fracture of the gas generator case to turbine support case retaining bolts. The unsafe condition, if not addressed, could result in uncontained engine debris, damage to the engine, and damage to the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–2539.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Transport Canada AD CF–2023–60, which identifies the affected gas generator case to turbine support case retaining bolts and specifies procedures for repetitive BSIs and replacement. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

These products have been approved by the aviation authority of another country and are 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 on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in Transport Canada AD CF–2023–60 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the MCAI.''

Differences Between This Proposed AD and the MCAI

Where the service information referenced in Transport Canada AD CF–2023–60 requires reporting certain information to the manufacturer, this proposed AD would not require such a submission.

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 Transport Canada AD CF–2023–60 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2023–60 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Material required by Transport Canada AD CF–2023–60 for compliance will be available at *regulations.gov* under Docket No. FAA–2024–2539 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,042 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
BSI of gas generator case to turbine support case retaining bolts.	2 work-hours × $85 per hour = $170	$0	$170	$177,140

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. The agency has no way of determining the number of engines that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the gas generator case to turbine support case retaining bolts.	4 work-hours × $85 per hour = $340	$4,500	$4,840

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:

Pratt & Whitney Canada Corp.: Docket No. FAA–2024–2539; Project Identifier MCAI–2023–00971–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 10, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) Model PW535E and P&WC Model PW535E1 engines, as identified in Transport Canada Civil Aviation AD CF–2023–60, dated August 14, 2023 (Transport Canada AD CF–2023–60).

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a manufacturer design review that indicated certain flange bolts securing the gas generator case and turbine support case have an inadequate low-cycle fatigue life. The FAA is issuing this AD to prevent fracture of the gas generator case to turbine support case retaining bolts. The unsafe condition, if not addressed, could result in uncontained engine debris, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, Transport Canada AD CF–2023–60.

(h) Exceptions to Transport Canada AD CF–2023–60

(1) Where Transport Canada AD CF–2023–60 requires compliance from its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph A.1. of Transport Canada AD CF–2023–60 refers to ''discrepancy,'' this AD defines that as ''evidence of bolt cracks, bolt fracture, missing bolts, or loose bolts.''

(3) Where paragraph A.2. in Transport Canada AD CF–2023–60 specifies to ''Repeat the above paragraph A.1. inspection and rectification requirements of this AD at intervals not to exceed 400 engine cycles,'' this AD requires replacing that text with ''Repeat the above paragraph A.1. inspection and rectification requirements of this AD thereafter at intervals not to exceed 400 engine cycles.''

(4) Where paragraph A.1. in Transport Canada AD CF–2023–60 specifies to ''Inspect the bolts P/N MS9696–08 and P/N MS9489–06 within 400 cycles from the effective date of this AD,'' this AD requires replacing that text with ''Inspect affected bolts having P/N MS9696–08 and P/N MS9489–06 within 400 engine cycles from the effective date of this AD.''

(5) Where paragraph A.1. in Transport Canada AD CF–2023–60 specifies to ''rectify any discrepancy in accordance with the

Accomplishment Instructions of the applicable SB,'' this AD requires replacing that text with ''Following inspection, if any bolts are determined to be in an unserviceable condition, before further flight, replace the affected bolts in accordance with the applicable SB.''

(i) No Reporting Requirement

Although the service information referenced in Transport Canada AD CF–2023–60 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

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 the AIR–520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (k) 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.

(k) Additional Information

For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Transport Canada AD CF–2023–60, dated August 14, 2023.

(ii) [Reserved]

(3) For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; phone: (888) 663–3639; email: *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website: *tc.canada.ca/en/aviation.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(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 November 20, 2024.

Peter A. White,

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

[FR Doc. 2024–27659 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2540; Project Identifier AD–2024–00343–E]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Engines.

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 General Electric Company (GE) Model CT7–5A2, CT7–5A3, CT7–7A, CT7–7A1, CT7–9B, CT7–9B1, CT7–9B2, CT7–9C, CT7–9C3, CT7–9D, and CT7–9D2 engines. This proposed AD was prompted by the manufacturer's determination that certain GE Model CT7 fleets have affected cooling plates installed that do not meet lifing guidelines. This proposed AD would require replacement of the stage 1 turbine forward cooling plate and the stage 2 turbine aft cooling plate. 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 January 10, 2025.

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–2024–2540; 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, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Sungmo Cho, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7241; email: *sungmo.d.cho@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 the **ADDRESSES** section. Include ''Docket No. FAA–2024–2540; Project Identifier AD–2024–00343–E'' 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 revise 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 Sungmo Cho, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

In 2004, the manufacturer notified the FAA of the identification of an analytic life shortfall on affected stage 1 turbine forward cooling plates and stage 2 turbine aft cooling plates installed on certain GE CT7 Model engines. As a result, GE published updated service material to remove affected parts at reduced cyclic limits. Based on the results of a 2019 fleet survey, the manufacturer determined that certain fleets still have affected cooling plates installed and in service which are above the recommended removal limits. Specifically, the affected fleet includes GE Model CT7–5A2, CT7–5A3, CT7–7A, CT7–7A1, CT7–9B, CT7–9B1, CT7–9B2, CT7–9C, CT7–9C3, CT7–9D, and CT7–9D2 engines with an installed stage 1 turbine forward cooling plate having part number (P/N) 6064T08P01, or with an installed stage 2 turbine aft cooling plate having P/N 6064T07P05 or P/N 6068T36P01. This condition, if not addressed, could result in the cooling plates failing and lead to uncontained engine failure and damage to the airplane.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require replacement of the stage 1 turbine forward cooling plate having part number (P/N) 6064T08P01 and the stage 2 turbine aft cooling plate having P/N 6064T07P05 or P/N 6068T36P01.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 228 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace stage 1 turbine forward cooling plate and stage 2 turbine aft cooling plate.	8 work-hours × $85 per hour = $680	$88,360	$89,040	$20,301,120

The above costs presume that the installed engine would require replacement of both the stage 1 turbine forward cooling plate and stage 2 turbine aft cooling plate. It is possible that only one of these would need replacement, thus reducing the cost of the proposed AD.

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:

General Electric Company: Docket No. FAA–2024–2540; Project Identifier AD–2024–00343–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 10, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) Model CT7–5A2, CT7–5A3, CT7–7A, CT7–7A1, CT7–9B, CT7–9B1, CT7–9B2, CT7–9C, CT7–9C3, CT7–9D, and CT7–9D2 engines with an installed stage 1 turbine forward cooling plate having part number (P/N) 6064T08P01; or with an installed stage 2 turbine aft cooling plate having P/N 6064T07P05 or P/N 6068T36P01.

(d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine (Turbine/Turboprop).

(e) Unsafe Condition

This AD was prompted by the manufacturer's determination that certain GE Model CT7 fleets have affected cooling plates installed that do not meet lifing guidelines. The FAA is issuing this AD to prevent the failure of the stage 1 turbine forward cooling plate and stage 2 turbine aft cooling plate. The unsafe condition, if not addressed, could result in uncontained engine failure and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within the compliance times specified in paragraphs (g)(1)(i) through (iii) of this AD, replace the affected stage 1 turbine forward cooling plate or stage 2 turbine aft cooling plate, as applicable, with a replacement P/N eligible for installation, in accordance with Table 1 to paragraph (g)(1) of this AD:

(i) For Group 1 engines with an affected part installed, replace the affected part at the next exposure of the gas generator stator assembly that occurs after the effective date of this AD.

(ii) For Group 2 engines with an affected part installed having 7,000 part cycles since new (PCSN) or less as of the effective date of this AD, replace the affected part at the next exposure of the gas generator stator assembly or within 2,000 flight cycles (FCs) but before reaching 7,500 PCSN, whichever occurs first after the effective date of this AD.

(iii) For Group 2 engines with an affected part installed having more than 7,000 PCSN as of the effective date of this AD, replace the affected part at the next exposure of the gas generator stator assembly or within 500 FCs, whichever occurs first after the effective date of this AD.

TABLE 1 TO PARAGRAPH (g)(1): COOLING PLATE REPLACEMENT P/NS

Engine group	Part name	Affected P/N	Replacement P/N
1	Stage 1 turbine forward cooling plate	6064T08P01	6064T08P04
1	Stage 2 turbine aft cooling plate	6064T07P05	6064T07P07
1	Stage 2 turbine aft cooling plate	6068T36P01	6068T36P04
2	Stage 1 turbine forward cooling plate	6064T08P01	6064T08P03 or 6064T08P04
2	Stage 2 turbine aft cooling plate	6064T07P05	6064T07P07
2	Stage 2 turbine aft cooling plate	6068T36P01	6068T36P04

(h) Definitions

For the purpose of this AD:

(1) ''Group 1 engines'' are GE Model CT7–5A2, CT7–5A3, CT7–9B, CT7–9B1, CT7–9B2, CT7–9D, and CT7–9D2 engines.

(2) ''Group 2 engines'' are GE Model CT7–7A, CT7–7A1, CT7–9C, and CT7–9C3 engines.

(3) ''Exposure of the gas generator stator assembly'' is when the gas generator rotor and stator assembly are separated from the combustor module.

(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 the 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 Sungmo Cho, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7241; email: *sungmo.d.cho@faa.gov.*

(k) Material Incorporated by Reference

None.

Issued on November 20, 2024.

Peter A. White,

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

[FR Doc. 2024–27664 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2538; Project Identifier MCAI–2023–01211–E]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2022–24–06, which applies to certain Rolls-Royce Deutschland Ltd & Co KG (RRD) Model BR700–710A1–10, BR700–710A2–20, and BR700–710C4–11 engines. AD 2022–24–06 requires initial and repetitive visual inspections of certain low-pressure compressor (LPC) rotor (fan) disks and replacement of any LPC rotor (fan) disk with cracks detected. AD 2022–24–06 also allows for modification of the engine in accordance with RRD service information as a terminating action to these inspections. Since the FAA issued AD 2022–24–06, the manufacturer published updated service information and revised the engine maintenance manual (EMM) to provide instructions for an improved ultrasonic inspection method, which prompted this AD. This proposed AD would require initial and repetitive visual inspections of certain LPC rotor (fan) disks and replacement of any LPC rotor (fan) disk with cracks detected and would allow modification of the engine as a terminating action to the inspections, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by January 10, 2025.

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–2024–2538; 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 EASA material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District

Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7146; email: *barbara.caufield@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–2024–2538; Project Identifier MCAI–2023–01211–E'' 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 the 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 Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2022–24–06, Amendment 39–22246 (87 FR 73919, December 2, 2022) (AD 2022–24–06), for certain RRD Model BR700–710A1–10, BR700–710A2–20, and BR700–710C4–11 engines. AD 2022–24–06 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2022–0110, dated June 15, 2022 (EASA AD 2022–0110), to correct an unsafe condition identified as cracks on certain LPC rotor (fan) disks.

AD 2022–24–06 requires initial and repetitive visual inspections of certain LPC rotor (fan) disks and replacement of any LPC rotor (fan) disk with cracks detected. The FAA issued AD 2022–24–06 to prevent failure of the LPC rotor fan or blade.

Actions Since AD 2022–24–06 Was Issued

Since the FAA issued AD 2022–24–06, EASA superseded EASA AD 2022–0110 and issued AD 2022–0110R1, dated November 22, 2023 (EASA AD 2022–0110R1) (also referred to as the MCAI). The MCAI states that the manufacturer published updated service information and revised the EMM to provide instructions for an improved ultrasonic inspection method for certain LPC rotor (fan) disks.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–2538.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2022–0110R1, which specifies procedures for initial and repetitive visual inspections of certain LPC rotor (fan) disks, and replacement of any LPC rotor (fan) disk with cracks detected. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

These products have been approved by the aviation authority of another country and are 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 on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the requirements of AD 2022–24–06. This proposed AD would require accomplishing the actions specified in the MCAI described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 586 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect LPC compressor rotor (fan) disk	4 work-hours × $85 per hour = $340	$0	$340	$199,240

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. The agency has no way of determining the number of engines that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace LPC compressor rotor (fan) disk	10 work-hours × $85 per hour = $850	$470,000	$470,850

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 that the 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:

■ a. Removing Airworthiness Directive 2022–24–06, Amendment 39–22246 (87 FR 73919, December 2, 2022); and

■ b. Adding the following new airworthiness directive:

Rolls-Royce Deutschland Ltd & Co KG: Docket No. FAA–2024–2538; Project Identifier MCAI–2023–01211–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 10, 2025.

(b) Affected ADs

This AD replaces AD 2022–24–06, Amendment 39–22246 (87 FR 73919, December 2, 2022) (AD 2022–24–06).

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) Model BR700–710A1–10, BR700–710A2–20, and BR700–710C4–11 engines as identified in European Union Aviation Safety Agency AD 2022–0110R1, dated November 22, 2023 (EASA AD 2022–0110R1).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of cracks on certain low-pressure compressor (LPC) rotor (fan) disks. The FAA is issuing this AD to prevent failure of the LPC rotor fan or blade. The unsafe condition, if not addressed, could result in high energy debris release, damage to the airplane, and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, EASA AD 2022–0110R1.

(h) Exceptions to EASA AD 2022–0110R1

(1) Where EASA AD 2022–0110R1 requires compliance from its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2022–0110R1 requires compliance from ''29 June 2022 [the effective date of the original issue of this AD],'' this AD requires replacing that text with ''January 6, 2023 (the effective date of AD 2022–24–06).''

(3) This AD does not require compliance with paragraph (7) of EASA AD 2022–0110R1. The actions required by paragraph 7 of EASA AD 2022–0110R1 were included in AD 2022–26–02, Amendment 39–22280 (87 FR 78846, December 23, 2022), and for this AD may be used for informational purposes.

(4) This AD does not adopt the ''Remarks'' paragraph of EASA AD 2022–0110R1.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2022–0110R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) 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 (k) 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.

(k) Additional Information

For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2022–0110R1, dated November 22, 2023.

(ii) [Reserved]

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

(4) You may view this material at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this 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 November 20, 2024.

Peter A. White,

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

[FR Doc. 2024–27660 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–2512; Airspace Docket No. 24–AEA–9]

RIN 2120–AA66

Amendment of Domestic Very High Frequency Omnidirectional Range (VOR) Federal Airways V–1, V–29, V–38, V–139, and V–286; Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend domestic Very High Frequency Omnidirectional Range (VOR) Federal Airways V–1, V–29, V–38, V–139, and V–286 in the eastern United States. The FAA is taking this action due to the planned decommissioning of the Salisbury, MD (SBY) VOR/Tactical Air Navigation (VORTAC) and the Snow Hill, MD (SWL), VORTAC. This action is in support of the FAA's VOR Minimum Operational Network (MON) Program.

DATES: Comments must be received on or before January 10, 2025.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2024–2512 and Airspace Docket No. 24–AEA–9 using any of the following methods:

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

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

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

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

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

FAA Order JO 7400.11J, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* You may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Brian Vidis, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; 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 amends the route structure to maintain the efficient flow of air traffic within the National Airspace System (NAS).

Comments Invited

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

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

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

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, GA 30337.

Incorporation by Reference

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. These updates would be published in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

Background

The FAA is planning to decommission the Salisbury, MD (SBY), VORTAC and the Snow Hill, MD (SWL), VORTAC in August 2025. The Salisbury VORTAC and the Snow Hill VORTAC are candidate navigational aids (NAVAID) identified for discontinuance by the FAA's VOR MON program and listed in the Final policy statement notice, ''Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network),'' published in the **Federal Register** of July 26, 2016 (81 FR 48694), Docket No. FAA–2011–1082.

The Air Traffic Service (ATS) routes affected by the planned NAVAID decommissioning are VOR Federal Airways V–1, V–29, V–38, V–139, and V–286. With the planned decommissioning of the Salisbury VORTAC and the Snow Hill VORTAC, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of the affected ATS routes. As such, proposed modifications to V–29 and V–286 would result in the airways being shortened; to V–1 would result in a gap being created; and to V–38 and V–139 would result in the airway being redesigned.

To overcome the proposed modifications to the affected routes, instrument flight rules (IFR) traffic could use adjacent VOR Federal Airways V–38, V–139, V–155, and V–376 or receive air traffic control (ATC) radar vectors to fly through or circumnavigate the affected area. Additionally, IFR pilots with Area Navigation (RNAV)-equipped aircraft could also use the adjacent RNAV Routes T–224, T–291, T–303, T–307, T–315, T–320, and T–335; or navigate point-to-point using the existing fixes that will remain in place to support continued operations through the affected area. Visual flight rules (VFR) pilots who elect to navigate via airways through the affected area could also take advantage of ATC services listed previously.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend domestic VOR Federal Airways V–1, V–29, V–38, V–139, and V–286 to support the planned decommissioning of the Salisbury, MD (SBY) VORTAC and the Snow Hill, MD (SWL), VORTAC. This action is in support of the FAA's VOR MON Program.

V–1: V–1 currently extends between the Craig, FL (CRG), VORTAC and the Boston, MA (BOS), VOR/Distance Measuring Equipment (VOR/DME). The FAA proposes to remove the airway segments between the Norfolk, VA (ORF), VORTAC and the Waterloo, DE (ATR), VOR/DME due to the scheduled decommissioning of the Salisbury, MD (SBY), VORTAC. Additionally, the FAA proposes to add language to the route description that the airway excludes restricted area R–5002F as it is adjacent to VOR Federal Airway V–1 and remove language that the airway excludes restricted area R–4006 as it would no longer be adjacent to VOR Federal Airway V–1.

As amended, the airway would be changed to extend between the Craig VORTAC and the Norfolk VORTAC; and between the Waterloo VOR/DME and the Boston VOR/DME. The portions within R–5002A, R–5002C, R–5002D and R–5002F are excluded during their times of use.

V–29: V–29 currently extends between the Snow Hill, MD (SWL), VORTAC and the Syracuse, NY (SYR), VORTAC. The FAA proposes to remove the airway segments between the Snow Hill VORTAC and the Smyrna, DE (ENO), VORTAC due to the scheduled decommissioning of the Snow Hill VORTAC. As amended, the airway would be changed to extend between the Smyrna VORTAC and the Syracuse VORTAC.

V–38: V–38 currently extends between the Moline, IL (MZV), VOR/DME and the intersection of the Fort Wayne, IN (FWA), VORTAC 091° and the Rosewood, OH (ROD), VORTAC 334° radials (WINES Fix); and between the Appleton, OH (APE), VORTAC and the Cape Charles, VA (CCV), VORTAC. The FAA proposes to remove the Cape Charles VORTAC and replace it with the LNSKY, VA, Fix due to a need for VOR Federal Airway V–38 to connect to the proposed redesigned VOR Federal Airway V–139 in this docket. The LNSKY Fix is defined as the intersection of the Harcum, VA (HCM), VORTAC 100° True (T)/107° Magnetic (M) and the Norfolk, VA (ORF), VORTAC 026°T/033°M radials, and would be charted on VOR Federal Airway V–139. As amended, the airway would be changed to extend between the Moline VOR/DME and the WINES Fix; and between the Appleton VORTAC and the LNSKY Fix.

V–139: V–139 currently extends between the Florence, SC (FLO), VORTAC and the Kennebunk, ME (ENE), VOR/DME. The FAA proposes to remove the Cape Charles, VA (CCV), VORTAC and the Snow Hill, MD (SWL), VORTAC from the route and replace them with a route segment directly between the Norfolk, VA (ORF), VORTAC and the Sea Isle, NJ (SIE), VORTAC due to the scheduled decommissioning of the Snow Hill VORTAC.

The FAA also proposes to add the SUWHT, VA, Fix and the WINAL, NC, Fix to the route between the intersection of the New Bern, NC (EWN), VOR/DME 006° and Norfolk VORTAC 209° radials (PEARS Fix) and the Norfolk VORTAC due to a need to align this portion of the airway to the commonly assigned routing between the PEARS Fix; SUWHT Fix; WINAL Fix; and Norfolk VORTAC. The SUWHT, VA, Fix is defined as the intersection of the Norfolk, VORTAC 209° T/216° M and Elizabeth City, NC (ECG), VOR/DME 243° T/250° M radials; and the WINAL, NC, Fix is defined as the intersection of the Elizabeth City VOR/DME 243° T/250° M and Norfolk VORTAC 194° T/201° M radials.

Additionally, The FAA proposes to add language to the route description that the airway excludes restricted area R–5301, R–5302, R–5303, R–5304, and R–5306 as they are adjacent to VOR Federal Airway V–139; and remove language that the airway excludes restricted area R–5202 as it is not adjacent to VOR Federal Airway V–139. As amended, the airway would continue to extend between the Florence VORTAC and the Kennebunk VOR/DME. The airspace below 2,000 feet mean sea level (MSL) outside the United States, the airspace below 3,000 feet MSL between the Kennedy, NY, 087° and 141° radials, and the airspace within R–5301, R–5302, R–5303, R–5304, R–5306 and R–6604 are excluded.

V–286: V–286 currently extends between the Elkins, WV (EKN), VORTAC and the Cape Charles, VA (CCV), VORTAC. The FAA proposes to remove the airway segment between the Brooke, VA (BRV), VORTAC and the

Cape Charles VORTAC due to the Brooke VORTAC being out of service and unable to provide navigational guidance for this airway segment. As amended, the airway would be changed to extend between the Elkins VORTAC and the Brooke VORTAC.

The full descriptions of the above routes are set forth below in the proposed amendments to part 71. The NAVAID radials listed in the VOR Federal airway description regulatory text of this NPRM are stated in degrees True north. Additionally, minor editorial corrections to the airway descriptions are made to comply with ATS route formatting requirements.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 6010(a). Domestic VOR Federal Airways.

* * * * *

V–1 [Amended]

From Craig, FL; INT Craig 020° and Charleston, SC, 214° radials; Charleston; Grand Strand, SC; INT Grand Strand 031° and Kinston, NC, 214° radials; Kinston; Cofield, NC; to Norfolk, VA. From Waterloo, DE; INT Waterloo 024° and Coyle, NJ, 216° radials; Coyle; INT Coyle 036° and Kennedy, NY, 209° radials; Kennedy; Deer Park, NY; Madison, CT; Hartford, CT; INT Hartford 040° and Boston, MA, 252° radials; to Boston, MA; excluding the airspace below 2,700 feet MSL outside the United States between STARY INT and Charleston, SC. The portions within R–5002A, R–5002C, R–5002D and R–5002F are excluded during their times of use.

* * * * *

V–29 [Amended]

From Smyrna, DE; Dupont, DE; Modena, PA; Pottstown, PA; East Texas, PA; Wilkes-Barre, PA; Binghamton, NY; INT Binghamton 005° and Syracuse, NY, 169° radials; to Syracuse.

* * * * *

V–38 [Amended]

From Moline, IL; INT Moline 082° and Peotone, IL, 281° radials; Peotone; Fort Wayne, IN; to INT Fort Wayne 091° and Rosewood, OH, 334° radials. From Appleton, OH; Zanesville, OH; Parkersburg, WV; Elkins, WV; Gordonsville, VA; Richmond, VA; Harcum, VA; to INT Harcum 100° T/107° M and Norfolk, VA, 026° T/033° M radials.

* * * * *

V–139 [Amended]

From Florence, SC; Wilmington, NC; New Bern, NC; INT of New Bern 006° and Norfolk, VA, 209° radials; INT Norfolk 209° T/216° M and Elizabeth City, NC 243° T/250° M radials; INT Elizabeth City 243° T/250° M and Norfolk 194° T/201° M radials; Norfolk; Sea Isle, NJ; INT Sea Isle 050° and Hampton, NY, 223° radials; Hampton; Providence, RI; INT Providence 079° and Sandy Point, RI, 031° radials; INT Sandy Point 031° and Kennebunk, ME, 180° radials; to Kennebunk. The airspace below 2,000 feet MSL outside the United States, the airspace below 3,000 feet MSL between the Kennedy, NY, 087° and 141° radials, and the airspace within R–5301, R–5302, R–5303, R–5304, R–5306 and R–6604 are excluded.

* * * * *

V–286 [Amended]

From Elkins, WV; Casanova, VA; INT Casanova 142° and Brooke, VA, 300° radials; to Brooke.

* * * * *

Issued in Washington, DC, on November 20, 2024.

Richard Lee Parks,

Manager (A), Rules and Regulations Group.

[FR Doc. 2024–27562 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–2513; Airspace Docket No. 24–ASO–14]

RIN 2120–AA66

Amendment of Domestic Very High Frequency Omnidirectional Range (VOR) Federal Airways V–7, V–35, V–157, V–159, and V–198; Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend domestic Very High Frequency Omnidirectional Range (VOR) Federal Airways V–7, V–35, V–157, V–159, and V–198 in the eastern United States. The FAA is taking this action due to the planned decommissioning of the Cross City, FL (CTY), VOR/Tactical Air Navigation (VORTAC) and the Taylor, FL (TAY), VORTAC. This action is in support of the FAA's VOR Minimum Operational Network (MON) Program.

DATES: Comments must be received on or before January 10, 2025.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2024–2513 and Airspace Docket No. 24–ASO–14 using any of the following methods:

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

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

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Docket: Background documents or comments received may be read at *www.regulations.gov* at any time.

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FOR FURTHER INFORMATION CONTACT: Brian Vidis, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; 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 amends the route structure to maintain the efficient flow of air traffic within the National Airspace System.

Comments Invited

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

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

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

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, GA 30337.

Incorporation by Reference

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. These updates would be published in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

Background

The FAA is planning to decommission the Cross City, FL (CTY), VORTAC and the Taylor, FL (TAY), VORTAC in August 2025. The Cross City VORTAC and the Taylor VORTAC are candidate navigational aids (NAVAID) identified for discontinuance by the FAA's VOR MON program and listed in the Final policy statement notice, ''Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network),'' published in the **Federal Register** of July 26, 2016 (81 FR 48694), Docket No. FAA–2011–1082.

The Air Traffic Service (ATS) routes affected by the planned NAVAID decommissioning are VOR Federal Airways V–7, V–35, V–157, V–159, and V–198. With the planned decommissioning of the Cross City VORTAC and the Taylor VORTAC, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of the affected ATS routes. As such, proposed modifications to V–35 would result in the airway being shortened; to V–7 and V–159 would result in a gap being created; and to V–157 and V–198 would result in the airway being redesigned. Additionally, concurrent changes for removal of the Cross City VORTAC from VOR Federal Airways V–295 and V–521 have been proposed in a separate rulemaking docket.

To overcome the proposed modifications to the affected routes, instrument flight rules (IFR) traffic could use adjacent VOR Federal Airways V–97, V–157, V–198, V–441, V–533, and V–537 or receive air traffic control (ATC) radar vectors to fly through or circumnavigate the affected area. Additionally, IFR pilots with Area Navigation (RNAV)-equipped aircraft could also use the adjacent RNAV Routes T–205, T–210, T–323, T–336, T–341, T–349, and T–489; or navigate point-to-point using the existing fixes that will remain in place to support continued operations though the affected area. Visual flight rules (VFR) pilots who elect to navigate via airways through the affected area could also take advantage of ATC services listed previously.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend domestic VOR Federal Airways V–7, V–35, V–157, V–159, and V–198 to support the planned decommissioning of the Cross City, FL, VORTAC and the Taylor, FL, VORTAC. This action is in support of the FAA's VOR MON Program.

V–7: V–7 currently extends between the Dolphin, FL (DHP), VORTAC and

the Vulcan, AL, (VUZ), VORTAC; and between the Pocket City, IN (PXV), VORTAC and the intersection of the Chicago Heights, IL (CGT), VORTAC 358° and the Badger, WI (BAE), VOR/Distance Measuring Equipment (VOR/DME) 117° radials (PETTY Fix). The FAA proposes to remove the airway segments between the Lakeland, FL (LAL), VORTAC and the Seminole, FL (SZW), VORTAC due to the scheduled decommissioning of the Cross City, FL (CTY), VORTAC. As amended, the airway would be changed to extend between the Dolphin VORTAC and the Lakeland VORTAC; between the Seminole VORTAC and the Vulcan VORTAC; and between the Pocket City VORTAC and the PETTY Fix.

V–35: V–35 currently extends between the Dolphin VORTAC and the Pecan, GA (PZD), VOR/DME; between the intersection of the Dublin, GA (DBN), VORTAC 309° and the Athens, GA (AHN), VOR/DME 195° radials (SINCA Fix) and the Morgantown, WV (MGW), VOR/DME; and between the Philipsburg, PA (PSB), VORTAC and the Stonyfork, PA (SFK), VOR/DME. The FAA proposes to remove the airway segments between the St. Petersburg, FL (PIE), VORTAC and the Greenville, FL (GEF), VORTAC due to the scheduled decommissioning of the Cross City, FL (CTY), VORTAC; and remove the airway segment between the Greenville VORTAC and the Pecan VOR/DME due to the segment being no longer needed as redundant navigation capability is provided by VOR Federal Airway V–159. As amended, the airway would be changed to extend between the Dolphin VORTAC and the St. Petersburg VORTAC; between the SINCA Fix and the Morgantown VOR/DME; and between the Philipsburg VORTAC and the Stonyfork VOR/DME. Concurrent changes to other segments of V–35 have been proposed in a separate rulemaking docket.

V–157: V–16 currently extends between the Key West, FL (EYW), VORTAC and the Waycross, GA (AYS), VORTAC; between the Florence, SC (FLO), VORTAC and the Tar River, NC (TYI), VORTAC; and between the Robbinsville, NJ (RBV), VORTAC and the Albany, NY (ALB), VORTAC. The FAA proposes to remove the airway segments between the Ocala, FL (OCF), VORTAC and the Waycross VORTAC and replace it with the Gators, FL (GNV), VORTAC; the intersection of the Gators VORTAC 343° True (T)/347° Magnetic (M) and the Waycross VORTAC 180°T/180°M radials; Waycross VORTAC due to the scheduled decommissioning of the Taylor, FL (TAY), VORTAC. Additionally, The FAA proposes to extend VOR Federal Airway V–157 to the North between the Waycross VORTAC and the Dublin, GA (DBN), VORTAC due to a need by the Department of Defense for navigation capability between the Ocala, FL, and the Dublin, GA, area. As amended, the airway would be changed to extend between the Key West VORTAC and the Dublin VORTAC; between the Florence VORTAC and the Tar River VORTAC; and between the Robbinsville VORTAC and the Albany VORTAC. Concurrent changes to other segments of V–157 have been proposed in a separate rulemaking docket.

V–159: V–159 currently extends between the Virginia Key, FL (VKZ), VOR/DME and the Vulcan, AL (VUZ), VORTAC; and between the Holly Springs, MS (HLI), VORTAC and the Omaha, IA (OVR), VORTAC. The FAA proposes to remove the airway segments between the Ocala, FL (OCF), VORTAC and the Greenville, FL (GEF), VORTAC due to the scheduled decommissioning of the Cross City, FL (CTY), VORTAC. As amended, the airway would be changed to extend between the Virginia Key VOR/DME and the Ocala VORTAC; between the Greenville VORTAC and the Vulcan VORTAC; and between the Holly Springs VORTAC and the Omaha VORTAC. Concurrent changes to other segments of V–159 have been proposed in a separate rulemaking docket.

V–198: V–198 currently extends between the San Simon, AZ (SSO), VORTAC and the San Antonio, TX (SAT), VORTAC; and between the Sabine Pass, TX (SBI), VOR/DME and the Craig, FL (CRG), VORTAC. The FAA proposes to remove the Taylor, FL (TAY), VORTAC from the route and replace it with the intersection of the Greenville, FL (GEF), VORTAC 092° T/091°M and the Craig VORTAC 287°T/290°M radials due to the scheduled decommissioning of the Taylor VORTAC. The FAA also proposes to remove multiple altitude floor restrictions in the route description of VOR Federal Airway V–198 as they are no longer necessary. As amended the route would continue to extend between the San Simon VORTAC and the San Antonio VORTAC; and between the Sabine Pass VOR/DME and the Craig VORTAC.

The full descriptions of the above routes are set forth below in the proposed amendments to part 71. The NAVAID radials listed in the VOR Federal airway description regulatory text of this NPRM are stated in degrees True north. Additionally, minor editorial corrections to the airway descriptions are made to comply with ATS route formatting requirements.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 6010(a). Domestic VOR Federal Airways.

* * * * *

V–7 [Amended]

From Dolphin, FL; INT Dolphin 299° and Lee County, FL, 120° radials; Lee County; to

Lakeland, FL. From Seminole, FL; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; to Vulcan, AL. From Pocket City, IN; INT Pocket City 016° and Terre Haute, IN, 191° radials; Terre Haute; Boiler, IN; Chicago Heights, IL; to INT Chicago Heights 358° and Badger, WI, 117° radials.

* * * * *

V–35 [Amended]

From Dolphin, FL; INT Dolphin 266° and Cypress, FL, 110° radials; INT Cypress 110° and Lee County, FL, 138° radials; Lee County; INT Lee County 326° and St. Petersburg, FL, 152° radials; to St. Petersburg; From INT Dublin, GA, 309° and Athens, GA, 195° radials; Athens; Electric City, SC; Sugarloaf Mountain, NC; Holston Mountain, TN; Glade Spring, VA; Charleston, WV; INT Charleston 051° and Elkins, WV, 264° radials; Clarksburg, WV; to Morgantown, WV. From Philipsburg, PA; to Stonyfork, PA.

* * * * *

V–157 [Amended]

From Key West, FL; INT Key West 038° and Dolphin, FL, 244° radials; Dolphin; INT Dolphin 331° and La Belle, FL, 113° radials; La Belle; Lakeland, FL; Ocala, FL; Gators, FL; INT Gators 343° T/347° M and Waycross, GA 180° T/180° M radials; Waycross; to Dublin, GA. From Florence, SC; Fayetteville, NC; Kinston, NC; to Tar River, NC. From Robbinsville, NJ; INT Robbinsville 044° and LaGuardia, NY, 213° radials; LaGuardia; INT LaGuardia 032° and Deer Park, NY, 326° radials; INT Deer Park 326° and Kingston, NY, 191° radials; Kingston; to Albany, NY.

* * * * *

V–159 [Amended]

From Virginia Key, FL: INT Virginia Key 344° and Treasure, FL, 178° radials; Treasure; INT Treasure 318° and Orlando, FL, 140° radials; Orlando; to Ocala, FL. From Greenville, FL; Pecan, GA; Eufaula, AL; INT Eufaula 320° and Vulcan, AL 139° radials to Vulcan. From Holly Springs, MS; Gilmore, AR; Walnut Ridge, AR; Dogwood, MO; Springfield, MO; Napoleon, MO; INT Napoleon 005° and St. Joseph, MO, 122° radials; St. Joseph; to Omaha, IA.

* * * * *

V–198 [Amended]

From San Simon, AZ; Columbus, NM; El Paso, TX; 6 miles wide INT El Paso 109° and Hudspeth, TX, 287° radials; 6 miles wide Hudspeth; INT Hudspeth 109° and Fort Stockton, TX, 284° radials; Fort Stockton; Junction, TX; to San Antonio, TX. From Sabine Pass, TX; White Lake, LA; Tibby, LA; Harvey, LA; Brookley, AL; INT Brookley 056° and Crestview, FL, 266° radials; Crestview; Marianna, FL; Seminole, FL; Greenville, FL; INT Greenville 092° T/091° M and Craig, FL, 287° T/290° M radials; to Craig.

* * * * *

Issued in Washington, DC, on November 20, 2024.

Richard Lee Parks,

Manager (A), Rules and Regulations Group.

[FR Doc. 2024–27560 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–13–P

POSTAL SERVICE

39 CFR Parts 111 and 211

Cremated Remains Packaging Requirements

AGENCY: Postal Service™

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to amend Publication 52, *Hazardous, Restricted, and Perishable Mail* (Pub 52) by requiring mailers to solely use the Cremated Remains shipping supplies provided by the Postal Service when mailing human or animal cremated remains, also referred to as cremains or ashes, domestically or internationally.

DATES: Submit comments on or before December 26, 2024.

ADDRESSES: Mail or deliver written comments to the Director, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *PCFederalRegister@usps.gov,* with a subject line of ''Cremated Remains Packaging Requirements.'' Faxed comments will not be accepted.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are generally available for review Monday through Friday, 8 a.m. to 4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy, (202) 268–6592, or Jennifer Cox, (202) 268–2108.

SUPPLEMENTARY INFORMATION: All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

The Postal Service proposes to amend Publication 52, *Hazardous, Restricted, and Perishable Mail* (Pub 52), with the provisions set forth herein. While not codified in title 39 of the Code of Federal Regulations (CFR), Publication 52 is a regulation of the Postal Service, and changes to it may be published in the **Federal Register**. 39 CFR 211.2(a)(2). Moreover, Publication 52 is incorporated by reference into *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) section 601.8.1, which is incorporated by reference, in turn, into the Code of Federal Regulations. 39 CFR 111.1 and 111.3. Publication 52 is publicly available, in a read-only format, via the Postal Explorer® website at *https://pe.usps.com.* In addition, links to Postal Explorer are provided on the landing page of *USPS.com,* the Postal Service's primary customer-facing website, and on *Postal Pro,* an online informational source available to postal customers.

Proposal

The Postal Service will require mailers shipping human or animal cremated remains in any state (*e.g.* ashes, keepsakes and jewelry) to be shipped in the Cremated Remains packaging supplied by the Postal Service. Previously, mailers were permitted to use any box if it was marked with Label 139—*Cremated Remains.*

The Postal Service understands the mailing of cremated remains is a sensitive matter and believes this will improve visibility and enhance handling methods throughout processing and transportation.

Accordingly, for the reasons stated in the preamble, the Postal Service proposes to amend Publication 52 as follows:

Publication 52, Hazardous, Restricted and Perishable Mail

* * * * *

4 Restricted Matter

* * * * *

45 Other Restricted Materials

* * * * *

451.22 Cremated Remains

[Revise section as follows:]

Human or animal cremated remains in any state (*e.g.* ashes, keepsakes and jewelry) are permitted for mailing as follows:

a. Domestic:

1. Must be sent via Priority Mail Express Service.

2. Must be packaged according to 451.3b and Packaging Instruction 10C.

3. Mailers must use one of the special Priority Mail Express cremated remains branded boxes available on *usps.com.*

4. Extra Services permitted with mailpieces containing cremated remains are additional insurance and return receipt only.

5. Shipping labels may be printed and affixed through Click-N-Ship or other USPS-approved methods or at a Post Office location. Mailer generated labels must bear an Intelligent Mail package

barcode (IMpb) with the proper cremated remains Service Type Code (STC) and include the proper Extra Services Code (ESC) in the Shipping Services File (see Publication 199 on PostalPro at *postalpro.usps.com*).

b. International:

1. When permitted by the destination country, cremated remains must be sent via Priority Mail Express International service. Mailers must verify that the destination country accepts Priority Mail Express International and cremated remains before mailing.

2. Mailers must use one of the special Priority Mail Express cremated remains branded boxes available on *usps.com*.

3. The item must be packaged as required in 451.3b and Packaging Instruction 10C.

4. The contents ''cremated remains'' must be indicated on the applicable customs declaration form.

* * * * *

451.3 Packaging and Marking

[Revise item b. as follows:]

b. *Powders and Cremated Remains.* Dry materials that could cause soiling, damage, discomfort or destruction, upon escape (leakage) must be packaged in sift proof or other sealed primary containers and placed into sealed, durable, outer containers.

Appendix C

* * * * *

USPS Packaging Instructions 10C

[Revise opening paragraph as follows:]

Cremated Remains

Human or animal cremated remains in any state (*e.g.* ashes, keepsakes and jewelry) are permitted for mailing with restrictions, provided they are appropriately prepared according to section 451 and the following instructions.

* * * * *

[Revise the following sections as follows:]

Mailability

- *International Mail:* Permitted via Priority Mail Express International Service when permitted by the destination country (see the Individual Country Listings in the IMM).
- *Domestic Mail:* Permitted via Priority Mail Express service only.

Required Packaging

Primary Container

- *International:* A funeral urn is required as the inner container. It must be sealed and sift proof.
- *Domestic:* The inner container must be strong and durable and be constructed in such a manner as to protect and securely contain the contents inside and it must be properly sealed so that it is sift proof.

Note: A sift proof container is any vessel that does not allow loose powder to leak or sift out during transit.

* * * * *

[Revise the following sections as follows:]

Outer Container

All cremated remains mailings must utilize the USPS-produced Cremated Remains outer packaging, found on *usps.com*.

Insert your inner container into a sealed plastic bag, then place in the shipping box and add padding to the bottom, sides, and top to ensure there is no movement of contents during transit.

Note: It is recommended that you attach a slip of paper to the sealed plastic bag with the complete return and delivery addresses and the words ''Cremated Remains'' in the event the mailing label becomes detached from the outer container after acceptance.

Marking

Domestic: A complete return address and delivery address must be used.

International: A complete return address and delivery address must be used. The mailer must indicate the contents (Cremated Remains) on the applicable customs declaration form.

Documentation

International: If available, and when required by the destination post, the cremation certificate should be attached to the outer packaging or made easily accessible. The sender is responsible for obtaining all the necessary documentation and permissions required by the national laws in the country of origin and the country of destination prior to dispatching these items.***

* * * * *

Christopher Doyle,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2024–27537 Filed 11–25–24; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2024–0042; FRL 12249–01–R2]

Air Plan Approval; New York; Knowlton Technologies LLC

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the State of New York's State Implementation Plan (SIP) for the ozone National Ambient Air Quality Standard (NAAQS) related to a Source-specific SIP (SSSIP) revision for Knowlton Technologies LLC, located at 213 Factory Street, Watertown, New York (the Facility). The EPA is proposing to find that the control options in this SSSIP revision implement Reasonably Available Control Technology (RACT) with respect to volatile organic compound (VOC) emissions from the relevant Facility sources, which are identified as two underground storage tanks holding virgin methanol. This SSSIP revision is intended to implement VOC RACT for the relevant Facility sources in accordance with the requirements for implementation of the 2008 and 2015 ozone NAAQS. This proposed action will not interfere with ozone NAAQS requirements and meets all applicable requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before January 10, 2025.

ADDRESSES: Submit your comments, identified by Docket Number EPA–R02–OAR–2024–0042, at *https://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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, such as 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.*

FOR FURTHER INFORMATION CONTACT: Linda Longo, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3565, or by email at *longo.linda@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information on regulatory background and the EPA's technical findings relating to the Facility RACT, the reader can refer to the Technical Support Document (TSD) that is contained in the EPA docket assigned to this **Federal Register** document.

Table of Contents

I. Background

Ground Level Ozone Formation

Ground level ozone is predominantly a secondary air pollutant created by chemical reactions that occur when ozone precursors, including nitrogen oxides (NO_X) and volatile organic compounds (VOC), chemically react in the presence of sunlight.[1] Emissions from industrial facilities are anthropogenic sources of ozone precursors. The potential for ground-level ozone formation tends to be highest during months with warmer temperatures and stagnant air masses. Ozone levels are thus generally higher during the summer months, which is often referred to as ''the ozone season.'' In New York, the ozone season is generally considered to be between April 15 and October 15, while the non-ozone season is generally considered to be between October 16 and April 14.

Ozone Nonattainment

A geographic area of the United States that is not meeting the primary or secondary National Ambient Air Quality Standard (NAAQS) for ozone is described as a nonattainment area. Nonattainment areas are classified as either Marginal, Moderate, Serious, Severe, or Extreme. With respect to this proposed action, there are two relevant ozone NAAQS standards. First, on March 12, 2008, the EPA promulgated a revision to the ozone NAAQS, setting both the primary and secondary standards at 0.075 parts per million (ppm) averaged over an 8-hour time frame (2008 8-hour Ozone Standard). *See* 73 FR 16436 (March 27, 2008). Second, on October 1, 2015, the EPA lowered these standards to 0.070 ppm averaged over an 8-hour time frame (2015 8-hour Ozone Standard). *See* 80 FR 65292 (October 26, 2015).

The State of New York has two ozone nonattainment areas: (1) Jamestown, and (2) the New York Metro Area,[2] consisting of the Bronx County, Kings County, Nassau County, New York County, Queens County, Richmond County, Rockland County, Suffolk County, Westchester County. Under CAA section 184, the State of New York is located within the Ozone Transport Region (OTR), which means that it is subject to statewide RACT requirements. This Facility is not located in an ozone nonattainment area, but it is still required to implement RACT because it is located within the OTR.

Federal RACT Requirements

RACT is defined as the lowest emission limit that a source is capable of meeting through the application of control technology that is reasonably available considering technological and economic feasibility. The CAA section 182, Plan Submissions and Requirements, requires States with ozone nonattainment areas to include in their statewide SIPs, among other things, provisions to require the implementation of RACT. CAA section 184(b)(2) sets forth the requirement to establish control measures to implement RACT for major sources of VOC located in the OTR. The State of New York is located within the OTR, and thus the State is required to implement RACT for all major sources of VOC within the State. RACT for a particular source is determined on a case-by-case basis, considering the technological and economic circumstances of the individual source.

NYSDEC RACT Requirements

The New York State Department of Environmental Conservation (NYSDEC) RACT regulations require applicable facilities to meet certain requirements, referred to as ''presumptive RACT requirements.'' These presumptive requirements generally require sources to implement emission limits, control efficiency requirements, specific control technologies, averaging plans, and/or fuel/raw material switching practices. In some instances, the presumptive RACT requirements may not be technologically or economically feasible for a certain source, and the State can make a Source-specific RACT determination, which is submitted to the EPA as a SSSIP. The SSSIP should include the facility's RACT plan that demonstrates how the facility will implement RACT. The SSSIP will also include the applicable CAA title V operating permit conditions that address RACT requirements. These permit conditions for the Facility will become federally enforceable upon the EPA approval of the SSSIP.

Under existing NYSDEC RACT regulations, facilities are required to assess all technologically feasible control options that meet the State's cost threshold. The cost threshold for NYSDEC RACT requirements is found under NYSDEC 2013 policy, ''DAR–20 Economic and Technical Analysis for Reasonably Available Control Technology (RACT).'' Under this policy, facilities must consider in their RACT determinations control technologies that remove VOC or NO_X emissions up to a certain cost threshold, expressed in a dollar amount per ton of VOC or NO_X removed, which includes an inflation-adjusted economic threshold.[3]

II. The EPA's Evaluation of New York's SSSIP Revision and RACT Analysis

This action relates to a SSSIP revision that concerns a paper manufacturer for specialty papers, automotive filter, and friction papers (the Facility). The sources at issue in this action are the Facility's two 10,000-gallon underground storage tanks (USTs) used to store and supply virgin methanol to the solvent saturator process line as part of the manufacturing process. NYSDEC RACT regulations establish RACT requirements for this source in 6 NYCRR part 212, ''Process Operations,'' subpart 212–3, ''Reasonably Available Control Technology for Major Facilities,'' last approved into New York's SIP by the EPA on October 1, 2021. *See* 87 FR 54375 (October 1, 2021). However, as explained above, the NYSDEC RACT regulations allow Source-specific RACT determinations if the presumptive RACT requirements are not technologically or economically feasible; such Source-specific determinations must be submitted to the EPA as a SSSIP.

[1] *Primary standards* provide public health protection, including protecting the health of ''sensitive'' populations such as asthmatics, children, and the elderly. *Secondary standards* provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

[2] The New York Metro Area is part of the greater nonattainment area New York-N. New Jersey-Long Island, NY-NJ-CT.

[3] The DAR–20 cost threshold is based on 1994 dollars. State of New York relies on the U.S. Department of Labor, Bureau of Labor Statistics inflationary calculator to adjust the RACT economic feasibility threshold over time for inflation. *See https://www.bls.gov/data/inflation_calculator.htm.*

This SSSIP was submitted to EPA by NYSDEC on February 22, 2023, and it replaces and withdraws the SSSIP that was submitted by the State on September 16, 2008. In this SSSIP submittal, the EPA has reviewed the RACT determination for the USTs for consistency with the CAA and the EPA regulations, as interpreted through EPA actions and guidance.

The intended effect of this Source-specific SIP revision is to establish an emission limit for the USTs that are not covered by other New York Source-specific RACT regulations, and therefore must follow 6 NYCRR part 212 as a process operation.[4] The USTs are considered a process operation because they: (1) Store and supply virgin methanol to the solvent saturator process line that is part of the paper manufacturing process; (2) store virgin methanol without changing the material makeup; and (3) are equipped with a vent that emits to the outdoor atmosphere.[5] The tanks therefore meet the definition of process operation because they are part of a manufacturing process in which materials are stored without changing the materials, the storage system is equipped with a vent and is non-mobile, and the tanks emit air contaminants to the outdoor atmosphere.

The EPA is proposing to determine through this SSSIP action that the VOC RACT emission limit submitted by the State in this SSSIP for the USTs is the lowest emission limit with the application of control technology that is reasonably available given technological and economic feasibility considerations. The respective VOC RACT emission limit is contained in the Facility's title V operating permit, 6–2218–00017/00009, under Condition 32, emission unit 1–TANKS, issued by the State on December 27, 2022, and expires on December 26, 2027. Condition 32 is being incorporated into the SIP and includes monitoring, reporting, and recordkeeping requirements for the proposed UST throughput measures further described in EPA RACT Analysis below and in section IV.

[4] Under 6 NYCRR part 212, Definitions (18), ''Process operation.'' Any industrial, institutional, commercial, agricultural, or other activity, operation, manufacture or treatment in which chemical, biological and/or physical properties of the material or materials are changed, or in which the material(s) is conveyed or stored without changing the material(s) if the conveyance or storage system is equipped with a vent(s) and is non-mobile, and that emits air contaminants to the outdoor atmosphere. A process operation does not include an open fire, operation of a combustion installation, or incineration of refuse other than by-products or wastes from a process operation(s).

[5] Found in 6 NYCRR part 212–1.2(b)(18).

The Facility submitted a RACT plan, dated March 2022, for the emission unit and NYSDEC reviewed and approved the emission limit as adequately implementing RACT for the source. NYSDEC then submitted the Source-specific SIP revision package at issue in this action for EPA approval, and the EPA is proposing to approve the respective emission limit as implementing RACT for this source. This would make the emission limit federally enforceable.

EPA RACT Analysis

The following is a summary of the EPA's analysis of how the proposed VOC emission limit implements RACT for emission unit 1–TANKS that represent two 10,000-gallon USTs.

The Facility's two 10,000-gallon USTs store and supply virgin methanol to the solvent saturator process line. As described above, the USTs are characterized as a process operation under 6 NYCRR part 212, ''Process Operations.'' Since the Facility-wide potential to emit (PTE) is greater than 50 tons of VOC per year, the USTs must implement a VOC removal efficiency of at least 81 percent when equipped with capture system and control device found in NYSDEC RACT regulations under 6 NYCRR part 212–3.1(c)(4)(i).[6] The USTs contribute to the Facility's estimated PTE of 0.126 ton (252 pounds) of VOC per year. The filling operation of the methanol to the USTs has an Emission Rate Potential (ERP) of 3.33 pounds per hour (252 pounds/year). The ERP was calculated by the Facility using maximum fill rate of 80 gallons per minute and the maximum time for filling one tank to be filled at 1 hour.[7] When the ERP is greater than 3.00 pounds per hour, under 6 NYCRR subpart 212–3.1(c)(1), the emission source must implement RACT. Furthermore, pursuant to 6 NYCRR part 212–3.1(c)(4)(iii), NYSDEC may ''accept a lesser degree of control'' upon satisfactorily demonstrating RACT as an alternate limit when there is no capture system or control device. The Facility has no capture system or control devices because currently none have been identified that are both technically feasible and cost effective. As a result, a RACT analysis must demonstrate an alternate emission limit to comprise RACT and a RACT variance can be requested pursuant to 6 NYCRR part 212–3.1(c)(4)(iii). Such a RACT variance can be approved if supported by a RACT analysis and submitted to the EPA for review as a SIP revision.

The Facility's RACT analysis demonstrates that no VOC control technologies are technologically and economically feasible other than the control of VOC emissions during filling operations and monitoring the methanol delivery to ensure the operation of the USTs are staying below the throughput limit in permit Condition 32. As stated in permit Condition 32, the Facility must continue to investigate VOC RACT strategies, including an evaluation of the possibility of reformulation, abatement technology and/or process modification, and submit an updated VOC RACT demonstration as part of its title V renewal application. Title V permits are renewed every 5 years.

The USTs generate VOC emissions during filling operations by vapor displacement. Vapor displacement is a normal process that occurs during tank filling when a volume of vapor-laden air (*e.g.,* methanol gases) is displaced that is equal to the volume of liquid (*e.g.,* methanol) that is added to the tank. Vapor displacement occurs so that the pressure in the tank is constant. To control the amount of VOC emissions generated during vapor displacement, a throughput limit can be established through a permit condition. Throughput is the total volume of methanol that is loaded to or dispensed from the USTs. Methanol delivery from the supplier's tanker truck to the USTs, as well as the methanol stored in the USTs that is used by the Facility, are controlled by limiting the throughput. In addition, the two USTs are equipped with one fill port to allow only one tank to be filled at a time which limits the VOC emissions during filling operations.[8]

NYSDEC reviewed the RACT analysis and determined that the alternate emission limit implements RACT for the USTs. Specifically, NYSDEC approved the following case-by-case emission limit and requirements: (1) The VOC emissions are limited by restricting the methanol throughput at the tanks to 2,500,000 pounds/year with a 12-month rolling total; (2) The throughput was

[6] New York RACT regulation 6 NYCRR subpart 212–3.1(a)(2) applies because the Facility is located outside the listed New York counties and has a potential to emit VOC greater than 50 tons per year.

[7] Since emission point TANK 1 includes two USTs and only one UST is filled at a time, the EPA estimates 1 hour fill time per tank. *See,* RACT Plan, Section 1.3, Emission Point Description, Section 3. Baseline Emissions, and Table C1, Baseline Emission Point Parameters Emission Point TANK1.

[8] RACT plan, Appendix B, Section 2. Figure 1 identify the outside of the tanks building where the fill port is located. The fill port is how the methanol is delivered to the tank. Figure 2 identifies the inside of the tanks building and the location of the methanol fill line that has a valve. The tanker truck operator must go inside the tanks building and manually control the valve before directing the methanol to either tank 1 or tank 2, one tank at a time. Deliveries of methanol are monitored to ensure the permitted throughput is not exceeded.

calculated by considering the greatest emissions possible based on operational needs during tank filling to establish the potential to emit at 252 pounds VOC; (3) the Facility must maintain monthly records to verify the throughput in support of a 12-month rolling total; (4) any increase in throughput beyond 2,500,000 pounds/year will require the Facility to submit a VOC RACT demonstration that addresses RACT options at the higher methanol throughput rate.

The EPA is proposing to determine that the proposed limit for the USTs implements RACT because: (1) The RACT analysis demonstrated that no additional control technologies beyond what are currently used at the USTs are technically and economically feasible; (2) the EPA review indicates that no underground storage tanks in the United States store methanol in an underground storage tank that has VOC add-on controls; (3) any increase in throughput beyond 2,500,000 pounds/year will require the Facility to submit a VOC RACT demonstration that implements RACT at the higher methanol throughput rate; and (4) the limit adequately restricts the throughput of the methanol loaded to, or dispensed from, the USTs.

Further detail on this analysis is provided in the TSD available in the docket for this rulemaking.

Summary of RACT Controls.

Currently, the Facility limits the VOC emissions from the USTs by limiting the methanol throughput at 2,500,000 pounds/year. In its RACT analysis, the Facility demonstrated that no cost-effective controls were technically feasible. We are proposing to determine that the following additional technically feasible control options do not need to be implemented because they are not cost effective: (1) Vapor recovery system; (2) recuperative thermal oxidizer; and (3) connecting incinerator piping vents to the USTs.

In order to determine what VOC control technologies could be economically and technologically feasible for the USTs, the EPA reviewed the Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse (RBLC).[9] The EPA's review of the RBLC reveals that no similar UST for methanol storage has VOC controls that are economically feasible, aside from controls that the Facility has already implemented. The EPA's search criteria were based on USTs that store methanol and not solely on the paper manufacturing sector. As such, organic liquid Storage and the chemical manufacturing sectors, including the wood products industry, were included in the RBLC search criteria. Based on the RBLC, the EPA confirms that no new VOC control technologies have become available that could be implemented on the Facility's USTs. Further detail on RBLC results and cost effectiveness is provided in the TSD available in the docket for this rulemaking.

[9] The RBLC contains case-specific information on the best available air pollution technologies that have been required to reduce the emission of air pollutants from stationary sources. *See https://cfpub.epa.gov/rblc/index.cfm?action=Search.BasicSearch&lang=en.*

III. Environmental Justice Considerations

The CAA and applicable implementing regulations neither prohibit nor require an evaluation of environmental justice (EJ) considerations and/or concerns, and so the State of New York did not evaluate EJ concerns as part of its SSSIP submittal. The EPA evaluated EJ concerns for informational purposes only and is providing the following details for transparency about this rulemaking to the public. The EPA did not rely on this information to reach any decisions described in this action. The EPA created a Community Report (Report) using its EJ Screen, Version 2.3. The Report is contained in the EPA docket assigned to this **Federal Register** document.

The Report addresses a 1-mile ring centered at the Facility. All thirteen EJ Screen environmental indexes were considered for the Report: (1) Particulate matter; (2) ozone; (3) nitrogen dioxide; (4) diesel particulate matter; (5) toxic releases to air; (6) traffic proximity; (7) lead paint; (8) superfund proximity; (9) risk management plan (RMP) facility proximity; (10) hazardous waste proximity; (11) underground storage tanks; (12) wastewater discharge; and (13) drinking water noncompliance. Both the EJ Indexes and the Supplemental Indexes were verified using the thirteen environmental indexes. The difference between the EJ and Supplemental indexes is that the EJ Indexes combine data on low income and people of color populations, whereas the Supplemental Indexes combine data on percent low-income, percent persons with disabilities, percent limited English speaking, and low life expectancy. We analyze both EJ Indexes and Supplemental Indexes because they offer different perspectives on community level vulnerability based on different factors. The EPA uses the National percentile for the Report results and not the State percentile since this SSSIP action is a Federal action. The EPA notes that any environmental index result that is 80 percentile or greater is relatively high compared to the United States population. The ''percentile'' is what EJ Screen uses to compare the area of study to national figures.

The Report results in the following National EJ Indexes 80th percentile or greater: Drinking water noncompliance at 89th percentile. The Report indicates the following National Supplemental Indexes 80th percentile or greater: Nitrogen dioxide at 80th percentile; Lead Paint is at 89th percentile; underground storage tank at 83rd percentile; and drinking water noncompliance at 94th percentile.

The Facility is in a Justice40 designated disadvantaged community. January 2021, President Joe Biden issued Executive Order (E.O.) 14008, Tackling the Climate Crisis at Home and Abroad. Section 223 of the E.O. established the Justice40 Initiative which directs 40 percent of certain Federal investments to flow to disadvantaged communities.

To understand the indexes that are at or higher than 80th percentile, and the Justice40 categories that represent Watertown, NY, refer to *Knowlton EJ Screen 80th Percentile* and *Knowlton EJ Screen Community Report Knowlton August 26, 2024* in docket assigned to this **Federal Register** document.

IV. Proposed Action

The EPA is proposing to approve the current Source-specific SIP revision because the limits included in the SSSIP are demonstrated to implement RACT for emission unit 1–TANKS that represent two 10,000-gallon USTs. Based on information provided by NYSDEC, and a thorough RBLC review of similar sources, and an analysis of this Source-specific SIP revision, the EPA proposes to approve the VOC emission limits for emission unit 1–TANKS as implementing RACT.

Specifically, the EPA proposes to approve the following limits and associated requirements as implementing RACT: the Facility must: (1) Limit VOC emissions by restricting the methanol throughput at the tanks to 2,500,000 pounds/year with a 12-month rolling total; (2) maintain monthly records to verify the throughput in support of a 12-month rolling total; (3) upon any increase in throughput beyond 2,500,000 pounds/year, submit a VOC RACT demonstration that implements RACT at the higher methanol throughput rate.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to Knowlton Technologies LLC title V operating permit Condition 32 as described in section II. of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region II Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the 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, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this 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 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards.

In addition, the SIP is not proposing to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and it 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 industrial, governmental, and commercial operations or programs and policies.''

The New York State Department of Environmental Conservation did not evaluate environmental justice considerations as part of its SSSIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an environmental justice analysis, as is described above in the section titled, ''Environmental Justice Considerations.'' The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for communities with EJ concerns.

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting, Recordkeeping requirements, and Volatile organic compound.

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

Lisa Garcia,

Regional Administrator, Region 2.

[FR Doc. 2024–27594 Filed 11–25–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[EPA–HQ–OAR–2021–0863; EPA–R03–OAR–2023–0179; FRL–12161–01–OAR]

Excess Emissions During Periods of Startup, Shutdown, and Malfunction; Partial Withdrawals of Findings of Failure To Submit State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially withdraw two final actions finding that 13 States and/or local air pollution control agencies failed to submit State Implementation Plan (SIP) revisions required by the Clean Air Act (CAA) in a timely manner to address the EPA's 2015 findings of substantial inadequacy and ''SIP calls'' for provisions applying to excess emissions during periods of startup, shutdown, and malfunction (SSM). This proposed action would render no longer applicable certain CAA deadlines for the EPA to impose sanctions if a State does not submit a complete SIP revision addressing the outstanding requirements, and to promulgate a Federal Implementation Plan (FIP). Concurrently, the EPA is also taking direct final action on this withdrawal. *See* the direct final action published in the Rules and Regulations section of this issue of the **Federal Register**. If we receive no significant adverse comment on this proposed action, we will not take further action on this proposed action.

DATES: Written comments must be received by December 26, 2024.

ADDRESSES: You may send comments, identified by Docket ID Nos. EPA–HQ–OAR–2021–0863 and EPA–R03–OAR–2023–0179, 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 Nos. EPA–HQ–OAR–

2021–0863 and EPA–R03–OAR–2023–0179.

- *Fax:* (202) 566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or 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. to 4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: General questions concerning this notice should be addressed to, Sydney Lawrence, Office of Air Quality Planning and Standards, Air Quality Policy Division, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711; by telephone (919) 541–4768; or by email at *lawrence.sydney@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How is the preamble organized?

The information presented in this preamble is organized as follows:

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B. How can I get copies of this document and other related information?

The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2021–0863 (as it pertains to the January 2022 national FFS) and Docket ID No. EPA–R03–OAR–2023–0179 (as it pertains to the April 2023 West Virginia FFS). All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information, Proprietary Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *https://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, EPA Docket Center, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. 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 Office of Air and Radiation Docket is (202) 566–1742.

C. Where do I go if I have specific air agency questions?

For questions related to specific air agencies mentioned in this notice, please contact the appropriate EPA Regional office:

EPA regional office	Air agencies
EPA Region 1: Alison Simcox, Air Quality Branch, EPA Region 1, 5 Post Office Square, Boston, Massachusetts 02109. *simcox.alison@epa.gov*.	Rhode Island.
EPA Region 3: Sean Silverman, Planning and Implementation Branch, EPA Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103. *silverman.sean@epa.gov*.	District of Columbia.
EPA Region 3: Serena Nichols, Planning and Implementation Bracnh, EPA Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103. *nichols.serena@epa.gov*.	West Virginia.
EPA Region 4: Faith Goddard, Air Planning and Implementation Branch, EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303. *goddard.faith@epa.gov*.	Alabama; North Carolina—Forsyth; Tennessee—Shelby (Memphis).
EPA Region 5: Michael Leslie, Air Planning and Maintenance Section, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. *leslie.michael@epa.gov*.	Illinois; Ohio.
EPA Region 6: Michael Feldman, Air Program Branch, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270. *feldman.michael@epa.gov*.	Arkansas.
EPA Region 8: Adam Clark, Air Quality Planning Branch, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202. *clark.adam@epa.gov*.	South Dakota.
EPA Region 9: Eugene Chen, Control Measures Section, Air and Radiation Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. *chen.eugene@epa.gov*.	California—San Joaquin Valley Air Pollution Control District (APCD).
EPA Region 10: Randall Ruddick, Air Planning Section, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. *ruddick.randall@epa.gov*.	Washington—Energy Facility Site Evaluation Council (EFSEC); Washington—Southwest Clean Air Agency (SWCAA).

II. Why is the EPA issuing this proposed rule?

The EPA is issuing both a proposed action and a direct final action to partially withdraw two previously issued Findings of Failure to Submit (FFS) to address EPA's 2015 findings of substantial inadequacy and ''SIP calls'' (''2015 SSM SIP Call'') [1] for provisions applying to excess emissions during periods of SSM that were statutorily due no later than November 22, 2016. The EPA's previously issued FFS determinations were impacted by a court decision issued in March 2024 by the United States Court of Appeals District of Columbia Circuit (D.C. Circuit).[2] The first FFS that is being proposed for partial withdrawal is the January 22, 2022 national FFS issued to 12 States and local air pollution control agencies to respond to the above-referenced SIP call.[3] The second FFS that is being proposed for partial withdrawal is the April 17, 2023 FFS issued to West Virginia for the same

[1] *See* ''*State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction,*'' 80 FR 33840 (June 12, 2015).

[2] *See Environ. Comm. Fl. Elec. Power* v. *EPA,* 94 F.4th 77 (D.C. Cir. 2024).

[3] *See* ''*Findings of Failure To Submit State Implementation Plan Revisions in Response to the 2015 Findings of Substantial Inadequacy and SIP Calls To Amend Provisions Applying To Excess Emissions During Periods of Startup, Shutdown, and Malfunction,*'' 87 FR 1680 (January 12, 2022).

reasons.[4] In total, the 13 States and/or local air agencies that were issued an FFS can be found in Table 1 of Section II of the direct final action.

The EPA is taking direct final action with parallel proposal because we view the partial FFS withdrawals as administrative, noncontroversial, and anticipate no significant adverse comments. The EPA has identified the State and/or local air agency SIP provisions for which the partial FFS withdrawals are applicable to and explained our reasons for the withdrawal in the direct final action. At the same time, the EPA is proposing to make the same partial withdrawals. If no significant adverse comments are received on this proposed action, no further action will be taken on this proposal, and the direct final action will become effective as provided in that action. For further supplementary information and the rationale and consequences of this proposal, *see* the direct final action published in the Rules and Regulations section of this issue of the **Federal Register.**

III. Consequences of Withdrawn Portions of Findings of Failure To Submit and Remaining Air Agency Obligations

As further discussed in the direct final action, because certain SIP calls were vacated by the D.C. Circuit, the States and/or local air agencies with provisions to which those SIP calls previously applied no longer have an obligation to submit the revisions that the EPA had originally determined pursuant to the 2015 SSM SIP Call. As there is no longer a predicate submission obligation for those particular SIP-called provisions, the EPA's findings that such obligation were not met are no longer valid and must be withdrawn. The SIP provisions for which the EPA is proposing to withdraw the Agency's FFS can be found in Table 3 of Section III of the direct final action.

For those State and/or local jurisdiction SIP provisions listed in Table 3 of Section III of the direct final action for which the FFS are withdrawn, the CAA deadlines for the EPA to impose sanctions under CAA sections 179(a) and (b) and promulgate a FIP under CAA section 110(c) are no longer applicable. For those State and/or local jurisdiction SIP provisions in which the FFS are not withdrawn and are still applicable, the CAA deadlines for the EPA to impose sanctions under CAA sections 179(a) and (b) and promulgate a FIP under section 110(c) remain in effect as previously established.[5] [6] The States and/or local air agencies for which the FFS are not withdrawn and mandatory CAA deadlines remain in effect can be found in Table 4 Section IV of the direct final action.

IV. Statutory and Executive Order Reviews

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

For a complete discussion of the administrative requirements applicable to this action, see the direct final action published in the Rules and Regulations section of this issue of the **Federal Register.**

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedures, Air pollution control, Approval and promulgation of implementation plans, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

Joseph Goffman,

Assistant Administrator.

[FR Doc. 2024–27262 Filed 11–25–24; 8:45 am]

BILLING CODE 6560–50–P

[4] *See* ''*West Virginia; Finding of Failure To Submit State Implementation Plan Revision in Response to the 2015 Findings of Substantial Inadequacy and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction,*'' 88 FR 23353 (April 17, 2023).

[5] *See* 87 FR 1680, 1682.

[6] *See* 88 FR 88 FR 23353, 23354–23355.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2024–0132; FXES1111090FEDR–256–FF09E21000]

RIN 1018–BH72

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Rusty Patched Bumble Bee

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for the rusty patched bumble bee (*Bombus affinis*), a bumble bee historically known to occur broadly across the eastern United States and portions of Canada, under the Endangered Species Act of 1973, as amended (Act). In total, we are proposing the designation of approximately 1,635,746 acres (661,963 hectares) of occupied critical habitat in 14 units across 33 counties in 6 States. We also announce the availability of an economic analysis of the proposed designation of critical habitat for the rusty patched bumble bee.

DATES: We will accept comments received or postmarked on or before January 27, 2025. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by January 10, 2025.

ADDRESSES: *Written comments:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

https://www.regulations.gov. In the Search box, enter FWS–R3–ES–2024–0132, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.'' Comments submitted electronically using the Federal eRulemaking Portal must be received by 11:59 p.m. eastern time on the closing date.

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R3–ES–2024–0132, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: Supporting materials, such as the species status assessment report, are available on the Service's website at *https://www.fws.gov/species/rusty-patched-bumble-bee-bombus-affinis* or at *https://www.regulations.gov* at Docket No. FWS–R3–ES–2024–0132. If we finalize the critical habitat designation, we will make the coordinates or plot points or both from which the maps are generated available at*https://www.regulations.gov*at Docket No. FWS–R3–ES–2024–0132 and on the Service's website at*https://www.fws.gov/species/rusty-patched-bumble-bee-bombus-affinis.*

FOR FURTHER INFORMATION CONTACT: Betsy Galbraith, Acting Field Supervisor, U.S. Fish and Wildlife Service, Minnesota-Wisconsin Ecological Services Field Office, 3815 American Blvd. East, Bloomington, MN 55425–1665; telephone 952–858–0793. 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. Please see Docket No. FWS–R3–ES–2024–0132 on *https://www.regulations.gov* for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act (16 U.S.C. 1531 *et seq.*), when we determine that any species warrants listing as an endangered or threatened species, we are required to designate critical habitat, to the maximum extent prudent and determinable. Designations of critical habitat can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. We propose to designate critical habitat for the endangered rusty patched bumble bee.

The basis for our action. Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary), to the maximum extent prudent and determinable, to designate critical habitat concurrent with listing. 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 protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) Specific information on:

(a) The amount and distribution of rusty patched bumble bee habitat;

(b) Any additional areas occurring within the range of the species that should be included in the designation because they (i) are occupied at the time of listing and contain the physical or biological features that are essential to the conservation of the species and that may require special management considerations or protection, or (ii) are unoccupied at the time of listing and are essential for the conservation of the species; and

(c) Special management considerations or protection that may be needed in the critical habitat areas we are proposing, including managing for the potential effects of climate change.

(2) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(3) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation, and the related benefits of including or excluding specific areas.

(4) Information on the extent to which the description of probable economic impacts in the economic analysis is a reasonable estimate of the likely economic impacts and any additional information regarding probable economic impacts that we should consider.

(5) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act. If you think we should exclude any areas, please provide information supporting a benefit of exclusion.

(6) Information on areas owned by the Department of Defense that overlap with the proposed designation.

(7) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a designation. Section 4(b)(2) of the Act directs that the Secretary shall designate critical habitat on the basis of the best scientific data available.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *https://www.regulations.gov.*

Our final designation may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. Our final designation may not include all areas proposed, may include some additional areas that meet the definition of critical habitat, or may exclude some areas if we find the benefits of exclusion outweigh the benefits of inclusion and exclusion will not result in the extinction of the species. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION**

CONTACT. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the **Federal Register**. The use of virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

Previous Federal Actions

Please refer to the proposed listing rule for the rusty patched bumble bee (81 FR 65324, September 22, 2016) for a detailed description of previous Federal actions concerning this species. On January 11, 2017, we published in the **Federal Register** (82 FR 3186) a final rule listing the rusty patched bumble bee as an endangered species. The rule became effective on March 21, 2017 (see 82 FR 10285, February 10, 2017). On September 1, 2020, we published a determination in the **Federal Register** (85 FR 54281) that designating critical habitat for the rusty patched bumble bee was not prudent.

On March 24, 2021, the Natural Resources Defense Council, Center for Biological Diversity, and Friends of Minnesota Scientific and Natural Areas filed a complaint challenging the Service's critical habitat prudency determination for the rusty patched bumble bee. On August 11, 2023, a court order vacated and remanded the Service's prudency determination. On February 8, 2024, the Service and plaintiffs reached a stipulated settlement agreement whereby the Service agreed to submit to the **Federal Register** either a proposed critical habitat rule or a determination that designation of critical habitat for the species is not prudent no later than November 20, 2024. This document addresses the court's opinion in compliance with the February 8, 2024, stipulated settlement agreement.

Peer Review

A species status assessment (SSA) team prepared an SSA report for the rusty patched bumble bee. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), we solicited independent scientific review of the information contained in the rusty patched bumble bee SSA report. The SSA report underwent review by 15 scientists with expertise in bumble bee biology, habitat management, and stressors (factors negatively affecting the species). Results of this structured peer review process can be found in the docket for this proposed rule on *https://www.regulations.gov.* We incorporated the results of these reviews, as appropriate, into the SSA report (Service 2016, entire). Additionally, we will solicit peer review for this proposed critical habitat designation during this public comment period. These comments will be available along with other public comments in the docket for this proposed rule on *https://www.regulations.gov.*

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that each Federal action agency ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Rather, designation requires that, where a landowner requests Federal agency funding or authorization for an action that may affect an area designated as critical habitat, the Federal agency consult with the Service under section 7(a)(2) of the Act. If the action may affect the listed species itself (such as for occupied critical habitat), the Federal agency would have already been required to consult with the Service even absent the designation because of the requirement to ensure that the action is not likely to jeopardize the continued existence of the listed species. Even if the Service were to conclude after consultation that the proposed activity is likely to result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement ''reasonable and prudent alternatives'' to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific data available, those physical or biological features that are essential to the conservation of the species (such as

space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information compiled in the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 of the Act. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of the species. Similarly, critical habitat designations made on the basis of the best scientific data available at the time of designation will not control the direction and substance of future revised recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of those planning efforts calls for a different outcome.

Physical or Biological Features Essential to 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. The regulations at 50 CFR 424.02 define ''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. For example, physical features essential to the conservation of the species might include gravel of a particular size required for spawning, alkaline soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or absence of a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic essential to support the life history of the species.

In considering whether features are essential to the conservation of the species, we may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

Species Needs

Overwintering

Little is known about the overwintering habitats of rusty patched bumble bee queens, but based primarily on observations of other species, we assume that rusty patched bumble bee queens overwinter in upland closed-canopy forest interior. Forest interiors are large blocks of unfragmented forest with continuous canopy that shows no detectable edge influences (Harper et al. 2005, p. 771). Most overwintering *Bombus* queens reported in the literature in North America were underground, and most were in shaded areas near trees and in banks without dense vegetation (Liczner and Colla 2019, p. 787). The only documented overwintering rusty patched bumble bee queen, discovered in a hemlock grove within a larger maple oak-forest (about 0.3 mile (mi) (0.5 kilometer (km)) into the forest) in Wisconsin in 2016, was found on a level area near the bottom of a north-facing slope under a few centimeters of leaf litter and loose soil (B. Herrick, University of Wisconsin-Madison Landscape Arboretum, 2016 and 2024, pers. comm.). Other species of the *Bombus* genus typically form a chamber in loose, soft soil, a few centimeters deep in bare earth, in moss, under tree litter, or in bare patches within short grass, and they may avoid areas with dense vegetation (Alford 1969, p. 156; Liczner and Colla 2019, p. 792). Overwintering habitat preferences may be species-specific and dependent on factors such as slope orientation and

timing of emergence. Most queens in England were found in well-drained soil that was shaded from direct sunlight in banks or under trees and was free from living ground vegetation (Alford 1969, pp. 150–152). For underground sites, soil type is often described as sandy and well-drained (Alford 1969, p. 169), which suggests that maintaining a consistently low moisture level is important (Sladen 1912, pp. 94–101). Because soil temperature influences diapause duration and emergence (Alford 1969, pp. 161–168; Beekman et al. 1998, p. 207), it has been hypothesized that the apparent preference for north-facing slopes and shaded areas is to prevent the overwintering queens from emerging too early on relatively warm days in the winter or early spring (Alford 1969, pp. 149–169), and more generally, it could suggest selection of sites that buffer hibernating bees from both temperature and moisture fluctuations (Williams et al. 2019, pp. 1–3).

Nesting

Rusty patched bumble bee nests are typically 1 to 4 feet underground in abandoned rodent nests, other mammal burrows, or other underground cavities with ample cover, and occasionally at the soil surface or in aboveground structures (Plath 1922 pp. 190–191, Macfarlane 1974, p. 5; Macfarlane 1994, pp. 5–6). Among the 43 rusty patched bumble bee nests studied in Ontario, 95 percent were underground (Macfarlane 1974, p. 5). Most recent rusty patched bumble bee nest observations were associated with rodent burrows (Boone et al. 2022, p. 381; Smith et al. in review), as were recently discovered nests of a closely related species, the western bumble bee (*B. occidentalis*) (Everett et al. in process, entire), which is in the same subgenus as rusty patched bumble bee. Three western bumble bee nests excavated in 2022 and 2023 in central Oregon were located in abandoned rodent burrows with soils classified as loamy sand, with an average of 84 percent sand particles (Everett et al. in process, entire). The transition zone between forest and grassland, as well as field boundaries, meadow margins, and forest edges, can be particularly valuable bumble bee nesting habitat due to the presence of abandoned rodent nests and undisturbed habitat with diverse floral resources (Hines and Hendrix 2005, p. 1483). Forest edge is the interface between forested and non-forested habitats that extends approximately 30 meters into the forest (Harper et al. 2005, pp. 771, 774).

Foraging

Bumble bees are generalist foragers that collect nectar and pollen from a wide diversity of plants (Xerces 2013, pp. 27–28). The rusty patched bumble bee is one of the first bumble bee species to emerge early in the spring and last to go into hibernation in the fall. To meet its nutritional needs, the species requires a constant and diverse supply of flowers that bloom throughout the colony's flight period from spring through the fall (MacFarlane et al. 1994, p. 5). The nectar from flowers provides carbohydrates and the pollen provides protein, fatty acids, and micronutrients for the species (Di Pasquale et al. 2013, p. 4; Lau et al. 2022, pp. 6–8). The number of new queens that a colony can produce is directly related to the amount of pollen that is available (Burns 2004, p. 150).

Based on other *Bombus* species, which typically exhibit foraging distances of less than 0.6 mi (1 km) from their nesting sites (Knight et al. 2005, p. 1816; Wolf and Moritz 2008, p. 422; Dramstad 1996, pp. 163–182; Osborne et al. 1999, pp. 524–526; Rao and Strange 2012, pp. 909–911), the rusty patched bumble bee may need floral resources in close proximity to its nest, although studies have not confirmed this to date. The rusty patched bumble bee may also be dependent on forest spring ephemeral flowers because of the species' early emergence in the spring and its association with forests and near forested habitats (Colla and Dumesh 2010, pp. 45–46, 48).

Readily available access to high-quality foraging habitats near nests allows other bumble bee species' workers to maintain short foraging distances (Crowther et al. 2019, p. 994). Detection probabilities of all bumble bee species, including rusty patched bumble bees, studied in Wisconsin by Nunes et al. (2024, p. 221), increased with floral abundance. Furthermore, colonies with low floral abundance around their nests may produce few workers, and males may fail to produce any new queens (Pelletier and McNeil 2003, pp. 691–692; Burns 2004, pp. 149, 155–156; Samuelson et al. 2018, pp. 57; Timberlake et al. 2021, p. 1013). Workers of other bumble bee species can forage 0.6 mi (1 km) or more from nests but may predominantly forage within a few hundred meters (Dramstad 1996, pp. 170–175; Osborne et al. 1999, pp. 524–526, 529; Wolf and Moritz 2008, p. 422; Rao and Strange 2012, p. 911). A paucity of spring floral resources contributed to high pathogen loads in one bumble bee species studied in Pennsylvania and may exacerbate the threat posed by disease transmission from honeybee apiaries (McNeil et al. 2020, p. 3).

The availability of floral resources is dependent on the proper soil and precipitation conditions to sustain them. Extended periods of drought, for instance, may lessen the availability and diversity of flowering plants in a given area because plant phenology is primarily driven by temperature, precipitation, and the timing of snowmelt in the spring (Inouye and Wielgolaski 2003, p. 207; Wielgolaski and Inouye 2003, pp. 179–181; Pyke et al. 2016, p. 12).

Dispersal Habitat

Based on studies of a closely related species, the buff-tailed bumblebee (*Bombus terrestris*) (Kraus et al. 2009, p. 249; Lepais et al. 2010, pp. 826–827; Jha and Kremen 2013, p. 2492), the maximum dispersal distance of rusty patched bumble bee males and new queens is estimated to be up to 10 km to find mates in the autumn.

Summary of Essential Physical or Biological Features

We derive the specific physical or biological features essential to the conservation of the rusty patched bumble bee from studies of the species' habitat, ecology, and life history as described above. Additional information can be found in the SSA report (Service 2016, entire; available on *https://www.regulations.gov* under Docket No. FWS–R3–ES–2015–0112–0245). We have determined that the following physical or biological features are essential to the conservation of the rusty patched bumble bee:

(1) For overwintering, upland forest interior habitat containing leaf litter and without dense understory vegetation.

(2) For nesting, upland forest edge interface between forested and non-forested natural habitats that extends approximately 30 meters into the forest.

(3) For nesting, abandoned rodent burrows, other mammal burrows, existing cavities with ample cover, or similar existing cavities at the soil surface or below to 4 feet underground.

(4) For nesting and overwintering, well-drained, loose soils sheltered from the elements.

(5) For foraging, diverse, abundant, native floral resources for the entire active flight season.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain

features which are essential to the conservation of the species and which may require special management considerations or protection. The features essential to the conservation of this species may require special management considerations or protection to reduce stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), actions that increase competition for floral resources (*e.g.,* use of managed bees), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses. The physical or biological features for the rusty patched bumble bee may require special management considerations or protection to address these threats.

Management activities that could ameliorate these threats include, but are not limited to: management techniques to enhance floral resources or reduce invasive plants or both, such as planting or seeding to increase the abundance and diversity of native wildflowers, removing and controlling invasive plants, using prescribed fire, and mowing; reduced or ceased use of rodenticides; use of best management practices for managed bees to reduce or eliminate competition for resources; and use of forestry best management practices to enhance early spring foraging resources (*e.g.,* spring ephemerals, native flowering trees) and to reduce ground disturbance in forested areas during the overwintering season.

These management activities would protect the physical or biological features for the species by maintaining and increasing nectar and pollen resources, maintaining or increasing the availability of suitable nesting habitat and potential nesting sites (*e.g.,* rodent burrows), and maintaining or increasing the availability of suitable overwintering habitat for the species.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. In general, habitat is not limiting for the rusty patched bumble bees. However, there are no areas outside the areas identified as proposed critical habitat that would facilitate the recovery of the species. We are not currently proposing to designate any areas outside the geographical area occupied by the species because we have not identified any unoccupied areas that meet the Act's definition of critical habitat. There are no unoccupied areas that are essential for the conservation of the rusty patched bumble bee. We identified no unoccupied areas that are free from potential interactions with managed bees or large-scale agricultural lands. There are many unoccupied areas that may contain suitable habitat for the rusty patched bumble bee; however, we did not identify any specific unoccupied areas that are essential for the conservation of the species. Areas that contain unoccupied suitable habitat can be considered in our recovery efforts with or without a critical habitat designation.

Sources of data for the rusty patched bumble bee and its habitat needs include research published in peer-reviewed articles on the species and related species, agency reports, communication with species experts, the 2021 rusty patched bumble bee recovery plan (Service 2021, entire), data submitted from 10(a)(1)(A) scientific recovery permit holders and public participation websites (*e.g., https://www.inaturalist.org/*), and the Service's published ''High Potential Zones'' and potential dispersal area data for rusty patched bumble bee (available from ArcGIS online at *https://www.arcgis.com/home/item.html?id=15b68d967aab4737981d172e8e25f78f,* accessed June 9, 2024).

After identifying areas that contain the physical or biological features essential to the conservation of the species, we then identified overlapping areas that likely have multiple colonies interacting with each other. A minimum of 50 verified rusty patched bumble bee observations since 2007 within estimated foraging and dispersal distances of one another likely represents multiple, interacting colonies existing over time, rather than single observations of a single individual (most observations are of female workers; however, some are males or queens). Clustered, interacting colonies foster gene flow among them, thereby helping to facilitate genetic health. Maintaining gene flow among colonies is especially important in species like the rusty patched bumble bee because of genetic characteristics that can produce inviable or sterile males (that is, single locus complementary sex determination), which may lead to rapid extirpation, especially as colonies become small and isolated (Zayed and Packer 2005, p. 10744; Zayed 2009, entire).

We used the High Potential Zone (HPZ) model developed at the time of listing to determine areas with the highest potential for the species to be present and for which observation points were within likely foraging or dispersal distances from each other. This model uses ArcGIS software that considers the likelihood of rusty patched bumble bee movement based on the National Land Cover Database (NLCD, *https://www.usgs.gov/centers/eros/science/national-land-cover-database*). This model assesses the likelihood of rusty patched bumble bee distribution from the locations of known records based on the manner in which various land cover types may affect bumble bee movement and behavior. Land cover types are grouped as having strong, moderate, weak, or no limits on the species' movement based on the best available information for this species or similar bumble bee species. This methodology was based on a similar model created to examine movement of the yellow-faced bumble bee (*Bombus vosnesenskii*) (Jha and Kremen 2013, entire). The polygons generated from the HPZ model suggest areas with the highest potential for the species to be present, based on typical bumble bee foraging distances, estimated dispersal distances, and the ability of bumble bees to move through various land cover types, but the model does not attempt to identify or quantify suitable habitat for the species (for more details, see *https://www.fws.gov/media/high-potential-zone-model-rusty-patched-bumble-bee*).

After identifying areas that likely have multiple interacting colonies and are within a contiguous HPZ, we then identified areas that are genetically distinct. Analyses of rangewide genetic data collected from extant records show that rusty patched bumble bees in the Appalachian region of West Virginia and Virginia represent a genetically distinct population cluster with substantial differentiation from the rest of the extant range (Mola et al. 2024, p. 8).

Finally, we included areas free from the impacts of pesticides and managed bees. Prior to its listing as endangered in 2017, the species experienced a widespread and steep decline. The exact cause of the decline is unknown, but evidence suggests a synergistic interaction between an introduced pathogen and exposure to pesticides (specifically, insecticides and fungicides; Service 2016, p. 53). Pathogens can be introduced to rusty patched bumble bees through managed bees. Generally, the term ''managed bees'' is defined as hives or colonies of bees that are used commercially to provide pollination services for a wide variety of crops over the growing season, with some hives or colonies moved within and among States multiple times throughout any one growing season. We, therefore, include only areas that are at least 0.6 mi (1 km) away from large-scale and intensive agricultural areas that rely on pesticides, or use a variety of managed bees for pollination, or both. This distance is used to buffer areas from the potential impacts of managed bees and pesticides that may be used in large-scale agriculture.

In summary, for areas within the geographical area occupied by the species at the time of listing, we delineated critical habitat unit boundaries using the following criteria:

(1) Areas within a contiguous high potential zone (HPZ) with 50 or more positive observations since 2007.

(2) Areas that include any known genetically distinct populations.

(3) Areas that are at least 0.6 mi (1 km) away from large-scale agriculture that use pesticides, managed bees, or both.

This proposed critical habitat overlaps a great deal of developed areas, such as lands covered by buildings, pavement, and other structures. These structures are not designated as critical habitat themselves because such structures lack the physical or biological features necessary for the rusty patched bumble bee. However, the physical or biological features for rusty patched bumble are interspersed throughout the developed lands at such a scale that they cannot be mapped. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such structures. Any such structures left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, a Federal action involving such structures would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the surrounding critical habitat.

The proposed critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Proposed Regulation Promulgation.

Proposed Critical Habitat Designation

We are proposing 14 units as critical habitat for the rusty patched bumble bee. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the rusty patched bumble bee. The 14 areas we propose as critical habitat are: (1) Minneapolis-St. Paul Metropolitan; (2) Northfield; (3) Rochester; (4) Winona; (5) Denzer; (6) Bunker Hill; (7) Madison; (8) Milwaukee; (9) Rockford; (10) McHenry; (11) Elgin; (12) Lost Nation; (13) Iowa City; and (14) Black Creek Mountain. Table 1 shows the proposed critical habitat units and the approximate area of each unit; all units are considered occupied.

TABLE 1—PROPOSED CRITICAL HABITAT UNITS FOR THE RUSTY PATCHED BUMBLE BEE

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat unit	Land ownership by type	Size of unit in acres (hectares)	State(s)
1. Minneapolis-St. Paul Metropolitan	Private	499,204 (202,021)	Minnesota.
	Federal	5,741 (2,323)	
	State/local/school	59,769 (24,188)	
	Tribal	3,091 (1,251)	
	Total	567,805 (229,782)	
2. Northfield	Private	12,056 (4,879)	Minnesota.
	Federal	0	
	State/local/school	501 (203)	
	Tribal	0	
	Total	12,557 (5,082)	
3. Rochester	Private	41,819 (16,924)	Minnesota.
	Federal	0	
	State/local/school	1,271 (515)	
	Tribal	0	
	Total	43,091 (17,438)	
4. Winona	Private	29,340 (11,873)	Minnesota.
	Federal	0	
	State/local/school	483 (195)	
	Tribal	0	
	Total	29,823 (12,069)	

TABLE 1—PROPOSED CRITICAL HABITAT UNITS FOR THE RUSTY PATCHED BUMBLE BEE—Continued

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat unit	Land ownership by type	Size of unit in acres (hectares)	State(s)
5. Denzer	Private	26,471 (10,712)	Wisconsin.
	Federal	0	
	State/local/school	538 (218)	
	Tribal	0	
	Total	27,009 (10,930)	
6. Bunker Hill	Private	13,559 (5,487)	Wisconsin.
	Federal	0	
	State/local/school	5,126 (2,075)	
	Tribal	0	
	Total	18,686 (7,562)	
7. Madison	Private	195,952 (79,299)	Wisconsin.
	Federal	515 (208)	
	State/local/school	14,283 (5,780)	
	Tribal	4 (2)	
	Total	210,753 (85,289)	
8. Milwaukee	Private	232,722 (94,179)	Wisconsin.
	Federal	131 (53)	
	State/local/school	20,130 (8,146)	
	Tribal	10 (4)	
	Total	252,992 (102,382)	
9. Rockford	Private	136,826 (55,371)	Illinois.
	Federal	0	
	State/local/school	13,283 (5,375)	
	Tribal	0	
	Total	150,108 (60,747)	
10. McHenry	Private	59,158 (23,940)	Illinois and Wisconsin.
	Federal	2 (1)	
	State/local/school	9,135 (3,697)	
	Tribal	0	
	Total	68,295 (27,638)	
11. Elgin	Private	56,318 (22,791)	Illinois.
	Federal	0	
	State/local/school	18,762 (7,593)	
	Tribal	0	
	Total	75,080 (30,384)	
12. Lost Nation	Private	14,416 (5,834)	Illinois.
	Federal	0	
	State/local/school	627 (254)	
	Tribal	0	
	Total	15,043 (6,088)	
13. Iowa City	Private	30,397 (12,301)	Iowa.
	Federal	11,362 (4,598)	
	State/local/school	4,144 (1,677)	
	Tribal	0	
	Total	45,902 (18,576)	
14. Black Creek Mountain	Private	11,200 (4,532)	Virginia and West Virginia.
	Federal	105,558 (42,718)	
	State/local/school	1,845 (747)	
	Tribal	0	
	Total	118,603 (47,997)	

TABLE 1—PROPOSED CRITICAL HABITAT UNITS FOR THE RUSTY PATCHED BUMBLE BEE—Continued

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat unit	Land ownership by type	Size of unit in acres (hectares)	State(s)
Totals	Private	1,359,437 (550,145)	
	Federal	123,307 (49,901)	
	State/local/school	149,897 (60,661)	
	Tribal	3,105 (1,257)	
	Total	1,635,746 (661,963)	

Note: Area sizes may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the rusty patched bumble bee, below.

Unit 1: Minneapolis-St. Paul Metropolitan

Unit 1 consists of 567,805 ac (229,782 ha) in the Minneapolis-St. Paul metropolitan area of Minnesota in Ramsey, Scott, Dakota, Pierce, Washington, Carver, Hennepin, and St. Croix Counties. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (499,204 ac (202,021 ha)), local government-owned lands (40,596 ac (16,429 ha)), Minnesota State lands (11,983 ac (4,849 ha)), university or school lands (7,190 ac (2,910 ha)), Tribal lands (3,091 ac (1,251 ha)), and Federal lands (5,741 ac (2,323 ha)). The Federal lands include the National Park Service's Mississippi National River and Recreational Area and Lower St. Croix National Scenic Riverway, and the Service's Minnesota Valley National Wildlife Refuge. Approximately 212 ac (86 ha) of privately owned lands are managed by the U.S. Department of Agriculture's Natural Resources Conservation Service (USDA–NRCS) Wetlands Reserve Program. Tribal lands include Shakopee Mdewakanton Sioux Community and Shakopee Mdewakanton Sioux Community Off-Reservation Land Trust.

Special management considerations or protection may be required within Unit 1 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 2: Northfield

Unit 2 consists of 12,557 ac (5,082 ha) in the Northfield, Minnesota, metropolitan area in Dakota and Rice Counties. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (12,056 ac (4,879 ha)), local government-owned lands (489 ac (198 ha)), and Minnesota State lands (12 ac (5 ha)). There are no Federal or Tribal lands identified in this unit.

Special management considerations or protection may be required within Unit 2 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 3: Rochester

Unit 3 consists of 43,091 ac (17,438 ha) in the Rochester, Minnesota, metropolitan area in Olmsted County. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (41,819 ac (16,924 ha)), local government-owned lands (939 ac (380 ha)), and Minnesota State lands (332 ac (134 ha)). There are no Federal or Tribal lands identified in this unit.

Special management considerations or protection may be required within Unit 3 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 4: Winona

Unit 4 consists of 29,823 ac (12,069 ha) in the Winona, Minnesota, area in Winona County. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (29,340 ac (11,873 ha)), local government-owned lands (423 ac (171 ha)), and Minnesota State lands (60 ac (24 ha)). There are no Federal or Tribal lands identified in this unit.

Special management considerations or protection may be required within Unit 4 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides

that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 5: Denzer

Unit 5 consists of 27,009 ac (10,930 ha) in Sauk County near Denzer, Wisconsin. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (26,471 ac (10,712 ha)), including 2,345 ac (949 ha) owned by nongovernmental organizations (NGOs), and Wisconsin State lands (538 ac (218 ha)). There are no Federal or Tribal lands identified in this unit.

Special management considerations or protection may be required within Unit 5 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 6: Bunker Hill

Unit 6 consists of 18,686 ac (7,562 ha) in Iowa County near Bunker Hill, Wisconsin. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (13,559 ac (5,487 ha)) and Wisconsin State lands (5,126 ac (2,075 ha)). There are no Federal or Tribal lands identified in this unit.

Special management considerations or protection may be required within Unit 6 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 7: Madison

Unit 7 consists of 210,753 ac (85,289 ha) in Dane and Iowa Counties near Madison, Wisconsin. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (195,952 ac (79,299 ha)), local government-owned lands (8,679 ac (3,512 ha)), university or school lands (1,086 ac (440 ha)), Wisconsin State lands (4,518 ac (1,828 ha)), Tribal lands (4 ac (2 ha)), and Federal lands (515 ac (208 ha)). The Federal lands include the U.S. Forest Service's Forest Products Experimental Laboratory, National Park Service's Ice Age National Scenic Trail, and the Service's Dane County Waterfowl Production Area. Approximately 304 ac (123 ha) of private lands in this unit are managed by the USDA-NRCS Wetlands Reserve Program, and approximately 53 ac (21 ha) are managed by the USDA-NRCS Emergency Waters Protection Program. The Tribal lands are managed by the Ho-Chunk Nation.

Special management considerations or protection may be required within Unit 7 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 8: Milwaukee

Unit 8 consists of 252,992 acres (102,382 hectares) in the Milwaukee, Wisconsin, metropolitan area in Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (232,722 ac (94,179 ha)), local government-owned lands (17,995 ac (7,282 ha)), Wisconsin State lands (2,121 ac (858 ha)), university or school lands (14 ac (6 ha)), Tribal lands (10 ac (4 ha)), and Federal lands (131 ac (53 ha)). The Federal lands in this unit are owned by the Bureau of Land Management (5 ac (2 ha)) and the Department of Defense (126 ac (51 ha)). Approximately 66 ac (27 ha) of private lands in this unit are managed by the USDA-NRCS Wetlands Reserve Program. Tribal lands are in the Forest County Potawatomi Off-Reservation Land Trust.

Special management considerations or protection may be required within Unit 8 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 9: Rockford

Unit 9 consists of 150,108 ac (60,747 ha) in Boone, Ogle, and Winnebago Counties near Rockford, Illinois. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (136,826 ac (55,371 ha)), local government-owned lands (7,898 ac (3,196 ha)), university or school lands (2,395 ac (969 ha)), and Illinois State lands (2,990 ac (1,210 ha)). There are no Federal or Tribal lands identified in this unit. Approximately 669 ac (271 ha) of private lands in this unit are managed by the USDA-NRCS Wetlands Reserve Program.

Special management considerations or protection may be required within Unit 9 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,*

water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 10: McHenry

Unit 10 consists of 68,295 ac (27,638 ha) near McHenry, Illinois, in McHenry and Lake Counties, Illinois, and Kenosha County, Wisconsin. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (59,158 ac (23,940 ha)), local government-owned lands (1,406 ac (569 ha)), Illinois State lands (5,445 ac (2,204 ha)), university or school lands (2,284 ac (924 ha)), and Federal lands (2 ac (1 ha)). The Federal lands are owned by the Bureau of Land Management. Thirty-nine ac (16 ha) of a conservation easement within the Hackmatack National Wildlife Refuge, managed by the Service, falls within this unit. Approximately 412 ac (167 ha) of private lands within this unit are managed by the USDA–NRCS Wetlands Reserve Program. There are no Tribal lands identified in this unit.

Special management considerations or protection may be required within Unit 10 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 11: Elgin

Unit 11 consists of 75,080 ac (30,384 ha) in Cook, Kane, Lake, and McHenry Counties near Elgin, Illinois. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (56,318 ac (22,791 ha)), local government-owned lands (13,710 ac (5,548 ha)), university or school lands (4,884 ac (1,977 ha)), and Illinois State lands (168 ac (68 ha)). There are no Federal or Tribal lands identified in this unit.

Special management considerations or protection may be required within Unit 11 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 12: Lost Nation

Unit 12 consists of 15,043 ac (6,088 ha) in Lee and Ogle Counties near Lost Nation, Illinois. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (14,416 ac (5,834 ha)), including 2,189 ac (886 ha) owned by NGOs, and Illinois State lands (627 ac (254 ha)). There are no Federal or Tribal lands identified in this unit.

Special management considerations or protection may be required within Unit 12 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 13: Iowa City

Unit 13 consists of 45,902 ac (18,576 ha) in Johnson County near Iowa City, Iowa. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (30,397 ac (12,301 ha)), Iowa State lands (2,287 ac (926 ha)), local government-owned lands (1,857 ac (751 ha)), and Federal lands (11,362 ac (4,598 ha)). The Federal lands include the U.S. Army Corps of Engineers' Coralville Lake and Coralville Reservoir. A portion of the U.S. Army Corps of Engineers' land is managed by the State of Illinois (1,333 ac (539 ha)) and the University of Iowa (421 ac (170 ha)).

Special management considerations or protection may be required within Unit 13 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty patched bumble bee). Sources of these stressors include, but are not limited to, agricultural, municipal, and residential land uses.

Unit 14: Black Creek Mountain

Unit 14 consists of 118,603 ac (47,997 ha) near Black Creek Mountain in Highland and Bath Counties, Virginia, and Greenbrier and Pocahontas Counties, West Virginia. The unit is occupied and contains all of the essential physical or biological features. This unit consists of private lands (11,200 ac (4,532 ha)), Virginia State lands (1,845 ac (747 ha)), and Federal lands (105,558 ac (42,718 ha)). The Federal lands include the Monongahela and George Washington–Jefferson National Forests.

Special management considerations or protection may be required within Unit 14 to alleviate impacts from stressors that are anticipated to degrade the physical or biological features, including, but not limited to, ground disturbance or compaction activities (*e.g.,* road and rail construction), habitat management (*e.g.,* prescribed burns, herbicide use), forestry activities (*e.g.,* timber harvest), actions that cause an increase in the extent or duration of surface flooding or soil saturation (*e.g.,* water impoundments, alteration or interruption of existing drainage patterns, surface runoff alterations), and pesticide applications (*e.g.,* rodenticides that may reduce rodents and therefore potential nesting areas for the rusty

patched bumble bee). Sources of these stressors include, but are not limited to, forestry, recreational, municipal, and residential land uses.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species (50 CFR 402.02).

Compliance with the requirements of section 7(a)(2) is documented through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during formal consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Service Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 set forth requirements for Federal agencies to reinitiate consultation. Reinitiation of consultation is required and shall be requested by the Federal agency, where discretionary Federal involvement or control over the action has been retained or is authorized by law and: (1) if the amount or extent of taking specified in the incidental take statement is exceeded; (2) if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence; or (4) if a new species is listed or critical habitat designated that may be affected by the identified action. As provided in 50 CFR 402.16, the requirement to reinitiate consultations for new species listings or critical habitat designation does not apply to certain agency actions (*e.g.,* land management plans issued by the Bureau of Land Management in certain circumstances).

Destruction or Adverse Modification of Critical Habitat

The key factor related to the destruction or adverse modification determination is whether implementation of the proposed Federal action directly or indirectly alters the designated critical habitat in a way that appreciably diminishes the value of the critical habitat for the conservation of the listed species. As discussed above, the role of critical habitat is to support the physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires that our **Federal Register** documents ''shall, to the maximum extent practicable also include a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify [critical] habitat, or may be affected by such designation.'' Activities that may be affected by designation of critical habitat for the rusty patched bumble bee include those that may affect the essential physical or biological features of the rusty patched bumble bee's critical habitat (see Physical or Biological Features Essential to the Conservation of the Species, above).

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that the Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense (DoD), or designated for its use, that are subject to an integrated natural resources management plan (INRMP) prepared under section 101 of the Sikes Act Improvement Act of 1997 (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.

An INRMP that does not include the rusty patched bumble was completed by the 88th Readiness Division (RD) of the Army Reserve in 2017. As currently written, the 2017 INRMP does not provide a benefit to the rusty batched bumble bee. The 88th RD is in the process of updating its INRMP to incorporate the rusty patched bumble bee and its habitat. After we receive the updated INRMP, we will assess its conservation benefit to the rusty patched bumble bee under 50 CFR 424.12(h) before the final critical habitat designation. Based on the considerations outlined in 50 CFR 424.12(h), and in accordance with section 4(a)(3)(B)(i) of the Act, if we determine that conservation efforts identified in the INRMP will provide a benefit to the rusty patched bumble bee, we will exempt lands within this installation from critical habitat designation under section 4(a)(3) of the Act; approximately 47 ac (19 ha) of Unit 1 (Minneapolis-St. Paul Metropolitan), 127 ac (51 ha) of Unit 8 (Milwaukee), and 15 ac (6 ha) of Unit 9 (Rockford) of 88th RD land would be exempted from the final designation.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data 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 area from critical habitat if the benefits of exclusion outweigh those of inclusion, so long as exclusion will not result in 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 (hereafter, the ''2016 Policy''; 81 FR 7226, February 11, 2016), both of which were developed jointly with the National Marine Fisheries Service (NMFS). 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).

In considering whether to exclude a particular area from the designation, we identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and evaluate whether the benefits of exclusion outweigh the benefits of inclusion. If the analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, the Secretary may exercise discretion to exclude the area only if such exclusion would not result in the extinction of the species. In making the determination to exclude a particular area, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor. In our final rules, we explain any decision to exclude areas, as well as decisions not to exclude, to make clear the rational basis for our decision. We describe below the process that we use for taking into consideration each category of impacts and any initial analyses of the relevant impacts.

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.''

The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (*e.g.,* under the Federal listing as well as other Federal, State, and local regulations). Therefore, the baseline represents the costs of all efforts attributable to the listing of the species under the Act (*i.e.,* conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct a discretionary section 4(b)(2) exclusion analysis.

Executive Order (E.O.) 14094 supplements and reaffirms E.O. 12866 and E.O. 13563 and directs Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly affected entities, where practicable and reasonable. If sufficient data are available, we assess to the extent practicable the probable impacts to both directly and indirectly affected entities. To determine whether the designation of critical habitat may have an economic effect of $200 million or more in any given year (which would trigger section 3(f) of E.O. 12866, as amended by E.O. 14094), we used a screening analysis to assess whether a designation of critical habitat for the rusty patched bumble bee is likely to exceed this threshold.

For this particular designation, we developed an incremental effects memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for the rusty patched bumble bee (Industrial Economics, Inc. (IEc) 2024, entire). We began by conducting a screening analysis of the proposed designation of critical habitat in order to focus our analysis on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out particular geographical areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts. In particular, the screening analysis considers baseline costs (*i.e.,* absent critical habitat designation) and includes any probable incremental economic impacts where land and water use may already be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. The presence of the listed species in occupied areas of critical habitat means that any destruction or adverse modification of those areas is also likely to jeopardize the continued existence of the species. Therefore, designating occupied areas as critical habitat typically causes little if any incremental impacts above and beyond the impacts of listing the species. As a result, we generally focus the screening analysis on areas of unoccupied critical habitat (unoccupied units or unoccupied areas within occupied units). Overall, the screening analysis assesses whether designation of critical habitat is likely to result in any additional management or conservation efforts that may incur incremental economic impacts. This screening analysis combined with the information contained in our IEM constitute what we consider to be our economic analysis of the proposed critical habitat designation for the rusty patched bumble bee and is summarized in the narrative below.

As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our evaluation of the probable incremental economic impacts that may result from the proposed designation of critical habitat for the rusty patched bumble bee, first we identified, in the IEM dated June 2024, probable incremental economic impacts associated with the following categories of activities: (1) bridge replacements; (2) spotted lanternfly

control; (3) spill response; (4) Federal grants; (5) navigation channel improvements; (6) recreation construction; (7) forest management; (8) insect pest monitoring; (9) prescribed burns; (10) tree removal and harvest; (11) water supply facility maintenance; (12) road maintenance and construction; (13) scientific monitoring and research; and (14) habitat management. We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat affects activities conducted, funded, permitted, or authorized by Federal agencies only. In areas where the rusty patched bumble bee is present, Federal agencies are required to consult with the Service under section 7 of the Act on activities they authorize, fund, or carry out that may affect the species. If we finalize this proposed critical habitat designation, Federal agencies would be required to consider the effects of their actions on the designated habitat, and if the Federal action may affect critical habitat, our consultations would include an evaluation of measures to avoid the destruction or adverse modification of critical habitat.

In our IEM, we attempted to clarify the distinction between the effects that would result from the species being listed and those attributable to the critical habitat designation (*i.e.,* difference between the jeopardy and adverse modification standards) for the rusty patched bumble bee's critical habitat. The following specific circumstances in this case help to inform our evaluation: (1) The essential physical or biological features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would likely adversely affect the essential physical or biological features of occupied critical habitat are also likely to adversely affect the species itself. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this proposed designation of critical habitat.

The proposed critical habitat designation for the rusty patched bumble bee consists of approximately 1,635,746 acres (661,963 hectares) of occupied habitat in 14 units. Ownership of lands within the proposed critical habitat units is approximately 83 percent private; 9 percent State, local government, university, or school; 8 percent Federal; and less than 1 percent in Tribal ownership. All proposed units are occupied by the species. Consultation to determine if projects would jeopardize the species would be required regardless of the critical habitat designation. Additionally, the activities that may require section 7 consultation are not different with or without critical habitat. As a result, designating critical habitat is not expected to result in additional consultations beyond those required due to the presence of the species.

For future consultations in the proposed critical habitat area, we anticipate that the same kinds of conservation recommendations made to avoid jeopardy would also avoid adverse modification of critical habitat. Conservation measures to protect rusty patched bumble bee habitat would be the same with and without a critical habitat designation. We do not expect a critical habitat designation to result in recommendations for new, changed, or lengthened seasonal restrictions for rusty patched bumble bees. Thus, the outcome of these consultations is unlikely to be different with or without the designation of critical habitat.

At the time of this proposal, 29 co-occurring species listed under the Act occur within the rusty patched bumble bee's proposed critical habitat. Conservation efforts for other listed species or existing critical habitat designations are likely to provide conservation benefits to the rusty patched bumble bee under the baseline (*i.e.,* even absent designation of new critical habitat for this species). Additionally, there are multiple overlapping conservation requirements for some of the listed species.

For these reasons, incremental effects of the critical habitat designation on the costs of future section 7 consultations are likely to be limited to the additional administrative effort to evaluate the potential for adverse modification of rusty patched bumble bee critical habitat (IEc 2024, p. 10). The breakdown of the anticipated annual cost of section 7 consultations for the proposed designation is approximately $11,000 for programmatic consultations, $90,000 for formal consultations, $250,000 for informal consultations, and $31,000 for technical assistance. Therefore, the incremental costs of designating critical habitat for the rusty patched bumble bee are likely to be on the order of $390,000 (2024 dollars) in a given year (IEc 2024, p. 15). In conclusion, the rule is unlikely have an economic effect of $200 million or more in any given year and, therefore, is unlikely meet the threshold in section 3(f)(1) of E.O. 12866, as amended by E.O. 14094 (IEc 2024, p. 18).

We are soliciting data and comments from the public on the economic analysis discussed above. During the development of a final designation, we will consider the information presented in the economic analysis and any additional information on economic impacts we receive during the public comment period to determine whether any specific areas should be excluded from the final critical habitat designation under the authority of section 4(b)(2) of the Act, our implementing regulations at 50 CFR 424.19, and the 2016 Policy. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

Consideration of National Security Impacts

Section 4(a)(3)(B)(i) of the Act may not cover all DoD lands or areas that pose potential national-security concerns (*e.g.,* a DoD installation that is in the process of revising its INRMP for a newly listed species or a species previously not covered). If a particular area is not covered under section 4(a)(3)(B)(i) of the Act, then national-security or homeland-security concerns are not a factor in the process of determining what areas meet the definition of ''critical habitat.'' However, we must still consider impacts on national security, including homeland security, on those lands or areas not covered by section 4(a)(3)(B)(i) because section 4(b)(2) of the Act requires us to consider those impacts whenever we designate critical habitat. Accordingly, if DoD, Department of Homeland Security (DHS), or another Federal agency has requested exclusion based on an assertion of national-security or homeland-security concerns, or we have otherwise identified national-security or homeland-security impacts from designating particular areas as critical habitat, we generally have reason to consider excluding those areas.

However, we cannot automatically exclude requested areas. When DoD, DHS, or another Federal agency requests exclusion from critical habitat on the basis of national-security or homeland-security impacts, we must conduct an exclusion analysis if the Federal requester provides information,

including a reasonably specific justification of an incremental impact on national security that would result from the designation of that specific area as critical habitat. That justification could include demonstration of probable impacts, such as impacts to ongoing border-security patrols and surveillance activities, or a delay in training or facility construction, as a result of compliance with section 7(a)(2) of the Act. If the agency requesting the exclusion does not provide us with a reasonably specific justification, we will contact the agency to recommend that it provide a specific justification or clarification of its concerns relative to the probable incremental impact that could result from the designation. If we conduct an exclusion analysis because the agency provides a reasonably specific justification or because we decide to exercise the discretion to conduct an exclusion analysis, we will defer to the expert judgment of DoD, DHS, or another Federal agency as to: (1) Whether activities on its lands or waters, or its activities on other lands or waters, have national-security or homeland-security implications; (2) the importance of those implications; and (3) the degree to which the cited implications would be adversely affected in the absence of an exclusion. In that circumstance, in conducting a discretionary section 4(b)(2) exclusion analysis, we will give great weight to national-security and homeland-security concerns in analyzing the benefits of exclusion.

We are aware of a number of small parcels of land that are owned or leased by the DoD that overlap with this proposed designation. During the development of this proposed rule, we have initiated coordination efforts with the DoD agency that owns each parcel, and we will continue to work with those DoD agencies that may be affected by this designation as we develop any final rule. These parcels are generally small and highly dispersed throughout the proposed critical habitat designation.

Consideration of Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security discussed above. To identify other relevant impacts that may affect the exclusion analysis, we consider a number of factors, including whether there are approved and permitted conservation agreements or plans covering the species in the area—such as safe harbor agreements (SHAs), candidate conservation agreements with assurances (CCAAs), ''conservation benefit agreements'' or ''conservation agreements'' (''CBAs'') (CBAs are a new type of agreement replacing SHAs and CCAAs in use after April 2024 (see 89 FR 26070, April 12, 2024)), or HCPs—or whether there are non-permitted conservation agreements and partnerships that may be impaired by designation of, or exclusion from, critical habitat. In addition, we look at whether Tribal conservation plans or partnerships, Tribal resources, or government-to-government relationships of the United States with Tribal entities may be affected by the designation. We also consider any State, local, social, or other impacts that might occur because of the designation.

Tribal Lands

Several Executive Orders, Secretary's Orders, and policies concern working with Tribes. These guidance documents generally confirm our trust responsibilities to Tribes, recognize that Tribes have sovereign authority to control Tribal lands, emphasize the importance of developing partnerships with Tribal governments, and direct the Service to consult with Tribes on a government-to-government basis.

A joint Secretary's Order (S.O.) that applies to both the Service and the National Marine Fisheries Service (NMFS)—Secretary's Order 3206, ''American Indian Tribal Rights, Federal–Tribal Trust Responsibilities, and the Endangered Species Act'' (June 5, 1997) (S.O. 3206)—is the most comprehensive of the various guidance documents related to Tribal relationships and Act implementation, and it provides the most detail directly relevant to the designation of critical habitat. In addition to the general direction discussed above, the appendix to S.O. 3206 explicitly recognizes the right of Tribes to participate fully in any listing process that may affect Tribal rights or Tribal trust resources; this includes the designation of critical habitat. Section 3(B)(4) of the appendix requires the Service to consult with affected Tribes when considering the designation of critical habitat in an area that may impact Tribal trust resources, Tribally-owned fee lands, or the exercise of Tribal rights. That provision also instructs the Service to avoid including Tribal lands within a critical habitat designation unless the area is essential to conserve a listed species, and it requires the Service to ''evaluate and document the extent to which the conservation needs of the listed species can be achieved by limiting the designation to other lands.''

Our implementing regulations at 50 CFR 424.19 and the 2016 Policy are consistent with S.O. 3206. When we undertake a discretionary exclusion analysis under section 4(b)(2) of the Act, in accordance with S.O. 3206, we consult with any Tribe whose Tribal trust resources, Tribally-owned fee lands, or Tribal rights may be affected by including any particular areas in the designation. We evaluate the extent to which the conservation needs of the species can be achieved by limiting the designation to other areas and give great weight to Tribal concerns in analyzing the benefits of exclusion.

However, S.O. 3206 does not override the Act's statutory requirement of designation of critical habitat. As stated above, we must consult with any Tribe when a designation of critical habitat may affect Tribal lands or resources. The Act requires us to identify areas that meet the definition of ''critical habitat'' (*i.e.,* areas occupied at the time of listing that contain the essential physical or biological features that may require special management considerations or protection and unoccupied areas that are essential to the conservation of a species), without regard to land ownership. While S.O. 3206 provides important direction, it expressly states that it does not modify the Secretaries' statutory authority under the Act or other statutes.

The proposed critical habitat designation includes portions of the following Tribal lands or resources, as noted above in table 1 and the unit descriptions: Shakopee Mdewakanton Sioux Community and Shakopee Mdewakanton Sioux Community Off-Reservation Land Trust (proposed Unit 1), Ho-Chunk Nation (proposed Unit 7), and Forest County Potawatomi Off-Reservation Land Trust (proposed Unit 8).

Summary of Exclusions Considered Under Section 4(b)(2) of the Act

In preparing this proposal, we have determined that no HCPs or other management plans for the rusty patched bumble bee currently exist. We have determined that there are lands within the proposed designation of critical habitat for rusty patched bumble bee owned or managed by the DoD, and we have reached out the DoD to evaluate if there is a need to exclude these lands from the designation based on national security. In addition, the proposed critical habitat designation includes Tribal lands or resources that we may consider for exclusion, in keeping with S.O. 3206.

If through the public comment period we receive information that we

determine indicates that there are potential economic, national security, or other relevant impacts from designating particular areas as critical habitat, then as part of developing the final designation of critical habitat, we will evaluate that information and may conduct a discretionary exclusion analysis to determine whether to exclude those areas under the authority of section 4(b)(2) of the Act and our implementing regulations at 50 CFR 424.19. If we receive a request for exclusion of a particular area and after evaluation of supporting information we do not exclude, we will fully describe our decision in the final rule for this action.

Required Determinations

Clarity of the Rule

We are required by E.O.s 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

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

(3) Use clear language rather than jargon;

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

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Regulatory Planning and Review (Executive Orders 12866, 13563, and 14904)

Executive Order 14094 amends and reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866 and E.O. 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; title II of Pub. L. 104–121, March 29, 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine whether potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

Under the RFA, as amended, and as understood in light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies would be directly regulated if we adopt the proposed critical habitat designation. The RFA does not require evaluation of the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities would be directly regulated by this rulemaking, the Service certifies that, if made final as proposed, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if made final, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare statements of energy effects ''to the extent permitted by law'' when undertaking actions identified as significant energy actions (66 FR 28355, May 22, 2001). E.O. 13211 defines a ''significant energy action'' as an action that (i) is a significant regulatory action under E.O. 12866 (or any successor order, such as E.O. 14094 (88 FR 21879, April 11, 2023)); and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy. In our economic analysis, we did not find that this proposed critical habitat designation would significantly affect energy supplies, distribution, or use.

Therefore, this action is not a significant energy action, and no statement of energy effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following finding:

(1) This proposed rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or Tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions are not likely to destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule would significantly or uniquely affect small governments. Small governments will be affected only to the extent that any programs having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. Therefore, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for the rusty patched bumble bee in a takings implications assessment. The Act does not authorize the Services to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed for the proposed designation of critical habitat for the rusty patched bumble bee, and it concludes that, if adopted, this designation of critical habitat does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this proposed rule does not have significant federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this proposed critical habitat designation with, appropriate State resource agencies. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the proposed rule does not have substantial direct effects either on the States, or on the relationship between the Federal Government and the States, or on the distribution of powers and responsibilities among the various levels of government. The proposed designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical or biological features of the habitat necessary for the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist State and local governments in long-range planning because they no longer have to wait for case-by-case section 7 consultations to occur.

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with E.O. 12988 (Civil Justice Reform), the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the order. We have proposed designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this proposed rule identifies the physical or biological features essential to the conservation of the species. The proposed areas of critical habitat are presented on maps, and the proposed

rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. 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.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

Regulations adopted pursuant to section 4(a) of the Act are exempt from the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and do not require an environmental analysis under NEPA. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations. In a line of cases starting with *Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), the courts have upheld this position.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951, May 4, 1994), E.O. 13175 (Consultation and Coordination with Indian Tribal Governments), the President's memorandum of November 30, 2022 (Uniform Standards for Tribal Consultation; 87 FR 74479, December 5, 2022), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations (ANCs) on a government-to-government basis. In accordance with Secretary's Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. During the development of this proposed rule, we approached the Tribes whose lands overlapped with the range of the rusty patched bumble bee in an effort to coordinate with them on the proposed critical habitat designation. We received interest from the Prairie Island Indian Community in working with us on rusty patched bumble bee conservation (unrelated to this proposed designation). The proposed critical habitat does not overlap with Prairie Island Indian Community lands, but we will continue to coordinate with the Tribe in recovery efforts for the species. We will continue to work with all interested Tribal entities during the development of a final rule for the designation of critical habitat for the rusty patched bumble bee.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *https://www.regulations.gov* and upon request from the Minnesota-Wisconsin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Minnesota-Wisconsin Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by revising the entry for ''Bee, bumble, rusty patched'' under INSECTS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
Insects				
*	*	*	*	*
Bee, bumble, rusty patched	*Bombus affinis*	Wherever found	E	82 FR 3186, 1/11/2017; 50 CFR 17.95(i).[CH]
*	*	*	*	*

■ 3. In § 17.95, amend paragraph (i) by adding an entry for ''Rusty Patched Bumble Bee (*Bombus affinis*)'' before the entry for ''Casey's June Beetle (*Dinacoma caseyi*)'' to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(i) *Insects.*

Rusty Patched Bumble Bee (Bombus affinis)

(1) Critical habitat units are depicted for Boone, Cook, Kane, Lake, Lee, McHenry, Ogle, and Winnebago Counties, Illinois; Johnson County, Iowa; Carver, Dakota, Hennepin, Olmsted, Pierce, Ramsey, Rice, Scott, St. Croix, Washington, and Winona Counties, Minnesota; Bath and Highland Counties, Virginia; Greenbrier and Pocahontas Counties, West Virginia; and Dane, Iowa, Kenosha, Milwaukee, Ozaukee, Racine, Sauk, Washington,

and Waukesha Counties, Wisconsin, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of the rusty patched bumble bee consist of the following components:

(i) For overwintering, upland forest interior habitat containing leaf litter and without dense understory vegetation.

(ii) For nesting, upland forest edge interface between forested and non-forested natural habitats that extends approximately 30 meters into the forest.

(iii) For nesting, abandoned rodent burrows, other mammal burrows, existing cavities with ample cover, or similar existing cavities at the soil surface or below to 4 feet underground.

(iv) For nesting and overwintering, well-drained, loose soils sheltered from the elements.

(v) For foraging, diverse, abundant, native floral resources for the entire active flight season.

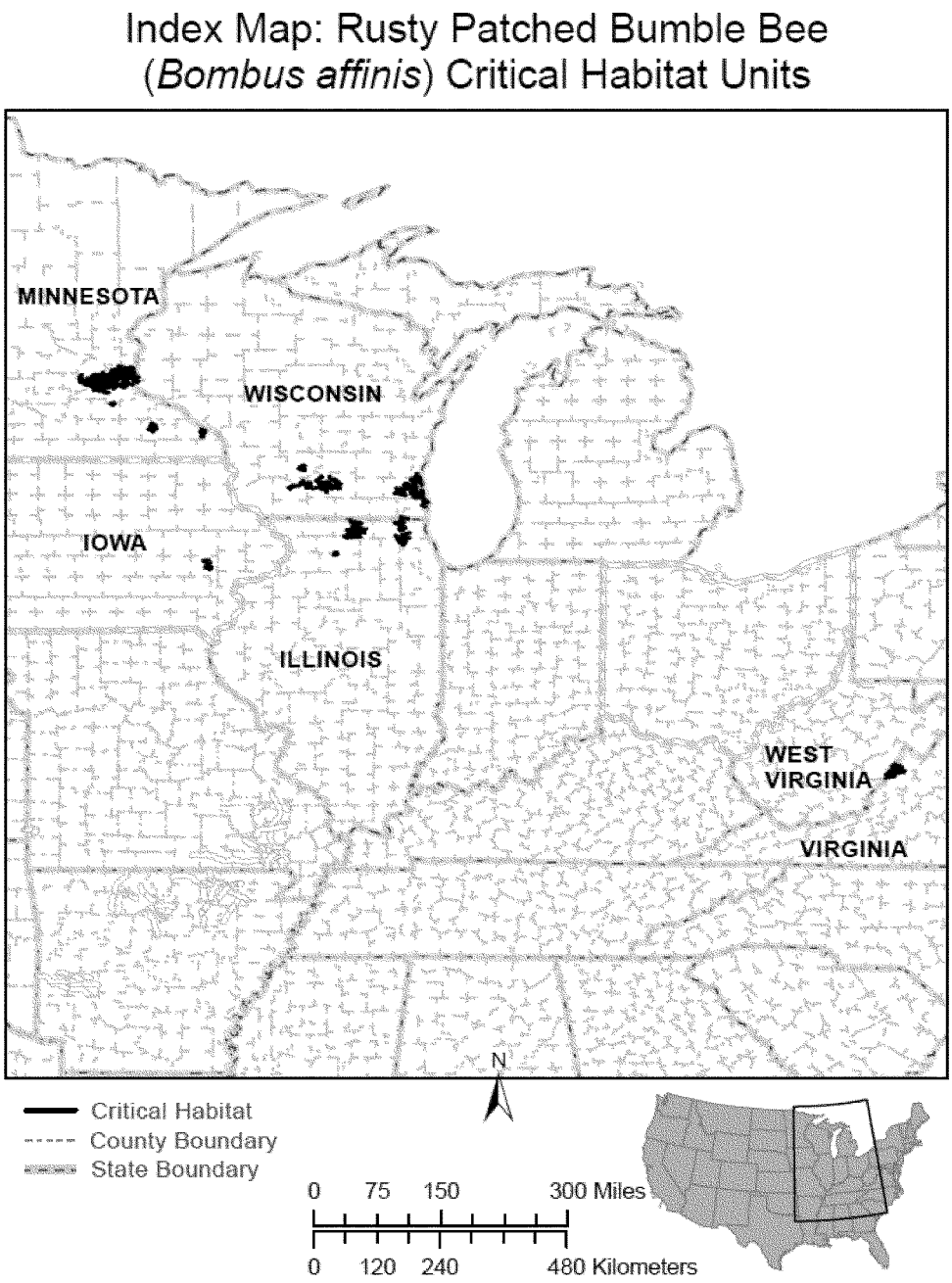
(3) Critical habitat does not include human-made structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on [EFFECTIVE DATE OF FINAL RULE].

(4) Data layers defining map units were created using the data from the Service's modeled High Potential Zones and potential dispersal areas for rusty patched bumble bee. The projection used in mapping and calculating distances and locations within the units was EPSG code 4269—North American Datum 1983 (NAD83), which is a geographic coordinate system used for mapping locations in North America. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/species/rusty-patched-bumble-bee-bombus-affinis,* at *https://www.regulations.gov* at Docket No. FWS–R3–ES–2024–0132, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Index map follows:

BILLING CODE 4333–15–P

Figure 1 to Rusty Patched Bumble Bee (*Bombus affinis*) Paragraph (5)

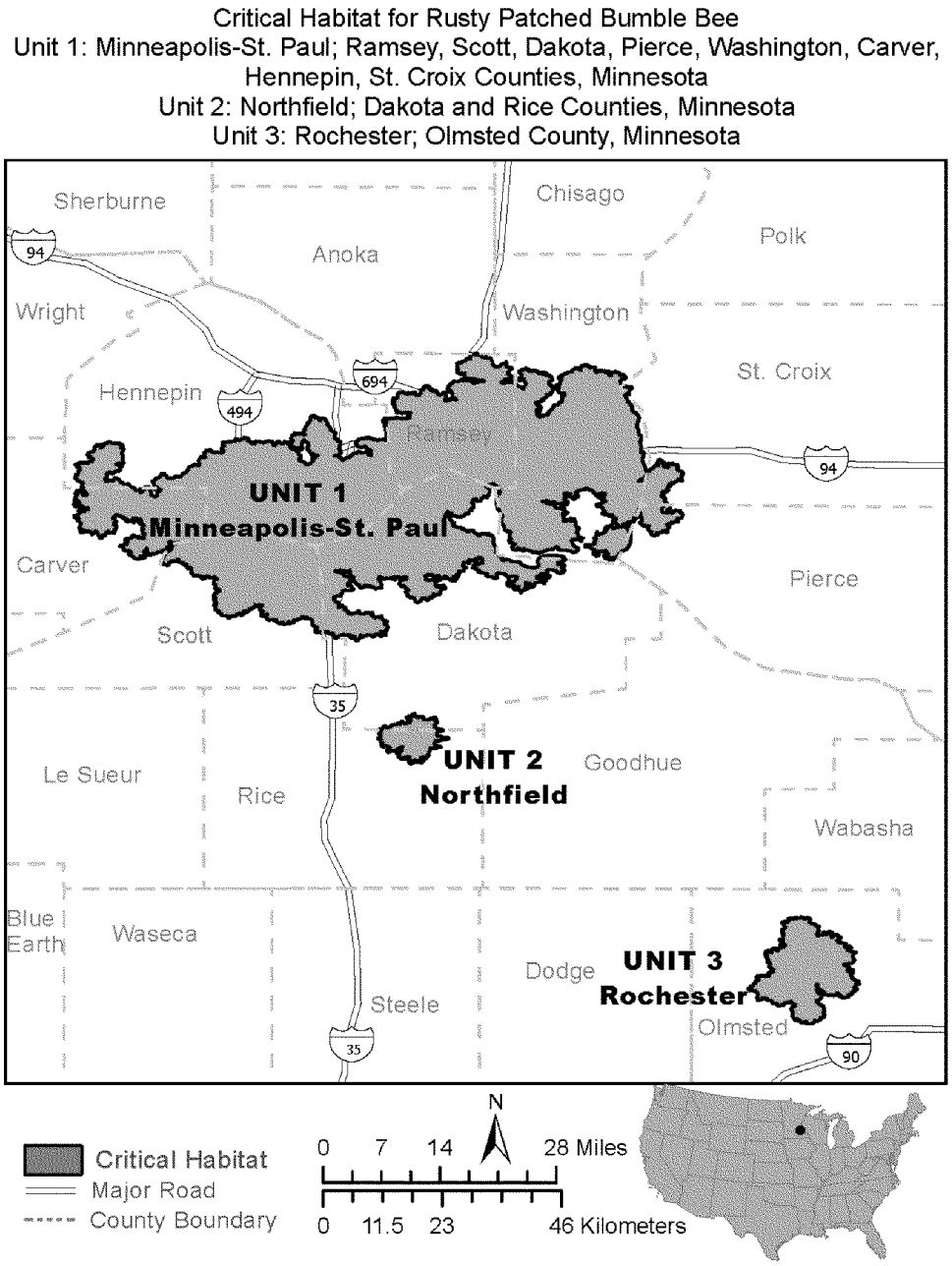


(6) *Unit 1:* Minneapolis-St. Paul Metropolitan; Ramsey, Scott, Dakota, Pierce, Washington, Carver, Hennepin, and St. Croix Counties, Minnesota.

(i) Unit 1 consists of 567,805 acres (ac) (229,782 hectares (ha)) in the Minneapolis-St. Paul metropolitan area of Minnesota in Ramsey, Scott, Dakota, Pierce, Washington, Carver, Hennepin, and St. Croix Counties. Unit 1 is composed of primarily private lands (499,204 ac (202,021 ha)), local government-owned lands (40,596 ac (16,429 ha)), university or school lands (7,190 ac (2,910 ha)), Minnesota State lands (11,983 ac (4,849 ha)), and Tribal lands (3,091 ac (1,251 ha)). Federal lands (5,741 ac (2,323 ha)) in Unit 1 include National Park Service's Mississippi National River and Recreational Area and Lower St. Croix National Scenic Riverway, and the Service's Minnesota Valley National Wildlife Refuge. Approximately 212 ac (86 ha) of privately owned lands are managed by the U.S. Department of Agriculture's Natural Resources Conservation Service (USDA–NRCS) Wetlands Reserve Program. Tribal lands include Shakopee Mdewakanton Sioux Community and Shakopee Mdewakanton Sioux Community Off-Reservation Land Trust.

(ii) Map of Units 1, 2, and 3 follows:

Figure 2 to Rusty Patched Bumble Bee (*Bombus affinis*) Paragraph (6)(ii)



(7) *Unit 2:* Northfield; Dakota and Rice Counties, Minnesota.

(i) Unit 2 consists of 12,557 ac (5,082 ha) in Dakota and Rice Counties. This unit includes private lands (12,056 ac (4,879 ha)), local government-owned lands (489 ac (198 ha)), and Minnesota State lands (12 ac (5 ha)).

(ii) Map of Unit 2 is provided at paragraph (6)(ii) of this entry.

(8) *Unit 3:* Rochester; Olmsted County, Minnesota.

(i) Unit 3 consists of 43,091 ac (17,438 ha) in Olmsted County. This unit includes private lands (41,819 ac (16,924 ha)), local government-owned lands (939 ac (380 ha)), and Minnesota State lands (332 ac (134 ha)).

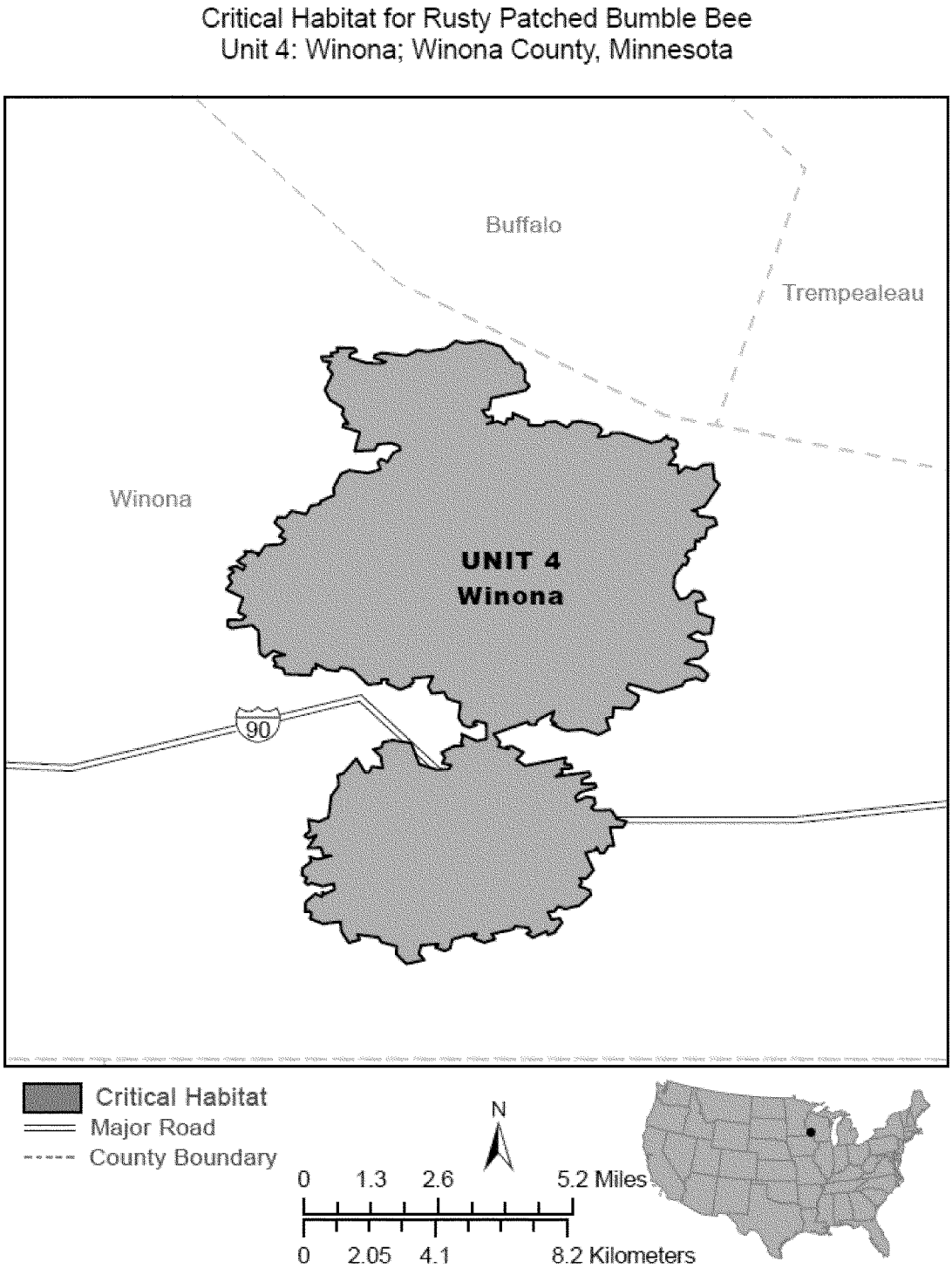
(ii) Map of Unit 3 is provided at paragraph (6)(ii) of this entry.

(9) *Unit 4:* Winona; Winona County, Wisconsin.

(i) Unit 4 consists of 29,823 ac (12,069 ha) in Winona County. This unit includes private lands (29,340 ac (11,873 ha)), local government-owned lands (423 ac (171 ha)), and Minnesota State lands (60 ac (24 ha)).

(ii) Map of Unit 4 follows:

Figure 3 to Rusty Patched Bumble Bee (*Bombus affinis*) Paragraph (9)(ii)

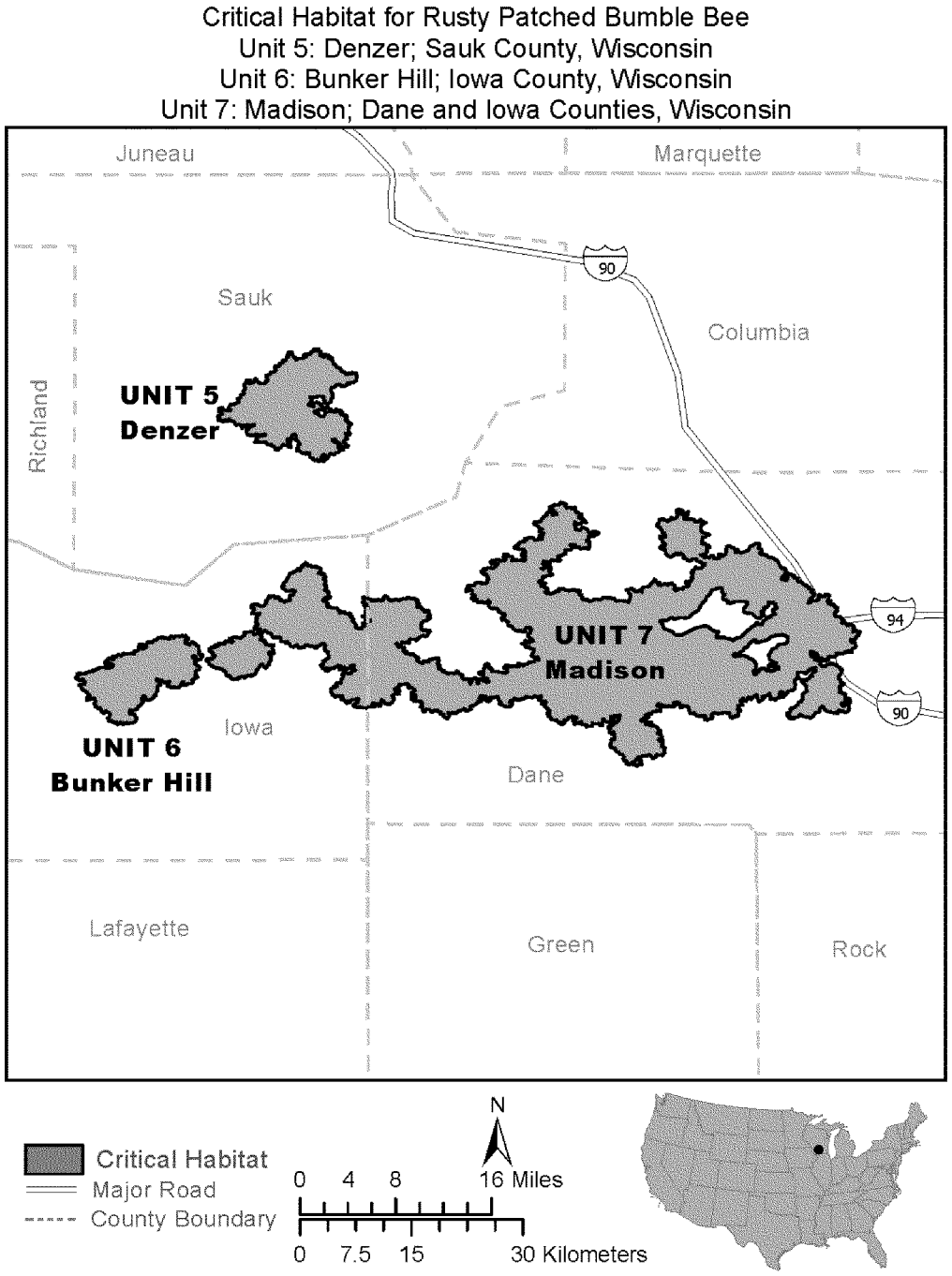


(10) *Unit 5:* Denzer; Sauk County, Wisconsin.

(i) Unit 5 consists of 27,009 ac (10,930 ha) in Sauk County. This unit is composed of private lands (26,471 ac (10,712 ha)), including 2,345 ac (949 ha) owned by nongovernmental organizations, and Wisconsin State lands (538 ac (218 ha)).

(ii) Map of Units 5, 6, and 7 follows:

Figure 4 to Rusty Patched Bumble Bee (*Bombus affinis*) Paragraph (10)(ii)



(11) *Unit 6:* Bunker Hill; Iowa County, Wisconsin.

(i) Unit 6 consists of 18,686 ac (7,562 ha) in Iowa County. This unit includes private lands (13,559 ac (5,487 ha)) and Wisconsin State lands (5,126 ac (2,075 ha)).

(ii) Map of Unit 6 is provided at paragraph (10)(ii) of this entry.

(12) *Unit 7:* Madison; Dane and Iowa Counties, Wisconsin.

(i) Unit 7 consists of 210,753 ac (85,289 ha) in Dane and Iowa Counties. This unit includes primarily private lands (195,952 ac (79,299 ha)), local government-owned lands (8,679 ac (3,512 ha)), university or school lands (1,086 ac (440 ha)), and Wisconsin State lands (4,518 ac (1,828 ha)). This unit contains 4 ac (2 ha) of Ho-Chunk Nation Tribal lands. Federal lands (515 ac (208 ha)) in Unit 7 include the U.S. Forest Service's Forest Products Experimental Laboratory, National Park Service's Ice Age National Scenic Trail, and the Dane County Waterfowl Production Area owned by the U.S. Fish and Wildlife Service. In this unit, approximately 304 ac (123 ha) of private lands are managed by the USDA–NRCS Wetlands Reserve Program, and approximately 53 ac (21 ha) of private lands are managed by the USDA–NRCS Emergency Waters Protection Program.

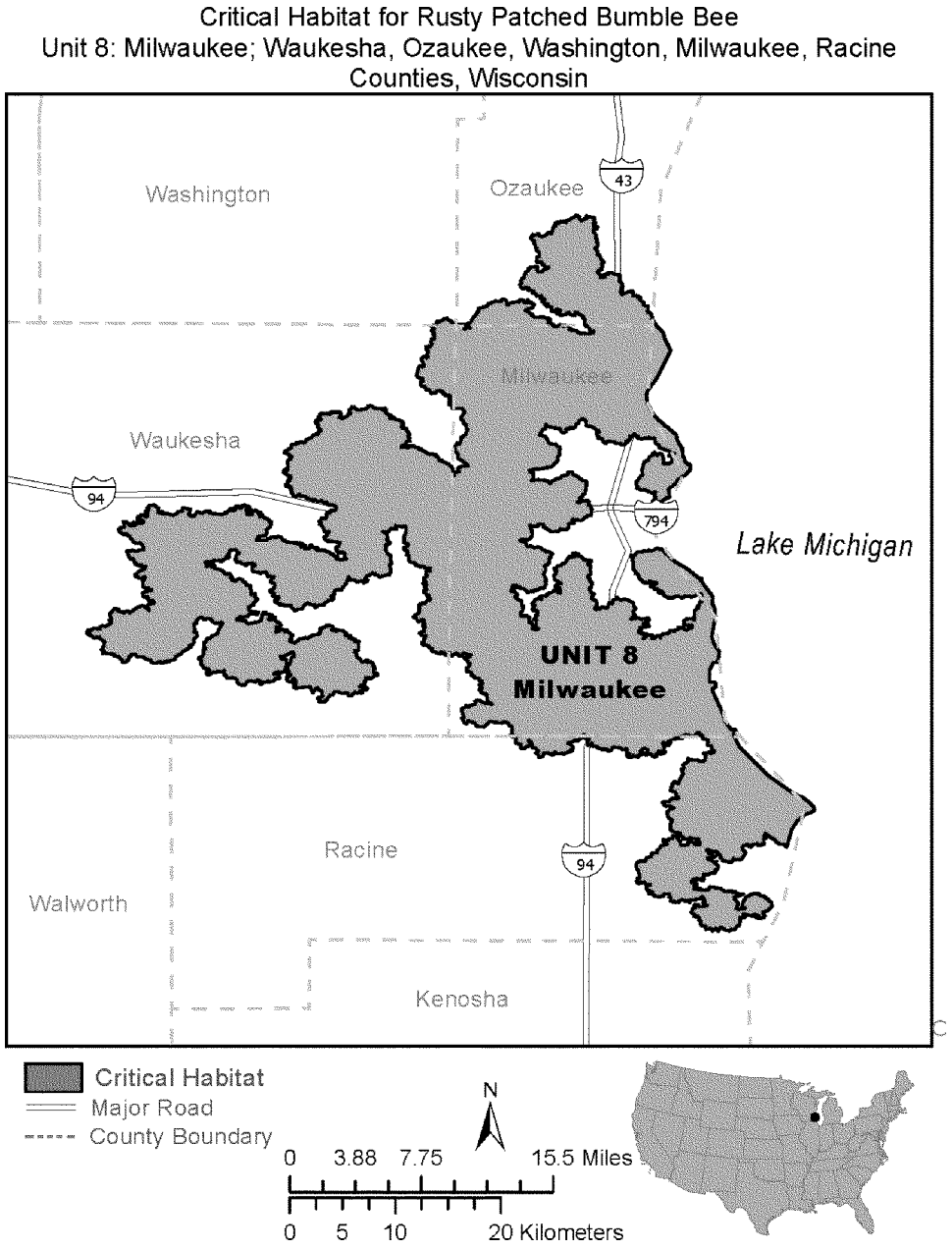
(ii) Map of Unit 7 is provided at paragraph (10)(ii) of this entry.

(13) *Unit 8:* Milwaukee; Waukesha, Ozaukee, Washington, Milwaukee, and Racine Counties, Wisconsin.

(i) Unit 8 consists of 252,992 acres (102,382 hectares) in Waukesha, Ozaukee, Washington, Milwaukee, and Racine Counties. This unit includes primarily private lands (232,722 ac (94,179 ha)), local government-owned lands (17,995 ac (7,282 ha)), university or school lands (14 ac (6 ha)), and Wisconsin State lands (2,121 ac (858 ha)). Tribal lands include the Forest County Potawatomi Off-Reservation Land Trust (10 ac (4 ha)). Federally owned lands include 5 ac (2 ha) owned by the Bureau of Land Management and 126 ac (51 ha)) of Department of Defense-owned lands. Approximately 66 ac (27 ha) of private lands in this unit are managed by USDA–NRCS Wetlands Reserve Program.

(ii) Map of Unit 8 follows:

Figure 5 to Rusty Patched Bumble Bee (*Bombus affinis*) Paragraph (13)(ii)

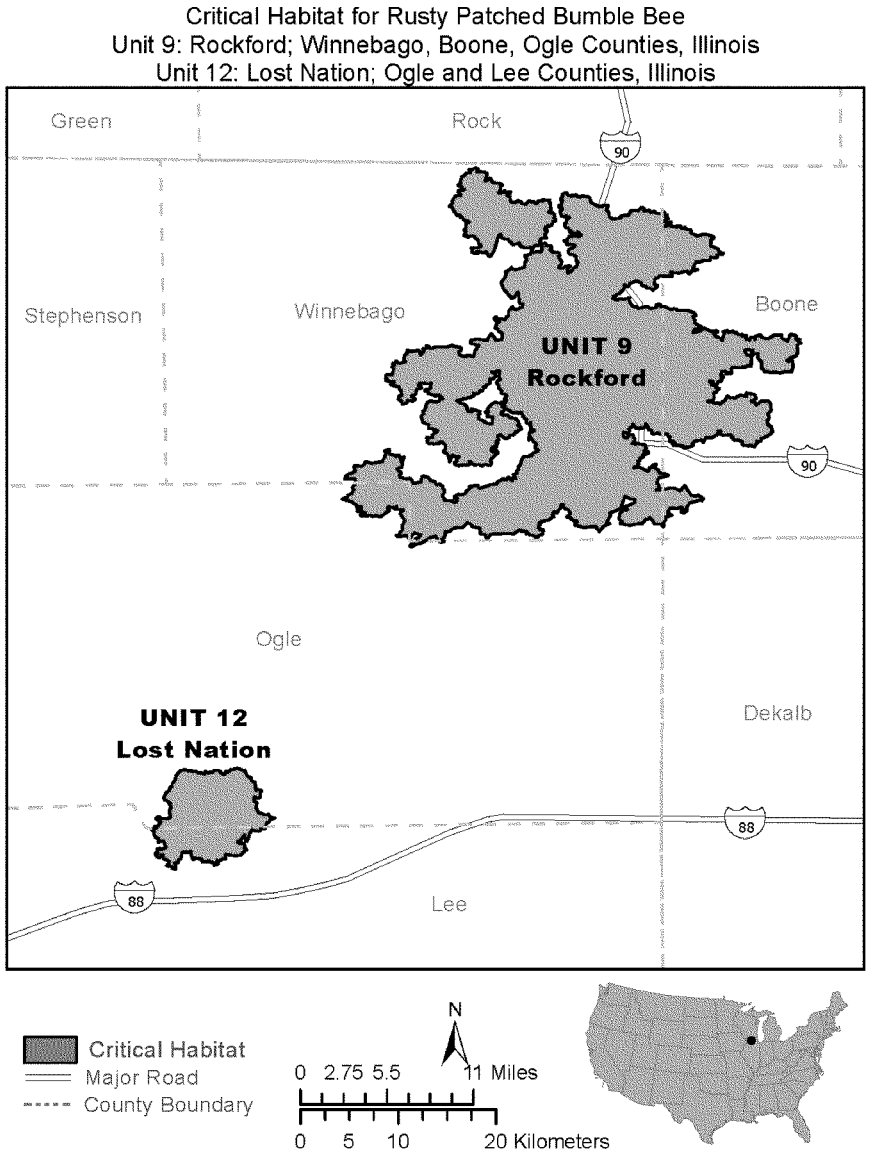


(14) *Unit 9:* Rockford; Winnebago, Boone, and Ogle Counties, Illinois.

(i) Unit 9 consists of 150,108 ac (60,747 ha) in Boone, Ogle, and Winnebago Counties. This unit includes primarily private lands (136,826 ac (55,371 ha)), local government-owned lands (7,898 ac (3,196 ha)), university or school lands (2,395 ac (969 ha)), and Illinois State lands (2,990 ac (1,210 ha)). Approximately 669 ac (271 ha) of private lands in this unit are managed by the USDA–NRCS Wetlands Reserve Program.

(ii) Map of Unit 9 and 12 follows:

Figure 6 to Rusty Patched Bumble Bee (*Bombus affinis*) Paragraph (14)(ii)

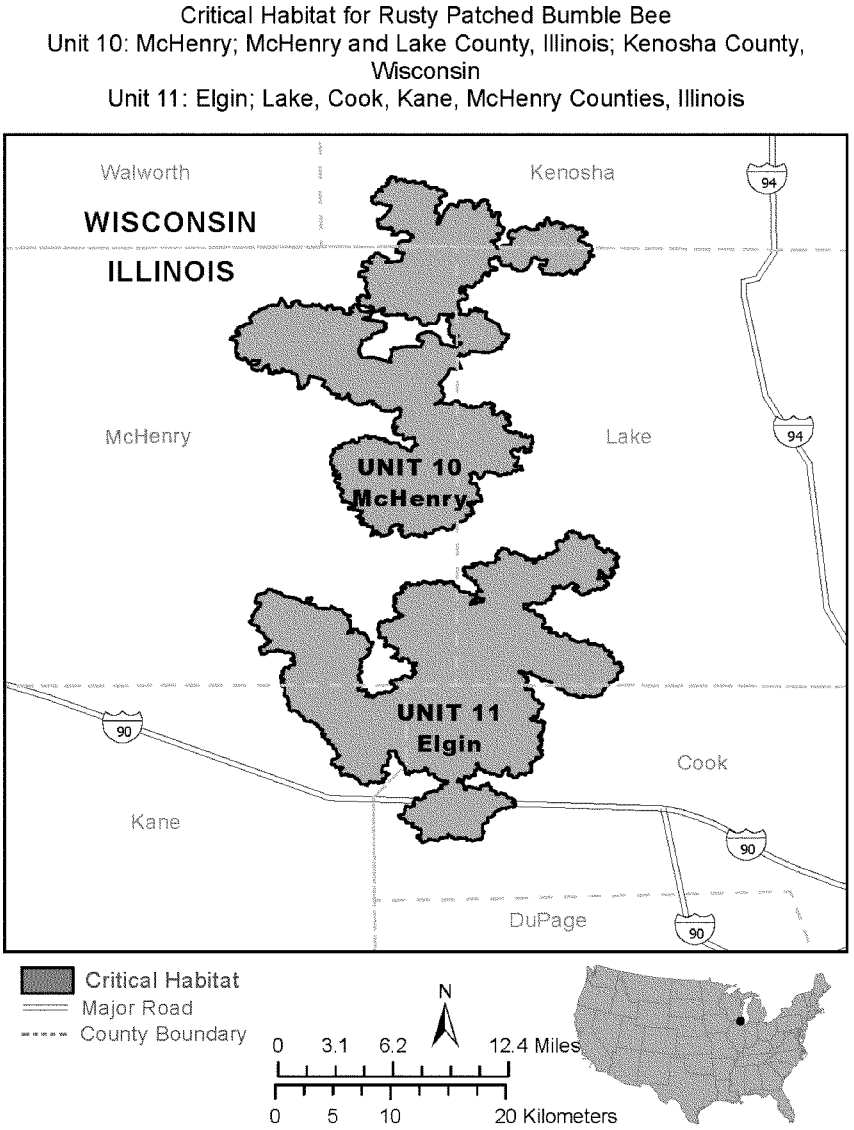


(15) *Unit 10:* McHenry; McHenry and Lake Counties, Illinois, and Kenosha County, Wisconsin.

(i) Unit 10 consists of 68,295 ac (27,638 ha) in McHenry and Lake Counties, Illinois, and Kenosha County, Wisconsin. This unit includes primarily private lands (59,158 ac (23,940 ha)), local government-owned lands (1,406 ac (569 ha)), university or school lands (2,284 ac (924 ha)), and Illinois State lands (5,445 ac (2,204 ha)). The Bureau of Land Management owns 2 ac (1 ha) of land in this unit. A conservation easement within the Hackmatack National Wildlife Refuge, managed by the Service, falls partially (39 ac (16 ha)) within this unit. Approximately 412 ac (167 ha) of private lands within this unit are managed by the USDA–NRCS Wetlands Reserve Program.

(ii) Map of Units 10 and 11 follows:

Figure 7 to Rusty Patched Bumble Bee (*Bombus affinis*) Paragraph (15)(ii)



(16) *Unit 11:* Elgin; Lake, Cook, Kane, and McHenry Counties, Illinois.

(i) Unit 11 consists of 75,080 ac (30,384 ha) in Cook, Kane, Lake, and McHenry Counties. This unit includes primarily private lands (56,318 ac (22,791 ha)), local government-owned lands (13,710 ac (5,548 ha)), university or school lands (4,884 ac (1,977 ha)), and Illinois State lands (168 ac (68 ha)).

(ii) Map of Unit 11 is provided at paragraph (15)(ii) of this entry.

(17) *Unit 12:* Lost Nation; Ogle and Lee Counties, Illinois.

(i) Unit 12 consists of 15,043 ac (6,088 ha) in Lee and Ogle Counties. This unit is composed of private lands (14,416 ac (5,834 ha)), including 2,189 ac (886 ha) owned by nongovernmental organizations, and State lands owned by Iowa Department of Natural Resources (627 ac (254 ha)).

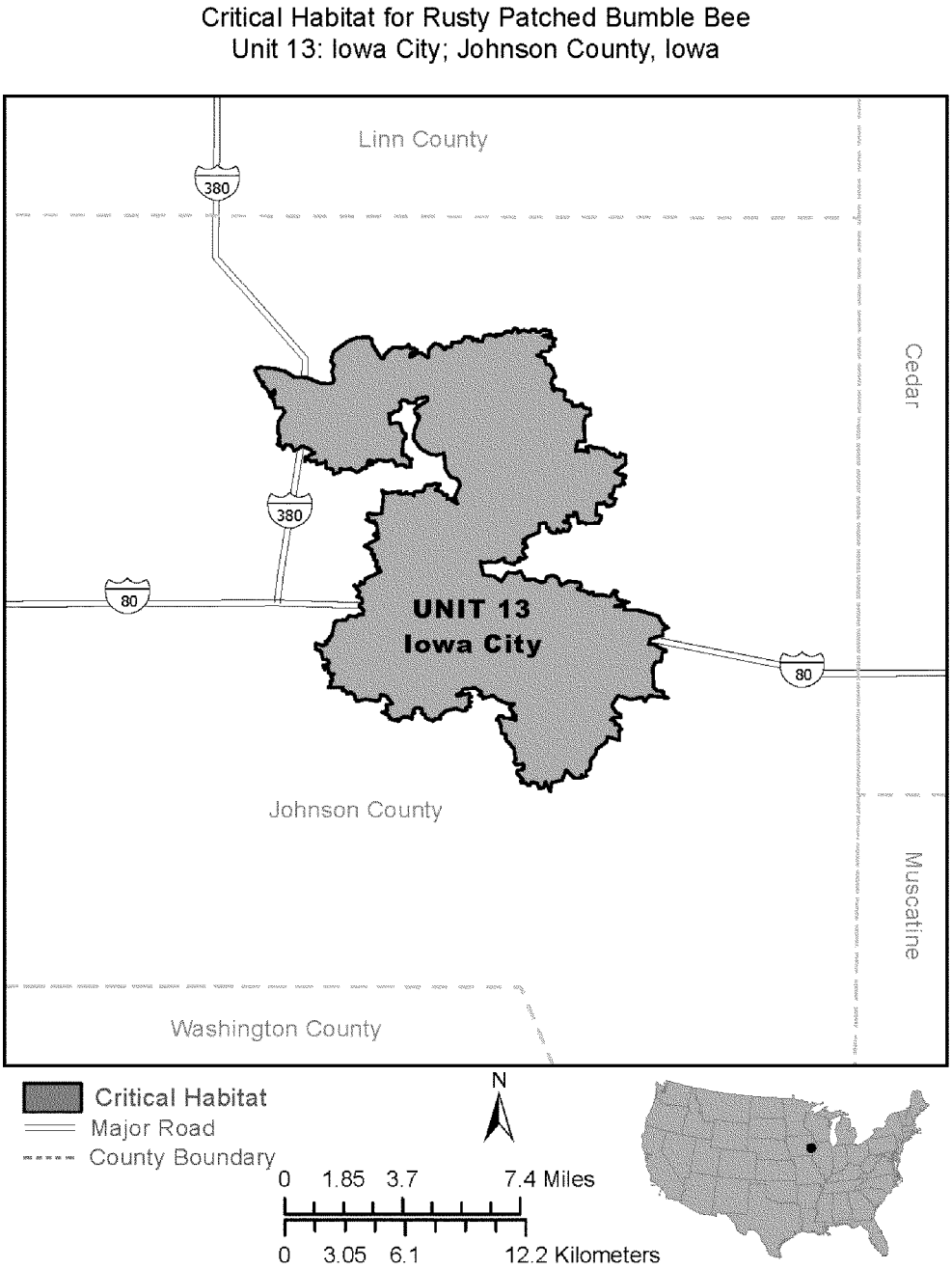
(ii) Map of Unit 12 is provided at paragraph (14)(ii) of this entry.

(18) *Unit 13:* Iowa City; Johnson County, Iowa.

(i) Unit 13 consists of 45,902 ac (18,576 ha) in Johnson County. This unit includes primarily private lands (30,397 ac (12,301 ha)), local government-owned lands (1,857 ac (751 ha)), and Iowa State lands (2,287 ac (926 ha)). Federal lands (11,362 ac (4,598 ha)) in this unit include U.S. Army Corps of Engineers' Coralville Lake and the Coralville Reservoir. A portion of the U.S. Army Corps of Engineers' land in this unit is managed by the State of Illinois (1,333 ac (539 ha)) and the University of Iowa (421 ac (170 ha)).

(ii) Map of Unit 13 follows:

Figure 8 to Rusty Patched Bumble Bee (*Bombus affinis*) Paragraph (18)(ii)

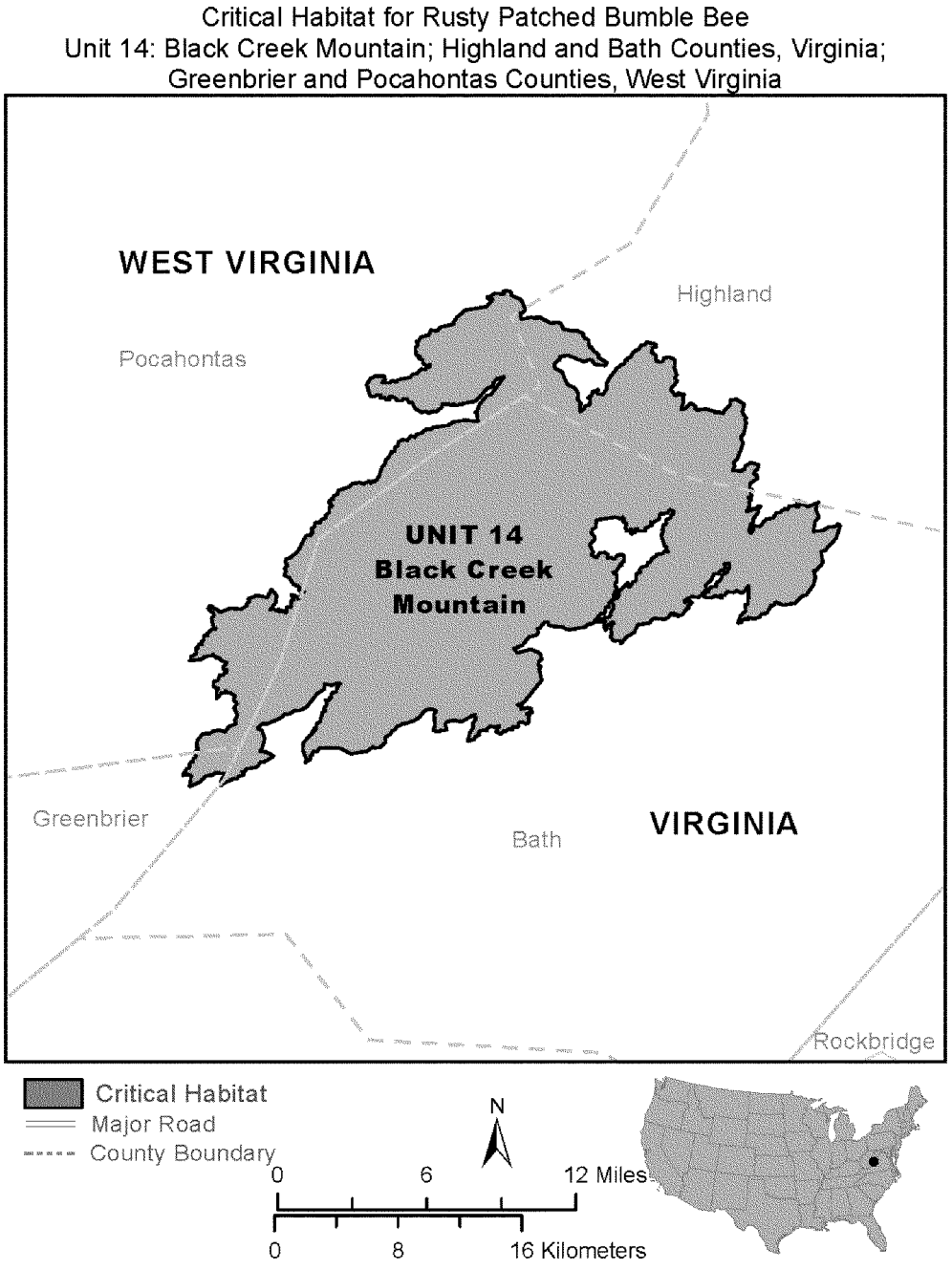


(19) *Unit 14:* Black Creek Mountain; Highland and Bath Counties, Virginia, and Greenbrier and Pocahontas Counties, West Virginia.

(i) Unit 14 consists of 118,603 ac (47,997 ha) in Highland and Bath Counties, Virginia, and Greenbrier and Pocahontas Counties, West Virginia. This unit includes Federal lands (105,558 ac (42,718 ha)), private lands (11,200 ac (4,532 ha)), and Virginia State lands (1,845 ac (747 ha)). Federal lands include the Monongahela and the George Washington–Jefferson National Forests.

(ii) Map of Unit 14 follows:

Figure 9 to Rusty Patched Bumble Bee (*Bombus affinis*) Paragraph (19)(ii)



* * * * *

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2024–27316 Filed 11–25–24; 8:45 am]

BILLING CODE 4333–15–C

Notices

Federal Register
Vol. 89, No. 228
Tuesday, November 26, 2024

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Fresno and Madera Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Fresno and Madera Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Sierra National Forest within Fresno and Madera Counties, consistent with the Federal Lands Recreation Enhancement Act.

DATES: An in-person meeting will be held on Wednesday, December 11, 2024, 5:30 p.m. to 7:30 p.m. Pacific Standard Time.

Written and Oral Comments: Anyone wishing to provide in-person oral comments must pre-register by 11:59 p.m. Pacific Standard Time on Tuesday, December 6, 2024. Written public comments will be accepted by 11:59 p.m. Pacific Standard Time on December 6, 2024. Comments submitted after this date will be provided by the Forest Service to the committee, but the committee may not have adequate time to consider those comments prior to the meeting.

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

ADDRESSES: This meeting will be held in person at the Sierra National Forest Supervisor's Office, located at 1600 Tollhouse Road, Clovis, California 96312. RAC information and meeting details can be found at the following website: *https://www.fs.usda.gov/main/sierra/workingtogether/advisorycommittees,* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: Written comments must be sent by email to *bill.mccullough@usda.gov* or via mail (postmarked) to Will McCullough, 1600 Tollhouse Rd., Clovis, California 93619. The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. Pacific Standard Time, December 6, 2024, and speakers can only register for one speaking slot. Oral comments must be sent by email to *bill.mccullough@usda.gov* or via mail (postmarked) to Will McCullough, 1600 Tollhouse Rd., Clovis, California 93619.

FOR FURTHER INFORMATION CONTACT: Kim Sorini-Wilson, Designated Federal Officer, at (559) 365–1497 or *kim.sorini@usda.gov;* or Will McCullough, RAC Coordinator, at (559) 290–0094 or *bill.mccullough@usda.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Discuss and agree on general operating procedures.
2. Elect a chairperson.
3. Possibly vote to recommend project proposals for Title II Funds.
4. Schedule the next meeting.
5. Other.

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

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

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

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

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the committee. To ensure that the recommendations of the committee have taken into account the needs of the diverse groups served by the USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities. USDA is an equal opportunity provider, employer, and lender.

Dated: November 7, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024–26493 Filed 11–25–24; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Generic Clearance for 2030 Census Small-Scale Tests, Evaluations, and Database Updates

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 September 11, 2024, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Generic Clearance for Census Bureau Field Tests and Evaluations.

OMB Control Number: 0607–XXXX.

Form Number(s): Not yet determined.

Type of Request: Regular submission, New Information Collection Request.

Number of Respondents: 162,000–175,000 per year.

Average Hours per Response: 18 minutes.

Burden Hours: 51,000–53,100 hours annually.

Needs and Uses: The upper range for the proposed annual burden hours is a slight reduction from the 55,000 hours the Census Bureau estimated in the 60-day **Federal Register** Notice for this generic information collection, and that figure was reduced for programmatic reasons.

The U.S. Census Bureau is committed to conducting research towards developing a well-managed, cost-effective, high quality decennial census. To that end, the Census Bureau requests OMB approval for a new generic clearance to conduct a series of studies to research and evaluate how to improve data collection activities for 2030 Census programs at the Census Bureau. These studies will explore how the Census Bureau can improve efficiency, data quality, and response rates and reduce respondent burden in future census and survey operations, evaluations and experiments. This research program is for database updates, respondent communication, questionnaire and procedure development and evaluation purposes. We will use data tabulations to evaluate the results of questionnaire testing. Data will also be used to update address databases and other datasets used to plan and conduct larger tests and the 2030 Census itself.

Affected Public: Individuals or households, businesses or other for profit, farms.

Frequency: Once.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, Sections 141, 191, 193, 221, and 223.

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 the title of the collection.

Sheleen Dumas,

Departmental PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–27652 Filed 11–25–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–206–2024]

Foreign-Trade Zone 102; Application for Subzone; True Manufacturing Co., Inc.; O'Fallon and Mexico, Missouri

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the St. Louis County Port Authority, grantee of FTZ 102, requesting subzone status for the facilities of True Manufacturing Co., Inc., located in O'Fallon and Mexico, Missouri. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on November 20, 2024.

The proposed subzone would consist of the following sites: Site 1 (184 acres)—2001 East Terra Lane, O'Fallon; and Site 2 (56 acres)—1655 Bassford Drive, Mexico. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 102.

In accordance with the FTZ Board's regulations, Kolade Osho of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is January 6, 2025. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 21, 2025.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Kolade Osho at *Kolade.Osho@trade.gov.*

Dated: November 20, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–27649 Filed 11–25–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–854]

Certain Steel Nails From Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Reviewable Sales; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain steel nails (nails) from Taiwan were sold in the United States at less than normal value during the period of review (POR), July 1, 2022, through June 30, 2023. Commerce also determines that certain companies under review had no reviewable sales during the POR.

DATES: Applicable November 26, 2024.

FOR FURTHER INFORMATION CONTACT: Faris Montgomery or Henry Wolfe, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington,

DC 20230; telephone: (202) 482–1537 or (202) 482–0574, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 16, 2024, Commerce published the preliminary results in the 2022–2023 administrative review of the antidumping duty order on nails from Taiwan and invited interested parties to comment.[1] On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.[2] The deadline for the final results is now November 20, 2024. A summary of the events that occurred since publication of the *Preliminary Results,* as well as a full discussion of the issues raised by parties for these final results, are included in the Issues and Decision Memorandum.[3] Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

This review covers 23 producers and/or exporters of the subject merchandise. Commerce selected four companies, Cyuan Hong Enterprise Co. (Cyuan Hong), Hsieh Shun Iron Wire Mfg. Co., Ltd. (Hsieh Shun), Qi Ding Enterprise Co. Ltd. (Qi Ding), and Yeong Ming Steel Iron Co., Ltd. (Yeong Ming) for individual examination.[4] Two companies, Wiresmith Industrial Co., Ltd. (Wiresmith), and Concord International Engineering & Trading Co., Ltd. (Concord International) reported having no reviewable entries during the POR, *see* ''Final Determination of No Reviewable Sales'' section below. The remaining producers and/or exporters not selected for individual examination are listed in Appendix II of this notice.

Scope of the Order[5]

The merchandise covered by this *Order* are nails from Taiwan. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in case briefs are addressed in the Issues and Decision Memorandum and are listed in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

In response to comments made by interested parties, Commerce made changes to the dumping margin assigned to non-examined companies under review. The Issues and Decision Memorandum contains a description of this change.

Final Determination of No Reviewable Sales

In the *Preliminary Results,* Commerce determined that resellers Wiresmith and Concord International had no reviewable sales of subject merchandise during the POR.[6] We received no comments from interested parties regarding our preliminary determination and do not have any information on the record to contradict this determination. Therefore, we continue to find that these two companies had no reviewable sales during the POR. As discussed further in the ''Assessment Rates'' section below, we will instruct CBP to liquidate any existing entries of subject merchandise produced by Wiresmith and Concord International's respective unaffiliated suppliers and attributed to Wiresmith and Concord International at the rate applicable to the unaffiliated producers, or the all-others rate if there is no rate for the unaffiliated producers.[7]

Use of Adverse Facts Available

As discussed in the *Preliminary Results,* we are relying entirely upon facts otherwise available, pursuant to sections 776(a) and (b) of the Act, to assign estimated dumping margins to mandatory respondents Cyuan Hong, Hsieh Shun, Qi Ding, and Yeong Ming because these companies were unresponsive to our requests for information, and thereby withheld necessary information that was requested by Commerce, failed to provide the information requested by the specified deadlines in the form and manner requested, and significantly impeded the review. Further, Commerce 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. Using adverse facts available (AFA), we are assigning these companies a rate of 78.17 percent, which is the highest rate applied in any segment of this proceeding.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding the *Preliminary Results,* we revised the weighted average margin assigned to the respondents not selected for individual examination.[8] For detailed information, *see* the Issues and Decision Memorandum.

Rate for Non-Selected Companies

For the rate assigned to companies not selected for individual examination in an administrative review, generally, Commerce looks to section 735(c)(5) of the Act which provides instructions for calculating the all-others rate in an investigation. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers

[1] *See Certain Steel Nails from Taiwan: Preliminary Results and Rescission, in Part, of Antidumping Administrative Review; 2022–2023,* 89 FR 57856 (July 16, 2024). The list of companies for which Commerce was rescinding the administrative review was subsequently corrected; *see Certain Steel Nails from Taiwan: Preliminary Results and Rescission, in Part, of Antidumping Administrative Review; 2022–2023; Correction,* 89 FR 62721 (August 1, 2024).

[2] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Certain Steel Nails from Taiwan; 2022–2023,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See* Memorandum, ''Respondent Selection,'' dated October 31, 2023; *see also* Memoranda, ''First Selection of Additional Mandatory Respondents,'' dated December 29, 2023; ''Second Selection of Additional Mandatory Respondents,'' dated January 25, 2024; and ''Third Selection of Additional Mandatory Respondents,'' dated March 7, 2024. We note that Commerce selected two additional respondents; Concord International reported no reviewable entries and we were unable to deliver the questionnaire to Foison Hardware Inc. at the provided address.

[5] *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*).

[6] *See Preliminary Results,* 89 FR at 57857–57858.

[7] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954, 23954 (May 6, 2003) (*Assessment of Antidumping Duties*); *see also 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).

[8] *See* Issues and Decision Memorandum at Comment 1.

individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.'' Under section 735(c)(5)(B) of the Act, if the estimated dumping margins established for all exporters and producers individually investigated are zero or *de minimis* margins, or are determined entirely under section 776, the administering authority may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the dumping margins determined for the exporters and producers individually investigated.

For the final results of this administrative review, we continue to base the weighted average dumping margins for Cyuan Hong, Hsieh Shun, Qi Ding, and Yeong Ming, the mandatory respondents in this review, entirely on AFA. However, while we preliminarily found that it was appropriate to assign the calculated rate from the prior proceeding to the non-selected companies under review, for these final results of review, we have instead assigned the non-selected companies an average of the mandatory respondents' AFA rate. Therefore, we are assigning a margin of 78.17 percent to the companies not individually examined (*see* Appendix II for a full list of these companies). For further discussion, *see* the Issues and Decision Memorandum.

Final Results of Review

We have determined the following dumping margins for the firms listed below for the period July 1, 2022, through June 30, 2023:

Exporter/producer	Weighted-average dumping margin (percent)
Cyuan Hong Enterprise Co.	78.17
Hsieh Shun Iron Wire Mfg. Co., Ltd.	78.17
Qi Ding Enterprise Co., Ltd.	78.17
Yeong Ming Steel Iron Co., Ltd.	78.17
Companies under Review Not Selected for Individual Examination[9]	78.17

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the final results of administrative review 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 the final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce applied AFA to the four companies subject to this this review, in accordance with section 776 of the Act, there are no calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For the companies that were not selected for individual examination, we will instruct CBP to assess antidumping duties at the assessment rate assigned to the companies, based on the methodology described in the ''Rate for Non-Selected Companies'' section, above. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[10] Because we continue to find Concord International and Wiresmith had no reviewable entries during the POR in the final results, any suspended entries of subject merchandise associated with these companies will be liquidated at the rate applicable to the unaffiliated producers, or the all-others rate if there is no rate for the unaffiliated producers.

For entries of subject merchandise during the POR produced by an individually examined respondent for which it did not know its merchandise was destined for the United States, we intend to instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[11]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

Upon publication of this notice in the **Federal Register**, the following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Cyuan Hong, Hsieh Shun, Qi Ding, Yeong Ming, and the companies listed in Appendix II will be equal to the appropriate dumping margin established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be 2.16 percent, the all-others rate established in the LTFV investigation, as amended.[12] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of

[9] *See* Appendix II for a full list of companies not individually examined in this review.

[10] *See* section 751(a)(2)(C) of the Act.

[11] *See Assessment of Antidumping Duties,* 68 FR at 23954.

[12] *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).

APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: November 20, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Changes Since the *Preliminary Results*
V. Discussion of the Issues
Comment 1: Whether To Calculate the Non-Selected Respondents' Rate Based on the Mandatory Respondents' Rates
VI. Recommendation

Appendix II—List of Companies Under Review Not Selected for Individual Examination

1. Bestwell International Corporation
2. Create Trading Co., Ltd.
3. Dar Yu Enterprise Co., Ltd.
4. Fastnet Corporation
5. Foison Hardware Income
6. GoFast Company Limited
7. JCH Hardware Company Inc.
8. Jockey Ben Metal Enterprise Co., Ltd.
9. Liang Chyuan Industrial Co., Ltd.; Integral Building Products Inc.
10. Midas Union Co., Ltd.
11. Pao Shen Enterprises Co., Ltd.
12. Rodex Fasteners Corp.
13. Spec Products Corporation
14. Ume-Pride International Inc.
15. WTA International Co., Ltd.
16. Wu Shun Enterprise Co.
17. Yeun Chang Hardware Tool Company Limited

[FR Doc. 2024–27701 Filed 11–25–24; 8:45 am]

BILLING CODE 3510–DS–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

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 July 16, 2024 (89 FR 57875) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Management and Oversight of the National Estuarine Research Reserve System.

OMB Control Number: 0648–0121.

Form Number(s): None.

Type of Request: Regular (extension of a current information collection).

Number of Respondents: 30 unique respondents.

Average Hours per Response: Management plan, 1,600 hours; site profile, 1,800 hours; site nomination documents, 2,500 hours; award application, 24 hours; award reports, 14 hours; NEPA documentation, 2 hours.

Total Annual Burden Hours: 9,879.

Needs and Uses: The National Estuarine Research Reserve System (NERRS) is a partnership between the National Oceanic and Atmospheric Administration (NOAA) and 24 states and Puerto Rico that protects more than 1.3 million coastal and estuarine acres in 30 Reserves for long-term research, monitoring, education, and stewardship, established under Section 315 of the *Coastal Zone Management Act* (CZMA) of 1972 (16 U.S.C. 1451), 16 U.S.C. 1461. The NERRS consists of carefully selected estuarine areas of the United States that are designated, preserved, and managed for research and educational purposes. The Reserves are chosen to reflect regional differences and to include a variety of ecosystem types according to the classification scheme of the national program as presented in *15 CFR part 921.* As part of a national system, the Reserves collectively provide a unique opportunity to address research questions and estuarine management issues of national significance. The Reserves also serve to enhance public awareness and understanding of estuarine areas and provide suitable opportunities for public education and interpretation. Regulations provide guidance for delineating Reserve boundaries and additional guidance for arriving at the most effective and least costly approach to establishing adequate state control of key land and water areas. Any qualified public or private persons, organizations or institutions may compete for research funding to work in research Reserves. In fact, applicants are almost always states.

Subsection 315(e)(1)(B) of the CZMA authorizes the National Ocean Service (NOS) to make grants to, or cooperative agreements with, any coastal state or public or private institution or person for purposes of supporting research within the NERRS. This program is listed in the Catalog of Federal Domestic Assistance under ''Coastal Zone Management Estuarine Research Reserve, Number 11.420.'' Applications for such grants follow the provisions of 2 CFR 200. 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.

Affected Public: Non-profit institutions; state, local, or tribal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain funding.

Legal Authority: Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. 1451), 16 U.S.C. 1461.

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 0648–0121.

Sheleen Dumas,

Departmental PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–27650 Filed 11–25–24; 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; Data Collections To Support Comprehensive Economic and Socio-Economic Evaluations of the Fisheries in Regions of the United States Affected by Catastrophic Events

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 January 27, 2025.

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 0648–0767 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 Dr. Joe Terry, Office of Science and Technology, 1315 East-West Hwy., Bldg. SSMC3, Silver Spring, MD 20910–3282, (858) 454–2547, *joe.terry@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for extension of a currently approved information collection. The National Marine Fisheries Service (NMFS) Office of Science and Technology's Economics and Social Analysis Division seeks to conduct as-needed data collections to support mandated comprehensive economic and socio-economic evaluations of the fisheries in regions of the United States affected by catastrophic events. The six NMFS Fisheries Science Centers will assist in conducting the proposed collections.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) includes the following requirement (see SEC. 315(c)), ''Within 2 months after a catastrophic regional fishery disaster the Secretary [of Commerce] shall provide the Governor of each State participating in the program a comprehensive economic and socio-economic evaluation of the affected region's fisheries to assist the Governor in assessing the current and future economic viability of affected fisheries, including the economic impact of foreign fish imports and the direct, indirect, or environmental impact of the disaster on the fishery and coastal communities.'' The MSA permits the proposed collection, and NMFS would conduct it under the MSA.

This collection will provide information that NMFS will use to produce the comprehensive economic and socio-economic evaluation required by the MSA. For a rapid catastrophic event, such as a hurricane, NMFS seeks to collect data on the immediate and long-term disruption and impediments to recovery of normal business practices to the commercial and recreational fishing industries, including fishing dependent businesses. In addition, for an ongoing event, such as a pandemic or red tide that lingers for many months in the same region(s), NMFS seeks to collect data quarterly to semi-annually as needed to evaluate the ongoing event. NMFS would collect the data from commercial and recreational for hire fishermen, fish dealers, seafood processors, bait and tackle shops, and boat repair/marine supply/other associated businesses.

NMFS will use the data to prepare the required economic and socio-economic evaluations and to improve research and analysis of potential fishery management actions by understanding the immediate, quarterly or semi-annual, and/or long-term compounding effects of catastrophic events on the commercial and recreational fishing industries and the communities most dependent on those industries. The frequency of reporting will be from one to four times a year for each catastrophic event.

II. Method of Collection

NMFS will use a combination of in-person, telephone and video call interviews, as well as mail and internet surveys, to collect the required information.

III. Data

OMB Control Number: 0648–0767.

Form Number(s): None.

Type of Review: Regular submission. Extension of a current information collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Respondents: 7,184.

Estimated Time per Response: Regional surveys of fishing operations: 30 minutes; Regional surveys of other fishing related businesses: 30 minutes; National surveys of fishing operations: 20 minutes; and National surveys of other fishing related businesses: 20 minutes.

Estimated Total Annual Burden Hours: 3,200 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act SEC. 315(c).

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 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,

Departmental PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–27651 Filed 11–25–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE491]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 154th Scientific and Statistical Committee (SSC), Executive and Budget Standing Committee (SC) and its 201st Council meeting to take actions on fishery management issues in the Western Pacific Region.

DATES: The meetings will be held between December 12 and December 17, 2024. For specific times and agendas, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The 154th SSC meeting will be held as a hybrid meeting for members and the public, with a remote participation option available via Webex. In-person attendance for the 154th SSC meeting will be hosted at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

The Executive and Budget SC and the 201st Council meetings will be held by web conference via WebEx. Specific information on joining the meeting, connecting to the web conference and providing oral public comments will be posted on the Council website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220.

The following venues will be the host sites for the 201st Council meeting web conference: Council Conference Room, 1164 Bishop Street, Suite 1400, Honolulu, HI; Cliff Pointe, 304 W O'Brien Drive, Hagatna, Guam; BRI Building Suite 205, Kopa Di Oru St., Garapan, Saipan, Commonwealth of the Northern Mariana Islands (CNMI); and, Tedi of Samoa Building Suite 208B, Fagatogo Village, American Samoa.

Council address: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The 154th SSC meeting will be held between 8:30 a.m. and 5:30 p.m., HST on December 12, and 8 a.m. and 2 p.m., HST on December 13, 2024. The Executive and Budget SC meeting will be held between 3 p.m. and 5:30 p.m., HST on December 13, 2024. The 201st Council Meeting will be held between 11 a.m. and 5 p.m., HST on December 16–17, 2024. Public Comment on Non-Agenda Items will be held between 4:30 p.m. and 5 p.m., HST on December 16, 2024.

Agenda items noted as ''Final Action'' refer to actions that may result in Council transmittal of a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In addition to the agenda items listed here, the Council and its advisory bodies will hear recommendations from Council advisors. An opportunity to submit public comment will be provided throughout the agendas. The order in which agenda items are addressed may change and will be announced in advance at the Council meeting. The meetings will run as late as necessary to complete scheduled business.

Background documents for the 201st Council meeting will be available at *www.wpcouncil.org.* Written public comments on final action items at the 201st Council meeting should be received at the Council office by 5 p.m. HST, Thursday, December 12, 2024, and should be sent to Kitty M. Simonds, Executive Director; Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, phone: (808) 522–8220 or fax: (808) 522–8226; or email: *info@wpcouncil.org.* Written public comments on all other agenda items may be submitted for the record by email throughout the duration of the meeting. Instructions for providing oral public comments during the meeting will be posted on the Council website. This meeting will be recorded (audio only) for the purposes of generating the minutes of the meeting. As public comments will be made publicly available, participants and public commenters are urged not to provide personally identifiable information (PII) at this meeting. Participation in the meeting by web conference, or by telephone, constitutes consent to the audio recording.

Agenda for the 154th SSC Meeting

Thursday, December 12, 2024, 8:30 a.m. to 5:30 p.m., HST

1. Introductions
2. Approval of Draft Agenda and Assignment of Rapporteurs
3. Status of the 153rd SSC Meeting Recommendations
4. Pacific Islands Fisheries Science Center Director Report
5. Program Planning and Research
   - A. SSC Strategic Planning
   - B. Science Needs To Inform Management Priorities
   - C. SSC Special Projects Discussion
   - D. Inflation Reduction Act Project Updates
   - E. American Samoa (AS) Bottomfish Management Unit Species (BMUS) Revisions—Annual Biological Catch (ABC) Control Rule Tier 6 (Action Item)
   - F. Public Comment
   - G. SSC Discussion and Recommendations
6. Protected Species/Pelagic & International Fisheries
   - A. False Killer Whale Foreign Fleet Impacts Analysis
   - B. Development of an Electronic Monitoring Program for Western Pacific Fisheries (Action Item)
   - C. Public Comment
   - D. SSC Discussion and Recommendations
7. Island Fisheries
   - A. Non-Commercial Fisheries Data
   - A.1. Marine Recreational Information Program (MRIP) Pacific Islands Regional Implementation Plan
   - A.2. Non-Commercial Bottomfish Vessel Registry Data Exploration

Friday, December 13, 2024, 8 a.m. to 2 p.m., HST

7. Island Fisheries (Continued)
   - B. Main Hawaiian Islands (MHI) Uku
   - B.1. MHI Uku Update Stock Assessment
   - B.2. Chair's Report on Uku Update Stock Assessment Western Pacific Stock Assessment Review (WPSAR)
   - C. Public Comment
   - D. SSC Discussion and Recommendations
8. Other Business

A. SSC Meeting Schedule and Potential Working Groups
B. Synthesis of SSC Strategic Plan and Interim Work
9. Summary of SSC Recommendations to the Council

Agenda for the Executive and Budget SC Meeting

Friday, December 13, 2024, 3 p.m. to 5:30 p.m., HST

1. Introductions and Approval of Agenda
2. Financial Reports
3. Administrative Reports
4. Report on Inflation Reduction Act (IRA) Program
5. Council Coordination Committee Report
6. Council Family Changes
7. SSC Program Review
A. Term Limits
8. Exemptions From Jones Act and Cabotage Laws
9. Meetings and Workshops
10. Other Business
A. Misinformation on Mercury Toxicity in Tuna
11. Public Comment
12. Discussion and Recommendations

Agenda for the 201st Council Meeting

Monday, December 16, 2024, 11 a.m. to 5 p.m., HST

1. Welcome and Introductions
2. Approval of the 201st Council Meeting (CM) Agenda
3. Approval of the 200th CM Meeting Minutes
4. Executive Director's Report
5. Agency Reports
A. NMFS
A.1. Pacific Islands Regional Office
A.2. PIFSC
B. NOAA Office of General Counsel Pacific Islands Section
C. US Coast Guard (USCG)
D. Enforcement
D.1 NOAA Office of Law Enforcement
D.2 NOAA Office of General Counsel Enforcement Section
E. U.S. State Department
F. U.S. Fish and Wildlife Service (FWS)
G. Public Comment
H. Council Discussion and Action
6. Council Member Island Reports
A. American Samoa
B. Commonwealth of the Northern Mariana Islands (CNMI)
C. Guam
D. Hawaii
E. Public Comments
F. Council Discussion and Action
7. Action Items
A. MHI Uku Fisheries
A.1. 2024 MHI Uku WPSAR Report
A.2. 2024 MHI Uku Stock Assessment Update
B. Modifying the Guam Bottomfish Rebuilding Plan (Final Action)
C. U.S. Catch Limits for North Pacific Striped Marlin (Initial Action)
D. Hawaii and American Samoa Longline Fisheries Crew Training Requirement (Initial Action)
E. Development of an Electronic Monitoring Program for Western Pacific Fisheries (Initial Action)
F. Update on AS BMUS Revision—Tier 6 ABC Control Rule (Initial Action)
G. Revision of Guam Marine Conservation Plan
H. Advisory Group Reports and Recommendations
H.1. Advisory Panel (AP)
H.2. Fishing Industry Advisory Committee (FIAC)
H.3. Non-Commercial Fisheries Advisory Committee (NCFAC)
H.4. Plan Team (PT)
H.5. SSC
I. Public Comment
J. Council Discussion and Action

Monday, December 16, 2024, 4:30 p.m. to 5 p.m., HST

Public Comment on Non-Agenda Items

Tuesday, December 17, 2024, 11 a.m. to 5 p.m., HST

8. Protected Species
A. False Killer Whale Foreign Fleet Impact Analysis
B. Coral Critical Habitat Designation Final Rule
C. Advisory Group Reports and Recommendations
C.1. AP
C.2. FIAC
C.3. PT
C.4. SSC
D. Public Comment
E. Council Discussion and Action
9. Pelagic and International Fisheries
A. International Fisheries
A.1. Western and Central Pacific Fisheries Commission (WCPFC) Technical and Compliance Committee (TCC) Outcomes
A.2. US Positions at WCPFC 21 From Permanent Advisory Committee (PAC) Meeting
A.3. Outcomes of the WCPFC 21st Regular Session 2024
B. Advisory Group Report and Recommendations
B.1. AP
B.2. FIAC
B.3. PT
B.4. SSC
C. Public Comment
D. Council Discussion and Action
10. Administrative Matters
A. Council Member and Staff Ethics Training
B. Financial Reports
C. Administrative Reports
D. Report on IRA Program
E. Council Coordination Committee Report
F. Council Family Changes
G. SSC Program Review
H. Meetings and Workshops
I. Council Cultural Protocol Documents
J. Executive and Budget SC Report
K. Public Comment
L. Discussion and Action
11. Election of Officers
12. Other Business

Non-emergency issues not contained in this agenda may come before the Council for discussion during its 201st meeting. However, Council final decisions will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: November 21, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–27692 Filed 11–25–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Record of Decision for the B–21 Main Operating Base 2 or 3 Beddown at Dyess AFB, Texas or Whiteman AFB, Missouri Environmental Impact Statement

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of availability of record of decision.

SUMMARY: On October 3, 2024, the Department of the Air Force (DAF) signed the Record of Decision (ROD) for the Environmental Impact Statement B–21 Beddown Main Operating Base 2 (MOB 2) or Main Operating Base 3 (MOB 3) at Dyess AFB, Texas or Whiteman AFB, Missouri.

ADDRESSES: Mr. Christopher Moore, AFCEC/CIE, 2261 Hughes Avenue, Suite 155, JBSA-Lackland Air Force Base, Texas 78236–9853, (325) 696–4820, *christopher.moore.114@us.af.mil.*

SUPPLEMENTARY INFORMATION: The DAF will beddown the B–21 MOB 2 under the USAF Global Strike Command at Whiteman AFB, Missouri and beddown the B–21 MOB 3 at Dyess AFB, Texas. The B–21 MOB 2 beddown at Whiteman AFB will establish the B–21 Operations Squadrons, new infrastructure, and would increase numbers of support and operations personnel. The B–21 MOB 3 beddown at Dyess AFB will establish B–21 Operations Squadrons, a Weapons Generation Facility, Weapons Instructor Course, Operations Test and Evaluation squadron, new infrastructure, and would increase numbers of support and operations personnel.

The DAF decision documented in the ROD was based on matters discussed in the Final Environmental Impact Statement, inputs from Native American Tribes, members of the public, and regulatory agencies, and other relevant factors. The Final Environmental Impact Statement was made available to the public on May 24, 2024 through a Notice of Availability in the **Federal Register** (Volume 89, Number 102, page 45883) with a waiting period that ended on June 24, 2024.

Authority: This Notice of Availability is published pursuant to the regulations (40 CFR part 1506.6) implementing the provisions of the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and the Air Force's Environmental Impact Analysis Process (32 CFR parts 989.21(b) and 989.24(b)(7)).

Tommy W. Lee,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2024–27538 Filed 11–25–24; 8:45 am]

BILLING CODE 3911–44–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Reserve Forces Policy Board (RFPB) will take place.

DATES: The RFPB will hold a meeting on Wednesday, December 4, 2024, from 9:45 a.m. to 4:00 p.m. Eastern Time. The first portion of the meeting, from 9:45 a.m. to 12:00 p.m., will be closed to the public. The second portion of the meeting, from 1:00 p.m. to 4:00 p.m., will be open to the public.

ADDRESSES: The RFPB meeting will be held in person at the Pentagon Library and Conference Center, Room B6, The Pentagon, Arlington, Virginia 20301.

FOR FURTHER INFORMATION CONTACT: Eric Flowers, Designated Federal Officer (DFO) at *Eric.P.Flowers2.civ@mail.mil* or 703–697–1795. Mailing address is Reserve Forces Policy Board, 5109 Leesburg Pike, Suite 501, Falls Church, Virginia 22041. The most up-to-date changes to the meeting agenda can be found on the website: *https://rfpb.defense.gov/.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5, United States Code (U.S.C.) (commonly known as the ''Federal Advisory Committee Act'' or ''FACA''), title 5, U.S.C., section 552b (commonly known as the ''Government in the Sunshine Act''), and title 41, Code of Federal Regulations (CFR), sections 102–3.140 and 102–3.155.

Due to circumstances beyond the control of the DFO, the RFPB was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its December 4, 2024 meeting. Accordingly, the Advisory Committee Management Officer for the DoD, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting

The purpose of the meeting is to obtain, review, and evaluate relevant information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the Reserve Component (RC).

Agenda

The RFPB will hold a meeting which will be closed to the public from 9:45 a.m. to 12:00 p.m. After opening comments by the RFPB's DFO, Military Executive, and Chair, members will receive a classified briefing on vulnerabilities and future capabilities of weapons systems, installations, projects, plans, and Reserve Component protection missions relating to national security. Lieutenant General (Lt. Gen.) Dagvin Anderson, U.S. Air Force, the Director of Joint Force Development for the Joint Staff, will present the classified briefing. The closed session will end at approximately 12:00 p.m. and RFPB members will take a one-hour lunch break. The open portion of the meeting will commence at approximately 1:00 p.m. with opening statements by the RFPB's DFO, Military Executive and Chair. The trio will be followed with a presentation by the Senior Enlisted Advisor to the Assistant Secretary of Defense for Manpower & Reserve Affairs, Sergeant Major (SGM) Stephen Minyard, U.S. Army Reserve (USAR). SGM Minyard will provide his perspective on viable opportunities for strengthening commonalities between the active and reserve components' enlisted workforce. At approximately 2:00 p.m., the chiefs of the seven Reserve Components, or their respective designees, will engage the RFPB members in a roundtable discussion. Invited Reserve Component chiefs include Lieutenant General (LTG) Robert Harter, USAR, Chief, Army Reserve; Vice Admiral Nancy Lacore, U.S. Navy Reserve, Chief, Navy Reserve; Lt. Gen. John Healy, U.S. Air Force Reserve, Chief, Air Force Reserve; Lieutenant General Loni Anderson, U.S. Marine Corps Reserve, Commander, Marine Corps Forces Reserve; LTG Jonathan Stubbs, U.S. Army National Guard, Director, Army National Guard; Major General Duke Pirak, Air National Guard, Director, Air National Guard Director (nominee), and; Rear Admiral Tiffany Danko, Director Coast Guard Reserve. The roundtable discussion will focus on the chiefs' priorities, current readiness and mobilization challenges and their respective approaches for preparing their forces for protracted conflict. The roundtable will entail two forty-five-minute sessions with one fifteen-minute break between each session. At the conclusion of the final session, at approximately 3:45, the RFPB Chair will provide closing comments and then adjourn the meeting.

Meeting Accessibility

In accordance with section 1009(d) of the FACA and 41 CFR 102–3.155, the DoD has determined that between 9:45 a.m. to 12:00 p.m. the meeting will be closed to the public. Specifically, the USD (P&R), in coordination with the DoD FACA Attorney, has determined in writing that this portion of the meeting will be closed to the public because it is likely to disclose classified matters covered by 5 U.S.C. 552b(c)(1). Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into

separate discussions without defeating the effectiveness and meaning of these portions of the meeting.

Pursuant to section 1009(a)(1) of the FACA and 41 CFR 102–3.140 and 102–3.150, the portions of the meeting from 1:00 p.m. to 4:00 p.m. are open to the public. Members of the public may access the Pentagon Library and Conference Center (PLCC) via the east end of the Pentagon's River Terrace entrance off North Boundary Channel Drive on the northeast side of the Pentagon. Photo identification is required to gain access to the PLCC. Attendees must inform the access control point personnel that their destination is the PLCC to attend the RFPB Quarterly RFPB meeting. For additional meeting access information, contact the DFO as listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140(c), and section 1009(a)(3) of the FACA, the public and interested parties may submit written statements to the RFPB at any time about its approved agenda or at any time on the RFPB's mission. Written statements should be submitted to the RFPB's DFO at the address or email listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at the meeting that is the subject of this notice, then these statements must be submitted no later than one (1) business day prior to the scheduled meeting date. Written statements received after this date may not be provided to or considered by the RFPB until its next scheduled meeting. The DFO will review all timely submitted written statements and provide copies to the RFPB before the meeting that is the subject of this notice. Please note that all submitted comments will be made available for public inspection, including, but not limited to, being posted on the RFPB's website.

Dated: November 20, 2024.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–27639 Filed 11–25–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP25–194–000.
Applicants: Northwest Pipeline LLC.
Description: 4(d) Rate Filing: Negotiated Rate Service Agreement for Puget—Olympia to be effective 12/4/2024.
Filed Date: 11/19/24.
Accession Number: 20241119–5129.
Comment Date: 5 p.m. ET 12/2/24.

Docket Numbers: RP25–195–000.
Applicants: Empire Pipeline, Inc.
Description: 4(d) Rate Filing: Negotiated Rate—Amendment VI to F12597 to be effective 1/1/2025.
Filed Date: 11/20/24.
Accession Number: 20241120–5024.
Comment Date: 5 p.m. ET 12/2/24.

Docket Numbers: RP25–196–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: 4(d) Rate Filing: Remove Non-Conforming Agreement (RMM 216137) to be effective 1/1/2025.
Filed Date: 11/20/24.
Accession Number: 20241120–5078.
Comment Date: 5 p.m. ET 12/2/24.

Docket Numbers: RP25–197–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: 4(d) Rate Filing: Article 11.2(a) Inflation Adjustment Filing 2025 to be effective 1/1/2025.
Filed Date: 11/20/24.
Accession Number: 20241120–5082.
Comment Date: 5 p.m. ET 12/2/24.

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.

Filings in Existing Proceedings

Docket Numbers: PR24–72–002.
Applicants: Cranberry Pipeline Corporation.
Description: 284.123(g) Rate Filing: Cranberry Pipeline Amended Settlement of Rates to be effective 5/20/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5028.
Comment Date: 5 p.m. ET 12/11/24.

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.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *https://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: November 20, 2024.

Carlos D. Clay,

Acting Deputy Secretary.

[FR Doc. 2024–27708 Filed 11–25–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC25–24–000.
Applicants: LWP Lessee, LLC, MC Lakefield Holdings LLC, F8 Renewables CAMN Funding, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of LWP Lessee, LLC, et al.
Filed Date: 11/19/24.
Accession Number: 20241119–5195.
Comment Date: 5 p.m. ET 12/10/24.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG25–38–000.
Applicants: Scatter Wash Energy Storage LLC.
Description: Scatter Wash Energy Storage LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 11/20/24.
Accession Number: 20241120–5170.
Comment Date: 5 p.m. ET 12/11/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–2824–000; ER24–2824–001; ER24–2824–002.
Applicants: RE Papago LLC.
Description: Second Supplement to August 21, 2024, RE Papago LLC tariff filing.
Filed Date: 11/19/24.
Accession Number: 20241119–5193.
Comment Date: 5 p.m. ET 11/26/24.
Docket Numbers: ER24–3091–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment of ER24–3091–000; re: Original WMPA No. 7371; AG1–559 to be effective 8/23/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5159.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–68–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment of ER25–68–000 re: Original GIA SA No. 7376; AF1–208 to be effective 9/9/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5124.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–484–000.
Applicants: Portland General Electric Company.
Description: 205(d) Rate Filing: PGE-PacifiCorp Grassland Interconnection Agreement to be effective 11/4/2024.
Filed Date: 11/19/24.
Accession Number: 20241119–5159.
Comment Date: 5 p.m. ET 12/10/24.
Docket Numbers: ER25–485–000.
Applicants: Public Service Company of New Mexico.
Description: 205(d) Rate Filing: Certificates of Concurrences Associated with Multiparty Agreements to be effective 10/14/2024.
Filed Date: 11/19/24.
Accession Number: 20241119–5184.
Comment Date: 5 p.m. ET 12/10/24.
Docket Numbers: ER25–486–000.
Applicants: Viridon New York Inc.
Description: Viridon New York Inc. submits Request for Authorization to Utilize Certain Incentive Rate Treatment.
Filed Date: 11/19/24.
Accession Number: 20241119–5198.
Comment Date: 5 p.m. ET 12/10/24.
Docket Numbers: ER25–487–000.
Applicants: AEP Texas Inc.
Description: 205(d) Rate Filing: AEPTX-Keys Hollow Solar Generation Interconnection Agreement to be effective 10/29/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5026.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–488–000.
Applicants: AEP Texas Inc.
Description: 205(d) Rate Filing: AEPTX–TAI Norton Solar 2nd Amended Generation Interconnection Agreement to be effective 11/1/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5033.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–489–000.
Applicants: Public Service Company of Colorado.
Description: 205(d) Rate Filing: 2024–11–20—PSC–TSGT–COM–Craig to Craig Trsfr-627–0.0.0 Concurrence to be effective 11/6/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5079.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–490–000.
Applicants: Public Service Company of Colorado.
Description: 205(d) Rate Filing: 2024–11–20—PSC—TSGT—Spanish Peaks Pseudo–Tie—848—Concurrence to be effective 11/8/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5080.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–491–000.
Applicants: Public Service Company of Colorado.
Description: 205(d) Rate Filing: 2024–11–20—PSC–WAPA–O&M Agrmt–350–0.2.0–Exh M Concurrence to be effective 10/10/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5081.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–492–000.
Applicants: Silver State Solar Power South, LLC.
Description: Baseline eTariff Filing: Co-Tenancy SFA—Silver State Sol., Silver State Stor., & Silver State Inter. to be effective 12/1/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5092.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–493–000.
Applicants: Silver State South Storage, LLC.
Description: Baseline eTariff Filing: Co-Tenancy SFA Cert of Concurrence—Silver State Sol. & Silver State Inter. to be effective 12/1/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5099.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–494–000.
Applicants: Silver State South Interconnect, LLC.
Description: Baseline eTariff Filing: Co-Tenancy SFA Cert of Concurrence—Silver State Sol. & Silver State Storage to be effective 12/1/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5103.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–495–000.
Applicants: Clearwater Wind II, LLC.
Description: Baseline eTariff Filing: R.S. No. 1, CWII and CWIII Co-Tenancy SFA to be effective 11/21/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5104.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–496–000.
Applicants: Clearwater Wind III, LLC.
Description: Baseline eTariff Filing: Co-Tenancy SFA Cert. of Concurrence with Clearwater Wind II to be effective 11/21/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5105.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–497–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 11 to be effective 1/20/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5122.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–498–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 41 to be effective 1/20/2025.
Filed Date: 11/20/24.
Accession Number: 20241120–5153.
Comment Date: 5 p.m. ET 12/11/24.
Docket Numbers: ER25–499–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Original GIA, SA No. 7403; Project Identifier AF2–229 to be effective 10/21/2024.
Filed Date: 11/20/24.
Accession Number: 20241120–5155.
Comment Date: 5 p.m. ET 12/11/24.

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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docs-filing/efiling/filing-req.pdf. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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Dated: November 20, 2024.

Carlos D. Clay,

Acting Deputy Secretary.

[FR Doc. 2024–27707 Filed 11–25–24; 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: EG25–37–000.

Applicants: Camino Solar, LLC, Bracewell LLP.

Description: Camino Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 11/15/24.

Accession Number: 20241115–5270.

Comment Date: 5 p.m. ET 12/6/24.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL25–18–000.

Applicants: Illinois Attorney General's Office, Illinois Citizens Utility Board, Maryland Office of People's Counsel, New Jersey Division of Rate Counsel, Office of the Ohio Consumers' Counsel, Office of the People's Counsel for the District of Columbia, *Joint Consumer Advocates* v. *PJM Interconnection, L.L.C.*

Description: Complaint of Joint Consumer Advocates v. *PJM Interconnection, L.L.C.*

Filed Date: 11/18/24.

Accession Number: 20241118–5200.

Comment Date: 5 p.m. ET 12/9/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–1559–002.

Applicants: Puget Sound Energy, Inc.

Description: Compliance filing: Amendment to Order 2023–A Pursuant to Errata Notice to be effective 12/31/9998.

Filed Date: 11/19/24.

Accession Number: 20241119–5081.

Comment Date: 5 p.m. ET 12/10/24.

Docket Numbers: ER25–7–000.

Applicants: Cascade Energy Storage II LLC.

Description: Supplement to 10/01/2024, Cascade Energy Storage II LLC tariff filing.

Filed Date: 11/15/24.

Accession Number: 20241115–5275.

Comment Date: 5 p.m. ET 11/25/24.

Docket Numbers: ER25–236–001.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: Tariff Amendment: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35.17(b): MAIT Amendment to Amended SA No. 6412 Interconnection Agreement in ER25–236 to be effective 12/23/2024.

Filed Date: 11/18/24.

Accession Number: 20241118–5191.

Comment Date: 5 p.m. ET 12/9/24.

Docket Numbers: ER25–475–000.

Applicants: Diversion Wind Energy LLC.

Description: Tariff Amendment: Notice of Cancellation of Market Based Rate Tariff to be effective 12/31/9998.

Filed Date: 11/19/24.

Accession Number: 20241119–5065.

Comment Date: 5 p.m. ET 12/10/24.

Docket Numbers: ER25–476–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2024–11–19—PSC—UPI—T–2024–9—Bonnet—SISA—854—0.0.0 to be effective 1/18/2025.

Filed Date: 11/19/24.

Accession Number: 20241119–5077.

Comment Date: 5 p.m. ET 12/10/24.

Docket Numbers: ER25–477–000.

Applicants: Mitsui & Co. Energy Marketing and Services (USA), Inc.

Description: Compliance filing: Compliance filing 2024 to be effective 11/20/2024.

Filed Date: 11/19/24.

Accession Number: 20241119–5079.

Comment Date: 5 p.m. ET 12/10/24.

Docket Numbers: ER25–478–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2024–11–19—PSC—UPI—T–2024–10—Bowler—SISA—855—0.0.0 to be effective 1/18/2025.

Filed Date: 11/19/24.

Accession Number: 20241119–5082.

Comment Date: 5 p.m. ET 12/10/24.

Docket Numbers: ER25–479–000.

Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2024–11–19_SA 4397 ATC–WEPCo E&P (Oak Creek) to be effective 1/20/2025.

Filed Date: 11/19/24.

Accession Number: 20241119–5089.

Comment Date: 5 p.m. ET 12/10/24.

Docket Numbers: ER25–480–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original GIA, SA No. 7402; Project Identifier AG1–188 to be effective 10/21/2024.

Filed Date: 11/19/24.

Accession Number: 20241119–5091.

Comment Date: 5 p.m. ET 12/10/24.

Docket Numbers: ER25–481–000.

Applicants: San Diego Gas & Electric.

Description: § 205(d) Rate Filing: Amendment 1 for WDAT SGIA for Kearny 251 to be effective 11/20/2024.

Filed Date: 11/19/24.

Accession Number: 20241119–5136.

Comment Date: 5 p.m. ET 12/10/24.

Docket Numbers: ER25–482–000.

Applicants: National Grid Generation LLC.

Description: Compliance filing: Petition for Expedited Approval of Settlement to be effective N/A.

Filed Date: 11/19/24.

Accession Number: 20241119–5141.

Comment Date: 5 p.m. ET 12/10/24.

Docket Numbers: ER25–483–000.

Applicants: San Diego Gas & Electric.

Description: § 205(d) Rate Filing: Amendment 1 for WDAT SGIA for Kearny 252 to be effective 11/20/2024.

Filed Date: 11/19/24.

Accession Number: 20241119–5143.

Comment Date: 5 p.m. ET 12/10/24.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number. Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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Dated: November 19, 2024.

Carlos D. Clay,

Acting Deputy Secretary.

[FR Doc. 2024–27606 Filed 11–25–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA 01–2024–0051; EPA–R01–SFUND–2024–0544; FRL–12408–01–R1]

Proposed Cost Recovery Settlement Agreement Between the United States of America and Paramount Global Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended; In Re: Wells G&H Superfund Site, Operable Unit 4, in Woburn, Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (''EPA''), Region 1, hereby provides notice of a proposed settlement agreement (''Agreement''), under section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), between EPA and Paramount Global (''Settling Party''), regarding Operable Unit 4 (''OU4'') of the Wells G&H Superfund Site, in Woburn, Massachusetts. The proposed Agreement resolves the matter at EPA Region 1 CERCLA Docket No. 01–2024–0051, pursuant to CERCLA section 122(h)(1) and the authority of the Attorney General of the United States to compromise and settle claims of the United States. The proposed Agreement requires Settling Party to make a $120,000 payment to EPA in partial reimbursement of response costs incurred in connection with an ongoing remedial action at OU4, in accordance with the Record of Decision issued by EPA on September 29, 2017. In return for this payment, the Agreement provides Settling Party with a covenant by EPA not to sue or take administrative action, pursuant to sections 106 or 107(a) of CERCLA, for performance of remedial work or recovery of response costs relating to OU4, subject to standard reservations of rights.

DATES: Comments must be submitted within 30 days following the date of publication of this notice.

ADDRESSES: The proposed Settlement Agreement and related Site documents are available at EPA's website *www.epa.gov/superfund/wellsgh.* The proposed Settlement Agreement is also available for public inspection at *https://www.regulations.gov* by searching for Docket ID No. EPA–R01–SFUND–2024–0544. The proposed Settlement Agreement and related Site documents are also available for public inspection at the U.S. EPA, Region 1, SEMD Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109 by appointment only, by calling 617–918–1440 or by emailing *r1.records-sems@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Scott, Senior Enforcement Counsel, U.S. EPA, Region 1, Office of Regional Counsel, 5 Post Office Square, Suite 100, Boston, MA 02109, *scott.susan@epa.gov.*

SUPPLEMENTARY INFORMATION: Submit any comments online via *https://www.regulations.gov* (Docket ID No. EPA–R01–SFUND–2024–0544). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* 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 supporting materials located outside of the primary submission (*e.g.,* on the web, cloud, or other file-sharing system). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, see *https://www.epa.gov/dockets/commenting-epa-dockets.* Any personally identifiable information (*e.g.,* name, address, phone number) included in the comment form or in an attachment may be publicly disclosed in a docket or on the internet (via *Regulations.gov*, a Federal agency website, or a third-party, non-government website with access to publicly-disclosed data on *Regulations.gov*). By submitting a comment, you agree to the *terms of participation,* available at *https://www.regulations.gov/user-notice,* and *privacy notice* available at *https://www.regulations.gov/privacy-notice.*

For 30 days following the date of publication of this notice, EPA will receive written comments relating to the proposed Agreement. EPA will consider all comments received and may modify or withdraw its consent to this proposed Agreement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the EPA, Region 1, SEMD Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109, by appointment only, by calling 617–918–1440 or by emailing *r1.records-sems@epa.gov.* EPA's response to any comments will also be made available at *www.epa.gov/superfund/wellsgh.*

Dated: November 20, 2024.

Bryan Olson,

Director, Superfund and Emergency Management Division, United States Environmental Protection Agency.

[FR Doc. 2024–27603 Filed 11–25–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2023–0134; FRL–12427–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Comment Request; NESHAP for Gold Mine Ore Processing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Gold Mine Ore Processing (EPA ICR Number 2383.06, OMB Control Number 2060–0659) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed

extension of the ICR, which is currently approved through November 30, 2024. Public comments were previously requested via the **Federal Register** on May 18, 2023 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before December 26, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2023–0134 to EPA online using *https://www.regulations.gov/* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through November 30, 2024. 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.

Public comments were previously requested via the **Federal Register** on May 18, 2023 during a 60-day comment period (88 FR 31748). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *https://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Gold Mine Ore Processing (40 CFR part 63, subpart EEEEEEE) were proposed on April 28, 2010, and promulgated on February 17, 2011. These regulations apply to both existing and new gold mine ore processing and production facilities that are area sources and use ore pretreatment, carbon processes with mercury retorts, carbon processes without mercury retorts, and non-carbon concentrate processes. The regulation sets mercury emission limits for each of the affected processes at both new and existing facilities. New facilities include those that either commenced construction or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 63, subpart EEEEEEE.

Form Numbers: None.

Respondents/affected entities: Owners and operators of Gold Mine Ore Processing Plants.

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

Estimated number of respondents: 21 (total).

Frequency of response: Initially, occasionally, semiannually, and annually.

Total estimated burden: 2,840 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $663,000 (per year), includes $227,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no change in burden from the most recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Second, the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or operation and maintenance (O&M) costs.

Courtney Kerwin,

Director, Information Engagement Division.

[FR Doc. 2024–27624 Filed 11–25–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–SFUND–2024–0469; FRL–12306–01–R8]

Settlement Agreement and Order on Consent: Uintah Mining District Site Summit County, Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed agreement; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), notice is hereby given by the United States Environmental Protection Agency (''EPA'') and VR CPC Holdings, Inc. (''Respondent''). The proposed settlement agreement provides for the performance of a removal action by Respondent and the payment by Respondent of certain response costs incurred by the United States at or in connection with certain portions of the ''Uintah Mining District Site'' (the ''Site'') generally located in Summit County, Utah. EPA and the Respondent recognize that this settlement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this settlement do not constitute an admission of any liability.

DATES: Comments must be submitted on or before December 26, 2024.

ADDRESSES: The proposed agreement and additional background information relating to the agreement will be available upon request. Comments and requests for a copy of the proposed agreement should be addressed to Sarah Ferguson, Enforcement Specialist, Superfund and Emergency Management Division, Environmental Protection Agency—Region 8, Mail Code 8SEM–PAC, 1595 Wynkoop Street, Denver, Colorado 80202, telephone number: (303) 312–6029, email address: *ferguson.sarah@epa.gov* and should reference the Uintah Mining District Superfund Site. You may also send comments, identified by Docket ID No. EPA–R8–SFUND–2024–0469 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Amelia Piggott, Assistant Regional Counsel, Office of Regional Counsel,

Environmental Protection Agency, Region 8, Mail Code 8 ORC–LEC,1595 Wynkoop, Denver, Colorado 80202, telephone number: (303) 312–6410, email address: *piggott.amelia@epa.gov.*

SUPPLEMENTARY INFORMATION: For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the agreement. The Agency will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations that indicate that the agreement is inappropriate, improper, or inadequate.

Aaron Urdiales,

Division Director, Superfund and Emergency Management Division, Region 8.

[FR Doc. 2024–27653 Filed 11–25–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2023–0109; FRL–12423–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Beryllium (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Beryllium (EPA ICR Number 0193.14, OMB Control Number 2060–0092) to the Office of Management and Budget (OMB), for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through November 30, 2024. Public comments were previously requested, via the **Federal Register** on May 18, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Additional comments may be submitted on or before December 26, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2023–0109, to EPA online using *www.regulations.gov/* (our preferred method), or by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through November 30, 2023. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person, at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *https://www.epa.gov/dockets.*

Abstract: The Emission Standards for Hazardous Air Pollutants (NESHAP) for Beryllium (40 CFR part 61, subpart C) were proposed on December 7, 1971; promulgated on April 6, 1973; and amended on February 27, 2014. These regulations apply to all extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium ore, beryllium, beryllium oxides, beryllium alloys, or beryllium-containing waste. All sources known to have either caused, or to have the potential to cause, dangerous levels of beryllium in the ambient air are covered by this standard. New facilities include those that commenced construction, modification, or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 61, subpart C.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

Form Numbers: None.

Respondents/affected entities: Sources that process beryllium and its derivatives.

Respondent's obligation to respond: Mandatory (40 CFR part 61, subpart C).

Estimated number of respondents: 33 (total).

Frequency of response: Initially, occasionally, and monthly.

Total estimated burden: 2,670 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $408,000 (per year), which includes $72,400 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations: (1) the regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. There is an increase in operation & maintenance costs due to an adjustment to increase from 2001 to 2022 $ using the CEPCI Equipment Cost Index.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2024–27625 Filed 11–25–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2024–0531; FRL–12402–01–OGC]

Proposed Consent Decree, Clean Water Act Claim

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the EPA Administrator's March 18, 2022, memorandum regarding ''Consent Decrees and Settlement Agreements to resolve Environmental Claims Against the Agency,'' notice is hereby given of a proposed consent decree in *Ecological Rights Foundation* v. *EPA, et.al.,* Docket No. 3:24–cv–03665 (N.D. Cal.). Environmental Advocates, on behalf of the Ecological Rights Foundation, filed a complaint on June 18, 2024 and an amended complaint on September 18, 2024, in the United States District Court for the Northern District of California alleging the EPA failed to perform a non-discretionary duty under Clean Water Act (CWA) to either approve or disapprove revised water quality standards in California's amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (''Bay-Delta Plan amendments'') within the statutory timeframes. The EPA seeks public input on a proposed consent decree prior to its final decision-making with regard to potential settlement of the litigation.

DATES: Written comments on the proposed consent decree must be received by December 26, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2024–0531 online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. 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 ''Additional Information About Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Eleanor Garretson, Water Law Office, Office of General Counsel, U.S. Environmental Protection Agency; telephone: (202) 495–8997; email address: *Garretson.Eleanor@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

On August 26, 2019, California submitted the Bay-Delta Plan amendments to the EPA for review and approval of those portions of the submission that constitute new or revised water quality standards. On September 1, 2023, the EPA initiated consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service and is presently engaged in consultation on the EPA's potential action on new and revised water quality standards that EPA identifies in the Bay-Delta Plan amendments.

On April 16, 2024, Plaintiffs sent the EPA a notice of intent to sue (NOI) alleging that the EPA had failed to satisfy its mandatory duty under CWA section 303(c)(3) to either approve or disapprove revised water quality standards in California's amendments to the Bay-Delta Plan within the statutory timeframes. The Plaintiffs filed a complaint on June 18, 2024 and an amended complaint on September 18, 2024, seeking a declaratory judgment that the EPA violated the statutory deadlines and an order from the court requiring the Agency to take action to either approve or disapprove the new or revised water quality standards proposed as part of the Bay-Delta Plan amendments by a date certain.

The parties initiated settlement discussions, which produced the proposed consent decree. Under the consent decree, if the EPA approves all of the new or revised water quality standards that the EPA identifies in the Bay-Delta Plan amendments, the EPA's action must be completed no later than 182 days from the date ESA consultation concludes. If the EPA disapproves in whole or any part of the new or revised water quality standards the EPA identifies in the Bay-Delta Plan amendments, the EPA's action shall be completed no later than 365 days from the date ESA consultation concludes.

For a period of thirty (30) days following the date of publication of this notice, the EPA will accept written comments relating to the proposed consent decree from persons who are not parties to the litigation. The EPA or the U.S. Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments received disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the CWA.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the proposed consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2024–0531) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center 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 OEI Docket is (202) 566–1752.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

B. How and to whom do I submit comments?

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2024–0531 via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

If you submit an electronic comment, the EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the

comment and allows the EPA to contact you in case the EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to the EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means the EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' The EPA does not plan to consider these late comments.

Dawn Messier,

Acting Associate General Counsel.

[FR Doc. 2024–27604 Filed 11–25–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA 01–2024–0050; EPA–R01–SFUND–2024–0543; FRL–12407–01–R1]

Proposed Cost Recovery Settlement Agreement Between the United States of America and Raytheon Company Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended; In Re: Wells G&H Superfund Site, Operable Unit 4, in Woburn, Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (''EPA''), Region 1, hereby provides notice of a proposed settlement agreement (''Agreement''), under section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), between EPA and Raytheon Company (''Settling Party''), regarding Operable Unit 4 (''OU4'') of the Wells G&H Superfund Site, in Woburn, Massachusetts. The proposed Agreement resolves the matter at EPA Region 1 CERCLA Docket No. 01–2024–0050, pursuant to CERCLA section 122(h)(1) and the authority of the Attorney General of the United States to compromise and settle claims of the United States. The proposed Agreement requires Settling Party to make a $400,000 payment to EPA in partial reimbursement of response costs incurred in connection with an ongoing remedial action at OU4, in accordance with the Record of Decision issued by EPA on September 29, 2017. In return for this payment, the Agreement provides Settling Party with a covenant by EPA not to sue or take administrative action, pursuant to Sections 106 or 107(a) of CERCLA, for performance of remedial work or recovery of response costs relating to OU4, subject to standard reservations of rights.

DATES: Comments must be submitted within 30 days following the date of publication of this notice.

ADDRESSES: The proposed Settlement Agreement and related Site documents are available at EPA's website *www.epa.gov/superfund/wellsgh.* The proposed Settlement Agreement is also available for public inspection at *https://www.regulations.gov* by searching for Docket ID No. EPA–R01–SFUND–2024–0543. The proposed Settlement Agreement and related Site documents are also available for public inspection at the U.S. EPA, Region 1, SEMD Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109 by appointment only, by calling 617–918–1440 or by emailing *r1.records-sems@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Scott, Senior Enforcement Counsel, U.S. EPA, Region 1, Office of Regional Counsel, 5 Post Office Square, Suite 100, Boston, MA 02109, *scott.susan@epa.gov.*

SUPPLEMENTARY INFORMATION: Submit any comments online via *https://www.regulations.gov* (Docket ID No. EPA–R01–SFUND–2024–0543). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* 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 supporting materials located outside of the primary submission (*e.g.,* on the web, cloud, or other file-sharing system). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, see *https://www.epa.gov/dockets/commenting-epa-dockets.* Any personally identifiable information (*e.g.,* name, address, phone number) included in the comment form or in an attachment may be publicly disclosed in a docket or on the internet (via *Regulations.gov*, a *F*ederal agency website, or a third-party, non-government website with access to publicly-disclosed data on *Regulations.gov*). By submitting a comment, you agree to the terms of participation, available at *https://www.regulations.gov/user-notice,* and privacy notice available at *https://www.regulations.gov/privacy-notice.*

For 30 days following the date of publication of this notice, EPA will receive written comments relating to the proposed Agreement. EPA will consider all comments received and may modify or withdraw its consent to this proposed Agreement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the EPA, Region 1, SEMD Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109, by appointment only, by calling 617–918–1440 or by emailing *r1.records-sems@epa.gov.* EPA's response to any comments will also be made available at *www.epa.gov/superfund/wellsgh.*

Dated: November 20, 2024.

Bryan Olson,

Director, Superfund and Emergency Management Division, United States Environmental Protection Agency.

[FR Doc. 2024–27602 Filed 11–25–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0500; FR ID 263016]

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 of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before January 27, 2025. 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 contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0500.

Title: Section 76.1713, Resolution of Complaints.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 10,750 respondents and 21,500 responses.

Estimated Hours per Response: 1–17 hours.

Frequency of Response: Recordkeeping and third-party disclosure requirements; annual reporting requirement.

Total Annual Burden: 193,500 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in sections 4(i), 303 and 308 of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 76.1713 state cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. Commission and franchising authorities, upon request. These records shall be maintained for at least a one-year period. Prior to being referred to the Commission, complaints from subscribers about the quality of the television signal delivered must be referred to the local franchising authority and the cable system operator.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–27712 Filed 11–25–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Technological Advisory Council

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) Technological Advisory Council will hold a meeting on Thursday December 19, 2024 in the Commission Meeting Room and available to the public via the internet at *https://www.fcc.gov/live,* from 10 a.m. to 12:30 p.m.

DATES: Thursday December 19, 2024.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Martin Doczkat, Chief, Electromagnetic Compatibility Division 202–418–2435; *martin.doczkat@fcc.gov*.

SUPPLEMENTARY INFORMATION: At the December 19th meeting, the TAC will consider and advise the Commission on topics such as continued efforts at looking beyond 5G advanced as 6G begins to develop so as to facilitate U.S. leadership; studying advanced spectrum sharing techniques, including the implementation of artificial intelligence and machine learning to improve the utilization and administration of spectrum; and other emerging technologies. This agenda may be modified at the discretion of the TAC Chair and the Designated Federal Officer (DFO).

Meetings are broadcast live with open captioning over the internet from the FCC Live web page at *https://www.fcc.gov/live/.* The public may submit written comments before the meeting to Martin Doczkat, the FCC's Designated Federal Officer for Technological Advisory Council by email: *martin.doczkat@fcc.gov* or U.S. Postal Service Mail (Martin Doczkat, Federal Communications Commission, 45 L Street NE, Washington, DC 20554). 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 Office of Engineering and Technology at 202–418–2470 (voice), (202) 418–1944 (fax). Such requests should include a detailed description of the accommodation needed. In addition, please include your contact information. Please allow at least five days advance notice; last minute requests will be accepted but may not be possible to fill.

Federal Communications Commission.

Ira Keltz,

Acting Chief, Office of Engineering and Technology.

[FR Doc. 2024–27663 Filed 11–25–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Economic Inclusion; Notice of Charter Renewal

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of renewal of the FDIC Advisory Committee on Economic Inclusion.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (FACA), and after consultation with the General Services Administration, the Chairman of the Federal Deposit Insurance Corporation has determined that renewal of the FDIC Advisory Committee on Economic Inclusion (the Committee) is in the public interest in connection with the performance of duties imposed upon the FDIC by law.

FOR FURTHER INFORMATION CONTACT: Ms. Debra A. Decker, Committee Management Officer of the FDIC, at (202) 898–8748 or *DeDecker@fdic.gov.*

SUPPLEMENTARY INFORMATION: The Committee has been a successful undertaking by the FDIC and has provided valuable feedback to the agency on important initiatives focused on expanding access to banking services for underserved populations. The Committee will continue to provide advice and recommendations on initiatives to expand access to banking services for underserved populations. The Committee will continue to review various issues that may include, but not be limited to, basic retail financial services such as low-cost, sustainable transaction accounts, savings accounts, small dollar lending, prepaid cards, money orders, remittances, the use of new technologies, and other services to promote access to the mainstream banking system, asset accumulation, and financial stability. The structure and responsibilities of the Committee are unchanged from when it was originally established in November 2006. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. 1001 *et seq.*

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on November 21, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024–27672 Filed 11–25–24; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meetings

TIME AND DATE: December 4, 2024; 1:00 p.m.

PLACE: The meeting will be held at the Surface Transportation Board at the address below and also streamed live on the Federal Maritime Commission's YouTube channel.

Surface Transportation Board, 395 E Street SW, Room #1042 (Hearing Room), Washington, DC 20423

STATUS: The meeting will be held on December 4, 2024, beginning at 1:00 p.m. in the Hearing Room of the Surface Transportation Board. The meeting will be open for public observation and streamed live on the Federal Maritime Commission's YouTube channel. Any person wishing to attend the meeting in person should register in advance by submitting their name to *secretary@fmc.gov* no later than 5 p.m. EST on December 2, 2024. In-person attendees should report to the Surface Transportation Board with enough time to clear building security procedures. If technical issues prevent the Commission from streaming live, the Commission will post a recording of the meeting on the Commission's YouTube channel following the meeting.

MATTERS TO BE CONSIDERED:

1. Oral argument in Docket No. 22–12, *International Longshoremen's Association* v. *Gateway Terminals, LLC, et al.*

CONTACT PERSON FOR MORE INFORMATION: David Eng, Secretary, (202) 523–5725.

David Eng,

Secretary, Federal Maritime Commission.

[FR Doc. 2024–27854 Filed 11–22–24; 4:15 pm]

BILLING CODE 6730–02–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0149; Docket No. 2024–0053; Sequence No. 17]

Information Collection; Subcontract Consent and Contractors' Purchasing System Review

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning subcontract consent and contractors' purchasing system review. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through April 30, 2025. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by January 27, 2025.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

Instructions: All items submitted must cite OMB Control No. 9000–0149, Subcontract Consent and Contractors' Purchasing System Review. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0149, Subcontract Consent and Contractors' Purchasing System Review.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the requirements in the Federal Acquisition Regulation (FAR) clause at 52.244–2, Subcontracts, regarding consent to subcontract, advance notification, and contractors' purchasing system review as follows:

1. Consent to subcontract. This is the contracting officer's written consent for the prime contractor to enter into a particular subcontract. In order for the contracting officer responsible for consent to make an informed decision, the prime contractor must submit adequate information to ensure that the proposed subcontract is appropriate for the risks involved and consistent with current policy and sound business judgment. Paragraph (e)(1) of the FAR clause at 52.244–2, requires prime contractors to submit the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of the contract.

(vii) A negotiation memorandum reflecting—

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason certified cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's certified cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the contracting officer in paragraph (d) of the FAR clause at 52.244–2. The contracting officer may require consent to subcontract if the contracting officer has determined that an individual consent action is required to protect the Government adequately because of the subcontract type, complexity, or value, or because the subcontract needs special surveillance. These can be subcontracts for critical systems, subsystems, components, or services.

If the contractor does not have an approved purchasing system, consent to subcontract is required for cost-reimbursement, time-and-materials, labor-hour, or letter contracts, and also for unpriced actions under fixed-price contracts that exceed the simplified acquisition threshold.

Contracting Officers use the information to ensure contractors' compliance with Government policy when subcontracting.

2. Advance notification. Paragraph (e)(1) of the FAR clause at 52.244–2 requires contractors to notify the contracting officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of the clause.

Contracting Officers use the information to ensure compliance with the statutory requirements in 10 U.S.C. 3322(c) and 41 U.S.C. 3905.

3. Contractors' Purchasing System Review. Paragraph (i) of FAR clause 52.244–2 specifies that the Government reserves the right to review the contractor's purchasing system as set forth in FAR subpart 44.3. This clause is the mechanism through which the requirements of FAR subpart 44.3 are applied to contractors.

FAR 44.302 requires the administrative contracting officer (ACO) to determine the need for a Contractors' Purchasing System Review (CPSR) based on, but not limited to, the past performance of the contractor, and the volume, complexity and dollar value of subcontracts. If a contractor's sales to the Government (excluding competitively awarded firm-fixed-price and competitively awarded fixed-price with economic price adjustment contracts and sales of commercial products and commercial services pursuant to part 12) are expected to exceed $25 million during the next 12 months, the ACO will perform a review to determine if a CPSR is needed. Sales include those represented by prime contracts, subcontracts under Government prime contracts, and modifications. Generally, a CPSR is not performed for a specific contract. Rather, CPSRs are conducted on contractors based on the factors identified above. For example, the Defense Contract Management Agency Contractor Purchasing System Review Group is a group dedicated to conducting CPSRs for the Department of Defense. The head of the agency responsible for contract administration may raise or lower the $25 million review level if it is considered to be in the Government's best interest. Once an initial determination has been made to conduct a review, at least every three years the ACO shall determine whether a purchasing system review is necessary. If necessary, the cognizant contract administration office will conduct a purchasing system review.

The cognizant ACO is responsible for granting, withholding, or withdrawing approval of a contractor's purchasing system and for promptly notifying the contractor of same (FAR 44.305–1). Related administrative requirements are as follows:

- FAR 44.305–2(c) requires that when recommendations are made for improvement of an approved system, the contractor shall be requested to reply within 15 days with a position regarding the recommendations.
- FAR 44.305–3(b) requires when approval of the contractor's purchasing system is withheld or withdrawn, the ACO shall within 10 days after completing the in-plant review (1) inform the contractor in writing, (2) specify the deficiencies that must be corrected to qualify the system for approval, and (3) request the contractor to furnish within 15 days a plan for accomplishing the necessary actions. If the plan is accepted, the ACO shall make a follow-up review as soon as the contractor notifies the ACO that the deficiencies have been corrected.

Contracting Officers use the information to evaluate the efficiency and effectiveness with which a contractor spends Government funds.

C. Annual Burden

Respondents: 2,515.

Total Annual Responses: 7,065.

Total Burden Hours: 49,635.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0149, Subcontract Consent and Contractors' Purchasing System Review.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2024–27599 Filed 11–25–24; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Prehospital EMS Blood Transfusion and Fluid Interventions for Hemorrhagic Shock

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Supplemental Evidence and Data Submission

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Prehospital EMS Blood Transfusion and Fluid Interventions for Hemorrhagic Shock,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before December 26, 2024.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kelly Carper, Telephone: 301–427–1656 or Email: *epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Prehospital EMS Blood Transfusion and Fluid Interventions for Hemorrhagic Shock.* AHRQ is conducting this review pursuant to Section 902 of the Public Health Service Act, 42 U.S.C. 299a.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Prehospital EMS Blood Transfusion and Fluid Interventions for Hemorrhagic Shock.* The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/products/ems-blood-transfusion/protocol.*

This is to notify the public that the EPC Program would find the following information on *Prehospital EMS Blood Transfusion and Fluid Interventions for Hemorrhagic Shock* helpful:

- A list of completed studies that your organization has sponsored for this topic. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* a summary, including the following elements, if relevant: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this topic.* In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including, if relevant, a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your organization for this topic and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on topics not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://effectivehealthcare.ahrq.gov/email-updates.*

The review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

Key Questions (KQ)

KQ 1

a. What are the benefits and harms of transfusion of whole blood for patients requiring prehospital hemorrhagic shock resuscitation?

b. Are the benefits and harms modified by:

i. EMS protocols (including but not limited to transfusion volume, adjuvant medication coadministration such as tranexamic acid [TXA] and calcium salts, or crystalloid fluid coinfusion; transfusion equipment, and transfusion route)?

ii. Patient characteristics (including but not limited to age, sex, comorbidities, preexisting medications [anti-platelets, anti-coagulants, heart rate control medications], or mechanism of injury/condition)?

iii. Characteristics of the EMS system (including air/helicopter medical ambulance, ground ambulance, EMS clinician certification, or service delivery model [such as fire-based, private, third service], and logistics related to blood administrations [intercept model, blood stored on ambulance])?

KQ 2

a. What are the benefits and harms of transfusion of PRBCs for patients requiring prehospital hemorrhagic shock resuscitation?

b. Are the benefits and harms modified by:

i. EMS protocols (including but not limited to transfusion volume, adjuvant medication coadministration such as TXA and calcium salts, or crystalloid fluid coinfusion; transfusion equipment, and transfusion route)?

ii. Patient characteristics (including but not limited to age, sex, comorbidities, preexisting medications [anti-platelets, anti-coagulants, heart rate control medications], or mechanism of injury/condition)?

iii. Characteristics of the EMS system (including air/helicopter medical ambulance, ground ambulance, EMS clinician certification, or service delivery model [such as fire-based, private, third service], and logistics related to blood administrations [intercept model, blood stored on ambulance])?

KQ 3

a. What are the benefits and harms of transfusion of plasma for patients

requiring prehospital hemorrhagic shock resuscitation?

b. Are the benefits and harms modified by:

i. EMS protocols (including but not limited to transfusion volume, adjuvant medication coadministration such as TXA and calcium salts, or crystalloid fluid coinfusion, transfusion equipment, and transfusion route)?

ii. Patient characteristics (including but not limited to age, sex, comorbidities, preexisting medications [anti-platelets, anti-coagulants, heart rate control medications], or mechanism of injury/condition)?

iii. Characteristics of the EMS system (including air/helicopter medical ambulance, ground ambulance, EMS clinician certification, or service delivery model [such as fire-based, private, third service], logistics related to blood administrations [intercept model, blood stored on ambulance])?

KQ 4

a. What are the benefits and harms of infusion of crystalloid fluids for patients requiring prehospital hemorrhagic shock resuscitation?

b. Are the benefits and harms modified by:

i. EMS protocols (including but not limited to volume infused, or adjuvant medication coadministration such as TXA and calcium salts, or transfusion equipment and transfusion route)?

ii. Patient characteristics (including but not limited to age, sex, comorbidities, preexisting medications [anti-platelets, anti-coagulants, heart rate control medications], or mechanism of injury/condition)?

iii. Characteristics of the EMS system (such as air/helicopter medical ambulance, ground ambulance, personnel certification, or service delivery model [such as fire-based, private, third service], and logistics related to blood administrations [intercept model, blood stored on ambulance])?

KQ 5

a. What are the benefits and harms of different strategies (therapeutic, logistical, or both combined) and interventions (whole blood, PRBCs, plasma, and crystalloid fluid) for patients requiring prehospital hemorrhagic shock resuscitation?

b. Are the benefits and harms modified by:

i. EMS protocol (including but not limited to transfusion volume, adjuvant medication coadministration such as TXA and calcium salts, or crystalloid fluid coinfusion, and transfusion equipment and transfusion route)?

ii. Patient characteristics (including but not limited to age, sex, nature of illness, comorbidities, preexisting medications [anti-platelets, anti-coagulants, heart rate control medications], or mechanism of injury/condition)?

iii. Characteristics of the EMS system (including air/helicopter medical ambulance, ground ambulance, EMS clinician certification, or service delivery model [such as fire-based, private, third service], logistics related to blood administrations [intercept model, blood stored on ambulance])?

KQ 6

What specific areas of future research are essential for closing existing evidence gaps surrounding prehospital hemorrhagic shock resuscitation and prehospital blood transfusion? What are the precise scientific questions, optimal study designs, targeted study populations, and the various transfusion intervention protocols that need to be studied?

Contextual Question (CQ)

CQ 1

What are the barriers to and facilitators of implementation of effective prehospital blood product transfusion programs utilizing a systems-level approach? Barriers and facilitators could include EMS agency costs, EMS agency reimbursement, cost effectiveness, blood product maintenance and logistics, partnerships with blood banks, medical oversight including real-time medical direction, and diagnostic tools.

PICOTS (Populations, Interventions, Comparators, Outcomes, Timing, and Setting)

PRELIMINARY PICOTS CRITERIA

PICOTS	Inclusion criteria	Exclusion criteria
Populations	• Patients requiring prehospital hemorrhagic shock resuscitation treated in the prehospital setting by emergency medical services clinicians.	• Individuals who do not require prehospital hemorrhagic shock resuscitation. • Individuals not treated by emergency medical services clinicians.
Intervention	• *KQ1:* whole blood • *KQ2:* PRBCs. • *KQ3:* plasma (*e.g.,* fresh frozen, liquid, dried, etc.). • *KQ4:* crystalloid fluids. • *KQ5:* strategies as specified in each publication. • *KQ6:* NA. • *CQ1:* NA.	• Other types of resuscitation.
Comparator	• *KQ1 to 4* ○ Head-to-head comparisons between transfusion options to treat prehospital hemorrhagic shock patients. ○ Comparison to usual care as specified in each publication in another group or time period. • *KQ5:* strategies as specified in each publication. • *KQ6:* NA. • *CQ1:* NA.	• KQ1 to KQ5: no comparison.
Outcomes	*Patient Health Outcomes (highest priority)* • Mortality/survival. ○ To arrival at hospital. ○ To hospital discharge. ○ Any period less than or equal to 30 days post-emergency. • Morbidity after discharge.	• Cost-effectiveness, other outcomes.

PRELIMINARY PICOTS CRITERIA—Continued

PICOTS	Inclusion criteria	Exclusion criteria
	○ Glasgow Outcome Scale, Glasgow Outcome Scale Extended, Modified Rankin Scale, Cerebral Performance Category. • Length of stay. ○ Hospital free days. ○ ICU free days. *Intermediate Outcomes* in the prehospital or ED setting. • Physiological indicators (including but not limited to the following). ○ Systolic blood pressure. ○ Diastolic blood pressure. ○ Mean arterial pressure. ○ Heart rate. ○ Respiratory rate. ○ Respiratory failure. ○ ROSC. ○ Shock index. ○ Body temperature. ○ End tidal CO2 (EtCO2). ○ Level of Consciousness. ■ GCS. ■ AVPU. ○ Blood lactate level. *Process Outcomes*. • Time from EMS arrival to initial transfusion of blood product or infusion of crystalloid fluid. • Amount of blood product transfused or crystalloid fluid infused (total: prehospital and hospital) vs. (hospital only). *Adverse Events/Harms (including but not limited to the following)*. • Allergic reaction. • Febrile nonhemolytic reaction. • Acute hemolytic reaction. • Transfusion-related acute lung injury [TRALI]. • Transfusion-associated circulatory overload [TACO]. • Infection. • Fluid overload. • Citrate toxicity. • Delay to definitive care based on arrival time. • Isoimmunization. • Hemolysis. • Harms related to the method of administration. • Risk of clotting when Ringer's lactate solution combined with blood.	
Timing	• Outcomes up to 30 days post-injury	• Outcomes more than 30 days post-injury.
Setting	• Prehospital • US and International studies published in English language from Very High and High HDI [a] countries..	• ED. • Inpatient, surgery. • Studies conducted in countries rated less than High in the HDI [a].
Study Design	• RCTs • Prospective comparative studies • Retrospective comparative studies • Case control studies • Before/after studies • Time series • For CQ1 only: qualitative studies that specifically collect data about barriers to and facilitators of implementing prehospital blood product transfusion programs (*e.g.,* descriptive case studies, evaluations, QI reports), interviews, focus groups.	• Systematic reviews (we will use reference lists to identify studies for possible inclusion). • Case series. • Descriptive studies. • Letters to the editor. • Opinion papers. • Studies published prior to 1990, to focus on contemporary evidence and practices relevant to current prehospital hemorrhagic shock resuscitation protocols.

Abbreviations: AVPU = Alert, Voice, Pain, Unresponsive; CQ = Contextual Question; ED = emergency department; EMS = emergency medical services; GCS = Glasgow Coma Scale; HDI = Human Development Index; ICU = intensive care unit; KQ = Key Question; NA = not applicable; PICOTS = population, interventions, comparators, outcomes, timing, and setting; PRBC = packed red blood cell; QI = quality improvement; RCT = randomized controlled trial; ROSC = return of spontaneous circulation.

[a] United Nations Development Programme. Human Development Index. Retrieved from *https://hdr.undp.org/data-center/human-development-index#/indicies/HDI*.

Dated: November 21, 2024.

Marquita Cullom,

Associate Director.

[FR Doc. 2024–27679 Filed 11–25–24; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–25–0728; Docket No. CDC–2024–0095]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Notifiable Diseases Surveillance System. This data collection provides the official source of statistics in the United States for nationally notifiable conditions.

DATES: CDC must receive written comments on or before January 27, 2025.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2024–0095 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

National Notifiable Diseases Surveillance System (OMB Control No. 0920–0728, Exp. 3/31/2027)—Revision—Office of Public Health Data, Surveillance, and Technology (OPHDST), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Public Health Services Act (42 U.S.C. 241) authorizes CDC to disseminate nationally notifiable condition information. The National Notifiable Diseases Surveillance System (NNDSS) is based on data collected at the State, territorial and local levels because of legislation and regulations in those jurisdictions that require health care providers, medical laboratories, and other entities to submit health-related data on reportable conditions to public health departments. These reportable conditions, which include infectious and non-infectious diseases, vary by jurisdiction depending upon each jurisdiction's health priorities and needs. Each year, the Council of State and Territorial Epidemiologists (CSTE), supported by CDC, determines which reportable conditions should be designated nationally notifiable or under standardized surveillance, under which a set of uniform criteria used to define a disease for public health surveillance to enable public health officials to classify and count cases consistently across reporting jurisdictions.

CDC requests a three-year approval for a Revision for the NNDSS (OMB Control No. 0920–0728, Exp. 03/31/2027) to: (1) receive case notification data for Chagas disease, yersiniosis (non-pestis), and injuries related to firearms, new conditions under standardized surveillance; and (2) receive new disease-specific data elements for toxoplasmosis and congenital toxoplasmosis. Like all other conditions NNDSS receives data for, CSTE voted to add the standardized public health case definition of these cases and data elements. Revising the NNDSS information collection to include these cases is necessary for NNDSS to receive these voluntary data as standardized case information. Data submission from reporting jurisdictions on these and all other NNDSS conditions is voluntary.

The NNDSS currently facilitates the submission and aggregation of case notification data voluntarily submitted to CDC from 60 jurisdictions: public health departments in every U.S. State, New York City, Washington DC, five U.S. territories (American Samoa, the Commonwealth of Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands), and three freely associated States (Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau). This information is shared across jurisdictional boundaries and both surveillance and prevention and control activities are coordinated at regional and national levels.

Approximately 90% of case notifications are encrypted and submitted to NNDSS electronically from already existing databases by automated electronic messages. When automated transmission is not possible, case notifications are faxed, emailed,

uploaded to a secure network or entered into a secure website. All case notifications that are faxed or emailed are done so in the form of an aggregate weekly or annual report, not individual cases. These different mechanisms used to send case notifications to CDC vary by the jurisdiction and the disease or condition. Jurisdictions remove most personally identifiable information (PII) before data are submitted to CDC, but some data elements (*e.g.,* date of birth, date of diagnosis, county of residence) could potentially be combined with other information to identify individuals. Private information is not disclosed unless otherwise compelled by law. All data are treated in a secure manner consistent with the technical, administrative, and operational controls required by the Federal Information Security Management Act of 2002 (FISMA) and the 2010 National Institute of Standards and Technology (NIST) Recommended Security Controls for Federal Information Systems and Organizations. Weekly tables of nationally notifiable diseases are available through CDC WONDER and *data.cdc.gov.* Annual summaries of finalized nationally notifiable disease data are published on CDC WONDER and *data.cdc.gov* and disease-specific data are published by individual CDC programs.

The burden estimates include the number of hours that the public health department uses to process and send case notification data from their jurisdiction to CDC. Specifically, the burden estimates include separate burden hours incurred for automated and non-automated transmissions, separate weekly burden hours incurred for modernizing surveillance systems as part of CDC's Data Modernization Initiative (DMI) implementation, separate burden hours incurred for annual data reconciliation and submission, and separate one-time burden hours incurred for the addition of new diseases and data elements. The burden estimates for the one-time burden for reporting jurisdictions are for the addition of case notification data for the addition of case notification data for Chagas disease, yersiniosis (non-pestis), and injuries related to firearms, new conditions under standardized surveillance; and the addition of new disease-specific data elements for toxoplasmosis and congenital toxoplasmosis. The estimated annual burden for the 257 respondents is 18,354 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
States	Weekly (Automated)	50	52	20/60	867
States	Weekly (Non-automated)	10	52	2	1,040
States	Weekly (DMI Implementation)	50	52	4	10,400
States	Annual	50	1	75	3,750
States	One-time Addition of Diseases and Data Elements.	50	1	2	100
Territories	Weekly (Automated)	5	52	20/60	87
Territories	Weekly, Quarterly (Non-automated)	5	56	20/60	93
Territories	Weekly (DMI Implementation)	5	52	4	1,040
Territories	Annual	5	1	5	25
Territories	One-time Addition of Diseases and Data Elements.	5	1	4	20
Freely Associated States	Weekly (Automated)	3	52	20/60	52
Freely Associated States	Weekly, Quarterly (Non-automated)	3	56	20/60	56
Freely Associated States	Annual	3	1	5	15
Freely Associated States	One-time Addition of Diseases and Data Elements.	3	1	2	6
Cities	Weekly (Automated)	2	52	20/60	35
Cities	Weekly (Non-automated)	2	52	2	208
Cities	Weekly (DMI Implementation)	2	52	4	416
Cities	Annual	2	1	75	150
Cities	One-time Addition of Diseases and Data Elements.	2	1	2	4
Total					18,354

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. 2024–27691 Filed 11–25–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–D–2274]

Transitional Enforcement Policy for Ethylene Oxide Sterilization Facility Changes for Class III Devices; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Transitional Enforcement Policy for Ethylene Oxide Sterilization Facility Changes for Class III Devices.'' This guidance provides information regarding FDA recommendations and general principles to be referenced by holders of premarket approval applications (PMAs) and humanitarian device exemptions (HDE) for class III devices sterilized by

ethylene oxide (EtO) whose products are affected by the potential, actual, or temporary stop or reduction of operations at a sterilization facility, if they wish to have FDA consider whether the exercise of enforcement discretion relating to the implementation of certain types of sterilization site changes is appropriate. FDA is issuing this guidance to provide an enforcement discretion policy to help proactively address manufacturing limitations or supply chain issues due to disruptions caused by closures or potential closures of sterilization facilities that use EtO as a medical device sterilant during the time in which manufacturers are transitioning to compliance with certain new requirements. FDA believes that the enforcement discretion policy described in this guidance may help address concerns during this time related to potential sterile medical device impacts affecting certain devices sterilized by EtO, help mitigate possible interruptions in sterile device processing, and help maintain adequate supplies of finished sterile medical devices. This guidance has been implemented without prior comment, but it remains subject to comment in accordance with the Agency's good guidance practices.

DATES: The announcement of the guidance is published in the **Federal Register** on November 26, 2024.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

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–D–2274 for ''Transitional Enforcement Policy for Ethylene Oxide Sterilization Facility Changes for Class III Devices.'' Received comments 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Transitional Enforcement Policy for Ethylene Oxide Sterilization Facility Changes for Class III Devices'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5441, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Michael Hoffmann, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4110, Silver Spring, MD 20993–0002, 301–796–6476; or James Myers, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry and FDA staff entitled ''Transitional Enforcement Policy for Ethylene Oxide Sterilization Facility Changes for Class III Devices.'' FDA plays a critical role in helping to protect the medical device supply chain and to prevent and mitigate potential medical product impacts. As part of this work, FDA closely monitors the supply chain effects of closures and potential closures of sterilization facilities that use EtO gas to sterilize medical devices prior to their use. For many medical devices, sterilization with EtO may be the only method that effectively sterilizes and does not damage the device during the sterilization process. To help maintain patient access to

sterile medical devices and mitigate risks to the sterile device supply chain, FDA has been developing solutions to avoid potential device impacts during the time in which manufacturers are transitioning to compliance with certain new requirements for the use of EtO as a sterilant.

FDA believes that the temporary enforcement discretion policy set forth in this guidance may help address urgent public health concerns related to potential sterile medical device impacts affecting certain devices sterilized by EtO. Specifically, this guidance is intended to provide information regarding what guiding principles FDA will consider and what types of information submitted by industry would be helpful to FDA to determine, on a case-by-case basis, whether to not object to sterilization site changes geared specifically to PMA and HDE holders of approved class III devices sterilized by EtO prior to the approval of a PMA or HDE supplement. This approach is intended to help firms more quickly and proactively manage the possible timeframes associated with implementing changes in the manufacturing site and any processes, methods, procedures, qualifications, and validations to help minimize impacts to the supply chain for EtO-sterilized class III devices. Further, this document is intended to be considered alongside other applicable FDA guidance documents, such as ''Manufacturing Site Change Supplements: Content and Submission,'' (hereafter ''Site Change Supplement Guidance'') issued December 17, 2018.

This guidance is being implemented without prior public comment because FDA has determined that prior public participation for this guidance is not feasible or appropriate (see section 701(h)(1)(c) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 371(h)(1)(C)) and 21 CFR 10.115(g)(2)). The immediate implementation of this guidance document is necessary to help protect the sterile device supply chain and is in the interest of proposing a less burdensome policy consistent with public health. FDA believes that the enforcement discretion policy described in this guidance may mitigate possible interruptions in sterile device processing and help maintain adequate supplies of finished sterile medical devices. Expedited sterilization site changes may be needed due to ongoing changes in the medical device sterilization landscape to reduce the likelihood of impact for certain EtO sterilized devices due to a potential, actual, or temporary stop or reduction of operations at a sterilization facility that sterilizes those devices. Although this policy is being implemented immediately without prior comment, it remains subject to comment in accordance with FDA's good guidance practices regulation (21 CFR 10.115(g)(3)(D)). FDA will consider all comments received and revise the guidance document as appropriate.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Transitional Enforcement Policy for Ethylene Oxide Sterilization Facility Changes for Class III Devices.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics.* Persons unable to download an electronic copy of ''Transitional Enforcement Policy for Ethylene Oxide Sterilization Facility Changes for Class III Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00007027 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

21 CFR Part; Guidance; or FDA Form	Topic	OMB control No.
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Use Devices; Humanitarian Device Exemption	0910–0332
''Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program''.	Q-submissions and Early Payor Feedback Request Programs for Medical Devices.	0910–0756
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation.	0910–0073
807, subparts A through D	Electronic Submission of Medical Device Registration and Listing.	0910–0625

Dated: November 20, 2024.

P. Ritu Nalubola,

Associate Commissioner for Policy.

[FR Doc. 2024–27661 Filed 11–25–24; 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; Submission for Office of Management and Budget Review; Comment Request; Premarket Tobacco Product Applications and Recordkeeping Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by December 26, 2024.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0879. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Premarket Tobacco Product Applications and Recordkeeping Requirements

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 (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 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 PMTAs and Recordkeeping Requirements regulation (21 CFR 1114.45 (§ 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 (21 CFR 1114.5 (§ 1114.5)). Further, 21 CFR 1114.7 (§ 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) (21 CFR 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 (21 CFR 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 the 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 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. 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.

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, canceled, 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 CTP's 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*).

In the **Federal Register** of July 16, 2024 (89 FR 57907), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received one comment responsive to the four information collection topics solicited and nine comments that were not responsive to those topics.

(Comment) FDA should provide clarity around how Portal Next Generation will operate and hold a workshop to solicit feedback from regulated industry prior to its implementation. In addition, FDA should focus on other PMTA process reforms that can have an even greater impact on efficiency.

(Response) Thank you for your detailed comments in response to the **Federal Register** Notice regarding the proposed information collection for PMTA reports and associated recordkeeping requirements. We appreciate your engagement and value your feedback on the planned upgrade to the submission process through the CTP Portal NG.

The purpose of the **Federal Register** Notice was to introduce modifications to the FDA Form 4057a and to inform stakeholders that FDA Forms 4057 and 4057a would be made available as web-based forms through the new CTP Portal NG. The wireframes provided in the Notice were intended to serve as an approximate representation of the planned web-form fields and workflow specifically associated with the new 4057 and 4057a web forms for public comment, and as such, do not detail all the planned functionality for CTP Portal NG nor do they represent the final versions of the forms.

The CTP acknowledges and agrees with the need for further clarity regarding the implementation and functionality of CTP Portal NG. To address these concerns, CTP will provide the regulated industry, and other stakeholders, an opportunity to engage directly with the new system, navigate the platform, and offer substantive feedback on the workflow and usability of the new Portal.

Additionally, we would like to clarify that PMTAs submitted under the current system will be seamlessly integrated into the new platform. The intent of CTP Portal NG is to streamline and enhance the efficiency of the submission process by providing web-based forms that simplify data entry, minimize the need for multiple tools, and support the submission of required information in a structured manner.

CTP looks forward to engaging with our industry partners and will take all feedback into consideration to ensure that the final implementation of CTP Portal NG meets the needs of the regulated community while fulfilling CTP's regulatory and statutory obligations.

FDA is also actively working on improving the application review process. As new processes are developed, FDA is committed to transparency with industry and other stakeholders. CTP Portal NG is in line with our intent to improve application review. It helps the applicant provide information required by the Premarket Tobacco Product Applications and Recordkeeping Requirements regulations in an identifiable format. Additionally, the guidance provided in CTP Portal NG will reduce applicant burden by highlighting missing information in fields that contain required content prior to submission and providing applicants with an opportunity to include missing content.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1] [2] [3]

1 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			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 OMB control number 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 stand-alone, 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 stand-alone 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 is 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.

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 to the validator tool and reevaluating our current estimates.

Dated: November 20, 2024.

P. Ritu Nalubola,

Associate Commissioner for Policy.

[FR Doc. 2024–27655 Filed 11–25–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–2888]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; 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 that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by December 26, 2024.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0673. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Substantial Equivalence Reports for Tobacco Products

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.

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.*

In the **Federal Register** of July 16, 2024 (89 FR 57903), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received one comment responsive to the four information collection topics solicited and one comment that was not responsive to those topics.

(Comment) FDA should provide clarity around how Portal Next Generation will operate and hold a workshop to solicit feedback from regulated industry prior to its implementation. In addition, FDA should focus on other SE process reforms that can have an even greater impact on efficiency.

(Response) Thank you for your detailed comments in response to the **Federal Register** Notice regarding the proposed information collection for SE reports and associated recordkeeping requirements. We appreciate your engagement and value your feedback on the planned upgrade to the submission process through the CTP Portal NG.

The purpose of the **Federal Register** Notice was to introduce updates to the FDA Form 3965 and 3965a (previously 3964) paper forms and to inform stakeholders that FDA Forms 3965 and 3965a (previously 3964) will be made available as web forms through the new CTP Portal NG. The wireframes included in the Notice were intended to serve as an approximate representation of the fields and workflow specifically associated with the new 3965 and 3965a web forms for public comment, and as such, do not detail all of the planned functionality for CTP Portal NG nor do they represent the final versions of the forms.

The CTP acknowledges and agrees with the need for further clarity regarding the implementation and functionality of CTP Portal NG. To address these concerns, CTP will provide the regulated industry, and other stakeholders, an opportunity to engage directly with the new system, navigate the platform, and offer substantive feedback on the workflow and usability of the new Portal.

Additionally, we would like to clarify that SE applications submitted under the current system will be seamlessly integrated into the new platform. The intent of CTP Portal NG is to streamline and enhance the efficiency of the submission process by providing web-based forms that simplify data entry, minimize the need for multiple tools, and support the submission of required information in a structured manner.

CTP looks forward to engaging with our industry partners and will take all feedback into consideration to ensure that the final implementation of CTP Portal NG meets the needs of the regulated community while fulfilling CTP's regulatory and statutory obligations.

FDA is also actively working on improving the application review process. As new processes are developed, FDA is committed to transparency with industry and other stakeholders. CTP Portal NG is in line with our intent to improve application review. It helps the applicant provide information required by the Substantial Equivalent and Recordkeeping Requirements regulations in an identifiable format. Additionally, the guidance provided in CTP Portal NG will reduce applicant burden by highlighting missing information in fields that contain required content prior to submission and providing applicants with an opportunity to include missing content.

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

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1] [3]—Continued

Activity; FDA form; 21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
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	.....	.....	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.

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 to adding a new form, providing the validator tool, and reevaluating our current estimates.

Dated: November 20, 2024.

P. Ritu Nalubola,

Associate Commissioner for Policy.

[FR Doc. 2024–27654 Filed 11–25–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–4040–0008]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before January 27, 2025.

ADDRESSES: Submit your comments to *sagal.musa@hhs.gov* or by calling (202) 205–2634.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 4040–0008–60D and project title for reference, to Sagal Musa, email: *sagal.musa@hhs.gov,* or call (202) 205–2634 the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Budget Information for Construction Programs (SF–424C).

Type of Collection: Extension.

OMB No.: 4040–0008.

Abstract

Budget Information for Construction Programs (SF–424C) is used by applicants to apply for Federal financial assistance. The Budget Information for Construction Programs (SF–424C) form allows the applicants to provide budget details as part of their grant proposals. This form is evaluated by Federal agencies as part of the overall grant application. This IC expires on February 28, 2025. *Grants.gov* seeks a three-year clearance of these collections.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
Budget Information for Construction Programs (SF–424C).	Grant-seeking organizations	239	1	1	239
Total	.....	.....	1	.....	239

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2024–27598 Filed 11–25–24; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–4040–0007]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before January 27, 2025.

ADDRESSES: Submit your comments to *sagal.musa@hhs.gov* or by calling (202) 205–2634.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 4040–0007–60D and project title for reference, to Sagal Musa, email: *sagal.musa@hhs.gov,* or call (202) 205–2634 the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Assurances for Non-Construction Programs (SF424B).

Type of Collection: Extension.

OMB No.: 4040–0007.

Abstract

Assurances for Non-Construction Programs (SF–424B) is used by applicants to apply for Federal financial assistance. The Assurances for Non-Construction Programs (SF–424B) form requests that the applicants certify specified required assurances as part of their grant proposals. This form is evaluated by Federal agencies as part of the overall grant application. This IC expires on February 28, 2025. *Grants.gov* seeks a three-year clearance of these collections.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
Assurances for Non-Construction Programs (SF–424B).	Grant-seeking organizations	9,772	1	0.5	4,886
Total	.....	.....	1	.....	4,886

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2024–27595 Filed 11–25–24; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Publication of Common Agreement for Nationwide Health Information Interoperability (Common Agreement) Version 2.1

AGENCY: Assistant Secretary for Technology Policy/Office of the National Coordinator for Health Information Technology, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice fulfills an obligation under the Public Health Service Act (PHSA). The act requires the National Coordinator for Health Information Technology to publish on the Office of the National Coordinator for Health Information Technology's public internet website, and in the **Federal Register**, the trusted exchange framework and common agreement developed under the PHSA. This notice is for publishing an updated version of the Common Agreement (Version 2.1).

ADDRESSES: Common Agreement Version 2.1 is also available on the Office of the National Coordinator for Health Information Technology's public internet website at *www.HealthIT.gov/TEFCA.*

FOR FURTHER INFORMATION CONTACT: Mark Knee, Office of the National Coordinator for Health Information Technology, 202–664–2058.

SUPPLEMENTARY INFORMATION: This notice fulfills the obligation under section 3001(c)(9)(C) of the Public Health Service Act (PHSA) to publish the trusted exchange framework and common agreement, developed under section 3001(c)(9)(B) of the PHSA (42 U.S.C. 300jj–11(c)(9)(B)), in the **Federal Register**. This publication consists of the following document:

Common Agreement for Nationwide Health Information Interoperability

Version 2.1

October 2024

This document was published by the U.S. Department of Health and Human Services, Office of the National Coordinator for Health Information Technology and was produced at U.S. taxpayer expense. This document meets the requirement in section 3001(c)(9)(C) of the Public Health Service Act for the National Coordinator for Health Information Technology to publish on the Office of the National Coordinator for Health Information Technology's public internet website, and in the **Federal Register**, the common agreement (42 U.S.C. 300jj-11(c)(9)(C)).

The Common Agreement for Nationwide Health Information Interoperability

This Common Agreement for Nationwide Health Information Interoperability (the ''Common Agreement'') is entered into as of the CA Effective Date, by and between The Sequoia Project, Inc., a Virginia non-stock corporation, acting as the current Recognized Coordinating Entity® as defined below (the ''RCE™'') and_____ , a _____(''Signatory''). RCE and Signatory may also be referred to herein individually as a ''Party'' or collectively as the ''Parties.''

Recitals

Whereas, Section 4003 of the 21st Century Cures Act directed the U.S. Department of Health and Human Services (''HHS'') National Coordinator for Health Information Technology to, ''in collaboration with the National Institute of Standards and Technology and other relevant agencies within the Department of Health and Human Services, for the purpose of ensuring full network-to-network exchange of health information, convene public-private and public-public partnerships to build consensus and develop or support a trusted exchange framework, including a common agreement among health information networks nationally'' (the ''Trusted Exchange Framework and Common Agreement''℠ or TEFCA℠);

Whereas, this Common Agreement (including the documents incorporated herein by reference) is the common agreement developed pursuant to Section 4003 of the 21st Century Cures Act;

Whereas, The Sequoia Project has been selected by the Office of the National Coordinator for Health Information Technology (''ONC'') to serve as the RCE for purposes of implementing, maintaining, and updating this Common Agreement, including the Qualified Health Information Network™ (''QHIN™'') Technical Framework, as well as managing the activities associated with the designation of interested health information networks (''HINs'') as QHINs (as defined and set forth in this Common Agreement);

Whereas, Signatory wishes to be Designated as a QHIN and has completed the application and testing process toward such Designation;

Whereas, Signatory must, among other conditions set forth in this Common Agreement, agree to be bound by the terms of this Common Agreement before Signatory may be designated as a QHIN and, upon signing this Common Agreement, Signatory agrees to be so bound as a Signatory and as a QHIN, if so Designated, as the case may be;

Now, therefore, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, mutually agree as set forth below.

Agreement

1. Definitions and Relevant Terminology.

1.1 *Defined Terms.* Capitalized terms used in this Common Agreement shall have the meaning set forth below. Where a definition includes one or more citations to a statute, regulation, or standard, the definition shall be interpreted to refer to such statute, regulation, or standard as may be amended from time-to-time.

Applicable Law: all federal, State, local, or tribal laws and regulations then in effect and applicable to the subject matter herein. For the avoidance of doubt, federal agencies are only subject to federal law.

Breach of Unencrypted Individually Identifiable Information: the acquisition, access, or Disclosure of unencrypted Individually Identifiable Information maintained by an IAS Provider that compromises the security or privacy of the unencrypted Individually Identifiable Information.

Business Associate: has the meaning assigned to such term at 45 CFR 160.103.

Business Associate Agreement (BAA): a contract, agreement, or other arrangement that satisfies the implementation specifications described within 45 CFR 164.314(a) and 164.504(e), as applicable.

Common Agreement: unless otherwise expressly indicated, the Common Agreement for Nationwide Health Information Interoperability, the QHIN Technical Framework (QTF), all Standard Operating Procedures (SOPs), and all other attachments, exhibits, and artifacts incorporated therein by reference.

Common Agreement (CA) Effective Date: if (i) Signatory was Designated as a QHIN prior to the Implementation Date, then the Implementation Date; or (ii) if Signatory was Designated as a QHIN after the Implementation Date, then the date that the RCE executes the Common Agreement to which Signatory is a Party.

Confidential Information: any information that is designated as Confidential Information by a CI Discloser, or that a reasonable person would understand to be of a confidential nature, and is disclosed to a CI Recipient pursuant to or in connection with a Framework Agreement. For the avoidance of doubt, ''Confidential Information'' does not include electronic protected health information (ePHI), as defined in a Framework Agreement, that is subject to a Business Associate Agreement or other provisions of a Framework Agreement.

Notwithstanding any label to the contrary, ''Confidential Information'' does not include any information that: (i) is or becomes known publicly through no fault of the CI Recipient; or (ii) is learned by the CI Recipient from a third party that the CI Recipient reasonably believes is entitled to disclose it without restriction; or (iii) is already known to the CI Recipient before receipt from the CI Discloser, as shown by the CI Recipient's written records; or (iv) is independently developed by the CI Recipient without the use of or reference to the CI Discloser's Confidential Information, as shown by the CI Recipient's written records, and was not subject to confidentiality restrictions prior to receipt of such information from the CI Discloser.

Confidential Information (CI) Discloser: a person or entity that discloses Confidential Information.

Confidential Information (CI) Recipient: a person or entity that receives Confidential Information.

Connectivity Services: the technical services provided by a QHIN, Participant, or Subparticipant to its Participants and Subparticipants that facilitate TEFCA Exchange and are consistent with the requirements of the then-applicable QHIN Technical Framework.

Contract: the Contract by and between The Sequoia Project and HHS, or, if applicable, a successor agreement between The Sequoia Project and HHS or a successor agreement between a different RCE and HHS.

Covered Entity: has the meaning assigned to such term at 45 CFR 160.103.

Cybersecurity Council: the council established by the RCE to enhance cybersecurity commensurate with the risks in TEFCA Exchange, as more fully set forth in an SOP.

Designated Network: the Health Information Network that Signatory uses to offer and provide the Designated Network Services.

Designated Network Governance Body: a representative and participatory group or groups that approve the processes for fulfilling the Governance Functions and participate in such Governance Functions for Signatory's Designated Network.

Designated Network Services: the Connectivity Services or Governance Services.

Designation (including its correlative meanings ''Designate,'' ''Designated,'' and ''Designating''): the RCE's written confirmation to ONC and Signatory that Signatory has satisfied all the requirements of the Common Agreement, the QHIN Technical Framework, all applicable SOPs, and is now a QHIN.

Directory Entry(ies): listing of each Node controlled by a QHIN, Participant or Subparticipant, which includes the endpoint resource for such Node(s) and any other organizational or technical information required by the QTF or an applicable SOP.

Disclosure (including its correlative meanings ''Disclose,'' ''Disclosed,'' and ''Disclosing''): the release, transfer, provision of access to, or divulging in any manner of TEFCA Information (TI) outside the entity holding the information.

Discover (including its correlative meanings ''Discovery'' and ''Discovering''): the first day on which something is known to the QHIN, Participant, or Subparticipant, or by exercising reasonable diligence would have been known, to the QHIN, Participant or Subparticipant.

Discriminatory Manner: any act or omission that is inconsistently taken or not taken with respect to any similarly situated QHIN, Participant, Subparticipant, Individual, or group of them, whether it is a competitor, or whether it is affiliated with or has a contractual relationship with any other entity, or in response to an event.

Dispute: (i) a disagreement about any provision of this Common Agreement, including any SOP, the QTF, and all other attachments, exhibits, and artifacts incorporated by reference; or (ii) a concern or complaint about the actions, or any failure to act, of Signatory, the RCE, any other QHIN, or another QHIN's Participant(s) or Subparticipant(s).

Dispute Resolution Process: the non-binding Dispute resolution process set forth in an SOP.

Electronic Protected Health Information (ePHI): has the meaning assigned to such term at 45 CFR 160.103.

Exchange Purpose(s) or XP(s): the reason, as authorized by a Framework Agreement, including the applicable SOP(s), for a transmission, Query, Use, Disclosure, or Response transacted through TEFCA Exchange.

Framework Agreement(s): with respect to QHINs, the Common Agreement; and with respect to a Participant or Subparticipant, the Participant/Subparticipant Terms of Participation (ToP).

FHIR Endpoint: has the meaning assigned to such term in the Health Level Seven International® (HL7®) Fast Healthcare Interoperability Resources (FHIR®) Specification available at *https://hl7.org/fhir/r4/,* as such specification may be amended, modified or replaced.

FTC Rule: the Health Breach Notification Rule promulgated by the Federal Trade Commission set forth at 16 CFR part 318.

Governing Council: the permanent governing body for activities conducted under the Framework Agreements, as more fully described in the applicable SOP(s).

Government Benefits Determination: a determination made by any agency, instrumentality, or other unit of the federal, State, local, or tribal government as to whether an Individual qualifies for government benefits for any purpose other than health care (*e.g.,* Social Security disability benefits) to the extent permitted by Applicable Law. Disclosure of TI for this purpose may require an authorization that complies with Applicable Law.

Government Health Care Entity: any agency, instrumentality, or other unit of the federal, State, local, or tribal government to the extent that it provides health care services (*e.g.,* treatment) to Individuals but only to the extent that it is not acting as a Covered Entity.

Governance Functions: the functions, activities, and responsibilities of the Designated Network Governance Body as set forth in an applicable SOP.

Governance Services: the governance functions described in applicable SOP(s), which are performed by a QHIN's Designated Network Governance Body for its Participants and Subparticipants to facilitate TEFCA Exchange in compliance with the then-applicable requirements of the Framework Agreements.

Health Care Provider: meets the definition of such term in either 45 CFR 171.102 or in the HIPAA Rules at 45 CFR 160.103.

Health Information Network (HIN): has the meaning assigned to the term ''Health Information Network or Health Information Exchange'' in the information blocking regulations at 45 CFR 171.102.

HIPAA: the Health Insurance Portability and Accountability Act of 1996, Public Law 104–191, and the Health Information Technology for Economic and Clinical Health Act of 2009, Public Law 111–5.

HIPAA Rules: the regulations set forth at 45 CFR parts 160, 162, and 164.

HIPAA Privacy Rule: the regulations set forth at 45 CFR parts 160 and 164, Subparts A and E.

HIPAA Security Rule: the regulations set forth at 45 CFR part 160 and 164, Subpart C.

Implementation Date: the date sixty (60) calendar days after publication of version 2 of the Common Agreement in the **Federal Register**.

Individual: has the meaning assigned to such term at 45 CFR 171.202(a)(2).

Individual Access Services Incident (IAS Incident): a TEFCA Security Incident or a Breach of Unencrypted Individually Identifiable Information maintained by an IAS Provider.

Individual Access Services Provider (IAS Provider): each QHIN, Participant, and Subparticipant that offers Individual Access Services (IAS).

Individual Access Services (IAS): the services provided to an Individual by a QHIN, Participant, or Subparticipant that has a direct contractual relationship with such Individual in which the QHIN, Participant, or Subparticipant, as applicable, agrees to satisfy that Individual's ability to use TEFCA Exchange to access, inspect, obtain, or transmit a copy of that Individual's Required Information.

IAS Consent: an IAS Provider's own supplied form for obtaining express written consent from the Individual in connection with the IAS.

Individually Identifiable Information: information that identifies an Individual or with respect to which there is a reasonable basis to believe that the

information could be used to identify an Individual.

Initiating Node: a Node through which a QHIN, Participant, or Subparticipant initiates transactions for TEFCA Exchange.

Node: a technical system that is controlled directly or indirectly by a QHIN, Participant, or Subparticipant and that is listed in the RCE Directory Service.

Non-HIPAA Entity (NHE): a QHIN, Participant, or Subparticipant that is neither a Covered Entity nor a Business Associate as defined under the HIPAA Rules with regard to activities under a Framework Agreement. To the extent a QHIN, Participant, or Subparticipant is a Hybrid entity, as defined in 45 CFR 164.103, such QHIN, Participant, or Subparticipant shall be considered a Non-HIPAA Entity with respect to TEFCA Exchange activities related to such QHIN, Participant, or Subparticipant's non-covered components.

ONC: the U.S. Department of Health and Human Services Office of the National Coordinator for Health Information Technology.

Participant: to the extent permitted by applicable SOP(s), a U.S. Entity that has entered into the ToP in a legally binding contract with a QHIN to use the QHIN's Designated Network Services to participate in TEFCA Exchange in compliance with the ToP.

Participant/Subparticipant Caucus: a forum established pursuant to an applicable SOP(s), the purpose of which is for the Participants and Subparticipants to meet and discuss issues of interest directly related to TEFCA Exchange and related activities under the Framework Agreements.

Participant/Subparticipant Terms of Participation (ToP): the requirements set forth in Exhibit 1 to the Common Agreement to which: QHINs must contractually obligate their Participants to agree; to which QHINs must contractually obligate their Participants to contractually obligate their Subparticipants and Subparticipants of the Subparticipants to agree, in order to participate in TEFCA Exchange including the QHIN Technical Framework (QTF), all applicable Standard Operating Procedures (SOPs), and all other attachments, exhibits, and artifacts incorporated therein by reference.

Passthrough Node: a Node that is neither an Initiating nor Responding Node and through which a QHIN, Participant, or Subparticipant transmits transactions to and from Initiating and Responding Nodes, including any other services it provides.

Privacy and Security Notice: an IAS Provider's own supplied written privacy and security notice that contains the information required by the applicable SOP(s).

Protected Health Information (PHI): has the meaning assigned to such term at 45 CFR 160.103.

Public Health Authority: has the meaning assigned to such term at 45 CFR 164.501.

QHIN Technical Framework (QTF): the most recent effective version of the document that contains the technical, functional, privacy, and security requirements for TEFCA Exchange.

Qualified Health Information Network (QHIN): to the extent permitted by applicable SOP(s), a Health Information Network that is a U.S. Entity that has been Designated by the RCE and is a Party to the Common Agreement countersigned by the RCE.

QHIN Caucus: a forum established pursuant to an applicable SOP(s), the purpose of which is for the QHINs to meet and discuss issues of interest directly related to TEFCA Exchange and related activities under the Framework Agreements.

Query(ies) (including its correlative uses/tenses ''Queried'' and ''Querying''): the act of asking for information through TEFCA Exchange.

RCE Directory Service: a technical service provided by the RCE that enables QHINs to identify their Nodes to enable TEFCA Exchange. The requirements for use of, inclusion in, and maintenance of the RCE Directory Service are set forth in the Framework Agreements, QTF, and applicable SOPs.

Recognized Coordinating Entity (RCE): the entity selected by ONC that enters into the Common Agreement with QHINs in order to impose, at a minimum, the requirements of the Common Agreement, including the SOPs and the QTF, on the QHINs and administer such requirements on an ongoing basis. The RCE is a Party to the Common Agreement.

Required Information: the Electronic Health Information, as defined in 45 CFR 171.102, that is (i) maintained in a Responding Node by any QHIN, Participant, or Subparticipant prior to or during the term of the applicable Framework Agreement and (ii) relevant for a required XP Code, as set forth in the QTF or an applicable SOP(s).

Responding Node: a Node through which the QHIN, Participant, or Subparticipant Responds to a received transaction for TEFCA Exchange.

Response(s) (including its correlative uses/tenses ''Responds,'' ''Responded'' and ''Responding''): the act of providing the information that is the subject of a Query or otherwise transmitting a message in response to a Query through TEFCA Exchange.

Security Posture: the security status of an entity's networks, information, and systems based on information assurance resources including, without limitation, people, hardware, software, and policies, and capabilities in place to manage the defense of the entity's networks, information, and systems and to react as the situation changes (derived from NIST Definition 800–30r1).

Signatory: the entity that has satisfied Section 4.1 and is a Party to the Common Agreement.

Standard Operating Procedure(s) or SOP(s): a written procedure or other provision that is adopted pursuant to the Common Agreement and incorporated by reference into a Framework Agreement to provide detailed information or requirements related to TEFCA Exchange, including all amendments thereto. Each SOP identifies the relevant group(s) to which the SOP applies, including whether Participants or Subparticipants are required to comply with a given SOP.

State: any of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

Subparticipant: to the extent permitted by applicable SOP(s), a U.S. Entity that has entered into the ToP in a legally binding contract with a Participant or another Subparticipant to use the Participant's or Subparticipant's Connectivity Services to participate in TEFCA Exchange in compliance with the ToP.

TEFCA Exchange: the transaction of information between Nodes using an XP Code.

TEFCA Information (TI): any information that is transacted through TEFCA Exchange except to the extent that such information is received by a QHIN, Participant, or Subparticipant that is a Covered Entity, Business Associate, or NHE that is exempt from compliance with the Privacy section of the applicable Framework Agreement and is incorporated into such recipient's system of record, at which point the information is no longer TI with respect to such recipient and is governed by the HIPAA Rules and other Applicable Law.

TEFCA Security Incident(s):

(i) An unauthorized acquisition, access, Disclosure, or Use of unencrypted TI using TEFCA Exchange, but NOT including any of the following:

(a) Any unintentional acquisition, access, Use, or Disclosure of TI by a Workforce Member or person acting under the authority of a QHIN,

Participant, or Subparticipant, if such acquisition, access, Use, or Disclosure (i) was made in good faith, (ii) was made by a person acting within their scope of authority, (iii) was made to another Workforce Member or person acting under the authority of any QHIN, Participant, or Subparticipant, and (iv) does not result in further acquisition, access, Use, or Disclosure in a manner not permitted under Applicable Law and the Framework Agreements.

(b) A Disclosure of TI where a QHIN, Participant, or Subparticipant has a good faith belief that an unauthorized person to whom the Disclosure was made would not reasonably have been able to retain such information.

(c) A Disclosure of TI that has been de-identified in accordance with the standard at 45 CFR 164.514(b).

(ii) Other security events (*e.g.,* ransomware attacks), as set forth in an SOP, that adversely affect a QHIN's, Participant's, or Subparticipant's participation in TEFCA Exchange.

Threat Condition: (i) a breach of a material provision of a Framework Agreement that has not been cured within fifteen (15) days of receiving notice of the material breach (or such other period of time to which the Parties have agreed), which notice shall include such specific information about the breach that the RCE has available at the time of the notice; or (ii) a TEFCA Security Incident; or (iii) an event that RCE, a QHIN, its Participant, or their Subparticipant has reason to believe will disrupt normal TEFCA Exchange, either due to actual compromise of or the need to mitigate demonstrated vulnerabilities in systems or data of the QHIN, Participant, or Subparticipant, as applicable, or could be replicated in the systems, networks, applications, or data of another QHIN, Participant, or Subparticipant; or (iv) any event that could pose a risk to the interests of national security as directed by an agency of the United States government.

Transitional Council: the interim governing body for activities conducted under Framework Agreements, as more fully described in the applicable SOP(s).

United States: the fifty (50) States, the District of Columbia, and the territories and possessions of the United States including, without limitation, all military bases or other military installations, embassies, and consulates operated by the United States government.

U.S. Entity/Entities: any corporation, limited liability company, partnership, or other legal entity that meets all of the following requirements:

(i) The entity is organized under the laws of a State or commonwealth of the United States or the federal law of the United States and is subject to the jurisdiction of the United States and the State or commonwealth under which it was formed;

(ii) The entity's principal place of business, as determined under federal common law, is in the United States; and

(iii) None of the entity's directors, officers, or executives, and none of the owners with a five percent (5%) or greater interest in the entity, are listed on the *Specially Designated Nationals and Blocked Persons List* published by the United States Department of the Treasury's Office of Foreign Asset Control or on the United States Department of Health and Human Services, Office of Inspector General's *List of Excluded Individuals/Entities.*

Use(s) (including correlative uses/tenses, such as ''Uses,'' ''Used,'' and ''Using''): with respect to TI, means the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

U.S. Qualified Person means those individuals who are U.S. nationals and citizens at birth as defined in 8 U.S.C. 1401, U.S. nationals but not citizens of the United States at birth as defined in 8 U.S.C. 1408, lawful permanent residents of the United States as defined in the Immigration and Nationality Act, and non-immigrant aliens who are hired by a U.S. Entity as an employee in a specialty occupation pursuant to an H–1B Visa.

Workforce Member(s): any employees, volunteers, trainees, and other persons whose conduct, in the performance of work for an entity, is under the direct control of such entity, whether or not they are paid by the entity.

XP Code: the code used to identify the XP in any given transaction, as set forth in the applicable SOP(s).

1.2 *Common Agreement Terminology.*

1.2.1 *References to Signatory and QHINs.* As set forth in its definition and in the introductory paragraph of this Common Agreement, the term ''Signatory'' is used to refer to the specific entity that is a Party to this Common Agreement with the RCE. Any and all rights and obligations of a QHIN stated herein are binding upon Signatory as of the CA Effective Date and are also binding upon all other QHINs. References herein to ''other QHINs,'' ''another QHIN,'' and similar such terms are used to refer to any and all other organizations that have signed the Common Agreement with the RCE.

1.2.2 *Intentionally Omitted.*

1.2.3 *General Rule of Construction.* For the avoidance of doubt, a reference to a specific section of the Common Agreement in a particular section does not mean that other sections of this Common Agreement that expressly apply to a QHIN are inapplicable. A reference in this Common Agreement to any law, any regulation, or to Applicable Law includes any amendment, modification or replacement to such law, regulation, or Applicable Law.

1.2.4 *Terms of Participation.* Signatory shall contractually obligate its Participants to comply with the ToP. Notwithstanding the foregoing, for any entity that became a Participant of Signatory prior to the Implementation Date, Signatory shall (i) contractually obligate such entity to comply with the ToP within one-hundred eighty (180) days of the Implementation Date, provided that such Participant is and remains a party to the Participant-QHIN Agreement, as defined in and required by Common Agreement Version 1.1, during such period; or (ii) terminate such Participant's ability to engage in TEFCA Exchange upon the earlier of the date of termination of the existing Participant-QHIN Agreement or one-hundred eighty (180) days after the Implementation Date.

2. *Incorporation of Recitals.* The Recitals set forth above are incorporated into this Common Agreement in their entirety and shall be given full force and effect as if set forth in the body of this Common Agreement.

3. *Governing Approach.*

3.1 *Role of the RCE and ONC.* ONC was directed by Congress in the 21st Century Cures Act to, ''in collaboration with the National Institute of Standards and Technology and other relevant agencies within the Department of Health and Human Services, for the purpose of ensuring full network-to-network exchange of health information, convene public-private and public-public partnerships to build consensus and develop or support a trusted exchange framework, including a common agreement among health information networks nationally.'' ONC entered into the Contract with the RCE to implement, maintain, and update the Common Agreement.

Under the Contract, the RCE is responsible for matters related to the development and operation of the exchange of TI and related activities.

ONC provides oversight of the RCE's work under the Contract. Under the Contract, ONC has the right to review the RCE's conduct, including Designation, corrective action, and termination decisions regarding QHINs,

the proper execution of nondiscrimination and conflict of interest policies that demonstrate a commitment to transparent, fair, and nondiscriminatory treatment by the RCE of QHINs, and whether the RCE has adhered to the requirements imposed upon it by this Common Agreement. ONC may also address complaints made by a QHIN against the RCE as set forth in Section 15.6. QHINs have the right to appeal RCE decisions as set forth in Section 16 of this Common Agreement.

3.2 *Participation in Governance.* QHINs, Participants, and Subparticipants shall have the opportunity to engage in governance under the Common Agreement. The RCE shall establish a Transitional Council and then a Governing Council which will be responsible for serving as a resource to the RCE and a forum for orderly and civil discussion of any issues affecting TEFCA Exchange or other issues that may arise under the Common Agreement. The formation, composition, responsibilities, and duration of the Transitional Council and Governing Council shall be set forth in an SOP(s).

3.3 *Advisory Groups.* The RCE, in consultation with the Transitional or Governing Council (as applicable) and ONC, may establish Advisory Groups for purposes of seeking input from distinct groups of stakeholders that are parties to or affected by TEFCA Exchange activities to better inform the governance process, provide input on certain topics, and promote inclusivity. The process for establishing Advisory Groups and selecting members is set forth in the applicable SOP.

4. *QHIN Designation.*

4.1 *Eligibility to be Designated.* Signatory affirms and warrants that as of the CA Effective Date and throughout the term of this Common Agreement, it meets and will continue to meet the eligibility criteria listed below and any additional requirements set forth in the applicable SOP(s).

(i) Signatory is a U.S. Entity and is not controlled by any person or entity that is not a U.S. Qualified Person(s) or U.S. Entity(ies). The specific, required means to demonstrate this are set forth in an SOP.

(ii) Signatory is a Health Information Network.

(iii) Signatory has the ability to perform all of the Designated Network Services and other required functions of a QHIN in the manner required by this Common Agreement, the SOPs, the QTF, and all other applicable guidance from the RCE. The specific, required means to demonstrate this are set forth in an SOP(s).

(iv) Signatory has in place the organizational infrastructure and legal authority to comply with the obligations of the Common Agreement and to provide Governance Services for its Designated Network. In addition, Signatory has the resources and infrastructure to support a reliable and trusted network. The specific, required means to demonstrate this are set forth in an SOP(s).

If, at any time during the term of this Common Agreement, Signatory Discovers that it fails to meet the foregoing eligibility criteria or any additional requirements set forth in the applicable SOP(s), Signatory shall immediately notify the RCE.

4.2 *Affirmation of Application.* Signatory represents and warrants that the information in its application for Designation was at the time of the application submission, and continues to be as of the CA Effective Date, accurate and complete, to the best of its knowledge. Signatory acknowledges that the RCE relied upon the information in its application to evaluate whether Signatory meets the criteria to be Designated and that violation of this representation and warranty is a material breach of this Common Agreement. If the RCE determines that information in the application that was material to the RCE's decision to Designate Signatory is or was not accurate or complete, the RCE may terminate Signatory's Designation and this Common Agreement and will provide notice of such termination to Signatory.

5. *Change Management.*

5.1 *Change Management Framework.* The RCE shall coordinate all changes to the Common Agreement, the QTF, and the SOPs in conjunction with ONC. In addition to the activities described below, ONC shall be available in a consultative role throughout the change management process to review any proposed amendments to the Common Agreement, the QTF, and the SOPs as well as the adoption of any new SOP and the repeal of any existing SOP. The RCE will work with ONC, the Governing Council, and the QHIN and Participant/Subparticipant Caucuses, as outlined below, to consider amendments to the Common Agreement, the QTF, or the SOPs and the adoption of any new SOP or the repeal of any existing SOP. Provided, however, that the actions described in Sections 5.1 through 5.3 of this Common Agreement by or with respect to the Governing Council, the QHIN Caucus, and the Participant/Subparticipant Caucus, as applicable, shall not be required until the respective body has been established as described in Section 3 and the applicable SOP(s). Signatory acknowledges that it and the RCE do not have the sole legal authority to agree to changes to this Common Agreement, the QTF, or the SOPs. ONC must approve all changes, additions, and deletions. The Common Agreement must be the same for all QHINs.

5.2.1 *Amending the Common Agreement or the QTF.* The RCE is tasked, under its Contract with ONC, with updating the Common Agreement and QTF. Proposed amendments to the Common Agreement or QTF may originate from multiple sources, including, but not limited to, ONC, the RCE, the Governing Council, the QHIN Caucus, or the Participant/Subparticipant Caucus. The RCE may consult with the Governing Council, the QHIN Caucus, or the Participant/Subparticipant Caucus prior to submitting the proposed amendment(s) to ONC for consideration. The RCE shall collect all proposed amendments and submit them to ONC, who shall determine whether further action on a proposed amendment is warranted. If ONC determines that a proposed amendment warrants further consideration, then the RCE will present the proposed amendment to the Governing Council for its feedback. The Governing Council will evaluate the proposed amendment and determine whether it will seek feedback from the QHIN Caucus, the Participant/Subparticipant Caucus, or both, as deemed necessary and appropriate. The Governing Council will provide the RCE with written feedback on the proposed amendment in a timely manner, which will include feedback from the QHIN and Participant/Subparticipant Caucuses as applicable and appropriate.

5.2.2 The RCE shall consult with ONC about the Governing Council feedback. ONC shall, after considering the feedback, determine whether the proposed amendment should proceed after making any changes to the amendment. If ONC decides to proceed with the amendment, it will advance the proposed amendment to the QHIN Caucus for approval by a written vote. An amendment will be approved if at least two-thirds (⅔) of the votes cast by the QHIN Caucus members within the timeframe established by ONC for the voting period are in favor of the proposed amendment. The requirement to consult with the Governing Council in this provision shall be satisfied by ONC's approval of the proposed amendment if, at the time of such approval, the Governing Council and the QHIN Caucus have not yet been established.

5.2.3 The time period for ONC to decide whether to proceed or not with proposed amendment to the Common Agreement pursuant to Section 5.2.2 above shall initially be three (3) months after ONC receives from the RCE feedback from the Governing Council pursuant to Section 5.2.2 above; provided, however that ONC may, in its discretion, extend this time for an unlimited number of additional three- (3-) month time periods.

5.2.4 The time period for ONC to decide whether to proceed or not with a proposed amendment to the QTF pursuant to Section 5.2.2 above shall initially be three (3) months after ONC receives from the RCE feedback from the Governing Council pursuant to Section 5.2.2 above; provided, however, that ONC may, in its discretion, extend this time for one (1) additional three- (3-) month time period. If an amendment to the Common Agreement or QTF is approved as described above, the amendment shall become effective on the effective date identified by ONC as part of the amendment process and shall be binding on Signatory without any further action by Signatory or the RCE. If Signatory is not willing or able to comply with the amendment, then Signatory shall, within fifteen (15) business days of being notified by the RCE that the amendment has been approved, provide the RCE written notice of termination of this Common Agreement effective no later than the expiration of thirty (30) days from approval of the amendment.

5.2.5 Notwithstanding the foregoing, if the RCE determines that an amendment to the Common Agreement or QTF is required in order for the RCE to remain in compliance with Applicable Law, the RCE is not required to provide QHINs with an opportunity to vote on the amendment. However, the RCE shall still be required to provide sixty (60) days' advance written notice of the amendment and legal analysis of the need to use this expedited process, unless the RCE would be materially harmed by being out of compliance with Applicable Law if it provided the sixty (60) days' written notice, in which case it will provide as much notice as practicable under the circumstances. Any such amendment to this Common Agreement or the QTF shall be subject to ONC review and modification prior to the RCE providing advance written notice of the amendment to Signatory. Only those amendments that are approved by ONC will be enacted.

5.2 *Amending, Adopting, or Repealing an SOP.* The RCE is tasked, under its Contract with ONC, with developing an initial set of SOPs that were considered adopted when initially made publicly available prior to the initial QHIN application period (*i.e.,* prior to *anyone* signing the Common Agreement). The amendment process set forth below shall also apply to amending the initial set of SOPs through adopting one or more new SOPs, repealing an SOP in its entirety, or amending one of the initial SOPs.

5.3.1 Proposed amendments to the SOPs may originate from multiple sources including, but not limited to, ONC, the RCE, the Governing Council, the QHIN Caucus, or the Participant/Subparticipant Caucus. The RCE may consult with the Governing Council, the QHIN Caucus, or the Participant/Subparticipant Caucus prior to submitting the proposed amendment(s) to ONC for consideration. The RCE shall collect all proposed amendments and submit them to ONC, who shall determine whether further action on a proposed amendment is warranted.

If ONC determines that a proposed amendment warrants further consideration, then the RCE will present the proposed amendment to the Governing Council for its feedback. The Governing Council will evaluate the proposed amendment and determine whether it will seek feedback from the QHIN Caucus, the Participant/Subparticipant Caucus, or both, as deemed necessary and appropriate. The Governing Council will evaluate proposed amendments in a timely manner and provide the RCE with written feedback on the proposed amendment.

5.3.2 The RCE shall consult with ONC about the Governing Council feedback. ONC shall, after considering the feedback, determine whether the proposed amendment should proceed after making any changes to the amendment. If ONC decides to proceed with the amendment, it will advance the proposed amendment to the QHIN Caucus and the Participant/Subparticipant Caucus for approval by a written vote. An amendment will be approved if at least two-thirds (⅔) of the votes cast by the QHIN Caucus and at least two-thirds (⅔) of the votes cast by the Participant/Subparticipant Caucus within the timeframe established by ONC for the voting period are in favor of the proposed amendment. The requirement to consult with the Governing Council in this provision shall be satisfied by ONC's approval of the proposed amendment if, at the time of such approval, the QHIN Caucus and the Participant/Subparticipant Caucus have not yet been established.

5.3.3 The time period for ONC to decide whether to proceed or not with a proposed amendment to an SOP pursuant to Section 5.3.3 above shall initially be three (3) months after ONC receives from the RCE feedback from the Governing Council; provided, however, that: (a) ONC may, in its discretion, extend this time for one (1) additional three- (3-) month time period; and (b) if ONC, in addition, determines in its reasonable discretion that the amendment affects or may be contrary to an ONC policy or another policy of the Department of Health and Human Services or any Applicable Law, ONC may extend this time for an unlimited number of additional three- (3-) month time periods.

5.3.4 Notwithstanding the requirement for a Participant/Subparticipant vote set forth in Section 5.3.3, if the proposed amendment will not have a material impact on any Participants or Subparticipants, ONC may advance the proposed amendment to the QHIN Caucus only, whereby the amendment will be approved if at least two-thirds (⅔) of the votes cast by the QHIN Caucus within the timeframe established by ONC for the voting period are in favor of the proposed amendment. The requirement to consult with the QHIN Caucus in this provision shall be satisfied by ONC's approval of the proposed amendment if, at the time of such approval, the QHIN Caucus has not yet been established. The RCE will determine an effective date for the approved amendment subject to approval of ONC.

5.3.5 Notwithstanding the foregoing, if the RCE determines that an amendment to an SOP is required in order for the RCE to remain in compliance with Applicable Law, the RCE is not required to provide the QHIN Caucus or the Participant/Subparticipant Caucus with an opportunity to vote on the amendment. However, the RCE shall still be required to provide sixty (60) days' advance written notice of the amendment and the legal analysis of the need to use this expedited process, unless the RCE would be materially harmed by being out of compliance with Applicable Law if it provided the sixty (60) days' written notice, in which case the RCE will provide as much notice as practicable under the circumstances. Any such amendment to an SOP shall be subject to ONC review and modification prior to enactment. Only those amendments that are approved by ONC will be enacted.

5.3 *Voting Method.* For purposes of the voting process set forth in this Section 5, the phrase ''written vote'' includes any process by which there is a voting record, which may include voting by electronic means.

6. *Cooperation and Non-Discrimination.*

6.1 *Cooperation.* Signatory understands and acknowledges that numerous activities with respect to this Common Agreement will likely involve other QHINs and their respective Participants and Subparticipants, as well as employees, agents, third-party contractors, vendors, or consultants of each of them. Signatory shall reasonably cooperate with the RCE, ONC, other QHINs, and their respective Participants and Subparticipants in all matters related to TEFCA Exchange. Requirements for reasonable cooperation are set forth in an SOP. The costs of cooperation to Signatory shall be borne by Signatory and shall not be charged to the RCE or other QHINs. Nothing in this Section 6.1 shall modify or replace the TEFCA Security Incident notification obligations under Section 12.3 and, if applicable, the IAS Incident notification obligations under Section 10.5.2 of this Common Agreement.

6.2 *Non-Discrimination.*

6.2.1 *Prohibition Against Exclusivity.* Neither Signatory nor the RCE shall prohibit or attempt to prohibit any QHIN, Participant, or Subparticipant from joining, exchanging with, conducting other transactions with, or supporting any other networks or exchange frameworks that use services *other than* the Signatory's Designated Network Services, concurrently with the QHIN's, Participant's, or Subparticipant's participation in TEFCA Exchange.

6.2.2 *No Discriminatory Limits on Exchange of TI.* Signatory shall not engage in TEFCA Exchange, refrain from engaging in TEFCA Exchange, or limit TEFCA Exchange with any other QHIN, Participant, Subparticipant, or Individual, in a Discriminatory Manner. Notwithstanding the foregoing, if Signatory refrains from engaging in TEFCA Exchange or limits interoperability with any other QHIN, Participant, or Subparticipant under the following circumstances, Signatory's actions or inactions shall not be deemed discriminatory: (i) Signatory's Connectivity Services require load balancing of network traffic or similar activities provided such activities are implemented in a consistent and non-discriminatory manner for a period of time no longer than necessary to address the network traffic issue; (ii) Signatory has a reasonable and good-faith belief that the other QHIN, Participant, or Subparticipant has not satisfied or will not be able to satisfy the applicable terms hereof (including compliance with Applicable Law) in any material respect; or (iii) Signatory's actions or inactions are consistent with or permitted by an applicable SOP. One QHIN suspending its exchange activities with another QHIN, Participant, or Subparticipant in accordance with Section 17.4.2 shall not be deemed discriminatory.

6.2.3 *Updates to Connectivity Services.* In revising and updating its Connectivity Services from time to time, Signatory will use commercially reasonable efforts to do so in accordance with generally accepted industry practices and to implement any changes in a non-discriminatory manner; provided, however, this provision shall not apply to limit modifications or updates to the extent that such revisions or updates are required by Applicable Law or implemented to respond promptly to newly discovered privacy or security threats.

6.2.4 *Notice of Updates to Connectivity Services.* Signatory shall implement a reporting protocol to provide reasonable prior written notice of all modifications or updates of its Connectivity Services to all other QHINs if such revisions or updates are expected to adversely affect TEFCA Exchange between QHINs or require changes in the Connectivity Services of any other QHIN, regardless whether they are necessary due to Applicable Law or newly discovered privacy or security threats.

6.3 *Non-Interference.* Signatory shall not prevent a Participant or Subparticipant from changing the QHIN through which the Participant or Subparticipant engages in TEFCA Exchange. Notwithstanding the foregoing, this subsection does not preclude Signatory from including and enforcing reasonable term limits in its contracts with its Participants related to a Participant's use of Signatory's Designated Network Services.

7. *Confidentiality and Accountability.*

7.1 *Confidential Information.* Signatory and RCE each agree to use and disclose all Confidential Information received pursuant to this Common Agreement only as authorized in this Common Agreement and any applicable SOP(s) and solely for the purposes of performing its obligations under this Common Agreement or the proper exchange of information under the Common Agreement and for no other purpose. Each Party may act as a CI Discloser and a CI Recipient, accordingly. A CI Recipient may disclose the Confidential Information it receives only to its Workforce Members who require such knowledge and use in the ordinary course and scope of their employment or retention and are obligated to protect the confidentiality of the CI Discloser's Confidential Information in a manner substantially equivalent to the terms required herein for the treatment of Confidential Information. If a CI Recipient must disclose a CI Discloser's Confidential Information under operation of law, the CI Recipient may do so provided that, to the extent permitted by Applicable Law, the CI Recipient gives the CI Discloser reasonable notice to allow the CI Discloser to object to such redisclosure, and such redisclosure is made to the minimum extent necessary to comply with Applicable Law.

7.2 *Disclosure of Confidential Information.* Nothing herein shall be interpreted to prohibit the RCE from disclosing any Confidential Information to ONC. Signatory acknowledges that ONC, as a Federal government agency, is subject to the Freedom of Information Act. Any disclosure of Signatory's Confidential Information to ONC or any ONC contractor will be subject to Applicable Law, as well as the limitations, procedures, and other relevant provisions of any applicable SOP(s).

7.3 *ONC's and the RCE's Approach when Requesting Confidential Information.* As a matter of general policy, ONC will request only the limited set of Confidential Information that ONC believes is necessary to inform the specific facts and circumstances of a matter. The RCE will request only the limited set of Confidential Information that the RCE believes is necessary to inform the specific facts and circumstances of a matter.

7.4 *QHIN Accountability.*

7.4.1 *Statement of General Principle.* To the extent not prohibited by Applicable Law, Signatory shall be responsible for its acts and omissions, and the acts or omissions of its Participants and their Subparticipants, but not for the acts or omissions of any other QHINs or their Participants or Subparticipants. *For the avoidance of doubt, a Signatory that is also a governmental agency or instrumentality shall not be liable to the extent that the Applicable Law that governs Signatory does not expressly waive Signatory's sovereign immunity.* Notwithstanding any provision in this Common Agreement to the contrary, Signatory shall not be liable for any act or omission if a cause of action for such act or omission is otherwise prohibited by Applicable Law. This Section 7.4.1 shall not be construed as a hold-harmless or indemnification provision.

7.4.2 *Harm to RCE.* Subject to Sections 7.4 and 7.6 of this Common Agreement that exclude certain types of damages or limit overall damages,

Signatory shall be responsible for harm suffered by the RCE to the extent that the harm was caused by Signatory's breach of this Common Agreement, the QTF, or any applicable SOP.

7.4.3 *Harm to Other QHINs.* Subject to Section 7.6 of this Common Agreement, which excludes certain types of damages or limits overall damages, Signatory shall be responsible for harm suffered by another QHIN to the extent that the harm was caused by Signatory's breach of this Common Agreement, the QTF, or any applicable SOP.

7.5 *RCE Accountability.* Signatory will not hold the RCE, or anyone acting on its behalf, including but not limited to members of the Governing Council, Transitional Council, Caucuses, Cybersecurity Council, any Advisory Group, any work group, or any subcommittee, its contractors, employees, or agents liable for any damages, losses, liabilities, or injuries arising from or related to this Common Agreement, except to the extent that such damages, losses, liabilities, or injuries are the direct result of the RCE's breach of this Common Agreement. This Section 7.5 shall not be construed as a hold-harmless or indemnification provision.

7.6 *LIMITATION ON LIABILITY.* NOTWITHSTANDING ANYTHING IN THIS COMMON AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER THE RCE'S OR SIGNATORY'S TOTAL LIABILITY TO EACH OTHER AND ALL OTHER QHINS ARISING FROM OR RELATING TO THIS COMMON AGREEMENT EXCEED AMOUNTS EQUAL TO TWO MILLION DOLLARS ($2,000,000) PER INCIDENT AND FIVE MILLION DOLLARS ($5,000,000) AGGREGATE PER ANNUM OR SUCH OTHER AMOUNTS AS STATED IN A THEN-IN-EFFECT SOP, IN ORDER TO ALLOW FOR THE PERIODIC ADJUSTMENT OF THIS LIABILITY LIMIT OVER TIME WITHOUT THE NEED TO AMEND THIS COMMON AGREEMENT. THIS AND ANY SUCH ADJUSTED LIMITATION ON LIABILITY SHALL APPLY REGARDLESS OF WHETHER A CLAIM FOR ANY SUCH LIABILITY OR DAMAGES IS PREMISED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORIES OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN APPRISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING. IF SIGNATORY IS A GOVERNMENT AGENCY OR A GOVERNMENT INSTRUMENTALITY UNDER FEDERAL LAW, STATE LAW, LOCAL LAW, OR TRIBAL LAW AND IT IS PROHIBITED FROM LIMITING ITS RECOVERY OF DAMAGES FROM A THIRD PARTY UNDER APPLICABLE LAW, THEN THIS SECTION 7.6 SHALL NOT APPLY TO EITHER SIGNATORY OR THE RCE. NOTHING IN THIS SECTION 7.6 OF THIS COMMON AGREEMENT SHALL BE CONSTRUED TO CREATE LIABILITY FOR A GOVERNMENTAL AGENCY OR INSTRUMENTALITY OR OTHERWISE WAIVE SOVEREIGN IMMUNITY.

8. *RCE Directory Service.*

8.1 *Access to and Use of the RCE Directory Service.* During the term of this Common Agreement and provided that Signatory is not suspended, the RCE shall provide Signatory with access to the RCE Directory Service. The timeframes and requirements for access to, publishing Directory Entries in, and use of the RCE Directory Service are set out in the QTF and the applicable SOP(s).

8.2 *Utilization of the RCE Directory Service.* The RCE Directory Service and Directory Entries contained therein shall be used by Signatory solely as necessary to create and maintain operational connectivity under the Common Agreement to enable TEFCA Exchange. Signatory shall not use or disclose Directory Entries except to its Workforce Members, to the Workforce Members of its Participants or Subparticipants, or to the Workforce Members of health information technology vendors who are engaged in assisting Signatory, the Participant or Subparticipant with engaging in TEFCA Exchange. Further, Signatory shall not use another QHIN's Directory Entries or information derived therefrom for marketing or any form of promotion of its own products and services, unless otherwise permitted pursuant to an SOP. In no event shall Signatory use or disclose the information contained in the RCE Directory Service in a manner that should be reasonably expected to have a detrimental effect on ONC, the RCE, other QHINs or their Participants or Subparticipants, or any other individual or organization. For the avoidance of doubt, Directory Entries are Confidential Information of the Discloser except to the extent such information meets one of the exceptions to the definition of Confidential Information. Nothing herein shall be interpreted to prohibit a QHIN from publicly disclosing the identity of its Participants or Subparticipants.

8.3 *QHIN Directory Entries.* Signatory must have at least one Node listed in the RCE Directory Service. Signatory is responsible for entering its Participant and Subparticipant Nodes in the RCE Directory Service and maintaining the accuracy of such entries. Signatory shall immediately remove from the RCE Directory Service any Node(s) associated with a Participant or Subparticipant that is suspended from engaging in TEFCA Exchange or whose agreement to participate in TEFCA Exchange in connection with Signatory has expired or been terminated.

8.4 *Framework Agreement Record.*

8.4.1 QHINs must maintain a record of all ToPs into which Signatory enters with its Participants, regardless of whether such Participants are listed in the RCE Directory Service. Such record must be provided to the RCE within five (5) business days following the RCE's written request unless such other timeframe is agreed to by the RCE.

8.4.2 Records of all ToPs into which Signatory's Participants or Subparticipants enter with their respective Subparticipants must be maintained by Signatory's Participants and Subparticipants in accordance with their respective obligations pursuant to the ToP. Upon request from the RCE, Signatory must provide such record to the RCE within two (2) business days of receiving such record(s) from its Participant(s).

9. *TEFCA Exchange Activities.*

9.1 *Utilization of TEFCA Exchange.* Signatory may only utilize Designated Network Services for purposes of facilitating TEFCA Exchange. TEFCA Exchange may only be utilized for an XP. To the extent there are limitations on what types of Participants or Subparticipants may transact TEFCA Information for a specific XP, such limitations will be set forth in the applicable SOP(s). All TEFCA Exchange is governed by and must comply with the Framework Agreements governing the QHINs, Participants, and Subparticipants.

9.2 *Uses.* Signatory may Use TI in any manner that: (i) is not prohibited by Applicable Law; (ii) is consistent with Signatory's Privacy and Security Notice, if applicable; and (iii) is in accordance with Sections 11 and 12 of this Common Agreement, if applicable.

9.3 *Disclosures.* Signatory may Disclose TI provided such Disclosure: (i) is not prohibited by Applicable Law; (ii) is consistent with Signatory's Privacy and Security Notice, if applicable; and (iii) is in accordance with Sections 11 and 12 of this Common Agreement, if applicable.

9.4 *Responses.* Except as otherwise set forth in an applicable SOP, Responding Nodes must Respond to Queries for all XP Codes that are identified as ''required'' in the

applicable SOP(s). Such Response must include all Required Information. Notwithstanding the foregoing, Signatory may withhold some or all of the Required Information to the extent necessary to comply with Applicable Law.

9.5 *Special Legal Requirements.* If and to the extent Applicable Law requires that an Individual either consent to, approve, or provide an authorization for the Use or Disclosure of that Individual's information to Signatory, such as a more stringent federal or State law relating to sensitive health information, then Signatory shall refrain from the Use or Disclosure of such information in connection with this Common Agreement unless such Individual's consent, approval, or authorization has been obtained consistent with the requirements of Applicable Law and Section 11 of this Common Agreement including without limitation communicated pursuant to the access consent policy(ies) described in the QTF or applicable SOP(s). Copies of such consent, approval, or authorization shall be maintained and transmitted pursuant to the process described in the QTF by whichever party is required to obtain it under Applicable Law, and Signatory may make such copies of the consent, approval, or authorization available electronically to any QHIN, Participant, or Subparticipant in accordance with the QTF and to the extent permitted by Applicable Law. Signatory shall maintain written policies and procedures to allow an Individual to revoke such consent, approval, or authorization on a prospective basis. If Signatory is an IAS Provider, the foregoing shall not be interpreted to modify, replace, or diminish the requirements set forth in Section 10 of this Common Agreement and any applicable SOP(s) for obtaining an Individual's express written consent.

10. *Individual Access Services.*

10.1 *Individual Access Services (IAS) Offering(s).* Signatory may elect to be an IAS Provider by offering IAS to any Individual in accordance with the requirements of this Section 10 and in accordance with all other provisions of this Common Agreement. Nothing in this Section 10 shall modify, terminate, or in any way affect an Individual's right of access under the HIPAA Privacy Rule at 45 CFR 164.524 with respect to any QHIN, Participant, or Subparticipant that is a Covered Entity or a Business Associate. Nothing in this Section 10 of this Common Agreement shall be construed as modifying or taking precedence over any provision codified in 45 CFR part 171. An IAS Provider shall not prohibit or attempt to prohibit any Individual using the IAS of any other IAS Provider or from joining, exchanging with, conducting other transactions with any other networks or exchange frameworks, using services *other than* the IAS Providers' Designated Network Services, concurrently with the QHIN's, Participant's, or Subparticipant's participation in TEFCA Exchange.

10.2 *Individual Consent.* This Section 10.2 shall apply to Signatory if Signatory is an IAS Provider. The Individual requesting IAS shall be responsible for completing the IAS Consent. The IAS Consent shall include, at a minimum: (i) consent to use the Individual Access Service; (ii) the Individual's acknowledgement and agreement to the IAS Provider's Privacy and Security Notice; and (iii) a description of the Individual's rights to access, delete, and export such Individual's Individually Identifiable Information. An IAS Provider may implement secure electronic means (*e.g.,* secure email, secure web portal) by which an Individual may submit the IAS Consent. An IAS Provider shall collect the IAS Consent prior to the Individual's first use of the IAS and prior to any subsequent use if there is any material change in the applicable IAS Consent, including the version of the Privacy and Security Notice referenced therein. Nothing in the IAS Consent may contradict or be inconsistent with any applicable provision of this Common Agreement or the SOP(s). If the IAS Provider is a Covered Entity and has a Notice of Privacy Practices that meets the requirements of 45 CFR 164.520, the IAS Provider is not required to have a Privacy and Security Notice that meets the requirements of the applicable SOP. Nothing in Section 10 reduces a Covered Entity's obligations under the HIPAA Rules.

10.3 *Intentionally Omitted.*

10.4 *Intentionally Omitted.*

10.5 *Additional Security Requirements for IAS Providers.* This Section 10.5 shall apply to Signatory if Signatory is an IAS Provider.

10.5.1 *Scope of Security Requirements.* An IAS Provider must meet the applicable security requirements set forth in Section 12 for all Individually Identifiable Information it maintains as an IAS Provider, regardless of whether such information is TI.

10.5.2 *IAS Incident Notice to Affected Individuals.* If an IAS Provider reasonably believes that an Individual has been affected by an IAS Incident, it must provide such Individual with notification without unreasonable delay and in no case later than sixty (60) days following Discovery of the IAS Incident. The notification required under this Section 10.5.2 must be written in plain language and shall include, to the extent possible, the information set forth in the applicable SOP(s). To the extent Signatory is already required by Applicable Law to notify an Individual of an incident that would also be an IAS Incident, this Section 10.5.2 does not require duplicative notification to that Individual.

10.6 *Survival for IAS Providers.* This Section 10.6 shall apply to Signatory if Signatory is an IAS Provider. As between Signatory as an IAS Provider and an Individual, the IAS Provider's obligations in the IAS Consent, including the IAS Provider's requirement to comply with the Privacy and Security Notice and provide Individuals with rights, shall survive for so long as the IAS Provider maintains such Individual's Individually Identifiable Information. If Signatory was an IAS Provider, the requirements of Section 10.5 shall survive termination of this Common Agreement for so long as Signatory maintains Individually Identifiable Information acquired during the term of this Common Agreement as an IAS Provider regardless of whether such information is or was TI.

11. *Privacy.*

11.1 *Compliance with the HIPAA Privacy Rule.* If Signatory is a NHE (but not to the extent that it is acting as an entity entitled to make a Government Benefits Determination under Applicable Law, a Public Health Authority, or a Government Health Care Entity or any other type of entity exempted from compliance with this Section 11.1 in an applicable SOP), then it shall comply with the provisions of the HIPAA Privacy Rule listed below with respect to all Individually Identifiable Information as if such information is Protected Health Information and Signatory is a Covered Entity.

11.1.1 *From 45 CFR 164.502, General Rules:*

- Subsection (a)(1)—Dealing with permitted Uses and Disclosures, *but only to the extent Signatory is authorized to engage in the activities described in this subsection of the HIPAA Privacy Rule for the applicable XP*
- Subsection (a)(2)(i)—Requiring Disclosures to Individuals
- Subsection (a)(5)—Dealing with prohibited Uses and Disclosures
- Subsection (b)—Dealing with the minimum necessary standard

- Subsection (c)—Dealing with agreed-upon restrictions
- Subsection (d)—Dealing with deidentification and re-identification of information
- Subsection (e)—Dealing with Business Associate contracts
- Subsection (f)—Dealing with deceased persons' information
- Subsection (g)—Dealing with personal representatives
- Subsection (h)—Dealing with confidential communications
- Subsection (i)—Dealing with Uses and Disclosures consistent with notice
- Subsection (j)—Dealing with Disclosures by whistleblowers

11.1.2 *45 CFR 164.504(e), Organizational Requirements.*

11.1.3 *45 CFR 164.508, Authorization Required.* Notwithstanding the foregoing, the provisions of Sections 10.2 shall control and this Section 11.1.3 shall not apply with respect to an IAS Provider that is a NHE.

11.1.4 *45 CFR 164.510, Uses and Disclosures Requiring Opportunity to Agree or Object.* Notwithstanding the foregoing, an IAS Provider that is a NHE but is not a Health Care Provider shall not have the right to make the permissive Disclosures described in § 164.510(a)(3)—Emergency circumstances; provided, however, that an IAS Provider is not prohibited from making such a Disclosure if the Individual has consented to the Disclosure pursuant to Section 10 of this Common Agreement.

11.1.5 *45 CFR 164.512, Authorization or Opportunity to Object Not Required.* Notwithstanding the foregoing, an IAS Provider that is a NHE but is not a Health Care Provider shall not have the right to make the permissive Disclosures described in § 164.512(c)—Standard: Disclosures about victims of abuse, neglect or domestic violence; § 164.512 Subsection (d)—Standard: Uses and Disclosures for health oversight activities; and § 164.512 Subsection (j)—Standard: Uses and Disclosures to avert a serious threat to health or safety; provided, however, that an IAS Provider is not prohibited from making such a Disclosure(s) if the Individual has consented to the Disclosure(s) pursuant to Section 10 of this Common Agreement.

11.1.6 *From 45 CFR 164.514, Other Requirements Relating to Uses and Disclosures:*

- Subsections (a)–(c)—Dealing with de-identification requirements that render information not Individually Identifiable Information for purposes of this Section 11 and TEFCA Security Incidents
- Subsection (d)—Dealing with minimum necessary requirements
- Subsection (e)—Dealing with Limited Data Sets

11.1.7 *45 CFR 164.522, Rights to Request Privacy Protections.*

11.1.8 *45 CFR 164.524, Access of Individuals,* except that an IAS Provider that is a NHE shall be subject to the requirements of Section 10 with respect to access by Individuals for purposes of IAS and not this Section 11.1.8.

11.1.9 *45 CFR 164.528, Accounting of Disclosures.*

11.1.10 *From 45 CFR 164.530, Administrative Requirements:*

- Subsection (a)—Dealing with personnel designations
- Subsection (b)—Dealing with training
- Subsection (c)—Dealing with safeguards
- Subsection (d)—Dealing with complaints
- Subsection (e)—Dealing with sanctions
- Subsection (f)—Dealing with mitigation
- Subsection (g)—Dealing with refraining from intimidating or retaliatory acts
- Subsection (h)—Dealing with waiver of rights
- Subsection (i)—Dealing with policies and procedures
- Subsection (j)—Dealing with documentation

11.2 *Written Privacy Policy.* Signatory must develop, implement, make publicly available, and act in accordance with a written privacy policy describing its privacy practices with respect to Individually Identifiable Information that is Used or Disclosed pursuant to this Common Agreement and any SOPs. Signatory can satisfy the written privacy policy requirement by including applicable content consistent with the HIPAA Rules in its existing privacy policy, except as otherwise stated herein with respect to IAS Providers. This written privacy policy requirement does not supplant the HIPAA Privacy Rule obligations of a QHIN, Participant, or a Subparticipant that is a Covered Entity to post and distribute a Notice of Privacy Practices that meets the requirements of 45 CFR 164.520. If Signatory is a Covered Entity, then this written privacy policy requirement can be satisfied by its Notice of Privacy Practices. If Signatory is an IAS Provider, then the written privacy policy requirement must be in the form of a Privacy and Security Notice that meets the requirements of Section 10.2 of this Common Agreement. Notwithstanding Section 11.1, to the extent the Signatory's written privacy policy is ''more stringent'' than the HIPAA Privacy Rule provisions listed below, the written privacy policy shall govern. ''More stringent'' shall have the meaning assigned to it in 45 CFR 160.202 except the written privacy policy shall be substituted for references to State law and the reference to ''standards, requirements or implementation specifications adopted under subpart E of part 164 of this subchapter'' shall be limited to those listed below.

12. *Security.*

12.1 *General Security Requirements.* Signatory shall comply with the HIPAA Security Rule as if the HIPAA Security Rule applied to Individually Identifiable Information that is TI regardless of whether Signatory is a Covered Entity or a Business Associate. Signatory shall also comply with the security requirements stated in Section 12 of this Common Agreement and specific additional requirements as described in the QTF and applicable SOPs. With the exception of Section 12.1.5, none of these requirements in Section 12.1 shall apply to any federal agency or any other type of entity exempted from compliance with this Section 12.1 in an applicable SOP.

12.1.1 *Cybersecurity Coverage.* In accordance with the applicable SOP(s), Signatory shall maintain, throughout the term of this Common Agreement: (i) a policy or policies of insurance or cyber risk and errors and omissions; (ii) internal financial reserves to self-insure against a cyber-incident; or (iii) some combination of (i) and (ii).

12.1.2 *Cybersecurity Certification.* Signatory shall achieve and maintain third-party certification to an industry-recognized cybersecurity framework demonstrating compliance with all relevant security controls, as set forth in the applicable SOP.

12.1.3 *Annual Security Assessments.* Signatory must obtain a third-party security assessment and technical audit no less often than annually and as further described in the applicable SOP. Within thirty (30) days of completing such annual security assessment or technical audit, Signatory must provide evidence of completion and mitigation as specified in the applicable SOP.

12.1.4 *Intentionally Omitted.*

12.1.5 *Security Resource Support to Participants.* Signatory shall make available to its Participants: (i) security resources and guidance regarding the protection of TI applicable to the Participants' participation in the QHIN under the applicable Framework Agreement; and (ii) information and

resources that the RCE or Cybersecurity Council makes available to Signatory related to promotion and enhancement of the security of TI under the Framework Agreements.

12.1.6 *Chief Information Security Officer.*

i. The RCE shall designate a person to serve as the Chief Information Security Officer (CISO) for activities conducted under the Framework Agreements. This may be either an employee or independent contractor of the RCE. The RCE's CISO will be responsible for monitoring and maintaining the overall Security Posture of activities conducted under the Framework Agreements and making recommendations to all QHINs regarding changes to baseline security practices required to address changes to the threat landscape.

ii. Signatory agrees that it, and not the RCE, is ultimately responsible for the Security Posture related to Signatory's participation in TEFCA. Signatory shall also designate a person to serve as its CISO for purposes of Signatory's participation in TEFCA Exchange. Signatory's CISO shall have responsibility for Signatory's Security Posture 'with respect to its participation in TEFCA Exchange and as set forth in an SOP. The RCE shall establish a Cybersecurity Council to enhance cybersecurity commensurate with the risks of the activities conducted under the Framework Agreements as set forth in an SOP.

12.2 *TI Outside the United States.* Signatory shall only Use TI outside the United States or Disclose TI to any person or entity outside the United States to the extent such Use or Disclosure is permitted or required by Applicable Law and the Use or Disclosure is conducted in conformance with the HIPAA Security Rule, regardless of whether Signatory is a Covered Entity or Business Associate.

12.3 *TEFCA Security Incident Reporting.* Signatory shall report to the RCE and to all QHINs that are likely impacted, whether directly or by nature of one of the other QHIN's Participants or Subparticipants, any TEFCA Security Incident, as set forth in the applicable SOP(s). Such report must include sufficient information for the RCE and others affected to understand the nature and likely scope of the TEFCA Security Incident. Signatory shall supplement the information contained in the report as additional relevant information becomes available and cooperate with the RCE, and with other QHINs, Participants, and Subparticipants that are likely impacted by the TEFCA Security Incident.

12.3.1 *Receiving TEFCA Security Incident Report.* Signatory shall implement a reporting protocol by which other QHINs can provide Signatory with a report of a TEFCA Security Incident.

12.3.2 *Vertical Reporting of TEFCA Security Incident(s).* Signatory shall report a TEFCA Security Incident to its Participants and Subparticipants as required by an applicable SOP.

12.3.3 *Compliance with Notification Under Applicable Law.* Nothing in this Section 12.3 shall be deemed to modify or replace any breach notification requirements that Signatory may have under the HIPAA Rules, the FTC Rule, or other Applicable Law. To the extent Signatory is already required by Applicable Law to notify a Participant, Subparticipant, or another QHIN of an incident that would also be a TEFCA Security Incident, this Section 12.3 does not require duplicative notification.

12.4 *Encryption.* If Signatory is a NHE (but not to the extent that it is a federal agency or any other type of entity exempted from compliance with this Section 12.4 in an applicable SOP), Signatory must encrypt all Individually Identifiable Information it maintains, both in transit and at rest, regardless of whether such information is TI. Requirements for encryption may be set forth in an SOP.

13. *General Obligations.*

13.1 *Compliance with Applicable Law and the Framework Agreements.* Signatory shall comply with all Applicable Law and shall implement and act in accordance with any provision required by this Common Agreement, including all applicable SOPs and provisions of the QTF, when providing Designated Network Services or otherwise engaging in or facilitating TEFCA Exchange.

13.2 *Compliance with Specific Obligations.*

13.2.1 *Responsibility of the RCE.* To the extent required by the Contract, the RCE shall take reasonable steps to confirm that Signatory is abiding by the obligations under this Common Agreement, the QTF, and all applicable SOPs. In the event that the RCE becomes aware of a material non-compliance with any of the obligations stated in a Framework Agreement or any of the applicable SOPs by Signatory or its Participants or Subparticipants, then the RCE shall promptly notify Signatory in writing. Such notice shall notify Signatory that its failure to correct any such deficiencies within the timeframe established by the RCE shall constitute a material breach of this Common Agreement, which may result in termination of this Common Agreement in accordance with Section 17.3.2.

13.2.2 *Responsibility of Signatory.* Signatory shall be responsible for taking reasonable steps to confirm that all of its Participants and Subparticipants are abiding by the ToP, all applicable SOPs, and any decisions made pursuant to Section 16.3. In the event that Signatory becomes aware of a material non-compliance by one of its Participants or Subparticipants, which includes failure to comply with a decision made pursuant to Section 16.3, then Signatory shall promptly notify the Participant or Subparticipant in writing. Such notice shall inform the Participant or Subparticipant that its failure to correct any such deficiencies within the timeframe established by Signatory shall constitute a material breach of the ToP, which may result in suspension or termination of Participant's or Subparticipant's ability to engage in TEFCA Exchange. Except as set forth in Section 17.4.5, Signatory is responsible for determining when suspension or termination of its Participants' or Subparticipants' ability to engage in TEFCA Exchange is warranted. Nothing in this Section 13.2.2 shall be deemed to limit Signatory's responsibility for the acts or omissions of its Participants and Subparticipants as set forth in Section 7.4.

13.2.3 *Responsibility for Third-Party Technology Vendors of Signatory.* To the extent that Signatory uses a third-party technology vendor(s) that will have access to TEFCA Information in connection with Designated Network Services, it shall include in a written agreement with each such subcontractor or agent a requirement to comply with all applicable provisions of this Common Agreement and a prohibition on engaging in any act or omission that would cause Signatory to violate the terms of this Common Agreement if Signatory had engaged in such act or omission itself.

13.3 *Intentionally Omitted.*

13.4 *Intentionally Omitted.*

14. *Specific QHIN Obligations.*

14.1 *Transparency—Access to Participant/Subparticipant Information.* If either ONC or the RCE has a reasonable basis to believe that one or more of the following situations exist with respect to Signatory, then Signatory shall make available, upon written request, evidence of the applicable Participant/Subparticipant Terms of Participation and information relating to the exchange of TI and the circumstances giving rise to the basis for such request. The foregoing shall be subject to Signatory's right to restrict or condition its cooperation or disclosure

of information in the interest of preserving privileges but only to the extent that such information is material to the defense of a substantiated claim asserted by a third party. Such situations include: (i) an alleged violation of this Common Agreement or Applicable Law; or (ii) a threat to the security of TEFCA Exchange or information that the RCE or ONC reasonably believes is TI. The right of Signatory to restrict or condition its cooperation or disclosure of information pursuant to this Section 14.1 in the interest of preserving privileges shall not apply to a disclosure that is requested in the interest of national security.

14.2 *Compliance with Standard Operating Procedures.* The RCE shall adopt Standard Operating Procedures (SOPs) to provide detailed guidance on specific aspects of the exchange activities under this Common Agreement that are binding on the RCE, Signatory and, as applicable, Participants and Subparticipants. The SOPs are incorporated by reference into this Common Agreement, and Signatory shall comply with all SOPs that are applicable to it. In the ToP, Participants and Subparticipants will agree to comply with all applicable SOPs. If Signatory or its Participants or Subparticipants fail to comply with any applicable SOP, the RCE may take corrective action to bring the organization into compliance with the SOP, which may include: (i) requiring Signatory to suspend the ability of a Participant or Subparticipant to exchange information under the Framework Agreement(s) until the non-compliance is corrected to the satisfaction of the RCE; (ii) requiring Signatory to terminate the ability of a Participant or Subparticipant to exchange information under the Framework Agreement(s); (iii) suspending Signatory's ability to exchange information under the Common Agreement; or (iv) terminating Signatory's ability to exchange information under the Common Agreement. RCE shall adopt an SOP that provides detailed information about sanctions for non-compliance with an SOP. Nothing in this Section 14.2 of this Common Agreement limits the RCE's rights to terminate this Common Agreement under Section 17.3.2 or 17.3.3 of this Common Agreement.

14.3 *Intentionally Omitted.*

14.4 *Intentionally Omitted.*

15. *Dispute Resolution.*

15.1 *Acknowledgement and Consent to Dispute Resolution Process.* Signatory acknowledges that it may be in its best interest to resolve Disputes related to the Common Agreement through a collaborative, collegial process rather than through civil litigation. Signatory has reached this conclusion based upon the fact that the legal and factual issues related to the exchange and related activities under the Common Agreement are unique, novel, and complex, and limited case law exists that addresses the legal issues that could arise in connection with this Common Agreement. Therefore, Signatory agrees to participate in the Dispute Resolution Process with respect to any Dispute. Notwithstanding, Signatory understands that the Dispute Resolution Process does not supersede or replace any oversight, investigatory, enforcement, or other administrative actions or processes that may be taken by the relevant authority, whether or not arising out of or related to the circumstances giving rise to the Dispute. RCE and Signatory are committed to promptly and fairly resolving Disputes.

To that end, Signatory shall use its best efforts to resolve Disputes that may arise with other QHINs, their respective Participants and Subparticipants, or the RCE through informal discussions before seeking to invoke the Dispute Resolution Process. Likewise, Signatory, on its own behalf and on behalf of its Participant(s) or Subparticipant(s), will seek to resolve Disputes involving the RCE through good-faith informal discussions with the RCE prior to invoking the Dispute Resolution Process. If the Dispute cannot be resolved through cooperation between Signatory and the other QHIN(s) or the RCE, then the RCE may, or Signatory may on its own behalf or on behalf of its Participant(s) or Subparticipant(s), choose to submit the Dispute to the Dispute Resolution Process.

Under no circumstances will the Dispute Resolution Process give the RCE any power to assess monetary damages against any party to the Dispute Resolution Process including, without limitation, Signatory or its Participants or Subparticipants or any other QHIN or its Participants or Subparticipants. Except in accordance with Section 15.2, if Signatory refuses to participate in the Dispute Resolution Process, such refusal shall constitute a material breach of this Common Agreement and may be grounds for suspension or termination of Signatory's participation in TEFCA Exchange.

15.2 *Injunctive Relief.*

15.2.1 Notwithstanding Section 15.1, Signatory shall be relieved of its obligation to participate in the Dispute Resolution Process if Signatory: (i) makes a good faith determination that is based upon available information or other evidence that another QHIN's or its Participants' or Subparticipants' acts or omissions will violate Section 7.1 or cause irreparable harm to Signatory or another organization or person (*e.g.,* another QHIN or its Participant or an Individual); and (ii) pursues immediate injunctive relief against such QHIN or its Participant or Subparticipant in a court of competent jurisdiction in accordance with Section 19.3. Signatory must notify RCE of such action within two (2) business days of filing for the injunctive relief and of the result of the action within twenty-four (24) hours of a court of competent jurisdiction granting or denying injunctive relief.

15.2.2 If the injunctive relief sought in Section 15.2.1 is not granted and Signatory chooses to pursue the Dispute, the Dispute must be submitted to the Dispute Resolution Process in accordance with Section 15.1.

15.3 *Activities during Dispute Resolution Process.* The pendency of a Dispute under this Common Agreement has no effect on either Party's obligations herein, unless Signatory terminates its rights in accordance with Section 17.3.1 or is suspended in accordance with Section 17.4.2.

15.4 *Implementation of Agreed Upon Resolution.* If, at any point during the Dispute Resolution Process, Signatory and all other parties to the Dispute accept a proposed resolution of the Dispute, Signatory and RCE each agree to implement the terms of the resolution within the timeframe agreed to in the resolution of the Dispute, to the extent applicable to each of them.

15.5 *Reservation of Rights.* If, following the completion of the Dispute Resolution Process, in the opinion of either Party, the Dispute Resolution Process failed to adequately resolve the Dispute, a Party may pursue any remedies available to it in a court of competent jurisdiction in accordance with Section 19.3.

15.6 *Escalation of Certain Disputes to ONC.* Except for RCE suspension or termination decisions subject to Section 16 of this Common Agreement, if Signatory has reason to believe that: (i) the RCE is acting in a Discriminatory Manner or in violation of the RCE's conflict of interest policies; or (ii) the RCE has not acted in accordance with its obligations stated in this Common Agreement, then Signatory shall have the right, on its own behalf and on behalf of its Participants and Subparticipants, to make a complaint to ONC. The complaint shall identify the parties to the Dispute, a description of the Dispute, a summary of each party's position on the issues included in the Dispute, the final disposition of the

Dispute, and the basis for the RCE's alleged misconduct. The RCE and Signatory shall each also promptly provide such additional information as may be reasonably requested by ONC in order to consider and resolve the issues raised for review. Since this complaint may include PHI and may include Confidential Information, the RCE will work with ONC to develop mechanisms to protect the confidentiality of this information. Such protective mechanisms and the process for escalating a complaint to ONC are set forth in an SOP.

15.7 *Reporting of Anonymized Dispute Information to ONC.* As part of the RCE's communications with ONC, within fifteen (15) business days after the end of each calendar quarter, the RCE reports the following information relating to each Dispute that has been submitted through the Dispute Resolution Process in an anonymized format to ONC: (i) identification of whether the parties to the Dispute are QHIN(s) only, or whether the Dispute also involves Participant(s) or Subparticipant(s); (ii) a description of the Dispute with reasonable specificity; and (iii) the final disposition of the Dispute.

16. *Appeals to ONC and ONC Decisions Regarding XP Usage.*

16.1 Signatory may appeal the following decisions of the RCE to ONC:

16.1.1 Suspension of a Signatory or Suspension of a Signatory's Participant or Subparticipant; and

16.1.2 Termination of a Signatory's Common Agreement by the RCE.

16.2 ONC anticipates publishing regulations to address the appeals of any of the RCE's decisions listed in Section 16.1. ONC anticipates issuing sub-regulatory guidance to address those appeals while formulating regulations. Until ONC's regulations governing those appeals are finalized and effective, the sub-regulatory guidance ONC issues shall be binding under this Common Agreement.

16.3 Notwithstanding anything herein to the contrary, the Parties agree that ONC may decide whether a Query or a proposed Query meets or will meet the requirements for the XP Code asserted in the Query. Such requirements for XP Codes are set forth either in this Common Agreement or in an applicable SOP(s). ONC may make a decision (i) prior to an organization becoming, or once an organization has become, a QHIN, Participant, or Subparticipant if such decision is made pursuant to this Common Agreement or an applicable SOP(s); or (ii) in connection with the resolution of a Dispute if the Dispute involves a disagreement about whether a Query or proposed Query complied with the applicable requirements for the XP Code asserted in the Query or proposed Query. If ONC makes a decision pursuant to this Section 16.3 about any Query or proposed Query, Signatory agrees that ONC's decision will be binding for TEFCA Exchange and Signatory shall enforce such decision pursuant to its responsibilities under Section 13.2.2.

17. *Term, Termination and Suspension.*

17.1 *Term.* This Common Agreement shall commence on the CA Effective Date and shall remain in effect until it is terminated by either Party in accordance with the terms of this Common Agreement.

17.2 *Intentionally Omitted.*

17.3 *Termination.*

17.3.1 *Termination by Signatory.* Signatory may terminate this Common Agreement at any time without cause by providing ninety (90) days' prior written notice to RCE. Signatory may also terminate for cause if the RCE commits a material breach of the Common Agreement, and the RCE fails to cure its material breach within thirty (30) days of Signatory providing written notice to RCE of the material breach; provided, however, that if RCE is diligently working to cure its material breach at the end of this thirty (30) day period, then Signatory must provide the RCE with up to another thirty (30) days to complete its cure.

17.3.1 *Termination by the RCE.* RCE may not terminate this Common Agreement except as provided by Section 4.2, this Section 17.3.2, or Section 17.3.3 of this Common Agreement. RCE may terminate this Common Agreement with immediate effect by giving notice to Signatory if: (i) Signatory is in material breach of any of the terms and conditions of this Common Agreement and fails to remedy such breach within thirty (30) days after receiving notice of such breach; provided, however, that if Signatory is diligently working to cure its material breach at the end of this thirty- (30-) day period, then RCE must provide Signatory with up to another thirty (30) days to complete its cure; or (ii) Signatory breaches a material provision of this Common Agreement where such breach is not capable of remedy.

17.3.2 *Termination by RCE if the RCE Ceases to be Funded.* The Parties acknowledge that the RCE's activities under this Common Agreement are supported by ONC funding. If this funding ceases, there are no guarantees that the RCE will continue unless a financial sustainability model has been put in place. If federal funding ceases, or if the available funding is not sufficient to provide the necessary funding to support operation of the RCE and there is no successor RCE, then the RCE may terminate this Common Agreement by providing one hundred and eighty (180) days' prior written notice to Signatory.

17.3.3 *Termination by Mutual Agreement.* The Parties may terminate this Common Agreement at any time and for any reason by mutual, written agreement.

17.3.4 *Effect of Termination of the Common Agreement.*

(i) Upon termination of this Common Agreement for any reason, RCE shall promptly remove Signatory and its Participants and Subparticipants from the RCE Directory Service and any other lists of QHINs that RCE maintains. Signatory shall implement the technical mechanism(s) necessary to ensure that its Participants' and Subparticipants' ability to participate in TEFCA Exchange is terminated upon termination of this Common Agreement.

(ii) Upon termination of this Common Agreement for any reason, Signatory shall, without undue delay, (a) remove all references that identify it as a QHIN from all media, and (b) cease all use of any material, including but not limited to product manuals, marketing literature, and web content that identifies it as a QHIN. Within twenty (20) business days of termination of this Common Agreement, Signatory shall confirm to RCE, in writing, that it has complied with this Subsection 17.3.5(ii).

(iii) To the extent Signatory stores TI, such TI may not be distinguishable from other information maintained by Signatory. When the TI is not distinguishable from other information, it is not possible for Signatory to return or destroy TI it maintains upon termination or expiration of this Common Agreement. Upon termination or expiration of this Common Agreement, if Signatory is subject to Section 11 of this Common Agreement, such sections shall continue to apply so long as the information would be ePHI if maintained by a Covered Entity or Business Associate. The protections required under the HIPAA Security Rule shall also continue to apply to all TI that is ePHI, regardless of whether Signatory is a Covered Entity or Business Associate.

(iv) In no event shall Signatory be entitled to any refund of any fees that it has paid the RCE prior to termination.

(v) The provisions set forth in this Section 17.3.5 are in addition to those

survival provisions set forth in Section 19.16.

17.4 *Suspension.*

17.4.1 *Suspension by RCE.* RCE may suspend Signatory's ability to engage in TEFCA Exchange if RCE determines, following completion of a preliminary investigation, that Signatory is responsible for a Threat Condition or in accordance with Section 17.4. RCE will make a reasonable effort to notify Signatory in advance of RCE's intent to suspend Signatory, including notice of the Threat Condition giving rise to such suspension. If advance notice is not reasonably practicable under the circumstances, the RCE will notify Signatory of the suspension, and the Threat Condition giving rise thereto, as soon as practicable following the suspension. Upon suspension of Signatory, RCE will work collaboratively with Signatory to resolve the issue leading to the suspension. RCE shall adopt an SOP to address specific requirements and timelines related to suspension.

17.4.2 *Selective Suspension by Signatory.* Signatory may, in good faith and to the extent permitted by Applicable Law, determine that it must suspend exchanging with another QHIN, Participant, or Subparticipant with which it is otherwise required to exchange in accordance with an SOP because of reasonable and legitimate concerns related to the privacy, security, accuracy, or quality of information that is exchanged. If Signatory makes this determination, it is required to promptly notify the RCE and the QHIN that Signatory is suspending of its decision and the reason(s) for making the decision. If Signatory makes the decision to suspend, it is required, within thirty (30) days, to initiate the Dispute Resolution Process in order to resolve whatever issues led to the decision to suspend, or end its suspension and resume exchanging with the other QHIN. Provided that Signatory selectively suspends exchanging with another QHIN in accordance with this Section 17.4.2 and in accordance with Applicable Law, such selective suspension shall not be deemed a violation of Sections 6.2.2 or 9.4.

17.4.3 *Additional Suspension Rights of RCE.* Notwithstanding anything to the contrary set forth herein, the RCE retains the right to suspend any TEFCA Exchange activity (i) upon ten (10) days' prior notice if the RCE determines that Signatory has created a situation in which the RCE may suffer material harm and suspension is the only reasonable step that the RCE can take to protect itself; or (ii) immediately if the RCE determines that the safety or security of any person or the privacy or security of TI or Confidential Information is threatened. In the case of an immediate suspension under this Section 17.4.3, the RCE will provide notice as soon as practicable following the suspension.

17.4.4 *Effect of Suspension.* The suspension of Signatory's ability to participate in TEFCA Exchange pursuant to this Section 17.4 has no effect on Signatory's other obligations hereunder, including, without limitation, obligations with respect to privacy and security. During any suspension pursuant to this Section 17.4, Signatory's inability to exchange information under this Common Agreement or comply with those terms of this Common Agreement that require information exchange shall not be deemed a breach of this Common Agreement. In the event of suspension of Signatory's ability to participate in TEFCA Exchange, Signatory shall communicate to its Participants, and require that they communicate to their Subparticipants, that all TEFCA Exchange by or on behalf of Signatory's Participants and Subparticipants will also be suspended during any period of Signatory's suspension. Signatory is responsible for having and implementing the technical mechanism(s) necessary to ensure that its Participants' and Subparticipants' ability to participate in TEFCA Exchange is suspended during the period of Signatory's suspension from TEFCA Exchange.

17.4.5 *RCE Suspension of Participant or Subparticipants.* To the extent that RCE determines that one of Signatory's Participants or Subparticipants has done something or failed to do something that results in a Threat Condition, RCE may suspend, or the RCE may direct that Signatory suspend, that Participant's or Subparticipant's ability to engage in TEFCA Exchange. In the event that the RCE directs Signatory to suspend a Participant or Subparticipant based on (a) the RCE's determination that suspension or termination is warranted based on (i) an alleged violation of such Framework Agreement or of Applicable Law by the party/parties; (ii) a cognizable threat to the security of TEFCA Exchange or the information that the RCE reasonably believes is TI; or (iii) such suspension is in the interests of national security as directed by an agency of the United States government, then Signatory must effectuate such suspension as soon as practicable and not longer than within twenty-four (24) hours of the RCE having directed the suspension, unless the RCE specifies a longer period of time is permitted to effectuate the suspension; and (b) any reason other than those in subsection (a), then Signatory must effectuate suspension as soon as practicable.

17.5 *Successor RCE and Transition.* Signatory agrees that ONC has the right to select any successor RCE or to act as an interim RCE until such successor RCE has been selected. Signatory further agrees to work cooperatively with the RCE and any interim or successor RCE selected by ONC. Additionally, Signatory shall continue to abide by the provisions of this Common Agreement during the transition to any interim or successor RCE.

18. *Fees.*

18.1 *Fees Paid by QHINs to the RCE.* Signatory shall pay the fees set forth on Schedule 1 attached hereto (the ''QHIN Fees''). RCE shall invoice Signatory for all Fees in accordance with Schedule 1. Unless otherwise set forth in Schedule 1, invoices shall be due and payable by Signatory within sixty (60) days after receipt thereof unless Signatory notifies RCE in writing that it is contesting the accuracy of the invoice and identifies the specific inaccuracies that it asserts. QHIN Fees contested under this Section 18.1 shall be resolved between Signatory and RCE as stated in the applicable SOP. Other than with regard to invoiced amounts that are contested in good faith, any collection costs, attorneys' fees or other expenses reasonably incurred by RCE in collecting amounts due under this Common Agreement are the responsibility of Signatory. If Signatory fails to pay any undisputed QHIN Fees when due hereunder, RCE has the right to suspend or terminate Signatory's ability to participate in any exchange activity under this Common Agreement. Prior to taking any action against Signatory for non-payment, including suspension, RCE shall provide Signatory ten (10) days' prior written notice. If Signatory makes payment within ten (10) days of receiving written notice, RCE will not suspend Signatory's ability to participate in any exchange activity under this Common Agreement. If Signatory fails to make payment within ten (10) days of receiving notice, then the RCE may implement the suspension or may terminate Signatory's ability to participate in any exchange activity under this Common Agreement.

18.1.1 *Changes to QHIN Fees.* Schedule 1 may be updated by the RCE from time-to-time in relation to operational costs, availability of ONC funding, and other market factors in order to ensure the sustainability of the activities conducted under the Framework Agreements. In light of the

foregoing, changes to Schedule 1 are not subject to the change management process set forth in Section 5. The RCE shall provide Signatory not less than ninety (90) days' advance written notice of any adjustments to the QHIN Fees set forth in Schedule 1.

18.2 *Fees Charged by QHINs to Other QHINs.* Signatory is prohibited from charging fees to other QHINs for any exchange of information using the Designated Network Services.

18.3 *Fees Charged by QHINs, Participants or Subparticipants.* QHINs, Participants, and Subparticipants that operate a Responding Node may charge fees to an Initiating Node when Responding to Queries through TEFCA Exchange as defined in an applicable SOP. The foregoing shall not prohibit Signatory from charging its Participants or Subparticipants fees for use of its Designated Network Services.

19. *Contract Administration.*

19.1 *Authority to Execute.* Signatory warrants and represents that it has the full power and authority to execute this Common Agreement and that any representative of Signatory who executes this Common Agreement has full power and authority to do so on behalf of Signatory.

19.2 *Notices.* All notices to be made under this Common Agreement shall be given in writing to Signatory at the address for legal notice specified in its QHIN Application and to the RCE at The Sequoia Project 8300 Boone Blvd., Suite 500, Vienna, Virginia 22182 or *rce@sequoiaproject.org,* and shall be deemed given: (i) upon delivery, if personally delivered; (ii) upon delivery by overnight delivery service such as UPS or FEDEX or another recognized commercial carrier; (iii) upon the date indicated on the return receipt, when sent by the United States Postal Service Certified Mail, return receipt requested; or (iv) if by facsimile telecommunication or other form of electronic transmission, upon receipt when the sending facsimile machine or electronic mail address receives confirmation of receipt by the receiving facsimile machine or electronic mail address. Either Party may update its address for notice by providing notice to the other Party in accordance with this Section 19.2.

19.3 *Governing Law, Forum, and Jurisdiction.*

19.3.1 *Conflicts of Law and Governing Law.* In the event of a Dispute between Signatory and the RCE, the applicable federal and State conflicts of law provisions that govern the operations of the Parties shall determine governing law.

19.3.2 *Jurisdiction and Venue.* The RCE, currently a Virginia non-profit corporation, and Signatory each hereby submits to the exclusive jurisdiction of any State or federal court sitting in the Commonwealth of Virginia within twenty-five (25) miles of Alexandria, Virginia in any legal proceeding arising out of or relating to this Common Agreement unless otherwise required by Applicable Law. The RCE and Signatory each agrees that all claims and matters arising out of this Common Agreement may be heard and determined in such court, and each Party hereby waives any right to object to such filing on grounds of improper venue, *forum non-conveniens,* or other venue-related grounds.

19.3.3 *Intentionally Omitted.*

19.3.4 *Sovereign Immunity.* No provision within this Common Agreement in any way constitutes a waiver by the United States Department of Health and Human Services or any other part of the federal government of sovereign immunity or any other applicable immunity from suit or from liability that the United States Department of Health and Human Services or other part of the federal government may have by operation of law.

19.4 *Assignment.* None of this Common Agreement, including but not limited to any of the rights created by this Common Agreement, can be transferred by either Party, whether by assignment, merger, other operation of law, change of control of the Party or otherwise, without the prior written approval of the other Party. Notwithstanding the foregoing, if ONC selects another organization to serve as the RCE, then RCE shall assign this Common Agreement to the successor RCE or an interim RCE as directed by ONC and consent of Signatory to such assignment shall not be required. Signatory understands and agrees that no interim or successor RCE shall have any obligation or liability for any act or omission of The Sequoia Project in connection with this Common Agreement or any of the other Framework Agreements prior to the termination of The Sequoia Project's status as the RCE.

19.5 *Force Majeure.* Neither Party shall be responsible for any delays or failures in performance caused by the occurrence of events or other circumstances that are beyond its reasonable control after the exercise of commercially reasonable efforts to either prevent or mitigate the effect of any such occurrence or event.

19.6 *Severability.* If any provision of this Common Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be struck from the Common Agreement, and the remaining provisions of this Common Agreement shall remain in full force and effect and enforceable.

19.7 *Counterparts.* This Common Agreement may be executed in one or more counterparts, each of which shall be considered an original counterpart, and shall become a binding agreement when each Party shall have executed one counterpart.

19.8 *Captions.* Captions appearing in this Common Agreement are for convenience only and shall not be deemed to explain, limit, or amplify the provisions of this Common Agreement.

19.9 *Independent Parties.* Nothing contained in this Common Agreement shall be deemed or construed as creating a joint venture or partnership between Signatory and RCE.

19.10 *Acts of Contractors and Agents.* To the extent that the acts or omissions of a Party's agent(s) or contractor(s), or their subcontractor(s), result in that Party's breach of and liability under this Common Agreement, said breach shall be deemed to be a breach by that Party.

19.11 *Entire Agreement; Waiver.* This Common Agreement, together with the QTF, SOPs, and all other attachments, exhibits, and artifacts incorporated by reference, contains the entire understanding of the Parties with regard to the subject matter contained herein. The failure of either Party to enforce, at any time, any provision of this Common Agreement shall not be construed to be a waiver of such provision, nor shall it in any way affect the validity of this Common Agreement or any part hereof or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of this Common Agreement shall be held to constitute a waiver of any other or subsequent breach, nor shall any delay by either Party to exercise any right under this Common Agreement operate as a waiver of any such right.

19.12 *Effect of Agreement.* Except as provided in Sections 7.4 and Section 15, nothing in this Common Agreement shall be construed to restrict either Party's right to pursue all remedies available under law for damages or other relief arising from acts or omissions of the RCE or other QHINs or their Participants or Subparticipants related to the Common Agreement, or to limit any rights, immunities, or defenses to which Signatory may be entitled under Applicable Law.

19.13 *Priority.* In the event of any conflict or inconsistency between

Applicable Law, a provision of this Common Agreement, the QTF, an SOP, or any implementation plans, guidance documents, or other materials or documentation the RCE makes available to QHINs, Participants, or Subparticipants regarding the operations or activities conducted under the Framework Agreements, the following shall be the order of precedence for this Common Agreement to the extent of such conflict or inconsistency: (i) Applicable Law; (ii) the Common Agreement; (iii) the ToP; (iv) the QTF; (v) the Dispute Resolution Process, as set forth herein and further detailed in an SOP; (vi) all other SOPs; (vii) all other attachments, exhibits, and artifacts incorporated herein by reference; and (viii) other RCE plans, documents, or materials made available regarding activities conducted under the Framework Agreements.

19.14 *QHIN Time Periods.* Any of the time periods relating to the Parties hereto that are specified in this Common Agreement may be changed on a case-by-case basis pursuant to the mutual written consent of the Parties, provided that these changes are not undertaken to adversely affect another QHIN and provided that these changes would not unfairly benefit either Party to the detriment of others participating in activities under the Framework Agreements. Time periods that pertain to ONC may not be changed, except by ONC, including the time periods for ONC review of proposed changes to the Common Agreement, the QTF, or SOPs that are set forth in Section 5.

19.15 *Remedies Cumulative.* The rights and remedies of the Parties provided in this Common Agreement are cumulative and are in addition to any other rights and remedies provided by Applicable Law.

19.16 *Survival of Rights and Obligations.* The respective rights, obligations, and liabilities of the Parties with respect to acts or omissions that occur by either Party prior to the date of expiration or termination of this Common Agreement shall survive such expiration or termination. Following any expiration or termination of this Common Agreement, the Parties shall thereafter cooperate fully and work diligently in good faith to achieve an orderly resolution of all matters resulting from such expiration or termination.

19.16.1 The following sections shall survive expiration or termination of this Common Agreement as more specifically provided below:

(i) The following sections shall survive in perpetuity following the expiration or termination of this Common Agreement: Sections 7.6 Limitation of Liability; 19.2 Notices; 19.3 Governing Law, Forum, and Jurisdiction; 19.6 Severability; 19.9 Independent Parties; 19.10 Acts of Contractors and Agents; 19.11 Entire Agreement; Waiver; 19.12 Effect of Agreement; 19.13 Priority; and 19.15 Remedies Cumulative.

(ii) The following sections shall survive for a period of six (6) years following the expiration or termination of this Common Agreement: Sections 7.1 Confidential Information; 7.2 Disclosure of Confidential Information; 7.4.1 Statement of General Principle; 12.3 TEFCA Security Incident Notification; and 14.1 Transparency—Access to Participant/Subparticipant Information.

(iii) The following section shall survive for the period specifically stated in such section following the expiration or termination of this Common Agreement: Section 17.3.5 Effect of Termination of Common Agreement.

(iv) To the extent that Signatory is an IAS Provider, the provisions set forth in Section 10.6 shall survive following the termination or expiration of this Common Agreement for the respective periods set forth therein.

In witness whereof, the Parties hereto, intending legally to be bound hereby, have executed and delivered this Common Agreement as of the date first above written.

RCE: THE SEQUOIA PROJECT, INC.

_____

_____

Signature
By: _____
Title: _____
Date: _____
Signatory:

_____

Signature
By: _____
Title: _____
Date: _____

Exhibit 1 to the Common Agreement for Nationwide Health Information Interoperability

Participant/Subparticipant Terms of Participation

Version 1.0

April 2024

Participant/Subparticipant Terms of Participation

Introduction

Section 4003 of the 21st Century Cures Act directed the U.S. Department of Health and Human Services (''HHS'') National Coordinator for Health Information Technology to, ''in collaboration with the National Institute of Standards and Technology and other relevant agencies within the Department of Health and Human Services, for the purpose of ensuring full network-to-network exchange of health information, convene public-private and public-public partnerships to build consensus and develop or support a trusted exchange framework, including a common agreement among health information networks nationally'' (the ''Trusted Exchange Framework and Common Agreement''SM or TEFCASM). The common agreement referenced in the foregoing sentence is the Common Agreement for Nationwide Health Information Interoperability entered into by each Qualified Health Information Network™ (''QHIN™'') that has been Designated to participate in TEFCA. The Common Agreement requires that every QHIN contractually obligate their TEFCA Participants, who in turn are required to contractually obligate their Subparticipants to comply with the Participant/Subparticipant Terms of Participation (''ToP'').

Upstream QHIN, Participant, or Subparticipant (''QPS''), as defined below, must ensure that these ToP are included, directly or by reference, in a legally enforceable contract in which the Upstream QPS binds its Participants and Subparticipants. These ToP must be presented and entered into WITHOUT modification, *except* that Upstream QPS should insert its name in the highlighted field(s) below and the name of the QHIN if Upstream QPS is not a QHIN and *may,* but is not required to, add signature lines to the end of these ToP. For the avoidance of doubt, the foregoing is not intended to prohibit Upstream QPS from imposing additional terms upon its Participants and/or Subparticipants, provided any such terms do not conflict with the ToP with respect to TEFCA Exchange.

Participant/Subparticipant Terms of Participation

[NAME OF UPSTREAM QPS] (''Upstream QPS'') participates in TEFCA by providing technical and/or governance services to its Participants and/or Subparticipants to facilitate their ability to engage in TEFCA Exchange consistent with all applicable legal and contractual requirements. [Upstream QPS is a QHIN OR Upstream QPS is a Participant or Subparticipant of [QHIN].] Your organization (''You'') wishes to become a Participant or Subparticipant, as applicable, of Upstream QPS so that You may participate in TEFCA Exchange.

As a Participant or Subparticipant, You agree to abide by these Participant/

Subparticipant Terms of Participation (''ToP'').

1. *Definitions and Relevant Terminology.*

1.1 *Defined Terms.* Capitalized terms used in these ToP shall have the meaning set forth below. Where a definition includes one or more citations to a statute, regulation, or standard, the definition shall be interpreted to refer to such statute, regulation, or standard as may be amended from time-to-time.

Applicable Law: all federal, State, local, or tribal laws and regulations then in effect and applicable to the subject matter herein. For the avoidance of doubt, federal agencies are only subject to federal law.

Breach of Unencrypted Individually Identifiable Information: the acquisition, access, or Disclosure of unencrypted Individually Identifiable Information maintained by an IAS Provider that compromises the security or privacy of the unencrypted Individually Identifiable Information.

Business Associate: has the meaning assigned to such term at 45 CFR 160.103.

Business Associate Agreement (BAA): a contract, agreement, or other arrangement that satisfies the implementation specifications described within 45 CFR 164.314(a) and 164.504(e), as applicable.

Common Agreement: unless otherwise expressly indicated, the Common Agreement for Nationwide Health Information Interoperability, the QHIN Technical Framework (QTF), all Standard Operating Procedures (SOPs), and all other attachments, exhibits, and artifacts incorporated therein by reference.

Confidential Information: any information that is designated as Confidential Information by the CI Discloser, or that a reasonable person would understand to be of a confidential nature, and is disclosed to a CI Recipient pursuant to a Framework Agreement. For the avoidance of doubt, ''Confidential Information'' does not include electronic protected health information (ePHI), as defined herein, that is subject to a Business Associate Agreement and/or other provisions of a Framework Agreement.

Notwithstanding any label to the contrary, ''Confidential Information'' does not include any information that: (i) is or becomes known publicly through no fault of the CI Recipient; or (ii) is learned by the CI Recipient from a third party that the CI Recipient reasonably believes is entitled to disclose it without restriction; or (iii) is already known to the CI Recipient before receipt from the CI Discloser, as shown by the CI Recipient's written records; or (iv) is independently developed by CI Recipient without the use of or reference to the CI Discloser's Confidential Information, as shown by the CI Recipient's written records, and was not subject to confidentiality restrictions prior to receipt of such information from the CI Discloser.

Confidential Information (CI) Discloser: a person or entity that discloses Confidential Information.

Confidential Information (CI) Recipient: a person or entity that receives Confidential Information.

Connectivity Services: the technical services provided by a QHIN, Participant, or Subparticipant to its Participants and Subparticipants that facilitate TEFCA Exchange and are consistent with the requirements of the then-applicable QHIN Technical Framework.

Covered Entity: has the meaning assigned to such term at 45 CFR 160.103.

Designated Network: the Health Information Network that a QHIN uses to offer and provide the Designated Network Services.

Designated Network Governance Body: a representative and participatory group or groups that approve the processes for fulfilling the Governance Functions and participate in such Governance Functions for Signatory's Designated Network.

Designated Network Services: the Connectivity Services and/or Governance Services.

Directory Entry(ies): listing of each Node controlled by a QHIN, Participant or Subparticipant, which includes the endpoint resource for such Node(s) and any other organizational or technical information required by the QTF or an applicable SOP.

Disclosure (including its correlative meanings ''Disclose,'' ''Disclosed,'' and ''Disclosing''): the release, transfer, provision of access to, or divulging in any manner of TEFCA Information (TI) outside the entity holding the information.

Discover (including its correlative meanings ''Discovery'' and ''Discovering''): the first day on which something is known to the QHIN, Participant, or Subparticipant, or by exercising reasonable diligence would have been known, to the QHIN, Participant, Subparticipant.

Discriminatory Manner: an act or omission that is inconsistently taken or not taken with respect to any similarly situated QHIN, Participant, Subparticipant, Individual, or group of them, whether it is a competitor, or whether it is affiliated with or has a contractual relationship with any other entity, or in response to an event.

Electronic Protected Health Information (ePHI): has the meaning assigned to such term at 45 CFR 160.103.

Exchange Purpose or XP: means the reason, as authorized by a Framework Agreement, including the applicable SOP(s), for a transmission, Query, Use, Disclosure, or Response transacted through TEFCA Exchange.

Framework Agreement(s): with respect to QHINs, the Common Agreement; and with respect to a Participant or Subparticipant, the ToP.

FTC Rule: the Health Breach Notification Rule promulgated by the Federal Trade Commission set forth at 16 CFR part 318.

Government Benefits Determination: a determination made by any agency, instrumentality, or other unit of the federal, State, local, or tribal government as to whether an Individual qualifies for government benefits for any purpose other than health care (*e.g.,* Social Security disability benefits) to the extent permitted by Applicable Law. Disclosure of TI for this purpose may require an authorization that complies with Applicable Law.

Government Health Care Entity: any agency, instrumentality, or other unit of the federal, State, local, or tribal government to the extent that it provides health care services (*e.g.,* treatment) to Individuals but only to the extent that it is not acting as a Covered Entity.

Governance Functions: the functions, activities, and responsibilities of the Designated Network Governance Body as set forth in an applicable SOP.

Governance Services: the governance functions described in an applicable SOP, which are performed by a QHIN's Designated Network Governance Body for its Participants and Subparticipants to facilitate TEFCA Exchange in compliance with the then-applicable requirements of the Framework Agreements.

Health Care Provider: meets the definition of such term in either 45 CFR 171.102 or in the HIPAA Rules at 45 CFR 160.103.

Health Information Network (HIN): has the meaning assigned to the term ''Health Information Network or Health Information Exchange'' in the information blocking regulations at 45 CFR 171.102.

HIPAA: the Health Insurance Portability and Accountability Act of 1996, Public Law 104–191 and the Health Information Technology for

Economic and Clinical Health Act of 2009, Public Law 111–5.

HIPAA Rules: the regulations set forth at 45 CFR parts 160, 162, and 164.

HIPAA Privacy Rule: the regulations set forth at 45 CFR parts 160 and 164, Subparts A and E.

HIPAA Security Rule: the regulations set forth at 45 CFR part 160 and 164, subpart C.

Implementation Date: the date sixty (60) calendar days after publication of version 2 of the Common Agreement in the **Federal Register**.

Individual: has the meaning assigned to such term at 45 CFR 171.202(a)(2).

Individual Access Services Incident (IAS Incident): a TEFCA Security Incident or a Breach of Unencrypted Individually Identifiable Information maintained by an IAS Provider.

Individual Access Service Consent (IAS Consent): an IAS Provider's own supplied form for obtaining express written consent from the Individual in connection with the IAS.

Individual Access Services Provider (IAS Provider): each QHIN, Participant, and Subparticipant that offers Individual Access Services (IAS).

Individual Access Services (IAS): the services provided to an Individual by a QHIN, Participant, or Subparticipant that has a direct contractual relationship with such Individual in which the QHIN, Participant, or Subparticipant, as applicable, agrees to satisfy that Individual's ability to use TEFCA Exchange to access, inspect, obtain, or transmit a copy of that Individual's Required Information.

Individually Identifiable Information: information that identifies an Individual or with respect to which there is a reasonable basis to believe that the information could be used to identify an Individual.

Initiating Node: a Node through which a QHIN, Participant, or Subparticipant initiates transactions for TEFCA Exchange and, to the extent such transaction is a Query, receives a Response to such Query.

Node: a technical system that is controlled directly or indirectly by a QHIN, Participant, or Subparticipant and that is listed in the RCE Directory Service.

Non-HIPAA Entity (NHE): a QHIN, Participant, or Subparticipant that is neither a Covered Entity nor a Business Associate as defined under the HIPAA Rules with regard to activities under a Framework Agreement. To the extent a QHIN, Participant, or Subparticipant is a Hybrid entity, as defined in 45 CFR 164.103, such QHIN, Participant, or Subparticipant shall be considered a Non-HIPAA Entity with respect to TEFCA Exchange activities related to such QHIN, Participant, or Subparticipant's non-covered components.

ONC: the U.S. Department of Health and Human Services Office of the National Coordinator for Health Information Technology.

Participant: to the extent permitted by applicable SOP(s), a U.S. Entity that has entered into the ToP in a legally binding contract with a QHIN to use the QHIN's Designated Network Services to participate in TEFCA Exchange in compliance with the ToP.

Participant/Subparticipant Terms of Participation (ToP): the requirements set forth in Exhibit 1 to the Common Agreement, as reflected herein, to which: QHINs must contractually obligate their Participants to agree; to which QHINs must contractually obligate their Participants to contractually obligate their Subparticipants and Subparticipants of the Subparticipants to agree, in order to participate in TEFCA Exchange including the QHIN Technical Framework (QTF), all applicable Standard Operating Procedures (SOPs), and all other attachments, exhibits, and artifacts incorporated therein by reference.

Privacy and Security Notice: an IAS Provider's own supplied written privacy and security notice that contains the information required by the applicable SOP(s).

Protected Health Information (PHI): has the meaning assigned to such term at 45 CFR 160.103.

Public Health Authority: has the meaning assigned to such term at 45 CFR 164.501.

QHIN Technical Framework (QTF): the most recent effective version of the document that contains the technical, functional, privacy, and security requirements for TEFCA Exchange.

Qualified Health Information Network (QHIN): to the extent permitted by applicable SOP(s), a Health Information Network that is a U.S. Entity that has been Designated by the RCE and is a party to the Common Agreement countersigned by the RCE.

Query(ies) (including its correlative uses/tenses ''Queried'' and ''Querying''): the act of asking for information through TEFCA Exchange.

RCE Directory Service: a technical service provided by the RCE that enables QHINs to identify their Nodes to enable TEFCA Exchange. The requirements for use of, inclusion in, and maintenance of the RCE Directory Service are set forth in the Framework Agreements, QTF, and applicable SOPs.

Recognized Coordinating Entity® (RCE™): the entity selected by ONC that enters into the Common Agreement with QHINs in order to impose, at a minimum, the requirements of the Common Agreement, including the SOPs and the QTF, on the QHINs and administer such requirements on an ongoing basis.

Required Information: the Electronic Health Information, as defined in 45 CFR 171.102, that is (i) maintained in a Responding Node by any QHIN, Participant, or Subparticipant prior to or during the term of the applicable Framework Agreement and (ii) relevant for a required XP Code, as set forth in the QTF or an applicable SOP(s).

Responding Node: a Node through which the QHIN, Participant, or Subparticipant Responds to a received transaction for TEFCA Exchange.

Response(s) (including its correlative uses/tenses ''Responds,'' ''Responded'' and ''Responding''): the act of providing the information that is the subject of a Query or otherwise transmitting a message in response to a Query through TEFCA Exchange.

Standard Operating Procedure(s) or *SOP(s):* a written procedure or other provision that is adopted pursuant to the Common Agreement and incorporated by reference into the Framework Agreements to provide detailed information or requirements related to TEFCA Exchange, including all amendments thereto. Each SOP identifies the relevant group(s) to which the SOP applies, including whether Participants or Subparticipants are required to comply with a given SOP.

State: any of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

Subparticipant: to the extent permitted by applicable SOP(s), a U.S. Entity that has entered into the ToP in a legally binding contract with a Participant or another Subparticipant to use the Participant's or Subparticipant's Connectivity Services to participate in TEFCA Exchange in compliance with the ToP.

TEFCA Exchange: the transaction of information between Nodes using an XP Code.

TEFCA Information (TI): any information that is transacted through TEFCA Exchange except to the extent that such information is received by a QHIN, Participant, or Subparticipant that is a Covered Entity, Business Associate, or NHE that is exempt from compliance with the Privacy section of the applicable Framework Agreement and is incorporated into such recipient's system of records, at which point the

information is no longer TI with respect to such recipient and is governed by the HIPAA Rules and other Applicable Law.

TEFCA Security Incident(s):

(i) An unauthorized acquisition, access, Disclosure, or Use of unencrypted TI using TEFCA Exchange, but NOT including any of the following:

(a) Any unintentional acquisition, access, Use, or Disclosure of TI by a Workforce Member or person acting under the authority of a QHIN, Participant, or Subparticipant, if such acquisition, access, Use, or Disclosure (i) was made in good faith, (ii) was made by a person acting within their scope of authority, (iii) was made to another Workforce Member or person acting under the authority of any QHIN, Participant, or Subparticipant, and (iv) does not result in further acquisition, access, Use, or Disclosure in a manner not permitted under Applicable Law and the Framework Agreements.

(b) A Disclosure of TI where a QHIN, Participant, or Subparticipant has a good faith belief that an unauthorized person to whom the Disclosure was made would not reasonably have been able to retain such information.

(c) A Disclosure of TI that has been de-identified in accordance with the standard at 45 CFR 164.514(b).

(ii) Other security events (*e.g.,* ransomware attacks), as set forth in an SOP, that adversely affect a QHIN's, Participant's, or Subparticipant's participation in TEFCA Exchange.

Threat Condition: (i) a breach of a material provision of a Framework Agreement that has not been cured within fifteen (15) days of receiving notice of the material breach (or such other period of time to which the Parties have agreed), which notice shall include such specific information about the breach that the RCE has available at the time of the notice; or (ii) a TEFCA Security Incident; or (iii) an event that RCE, a QHIN, its Participant, or their Subparticipant has reason to believe will disrupt normal TEFCA Exchange, either due to actual compromise of or the need to mitigate demonstrated vulnerabilities in systems or data of the QHIN, Participant, or Subparticipant, as applicable, or could be replicated in the systems, networks, applications, or data of another QHIN, Participant, or Subparticipant; or (iv) any event that could pose a risk to the interests of national security as directed by an agency of the United States government.

United States: the fifty (50) States, the District of Columbia, and the territories and possessions of the United States including, without limitation, all military bases or other military installations, embassies, and consulates operated by the United States government.

U.S. Entity/Entities: any corporation, limited liability company, partnership, or other legal entity that meets all of the following requirements:

(i) The entity is organized under the laws of a State or commonwealth of the United States or the federal law of the United States and is subject to the jurisdiction of the United States and the State or commonwealth under which it was formed;

(ii) The entity's principal place of business, as determined under federal common law, is in the United States; and

(iii) None of the entity's directors, officers, or executives, and none of the owners with a five percent (5%) or greater interest in the entity, are listed on the *Specially Designated Nationals and Blocked Persons List* published by the United States Department of the Treasury's Office of Foreign Asset Control or on the United States Department of Health and Human Services, Office of Inspector General's *List of Excluded Individuals/Entities.*

Use(s) (including correlative uses/tenses, such as ''Uses,'' ''Used,'' and ''Using''): with respect to TI, means the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

Workforce Member(s): any employees, volunteers, trainees, and other persons whose conduct, in the performance of work for an entity, is under the direct control of such entity, whether or not they are paid by the entity.

XP Code: the code used to identify the XP in any given transaction, as set forth in the applicable SOP(s).

1.2 *ToP Terminology.*

1.2.1 *References to You and QHINs, Participants, and Subparticipants.* As set forth in its definition and in the introductory paragraph of these ToP, the term ''You'' is used to refer to the specific entity that is a party to these ToP with the Upstream QPS. (You and Upstream QPS may also be referred to herein individually as a ''Party'' or collectively as the ''Parties.'') Any and all rights and obligations of a QHIN, Participant or Subparticipant stated herein are binding upon all other QHINs, Participants, and Subparticipants that have entered into a Framework Agreement. References herein to ''QHINs,'' ''other Participants,'' ''other Subparticipants,'' and similar such terms are used to refer to any and all other organizations that have signed a Framework Agreement.

1.2.2 *General Rule of Construction.* For the avoidance of doubt, a reference to a specific section of the ToP in a particular section does not mean that other sections of the ToP that expressly apply to You are inapplicable. A reference in these ToP to any law, any regulation, or to Applicable Law includes any amendment, modification or replacement to such law, regulation, or Applicable Law.

1.2.3 *Terms of Participation for Subparticipants.* You shall contractually obligate your Subparticipants, if any, to comply with the ToP. Notwithstanding the foregoing, for any entity that became Your Subparticipant prior to the Implementation Date, You shall (i) contractually obligate such entity to comply with the ToP within one-hundred eighty (180) days of the Implementation Date, provided that such Subparticipant is and remains a party to the Participant Subparticipant Agreement, as defined in and required by Common Agreement Version 1.1, during such period; or (ii) terminate such entity's ability to engage in TEFCA Exchange upon the earlier of the date of termination of the existing Participant-Subparticipant Agreement or one-hundred (180) days after the Implementation Date.

2. *Cooperation and Non-Discrimination.*

2.1 *Cooperation.* You understand and acknowledge that numerous activities with respect to the ToP will likely involve the RCE, QHINs, and their respective Participants and Subparticipants, as well as employees, agents, third-party contractors, vendors, or consultants of each of them. You shall reasonably cooperate with the RCE, ONC, QHINs and their respective Participants and Subparticipants in all matters related to TEFCA Exchange, including any dispute resolution activities in which You are involved. Expectations for reasonable cooperation are set forth in an SOP. The costs of cooperation to You shall be borne by You and shall not be charged to the RCE or other QHINs. Nothing in this Section 2.1 shall modify or replace the TEFCA Security Incident notification obligations under Section 8.3 and, if applicable, the IAS Incident notification obligations under Section 6.3.2 of the ToP.

2.2 *Non-Discrimination.*

2.2.1 *Prohibition Against Exclusivity.* Upstream QPS shall not prohibit or attempt to prohibit You, nor shall You or Upstream QPS prohibit or attempt to prohibit any of Your Subparticipants, if any, from joining, exchanging with, conducting other transactions with, or supporting any other networks or exchange frameworks that use services *other than* the

Upstream QPS's Designated Network Services or Your Connectivity Services, concurrently with Your or Your Subparticipants' participation in TEFCA Exchange. Notwithstanding the foregoing, this subsection does not preclude You from including and enforcing reasonable term limits in the contracts with Your Subparticipants related to Your Subparticipants' use of Your Connectivity Services.

2.2.2 *No Discriminatory Limits on Exchange of TI.* Neither You nor Upstream QPS shall engage in TEFCA Exchange, refrain from engaging in TEFCA Exchange, or limit TEFCA Exchange with any QHIN, Participant, Subparticipant, or Individual in a Discriminatory Manner. Notwithstanding the foregoing, if You refrain from engaging in TEFCA Exchange or limit interoperability with any other QHIN, Participant, or Subparticipant under the following circumstances, Your actions or inactions shall not be deemed discriminatory: (i) Your Connectivity Services require load balancing of network traffic or similar activities provided such activities are implemented in a consistent and non-discriminatory manner for a period of time no longer than necessary to address the network traffic issue; (ii) You have a reasonable and good-faith belief that the other QHIN, Participant, or Subparticipant has not satisfied or will not be able to satisfy the applicable terms of a Framework Agreement (including compliance with Applicable Law) in any material respect; and/or (iii) Your actions or inactions are consistent with or permitted by an applicable SOP. One QHIN, Participant, or Subparticipant suspending its exchange activities with another QHIN, Participant, or Subparticipant in accordance with Section 17.4.2 of the Common Agreement or Section 10.4.5 of the ToP, as applicable, shall not be deemed discriminatory.

2.2.3 *Updates to Connectivity Services.* In revising and updating Connectivity Services from time to time, You will use commercially reasonable efforts to do so in accordance with generally accepted industry practices and to implement any changes in a non-discriminatory manner; provided, however, this provision shall not apply to limit modifications or updates to the extent that such revisions or updates are required by Applicable Law or implemented to respond promptly to newly discovered privacy or security threats.

2.2.4 *Notice of Updates to Connectivity Services.* You shall implement a reporting protocol to provide reasonable prior written notice of all modifications or updates of Your Connectivity Services to Upstream QPS and Your Subparticipants if such revisions or updates are expected to adversely affect Your ability to engage in TEFCA Exchange or require changes in the Connectivity Services of Upstream QPS or Your Subparticipants, regardless of whether they are necessary due to Applicable Law or newly discovered privacy or security threats.

3. *Confidentiality and Accountability.*

3.1 *Confidential Information.* You and Upstream QPS each agree to use and disclose all Confidential Information received pursuant to these ToP only as authorized in these ToP and any applicable SOP(s) and solely for the purposes of performing its obligations under a Framework Agreement or the proper exchange of information through TEFCA Exchange and for no other purpose. You and Upstream QPS may act as a CI Discloser and a CI Recipient, accordingly. A CI Recipient may disclose the Confidential Information it receives only to its Workforce Members who require such knowledge and use in the ordinary course and scope of their employment or retention and are obligated to protect the confidentiality of the CI Discloser's Confidential Information in a manner substantially equivalent to the terms required herein for the treatment of Confidential Information. If a CI Recipient must disclose the CI Discloser's Confidential Information under operation of law, it may do so provided that, to the extent permitted by Applicable Law, the CI Recipient gives the CI Discloser reasonable notice to allow the CI Discloser to object to such redisclosure, and such redisclosure is made to the minimum extent necessary to comply with Applicable Law.

3.2 *Disclosure of Confidential Information.* Nothing herein shall be interpreted to prohibit Upstream QPS or the RCE from disclosing any Confidential Information to ONC. You acknowledge that ONC, as a Federal government agency, is subject to the Freedom of Information Act. Any disclosure of Your Confidential Information to ONC or any ONC contractor will be subject to Applicable Law, as well as the limitations, procedures, and other relevant provisions of any applicable SOP(s).

3.3 *ONC's and the RCE's Approach when Requesting Confidential Information.* As a matter of general policy, ONC will request only the limited set of Confidential Information that ONC believes is necessary to inform the specific facts and circumstances of a matter. The RCE will request only the limited set of Confidential Information that the RCE believes is necessary to inform the specific facts and circumstances of a matter.

4. *RCE Directory Service and Directory Entries.*

4.1 *Utilization of Directory Entries.* The RCE Directory Service and Directory Entries contained therein shall be used by QHINs solely as necessary to create and maintain operational connectivity to enable TEFCA Exchange. Upstream QPS is providing You with access to, and the right to use, Directory Entries on the express condition that You only use and disclose Directory Entry information as necessary to advance the intended use of the Directory Entries or as required by Applicable Law. For example, You are permitted to disclose Directory Entry information to Your Workforce Members, Your Subparticipant's Workforce Members, and/or to the Workforce Members of health information technology vendors who are engaged in assisting You or Your Subparticipant with establishing and maintaining connectivity via the Framework Agreements. Further, You shall not use another QPS's Directory Entries or information derived therefrom for marketing or any form of promotion of Your own products and services, unless otherwise permitted pursuant to an SOP. In no event shall You use or disclose the information contained in the Directory Entries in a manner that should be reasonably expected to have a detrimental effect on ONC, the RCE, Upstream QPS, Your Subparticipants, other QHINs, other Participants, other Subparticipants, or any other individual or organization. For the avoidance of doubt, Directory Entries are Confidential Information of the CI Discloser except to the extent such information meets one of the exceptions to the definition of Confidential Information. Nothing herein shall be interpreted to prohibit a QHIN or Upstream QPS from publicly disclosing the identity of its own Participants or Subparticipants.

4.2 *ToP Record.* You must maintain a record of all ToPs into which You enter with Your Subparticipants, if any, regardless of whether such Subparticipants are listed in the RCE Directory Services. Such record must be provided to the RCE within four (4) business days following the RCE's or Upstream QPS's written request unless such other timeframe is agreed to by the RCE.

5. *TEFCA Exchange Activities.*

5.1 *Utilization of TEFCA Exchange.* You may only utilize Connectivity Services for purposes of facilitating TEFCA Exchange. You may only utilize

TEFCA Exchange for an XP. To the extent there are limitations on what types of Participants or Subparticipants may transact TEFCA Information for a specific XP, such limitations will be set forth in the applicable SOP(s). All TEFCA Exchange is governed by and must comply with the Framework Agreements governing the QHINs, Participants, and Subparticipants engaging in the TEFCA Exchange. *To the extent that Upstream QPS provides you with access to other health information exchange networks, these ToP do not affect these other activities or the reasons for which You may request and exchange information within these other networks. Such activities are not in any way limited by the Framework Agreements provided the transactions are not TEFCA Exchange.*

5.2 *Uses.* You may Use TI in any manner that: (i) is not prohibited by Applicable Law; (ii) is consistent with Your Privacy and Security Notice, if applicable; and (iii) is in accordance with Sections 7 and 8 of these ToP.

5.3 *Disclosures.* You may Disclose TI provided such Disclosure: (i) is not prohibited by Applicable Law; (ii) is consistent with Your Privacy and Security Notice, if applicable; and (iii) is in accordance with Sections 7 and 8 of these ToP.

5.4 *Responses.* Except as otherwise set forth in an applicable SOP, Your Responding Nodes must Respond to Queries for all XP Codes that are identified as ''required.'' in the applicable SOP(s). Such Response must include all Required Information. Notwithstanding the foregoing, You may withhold some or all of the Required Information to the extent necessary to comply with Applicable Law.

5.5 *Special Legal Requirements.* If and to the extent Applicable Law requires that an Individual either consent to, approve, or provide an authorization for the Use or Disclosure of that Individual's information to You, such as a more stringent federal or State law relating to sensitive health information, then You shall refrain from the Use or Disclosure of such information in connection with these ToP unless such Individual's consent, approval, or authorization has been obtained consistent with the requirements of Applicable Law and Section 7 of these ToP, including, without limitation, communicated pursuant to the access consent policy(ies) described in the QTF or applicable SOP(s). Copies of such consent, approval, or authorization shall be maintained and transmitted pursuant to the process described in the QTF by whichever party is required to obtain it under Applicable Law, and You may make such copies of the consent, approval, or authorization available electronically to any QHIN, Participant, or Subparticipant in accordance with the QTF and to the extent permitted by Applicable Law. You shall maintain written policies and procedures to allow an Individual to revoke such consent, approval, or authorization on a prospective basis. If You are an IAS Provider, the foregoing shall not be interpreted to modify, replace, or diminish the requirements set forth in Section 6 of these ToP and any applicable SOP(s) for obtaining an Individual's express written consent.

6. *Individual Access Services.*

6.1 *IAS Offering(s).* You may elect to be an IAS Provider by offering IAS to any Individual in accordance with the requirements of this section and in accordance with all other provisions of these ToP and applicable SOP(s). Nothing in this Section 6 shall modify, terminate, or in any way affect an Individual's right of access under the HIPAA Privacy Rule at 45 CFR 164.524 if You are a Covered Entity or a Business Associate. Nothing in this Section 6 of these ToP shall be construed as modifying or taking precedence over any provision codified in 45 CFR part 171. An IAS Provider shall not prohibit or attempt to prohibit any Individual using the IAS of any other IAS Provider or from joining, exchanging with, conducting other transactions with any other networks or exchange frameworks, using services *other than* the IAS Providers' Designated Network Services, concurrently with the QHIN's, Participant's, or Subparticipant's participation in TEFCA Exchange.

6.2 *Individual Consent.* This Section 6.2 shall apply to You if You are an IAS Provider. The Individual requesting IAS shall be responsible for completing the IAS Consent. The IAS Consent shall include, at a minimum: (i) consent to use the IAS; (ii) the Individual's acknowledgement and agreement to Your Privacy and Security Notice; and (iii) a description of the Individual's rights to access, delete, and export such Individual's Individually Identifiable Information. You may implement secure electronic means (*e.g.,* secure email, secure web portal) by which an Individual may submit the IAS Consent. You shall collect the IAS Consent prior to the Individual's first use of the IAS and prior to any subsequent use if there is any material change in the applicable IAS Consent, including the version of the Privacy and Security Notice referenced therein. Nothing in the IAS Consent may contradict or be inconsistent with any applicable provision of these ToP or the SOP(s). If You are a Covered Entity and have a Notice of Privacy Practices that meets the requirements of 45 CFR 164.520, You are not required to have a Privacy and Security Notice that meets the requirements of the applicable SOP. Nothing in Section 6 reduces a Covered Entity's obligations under the HIPAA Rules.

6.3 *Additional Security Requirements for IAS Providers.* In addition to meeting the applicable security requirements set forth in Section 8, if You are an IAS Provider, You must further satisfy the requirements of this subsection.

6.3.1 *Scope of Security Requirements.* You must meet the applicable security requirements set forth in Section 8 for all Individually Identifiable Information You maintain as an IAS Provider, regardless of whether such information is TI.

6.3.2 *IAS Incident Notice to Affected Individuals.* If You reasonably believe that an Individual has been affected by an IAS Incident, You must provide such Individual with notification without unreasonable delay and in no case later than sixty (60) days following Discovery of the IAS Incident. The notification required under this section must be written in plain language and shall include, to the extent possible, the information set forth in the applicable SOP(s). To the extent You are already required by Applicable Law to notify an Individual of an incident that would also be an IAS Incident, this section does not require duplicative notification to that Individual.

6.4 *Survival for IAS Providers.* This Section 6.4 shall apply to You if You are an IAS Provider. As between You as an IAS Provider and an Individual, the IAS Provider's obligations in the IAS Consent, including Your requirement to comply with the Privacy and Security Notice and provide Individuals with rights, shall survive for so long as You maintain such Individual's Individually Identifiable Information. If You were an IAS Provider, the requirements of Section 6.3 shall survive termination of these ToP for so long as You maintain Individually Identifiable Information acquired during the term of these ToP as an IAS Provider regardless of whether such information is or was TI.

7. *Privacy.*

7.1 *Compliance with the HIPAA Privacy Rule.* If You are a NHE (but not to the extent that You are acting as an entity entitled to make a Government Benefits Determination under Applicable Law, a Public Health

Authority, or a Government Health Care Entity or any other type of entity exempted from compliance with this Section in an applicable SOP), then You shall comply with the provisions of the HIPAA Privacy Rule listed below with respect to all Individually Identifiable information as if such information is Protected Health Information and You are a Covered Entity.

7.1.1 *From 45 CFR 164.502, General Rules:*

- Subsection (a)(1)—Dealing with permitted Uses and Disclosures, *but only to the extent You are authorized to engage in the activities described in this subsection of the HIPAA Privacy Rule for the applicable XP*
- Subsection (a)(2)(i)—Requiring Disclosures to Individuals
- Subsection (a)(5)—Dealing with prohibited Uses and Disclosures
- Subsection (b)—Dealing with the minimum necessary standard
- Subsection (c)—Dealing with agreed-upon restrictions
- Subsection (d)—Dealing with de-identification and re-identification of information
- Subsection (e)—Dealing with Business Associate contracts
- Subsection (f)—Dealing with deceased persons' information
- Subsection (g)—Dealing with personal representatives
- Subsection (h)—Dealing with confidential communications
- Subsection (i)—Dealing with Uses and Disclosures consistent with notice
- Subsection (j)—Dealing with Disclosures by whistleblowers

7.1.2 *45 CFR 164.504(e), Organizational Requirements.*

7.1.3 *45 CFR 164.508, Authorization Required.* Notwithstanding the foregoing, the provisions of Sections 6.2 shall control and this Section 7.1.3 shall not apply with respect to You if You are an IAS Provider that is a NHE.

7.1.4 *45 CFR 164.510, Uses and Disclosures Requiring Opportunity to Agree or Object.* Notwithstanding the foregoing, an IAS Provider that is a NHE but is not a Health Care Provider shall not have the right to make the permissive Disclosures described in § 164.510(a)(3)—Emergency circumstances; provided, however, that an IAS Provider is not prohibited from making such a Disclosure if the Individual has consented to the Disclosure pursuant to Section 6 of these ToP.

7.1.5 *45 CFR 164.512, Authorization or Opportunity to Object Not Required.* Notwithstanding the foregoing, an IAS Provider that is a NHE but is not a Health Care Provider shall not have the right to make the permissive Disclosures described in § 164.512(c)—Standard: Disclosures about victims of abuse, neglect or domestic violence, § 164.512 Subsection (d)—Standard: Uses and Disclosures for health oversight activities, and § 164.512 Subsection (j)—Standard: Uses and Disclosures to avert a serious threat to health or safety; provided, however, that an IAS Provider is not prohibited from making such a Disclosure(s) if the Individual has consented to the Disclosure(s) pursuant to Section 6 of these ToP.

7.1.6 *From 45 CFR 164.514, Other Requirements Relating to Uses and Disclosures:*

- Subsections (a)–(c)—Dealing with de-identification requirements that render information *not* Individually Identifiable Information for purposes of this Section 7 and TEFCA Security Incidents
- Subsection (d)—Dealing with minimum necessary requirements
- Subsection (e)—Dealing with Limited Data Sets

7.1.7 *45 CFR 164.522, Rights to Request Privacy Protections.*

7.1.8 *45 CFR 164.524, Access of Individuals,* except that an IAS Provider that is a NHE shall be subject to the requirements of Section 6 with respect to access by Individuals for purposes of IAS and not this Section 7.1.8.

7.1.9 *45 CFR 164.528, Accounting of Disclosures.*

7.1.10 *From 45 CFR 164.530, Administrative Requirements:*

- Subsection (a)—Dealing with personnel designations
- Subsection (b)—Dealing with training
- Subsection (c)—Dealing with safeguards
- Subsection (d)—Dealing with complaints
- Subsection (e)—Dealing with sanctions
- Subsection (f)—Dealing with mitigation
- Subsection (g)—Dealing with refraining from intimidating or retaliatory acts
- Subsection (h)—Dealing with waiver of rights
- Subsection (i)—Dealing with policies and procedures
- Subsection (j)—Dealing with documentation

7.2 *Written Privacy Policy.* You must develop, implement, make publicly available, and act in accordance with a written privacy policy describing Your privacy practices with respect to Individually Identifiable Information that is Used or Disclosed pursuant to these ToP. You can satisfy the written privacy policy requirement by including applicable content consistent with the HIPAA Rules in Your existing privacy policy, except as otherwise stated herein with respect to IAS Providers. If You are a Covered Entity, this written privacy policy requirement does not supplant the HIPAA Privacy Rule obligations to post and distribute a Notice of Privacy Practices that meets the requirements of 45 CFR 164.520. If You are a Covered Entity, then this written privacy policy requirement can be satisfied by Your Notice of Privacy Practices. If You are an IAS Provider, then the written privacy practices requirement *must* be in the form of a Privacy and Security Notice that meets the requirements of Section 6.2 of these ToP. Notwithstanding Section 11.1, to the extent the Signatory's written privacy policy is ''more stringent'' than the HIPAA Privacy Rule provisions listed below, the written privacy policy shall govern. ''More stringent'' shall have the meaning assigned to it in 45 CFR 160.202 except the written privacy policy shall be substituted for references to State law and the reference to ''standards, requirements or implementation specifications adopted under subpart E of part 164 of this subchapter'' shall be limited to those listed below.

8. *Security.*

8.1 *Security Controls.* You shall implement and maintain appropriate security controls for Individually Identifiable Information that are commensurate with risks to the confidentiality, integrity, and/or availability of the Individually Identifiable Information. If You are a NHE, You shall comply with the HIPAA Security Rule provisions with respect to all Individually Identifiable Information as if such information were Protected Health Information and You were a Covered Entity or Business Associate. You shall comply with any additional security requirements that may be set forth in an SOP applicable to Participants and Subparticipants.

8.2 *TEFCA Security Incident Reporting.*

8.2.1 *Reporting to Upstream QPS.* You shall report to Upstream QPS any suspected TEFCA Security Incident, as set forth in the applicable SOP(s). Such report must include sufficient information for Upstream QPS and others affected to understand the nature and likely scope of the TEFCA Security Incident. You shall supplement the information contained in the report as additional relevant information becomes available and cooperate with Upstream QPS and, at the direction of Upstream QPS, with the RCE, and with other QHINs, Participants, and

Subparticipants that are likely impacted by the TEFCA Security Incident.

8.2.2 *Reporting to Subparticipants.* You shall report any TEFCA Security Incident experienced by or reported to You to Your Subparticipants as required by an applicable SOP.

8.2.3 *Compliance with Notification Under Applicable Law.* Nothing in this Section 8.3 shall be deemed to modify or replace any breach notification requirements that You may have under the HIPAA Rules, the FTC Rule, or other Applicable Law. To the extent You are already required by Applicable Law to notify Upstream QPS or a Subparticipant of an incident that would also be a TEFCA Security Incident, this section does not require duplicative notification.

8.3 *Security Resource Support to Subparticipants.* You shall make available to Your Subparticipants (if any): (i) security resources and guidance regarding the protection of TI applicable to the Subparticipants' participation in TEFCA Exchange; and (ii) information and resources that the RCE or Cybersecurity Council makes available to You related to promotion and enhancement of the security of TI under the Framework Agreements.

8.4 *TI Outside the United States.* You shall only Use TI outside the United States or Disclose TI to any person or entity outside the United States to the extent such Use or Disclosure is permitted or required by Applicable Law and the Use or Disclosure is conducted in conformance with the HIPAA Security Rule, regardless of whether You are a Covered Entity or Business Associate and as set forth in an applicable SOP.

8.5 *Encryption.* If You are a NHE (but not to the extent that You are a federal agency or any other type of entity exempted from compliance with this Section in an applicable SOP), You must encrypt all Individually Identifiable Information You maintain, both in transit and at rest, regardless of whether such information is TI. Requirements for encryption may be set forth in an SOP.

9. *General Obligations.*

9.1 *Compliance with Applicable Law and the ToP.* You shall comply with all Applicable Law and shall implement and act in accordance with any provision required by the ToP, including all applicable SOPs and provisions of the QTF, when engaging in or facilitating TEFCA Exchange. While each SOP identifies the relevant group(s) to which it applies, not every requirement in an SOP or the QTF will necessarily be applicable to You. It is Your responsibility to determine, in consultation with Upstream QPS, which of the SOPs and QTF provisions are applicable to You.

9.2 *Your Responsibility for Your Subparticipants.* You shall be responsible for taking reasonable steps to confirm that all of Your Subparticipants (if any) are abiding by the ToP, specifically including all applicable SOPs and QTF provisions. In the event that You become aware of a material non-compliance by one of Your Subparticipants, then You shall promptly notify the Subparticipant in writing. Such notice shall inform the Subparticipant that its failure to correct any such deficiencies within thirty (30) days of receiving notice shall constitute a material breach of the ToP, which may result in early termination of these ToP.

9.3 *Your Responsibility for Your Third-Party Technology Vendors.* To the extent that You use a third-party technology vendor that will have access to TEFCA Information in connection with Connectivity Services or TEFCA Exchange, You shall include in a written agreement with each such subcontractor or agent a requirement to comply with all applicable provisions of these ToP and a prohibition on engaging in any act or omission that would cause You to violate the terms of these ToP if You had engaged in such act or omission Yourself.

9.4 *Fees Charged by QHINs, Participants, or Subparticipants.* You may charge fees to an Initiating Node when Responding to Queries through TEFCA Exchange as defined in an applicable SOP. The foregoing shall not prohibit You from charging Your Subparticipants fees for use of Your Connectivity Services.

10. *Term, Termination, and Suspension.*

10.1 *Term.* These ToP shall become effective upon agreement of both Parties and shall remain in effect until terminated by either Party. You may terminate these ToP by providing at least thirty (30) days' prior written notice of termination to Upstream QPS. Upstream QPS may terminate these ToP by providing at least ninety (90) days' prior written notice to You. Notwithstanding the foregoing, in the event that Upstream QPS's Framework Agreement is terminated, Your ToP shall be immediately terminated.

10.2 *Termination for Cause.* Either Party may terminate these ToP for cause if the other Party commits a material breach of a Framework Agreement, and fails to cure its material breach within thirty (30) days of receiving notice specifying the nature of such breach in reasonable detail from the non-breaching Party; provided, however, that if Upstream QPS is diligently working to cure its material breach at the end of this thirty (30) day period, then You must provide Upstream QPS with up to another thirty (30) days to complete its cure.

10.3 *Effect of Termination.* Upon termination of these ToP, You will no longer be able to engage in TEFCA Exchange facilitated by or through Upstream QPS. To the extent You store TI, such TI may not be distinguishable from other information maintained by You. When the TI is not distinguishable from other information, it is not possible for You to return or destroy TI You maintain upon termination or expiration of these ToP. Upon termination or expiration of these ToP, if You are subject to Section 7 of these ToP, such sections shall continue to apply so long as the information would be ePHI if maintained by a Covered Entity or Business Associate. The protections required under the HIPAA Security Rule shall also continue to apply to all TI that is ePHI, regardless of whether You are a Covered Entity or Business Associate. The provisions set forth in this Section 10.3 are in addition to those survival provisions set forth in Section 11.9.

10.4 *Conflict with Other Agreements Between You and Upstream QPS.* Notwithstanding anything herein to the contrary, in the event You and Upstream QPS are parties to an agreement that provides additional terms related to TEFCA Exchange and that agreement provides for a shorter notice period for termination, such shorter notice period shall control.

10.5 *Rights to Suspend.*

10.5.1 *RCE's Right to Suspend Your Ability to Engage in TEFCA Exchange.* You acknowledge and agree that the RCE has the authority to suspend, or direct the Upstream QPS to suspend, any QPS's ability to engage in TEFCA Exchange if: (i) there is an alleged violation of the respective Framework Agreement or of Applicable Law by the respective party/parties; (ii) there is a Threat Condition; (iii) the RCE determines that the safety or security of any person or the privacy or security of TI and/or Confidential Information is threatened; (iv) such suspension is in the interests of national security as directed by an agency of the United States government; or (v) there is a situation in which the RCE may suffer material harm and suspension is the only reasonable step that the RCE can take to protect itself. You acknowledge that upon receiving direction from the RCE, You will be suspended as soon as practicable provided, however, if the suspension is based on Subsections 10.5.1(i) or 10.5.1(iv) or a Threat

Condition that results in a cognizable threat to the security of TEFCA Exchange or the information that the RCE reasonably believes is TI, then You will be suspended within twenty-four (24) hours of the RCE having directed Your QHIN to effectuate the suspension, unless the RCE specifies a longer period of time is permitted.

10.5.2 *Upstream QPS's Right to Suspend Your Ability to Engage in TEFCA Exchange.* You acknowledge and agree that Upstream QPS has the same authority as the RCE to suspend Your ability to engage in TEFCA Exchange, and Your Subparticipant's (if any) ability to engage in TEFCA Exchange, if any of the circumstances described in Subsections 10.5.1 (i)–(iii) above occur with respect to You or any of Your Subparticipants.

(i) Upstream QPS *may* exercise such right to suspend based on its own determination that any of the circumstances described in Subsections 10.5.1 (i)–(iii) above occurred with respect to You or any of Your Subparticipants.

(ii) Upstream QPS *must* exercise such right to suspend if directed to do so by the RCE or its Upstream QPS based on its determination that suspension is warranted based on any of the circumstances described in Subsections 10.5.1 (i)–(v) above with respect to You or any of Your Subparticipants.

(iii) You acknowledge that if Upstream QPS makes a determination that suspension is warranted or receives direction from its Upstream QPS to suspend Your ability to engage in TEFCA Exchange, You will be suspended as soon as practicable provided, however, if the suspension is based on the circumstances described in Subsections 10.5.1(i) or 10.5.1(iv) or a Threat Condition that results in a cognizable threat to the security of TEFCA Exchange or the information that the RCE reasonably believes is TI, then You will be suspended within twenty-four (24) hours of notice of Upstream QPS's determination or receipt of direction from its Upstream QPS, unless Upstream QPS specifies a longer period of time is permitted.

10.5.3 *Upstream QPS Suspension.* Notwithstanding the foregoing, in the event that Upstream QPS's ability to engage in TEFCA Exchange is suspended, Your and any of Your Subparticipants' ability to engage in TEFCA Exchange will be immediately suspended.

10.5.4 *Suspension Rights Granted to You Related to Your Subparticipants.* If You have Subparticipants, You acknowledge and agree that You have the same responsibility and authority to suspend Your Subparticipant's ability to engage in TEFCA Exchange if any of the circumstances described in Subsections 10.5.1 (i)–(iii) above occur with respect to any of Your Subparticipants. If You make a determination to suspend, You are required to promptly notify Upstream QPS of Your decision and the reason(s) for making the decision. If any of Your Subparticipants notify You of their decision to suspend exchange with their Subparticipant(s), You must notify Upstream QPS of such decision.

(i) You *may* exercise such right to suspend based on Your own determination that any of the circumstances described in Subsections 10.5.1 (i)–(iii) above occurred with respect to any of Your Subparticipants.

(ii) You *must* exercise such right to suspend if directed to do so, by the RCE or Upstream QPS based on the RCE's determination that suspension is warranted based on any of the circumstances described in Subsections 10.5.1 (i)–(v) above with respect to any of Your Subparticipants.

(iii) You must effectuate such suspension of Your Subparticipant as soon as practicable provided, however, if the suspension is based on the circumstances described in Subsections 10.5.1(i) or 10.5.1(iv) or a Threat Condition that results in a cognizable threat to the security of TEFCA Exchange or the information that the RCE reasonably believes is TI, then it must be effectuated within twenty-four (24) hours of the triggering event, unless a longer period of time is permitted. For purposes of this subsection, the triggering event is Your determination to suspend, Your receipt of direction from your Upstream QPS to suspend, or the RCE having directed Your QHIN to effectuate the suspension.

10.5.5 *Selective Suspension.* You may, in good faith and to the extent permitted by Applicable Law, determine that You must suspend exchanging with a QHIN, Participant, or Subparticipant with which You are otherwise required to exchange in accordance with an SOP because of reasonable and legitimate concerns related to the privacy, security, accuracy, or quality of information that is exchanged. If You make this determination, You are required to promptly notify Upstream QPS of Your decision and the reason(s) for making the decision. If any of Your Subparticipants notify You of their decision to suspend exchange with a QHIN, Participant, or Subparticipant, You must notify Upstream QPS of such decision. You acknowledge that You may be required to engage in a process facilitated by the RCE to resolve whatever issues led to the decision to suspend. Provided that You selectively suspend exchanging with another QHIN, Participant, or Subparticipant in accordance with this section and in accordance with Applicable Law, such selective suspension shall not be deemed a violation of Section 2.2 of these ToP.

11. *Contract Administration.*

11.1 *Authority to Agree.* You warrant and represent that You have the full power and authority to enter into these ToP.

11.2 *Assignment.* None of these ToP can be transferred by either Party, including whether by assignment, merger, other operation of law, change of control (*i.e.,* sale of substantially all of the assets of the Party) of the Party or otherwise, without the prior written approval of the other Party.

11.3 *Severability.* If any provision of these ToP shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be struck from the ToP, and the remaining provisions of these ToP shall remain in full force and effect and enforceable.

11.4 *Captions.* Captions appearing in these ToP are for convenience only and shall not be deemed to explain, limit, or amplify the provisions of these ToP.

11.5 *Independent Parties.* Nothing contained in these ToP shall be deemed or construed as creating a joint venture or partnership between Upstream QPS and You.

11.6 *Acts of Contractors and Agents.* To the extent that the acts or omissions of a Party's agent(s) or contractor(s), or their subcontractor(s), result in that Party's breach of and liability under these ToP, said breach shall be deemed to be a breach by that Party.

11.7 *Waiver.* The failure of either Party to enforce, at any time, any provision of these ToP shall not be construed to be a waiver of such provision, nor shall it in any way affect the validity of these ToP or any part hereof or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of these ToP shall be held to constitute a waiver of any other or subsequent breach, nor shall any delay by either Party to exercise any right under these ToP operate as a waiver of any such right.

11.8 *Priority.* In the event of any conflict or inconsistency between any other agreement that You and Upstream QPS enter into with respect to TEFCA Exchange, Applicable Law, a provision of these ToP, the QTF, an SOP, and/or any implementation plans, guidance documents, or other materials or

documentation the RCE makes available to QHINs, Participants, and/or Subparticipants regarding the operations or activities conducted under the Framework Agreements, the following shall be the order of precedence for these ToP to the extent of such conflict or inconsistency: (1) Applicable Law; (2) these ToP; (3) the QTF; (4) the SOPs; (5) all other attachments, exhibits, and artifacts incorporated herein by reference; (6) other RCE plans, documents, or materials made available regarding activities conducted under the Framework Agreements; and (7) any other agreement that You and Upstream QPS enter into with respect to TEFCA Exchange.

11.9 *Survival.* The following sections of these ToP shall survive expiration or termination of these ToP as more specifically provided below:

(i) Section 3, Confidentiality and Accountability shall survive for a period of six (6) years following the expiration or termination of these ToP.

(ii) Section 6.4, Survival for IAS Providers, to the extent that You are an IAS Provider, shall survive following the expiration or termination of these ToP for the respective time periods set forth in Section 6.4.

(iii) Section 7, Privacy, to the extent that You are subject to Section 7, said Section shall survive the expiration or termination of these ToP so long as the information maintained by You would be ePHI if maintained by a Covered Entity or Business Associate.

(iv) Section 8.1 Security Controls, and Section 8.5, Encryption, to the extent that You are subject to Sections 8.1 and 8.5, said Section or Sections shall survive the expiration or termination of these ToP for so long as the information maintained by You would be ePHI if maintained by a Covered Entity or Business Associate regardless of whether You are a Covered Entity or Business Associate.

(v) The requirements of Section 8.2, TEFCA Security Incidents Reporting, shall survive for a period of six (6) years following the expiration or termination of these ToP.

COMMON AGREEMENT VERSION CONTROL TABLE

Version 1.0	January 2022.
Version 1.1	November 2023.
Draft Version 2.0	January 2024.
Version 2.0	April 2024.

Common Agreement Version 2.1 is also available on the Office of the National Coordinator for Health Information Technology's public internet website at *www.HealthIT.gov/TEFCA.*

Authority: 42 U.S.C. 300jj–11.

Dated: November 20, 2024.

Suhas Tripathi,

Assistant Secretary for Technology Policy, National Coordinator for Health Information Technology.

[FR Doc. 2024–27554 Filed 11–22–24; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–4040–0009]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before January 27, 2025.

ADDRESSES: Submit your comments to *sagal.musa@hhs.gov* or by calling (202) 205–2634.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 4040–0009–60D and project title for reference, to Sagal Musa, email: *sagal.musa@hhs.gov,* or call (202) 205–2634 the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Assurances for Construction Programs (SF–424D).

Type of Collection: Extension.

OMB No.: 4040–0009.

Abstract

Assurances for Construction Programs (SF–424D) is used by applicants to apply for Federal financial assistance. The Assurances for Construction Programs (SF–424D) form allows the applicants to provide specific assurances as part of their grant proposals. This form is evaluated by Federal agencies as part of the overall grant application. This IC expires on February 28, 2025. *Grants.gov* seeks a three-year clearance of these collections.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
Assurances for Construction Programs (SF–424D).	Grant-seeking organizations	353	1	0.5	176.5
Total			1		176.5

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2024–27601 Filed 11–25–24; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2024–0039]

Notice of Meeting; Homeland Security Advisory Council

AGENCY: Office of Partnership and Engagement (OPE), Department of Homeland Security (DHS).

ACTION: Notice of closed Federal advisory committee meeting.

SUMMARY: OPE is publishing this notice of a meeting of the Homeland Security Advisory Council (HSAC). This meeting will discuss security related threats and DHS operations post-election.

DATES: The meeting will be Monday, December 9, 2024, from 3 p.m. eastern time (ET) to 4 p.m. ET. This meeting will be closed to the public.

Written comments must be submitted by 5 p.m. ET on Friday, December 6, 2024.

ADDRESSES: Comments must be identified by Docket No. DHS–2024–0039 and may be submitted by one of the following methods:

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

Email: HSAC@hq.dhs.gov. Include Docket No. DHS–2024–0039 in the subject line of the message.

Mail: Rebecca Sternhell, Designated Federal Officer of the Homeland Security Advisory Council, Office of Partnership and Engagement, Mailstop 0385, Department of Homeland Security, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20032.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and ''DHS–2024–039'', the docket number for this action. Comments received will be posted without alteration at *https://www.regulations.gov,* including any personal information provided. You may wish to review the Privacy and Security Notice found via a link on the homepage of *www.regulations.gov.*

Docket: For access to the docket to read comments received by the Council, go to *http://www.regulations.gov,* search ''DHS–2024- 0039,'' ''Open Docket Folder'' to view the comments.

FOR FURTHER INFORMATION CONTACT: Rebecca Sternhell, Designated Federal Officer, HSAC at 202–891–2876 or *HSAC@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under section 10(a) of the Federal Advisory Committee Act (FACA), Public Law 92–463 (5 U.S.C. ch. 10), which requires each FACA committee meeting to be open to the public unless the President, or the head of the agency to which the advisory committee reports, determines that a portion of the meeting may be closed to the public in accordance with 5 U.S.C. 552b(c).

The HSAC provides organizationally independent, strategic, timely, specific, actionable advice, and recommendations to the Secretary of Homeland Security on matters related to homeland security. The Council consists of senior executives from government, the private sector, academia, law enforcement, and non-governmental organizations.

The Council will meet in a closed session from 3 p.m. to 4 p.m. ET to participate in a sensitive discussion with DHS senior leaders regarding DHS operations.

Basis for Closure: In accordance with section 10(d) of FACA, the Secretary of Homeland Security has determined this meeting must be closed during this session as the disclosure of the information relayed would be detrimental to the public interest for the following reasons:

The Council will participate in a sensitive operational discussion containing For Official Use Only and Law Enforcement Sensitive information. This discussion will include information regarding threats facing the United States and how DHS plans to address those threats. The session is closed pursuant to 5 U.S.C. 552b(c)(9)(B) because the disclosure of this information is likely to significantly frustrate implementation of proposed agency actions.

Dated: November 21, 2024.

Rebecca Sternhell,

Designated Federal Officer, Homeland Security Advisory Council, Department of Homeland Security.

[FR Doc. 2024–27682 Filed 11–25–24; 8:45 am]

BILLING CODE 9112–FN–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7080–N–56]

30-Day Notice of Proposed Information Collection: Requirements for Single Family Mortgage Instruments

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 December 26, 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: Colette Pollard, Reports Managment 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: Colette Pollard, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410, Room 8210; telephone (202) 402–3577, (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 May 30, 2024 at 89 FR 46899.

A. Overview of Information Collection

Title of Information Collection: Requirements for Single Family Mortgage Instruments.

OMB Approval Number: 2502–0404.

Type of Request: Extension.

Form Number: None.

Description of the need for the information and proposed use: The Department of Housing and Urban

Development (HUD) collects information about customers who contact the agency with questions/comments. P323J, HUD Central Customer Relationship Management (CRM) solution is leveraged by HUD staff and HUD Customer Services Representative contractors when the public calls a 1–800 number, or physically comes to a HUD office, or emails HUD with a question/comment. The HUD staff enters the information into the system to support answering the public question/comment. If the inquiry can be answered immediately, then HUD addresses the request. If the inquiry requires follow-up, then the customer's information is collected for a future response. Minimum data is collected to create an interaction history between the individual and HUD, name, home address, email address, or phone number.

Estimated Number of Respondents: 2,064.

Frequency of Response: One per mortgage.

Estimated Number of Responses: 737,276.

Average Hours per Response: 0.0833 (5 minutes).

Total Estimated Burdens: 61,415.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Single Family	2,064	1	737,276	0.0833	61,415	$40.46	$2,484,855

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.

Colette Pollard,

Department Reports Management Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2024–27669 Filed 11–25–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[256A2100DD/AAKC001030/A0A501010.999900]

Acceptance of Retrocession of Jurisdiction for the Skokomish Nation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior (Department) has accepted retrocession to the United States of partial criminal jurisdiction over the Skokomish Nation from the State of Washington.

DATES: The Department accepted retrocession on November 20, 2024. Complete implementation of jurisdiction will be effective May 27, 2025.

FOR FURTHER INFORMATION CONTACT: Mr. R. Glen Melville, Deputy Director—Office of Justice Services, Bureau of Indian Affairs (202) 208–5787.

SUPPLEMENTARY INFORMATION: Pursuant to the authority in 25 U.S.C. 1323 vested in the Secretary of the Interior by Executive Order No. 11435 of November 21, 1968 (33 FR 17339) and re-delegated to the Assistant Secretary—Indian Affairs by part 209 chapter 8 of the Department of the Interior Departmental Manual, the United States accepts retrocession of partial criminal jurisdiction over the Skokomish Nation, which was acquired by the State of Washington pursuant to Public Law 83–280, 67 Stat. 588, 18 U.S.C. 1162, 28 U.S.C. 1360 and as provided in the Revised Code of Washington sections 37.12.010, 37.12.021, 37.12.030, 37.12.040, 37.12.050 (1957), and 37.12.060 (1963).

The Tribe requested and the State of Washington offered, pursuant to the Revised Code of Washington sections 37.12.100–.120 and 37.12.180 and Governor Mike Lowry's October 19, 1994, proclamation to partially retrocede criminal jurisdiction over certain criminal acts committed by Indians occurring on tribal or allotted lands within the exterior boundaries of the Skokomish Nation Reservation and held in trust by the United States, or subject to a restriction against alienation imposed by the United States. The State of Washington retains partial criminal jurisdiction over the Skokomish Nation Reservation as provided in the Revised Code of Washington Section 37.12.010, including over the eight enumerated categories of offenses committed by Indians on trust or allotted lands within the Reservation, over non-Indians, and over civil matters.

This retrocession was offered by proclamation from the Governor of the State of Washington Mike Lowry, signed on October 19, 1994, revoking and superseding the July 13, 1957, proclamation, and transmitted to the Assistant Secretary—Indian Affairs in accordance with the process in Revised Code of Washington sections 37.12.100–.120, and as provided by Skokomish Tribal Council Resolution No. 94–73, dated June 9, 1994, in which the Skokomish Nation requested that the State of Washington retrocede criminal jurisdiction to the Tribe.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–27619 Filed 11–25–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_HQ_FRN_MO4500183156]

Wild Horse and Burro Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Wild Horse and Burro Advisory Board (Board) will hold a public meeting.

DATES: The Board will meet in person on January 7 and 8, 2025, from 8 a.m. to 5 p.m. Pacific time (PT) each day. The Board will participate in an educational field tour to the Rio Cosumnes Correctional Facility on Thursday, January 9, 2025, from 8 a.m. to 1 p.m. PT, which is also open to the public.

ADDRESSES: The Board will meet, and the field tour will commence and conclude at The Officer's Club ballroom, 3410 Westover Street, Sacramento, CA 95652.

The meeting is open to the public. The public may attend the meeting in person or watch via live stream at *www.blm.gov/live.*

The final agenda will be posted 2 weeks prior to the meeting and can be found on the following web page: *www.blm.gov/programs/wild-horse-and-burro/get-involved/advisory-board.*

FOR FURTHER INFORMATION CONTACT: Dorothea Boothe, Wild Horse and Burro Program Coordinator: telephone: (602) 906–5543, email: *dboothe@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Board advises the Secretary of the Interior, the BLM Director, the Secretary of Agriculture, and the Chief of the U.S. Forest Service (USFS) on matters pertaining to the management and protection of wild, free-roaming horses and burros on the Nation's public lands. The Board operates in accordance with 43 CFR subpart 1784.

Advisory Board Meeting Agenda

Tuesday, January 7, 2025

Session 1—8 a.m. to 10 a.m. PT.

Meeting Called to Order.

Administrative Announcements.

Welcome Remarks from BLM California State Director.

BLM California Wild Horse and Burro Program Overview.

USFS Wild Horse and Burro Program Region 5 Welcome and Update.

Approval of Meeting Minutes: December 2023.

Discussion: BLM and USFS Responses to Board Recommendations from December 2023 Board Meeting.

BREAK—10 a.m. to 10:15 a.m. PT.

Session 2—10:15 a.m. to 11:45 a.m. PT.

BLM and USFS Program Updates.

LUNCH BREAK—11:45 a.m. to 1 p.m. PT.

Session 3—1 p.m. to 2 p.m. PT.

Public Comment Period (first).

Session 4—2 p.m. to 3:30 p.m. PT.

Public Dashboard Demonstration Update.

BREAK—3:30 p.m. to 3:45 p.m. PT.

Session 5—3:45 p.m. to 4:45 p.m. PT.

PopEquus Modeling Demonstrations.

Session 6—4:45 p.m. to 5 p.m. PT.

Advisory Board Discussion and Wrap Up.

Adjourn.

Wednesday, January 8, 2025

Session 7—8 a.m. to 9 a.m. PT.

America's Public Lands Foundation Presentation.

Session 8—9 a.m. to 10 a.m. PT.

Public Comment Period (second).

BREAK—10 a.m. to 10:15 a.m. PT.

Session 9—10:15 a.m. to 11 a.m. PT.

Burro Ecology—Increasing our understanding of disease and migratory patterns of donkeys in Death Valley.

Session 10—11 a.m. to 11:30 a.m. PT.

Comprehensive Animal Welfare Program Update.

LUNCH BREAK—11:30 a.m. to 12:45 p.m. PT.

Session 11—12:45 p.m. to 1:15 p.m. PT.

Partnership Agreements Update.

Session 12—1:15 p.m. to 2:15 p.m. PT.

Q&As with BLM and USFS Officials.

Session 13—2:15 p.m. to 3 p.m. PT.

Advisory Board Reports and Draft Recommendations.

BREAK—3 p.m. to 3:15 p.m. PT.

Session 14—3:15 p.m. to 4:45 p.m. PT.

Advisory Board Discussion and Finalize Recommendations (Board vote).

Adjourn.

Thursday, January 9, 2025

8 a.m. to 1 p.m. PT.

Board Educational Field Tour to the Rio Cosumnes Correctional Center, Elk Grove, CA. (Limited space and advance registration required.)

Public Participation

Due to limited space, those wishing to attend the educational field tour to the Rio Cosumnes Correctional Facility on January 9, 2025, must register via email to *dboothe@blm.gov* no later than 5 p.m. PT on December 27, 2024. Attendees must provide their own transportation, and any necessary food, health, and safety items needed for a day in the field. Carpooling is encouraged.

The Board, the BLM, and the USFS welcome comments from all interested parties. The public will have an opportunity to make a verbal statement to the Board in person and virtually via Zoom (audio only) on Tuesday, January 7, 2025, from 1 p.m. to 2 p.m. PT and on Wednesday, January 8, 2025, from 9 a.m. to 10 a.m. PT. To provide comments via Zoom, interested parties must register by December 27, 2024, at the following website: *https://www.blm.gov/programs/wild-horse-and-burro/advisory-board.* To provide comments in-person, interested parties may register on-site up to one hour before the comment period commences. Individuals who have not registered in advance may be permitted to offer comment if time allows. Participants using computers, smartphones, and other personal digital devices will be able to participate with audio only via a link provided by the BLM. Those with phone-only access will be able to participate via a phone number and meeting ID provided by the BLM at the time of registration. The BLM may limit the length of comments, depending on the number of participants who register in advance. The public may also submit written comments to the Board in addition to, or in lieu of, providing verbal comment. Written comments should be submitted to the Board at *BLM_WO_Advisory_Board_Comments@blm.gov.* Comments emailed five days prior to the meeting will be provided to the Board for consideration during the meeting. The BLM will record the entire

meeting, including the allotted public comment sessions. Comments should be specific and explain the reason for the recommendation(s). Comments supported by quantitative information, studies, or those that include citations and analysis of applicable laws and regulations are most useful, and more likely to assist the decision-making process for the management and protection of wild horses and burros.

Meeting Accessibility/Special Accommodations

Please make requests in advance for sign language interpreter services, assistive listening devices, language translation services, or other reasonable accommodations. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least 14 business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis. Live captioning will be available throughout the event on the BLM livestream page at *www.blm.gov/live.*

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, the BLM cannot guarantee that it will be able to do so.

(Authority: 43 CFR 1784.4–2)

Sharif D. Branham,

Assistant Director, Resources and Planning.

[FR Doc. 2024–27628 Filed 11–25–24; 8:45 am]

BILLING CODE 4331–27–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Nanolaminate Alloy Coated Metal Parts, Components Thereof, and Products Containing the Same, DN 3786;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Modumetal, Inc. on November 19, 2024. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain nanolaminate alloy coated metal parts, components thereof, and products containing the same. The complaint names as respondents: Parker Hannifin Corporation of Cleveland, OH and Lu Chu Shin Yee Works Co., Ltd. of Taiwan. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3786'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures.[1]) Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov*.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. Government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: November 20, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–27608 Filed 11–25–24; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov*.

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–710–711 and 731–TA–1673–1674 (Final)]

2,4-Dichlorophenoxyacetic Acid (2,4–D) From China and India; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–710–711 and 731–TA–1673–1674 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether 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 2,4-dichlorophenoxyacetic acid (''2,4-D'') from China and India, provided for in subheading 2918.99.20 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be subsidized and sold at less-than-fair-value.

DATES: November 14, 2024.

FOR FURTHER INFORMATION CONTACT: Charles Cummings ((202) 708–1666), 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:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as ''2,4-dichlorophenoxyacetic acid (2,4-D) and its derivative products, including salt and ester forms of 2,4-D. 2,4-D has the Chemical Abstracts Service (CAS) registry number of 94–75–7 and the chemical formula $C_8H_6Cl_2O_3$.

Salt and ester forms of 2,4-D include 2,4-D sodium salt (CAS 2702–72–9), 2,4-D diethanolamine salt (CAS 5742–19–8), 2,4-D dimethyl amine salt (CAS 2008–39–1), 2,4-D isopropylamine salt (CAS 5742–17–6), 2,4-D tri-isopropanolamine salt (CAS 3234180–3), 2,4-D choline salt (CAS 1048373–72–3), 2,4-D butoxyethyl ester (CAS 1929–733), 2,4-D 2-ethylhexylester (CAS 1928–43–4), and 2,4-D isopropylester (CAS 94–11–1). All 2,4-D, as well as the salt and ester forms of 2,4-D, is covered by the scope irrespective of purity, particle size, or physical form.

The conversion of a 2,4-D salt or ester from 2,4-D acid, or the formulation of nonsubject merchandise with the subject 2,4-D, its salts, and its esters in the country of manufacture or in a third country does not remove the subject 2,4-D, its salts, or its esters from the scope. For any such formulations, only the 2,4-D, 2,4-D salt, and 2,4-D ester components of the mixture is covered by the scope of the investigations. Formulations of 2,4-D are products that are registered for end-use applications with the Environmental Protection Agency and contain a dispersion agent.

The country of origin of any 2,4-D derivative salt or ester is determined by the country in which the underlying 2,4-D acid is produced. 2,4-D, its salts, and its esters are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2918.99.2010. Subject merchandise, including the abovementioned formulations, may also be classified under HTSUS 2922.12.0001, 2921.11.0000, 2921.19.6195, 2922.19.9690, 3808.93.0500, and 3808.93.1500. The HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.''

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of § 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China and India of 2,4-D, and that such products are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on March 14, 2024, by Corteva Agriscience LLC (Indianapolis, Indiana).

For further information concerning the conduct of this phase of the investigations, hearing procedures, 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 C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

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.

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 the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on March 19, 2025, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, April 1, 2025. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Thursday, March 27, 2025. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the investigations, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID–19 test result may be submitted by 3:00 p.m. the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.*

A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference, if deemed necessary, to be held at 9:30 a.m. on Friday, March 28, 2025. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than noon on March 31, 2025. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is March 26, 2025. Parties shall also file written testimony in connection with their presentation at the hearing, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is April 8, 2025. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before April 8, 2025. On April 23, 2025, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 25, 2025, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. 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.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's 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.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: November 20, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–27687 Filed 11–25–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1456]

Importer of Controlled Substances Application: Experic LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Experic LLC to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 26, 2024. Such persons may also file a written request for a hearing on the application on or before December 26, 2024.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on October 17, 2024, Experic LLC, 2 Clarke Drive, Cranbury, New Jersey 08512–3619, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Nabilone	7379	II

The company plans to import drug code Nabilone (7379) for clinical trial purposes. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2024–27673 Filed 11–25–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1453]

Bulk Manufacturer of Controlled Substances Application: Cayman Chemical Company

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Cayman Chemical Company has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before January 27, 2025. Such persons may also file a written request for a hearing on the application on or before January 27, 2025.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on August 8, 2024, Cayman Chemical Company, 1180 East Ellsworth Road, Ann Arbor, Michigan 48108–2419, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3-FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4-FMC) 1238 I N	1238	I
Para-Methoxymethamphetamine (PMMA), 1-(4-methoxyphenyl)-N-methylpropan-2-amine	1245	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4-MEC)	1249	I
Naphyrone	1258	I
3-methylmethcathinone (2-(methylamino)-1-(3-methylphenyl)propan-1-one)	1259	I
N-Ethylamphetamine	1475	I
Methiopropamine (N-methyl-1-(thiophen-2-yl)propan-2-amine) 1478 I N	1478	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
4,4′-Dimethylaminorex (4,4′-DMAR; 4,5-dihydro-4-1595 I N methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine).	1595	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6Hthieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine	2780	I
Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4Hbenzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine)	2785	I

Controlled substance	Drug code	Schedule
Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4Hbenzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2786	I
Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2788	I
Diclazepam (7-chloro-5-(2-chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2H-benzo[e][1,4]diazepin-2-one	2789	I
JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR-18 (Also known as RCS-8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Fluoro-UR-144 and XLR11 [1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	7011	I
AB-FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
FUB-144 (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)	7014	I
JWH-019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
MDMB-FUBINACA (Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
FUB-AMB, MMB-FUBINACA, AMB-FUBINACA (2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate).	7021	I
AB-PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ-2201 ([1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone)	7024	I
5F-AB-PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluropentyl)-1H-indazole-3-carboximide)	7025	I
ADB-BUTINACA (N-(1-amino-3,3-dimethyl-1-oxobutan2-yl)-1-butyl-1H-indazole-3-carboxamide)	7027	I
AB-CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7031	I
MAB-CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F-AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F-ADB, 5F-MDMB-PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
ADB-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
5F-EDMB-PINACA (ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7036	I
5F-MDMB-PICA (methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate)	7041	I
MDMB-CHMICA, MMB-CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate).	7042	I
4F-MDMB-BINACA (4F-MDMB-BUTINACA or methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate) 7043 I N.	7043	I
MMB-CHMICA, AMB-CHMICA (methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate)	7044	I
FUB-AKB48, FUB-APINACA, AKB48 N-(4-FLUOROBENZYL) (N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboximide).	7047	I
APINACA and AKB48 (N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide)	7048	I
5F-APINACA, 5F-AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH-081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
5F-CUMYL-PINACA, 5GT-25 (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide)	7083	I
5F-CUMYL-P7AICA (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide)	7085	I
4-CN-CUML-BUTINACA, 4-cyano-CUMYL-BUTINACA, 4-CN-CUMYL BINACA, CUMYL-4CN-BINACA, SGT-78 (1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide).	7089	I
MDMB-4en-PINACA (methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1H-indazole-3-carboxamido)butanoate)	7090	I
4F-MDMB-BUTICA (methyl 2-[[1-(4-fluorobutyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate	7091	I
ADB-4en-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-en-1-yl)-1H-indazole-3-carboxamide)	7092	I
CUMYL-PEGACLONE (5-pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indol-1-one)	7093	I
5F-EDMB-PICA (ethyl 2-[[1-(5-fluorophentyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate	7094	I
MMB-FUBICA (methyl 2-(1-(4-fluorobenzyl)-1H-indole3-carboxamido)-3-methyl butanoate	7095	!
SR-19 (Also known as RCS-4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole)	7104	I
JWH-018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR-144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH-073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
NM2201, CBL2201 (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate	7221	I
PB-22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F-PB-22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
4-methyl-alpha-ethylaminopentiophenone (4-MEAP) 7245 I N 4–MEAP	7245	I
N-ethylhexedrone 7246 I N	7246	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
2-(ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one (methoxetamine)	7286	I
CP-47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP-47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2C-T-7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine	7348	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
2C-T-2 (2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I

Controlled substance	Drug code	Schedule
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N–N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
4-chloro-alpha-pyrrolidinovalerophenone (4-chloro-aPV	7443	I
4′-methyl-alpha-pyrrolidinohexiophenone (MPHP	7446	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Benzylpiperazine	7493	I
4-MePPP (4-Methyl-alphapyrrolidinopropiophenone)	7498	I
2C-D (2-(2,5-Dimethoxy-4-methylphenyl) ethanamine)	7508	I
2C-E (2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine)	7509	I
2C-H 2-(2,5-Dimethoxyphenyl) ethanamine)	7517	I
2C-I 2-(4-iodo-2,5-dimethoxyphenyl) ethanamine)	7518	I
2C-C 2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine)	7519	I
2C-N (2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine)	7521	I
2C-P (2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine)	7524	I
2C-T-4 (2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
25B-NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7536	I
25C-NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7537	I
25I-NBOMe (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
N-Ethypentylone, ephylone (1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	7543	I
alpha-pyrrolidinohexanophenone (a-PHP)	7544	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
alpha-pyrrolidinobutiophenone (α-PBP)	7546	I
Ethylone	7547	I
alpha-pyrrolidinoheptaphenone (PV8)	7548	I
Eutylone	7549	I
α-PiHP (4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one)	7551	I
AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I
Codeine methylbromide	9070	I
Brorphine (1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-4l)1,3-dihydro-2H-benzo[d]imidazol-2-one)	9098	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Heroin	9200	I
Hydromorphinol	9301	I
Morphine-N-oxide	9307	I
Normorphine	9313	I
Thebacon	9315	I
U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
AH-7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine))	9560	I
Clonitazene	9612	I
Isotonotazene (N,N-diethyl-2-(2-(4 isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine)	9614	I
Dipipanone	9622	I
Etonitazene	9624	I
Ketobemidone	9628	I
Trimeperidine	9646	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine	9663	I
2-methyl AP-237 (1-(2-methyl-4-(3-phenylprop-2-en-1-yl)piperazin-1-yl)butan-1-one	9664	I
Tilidine	9750	I

Controlled substance	Drug code	Schedule
Butonitazene (2-(2-(4-butoxybenzyl)-5-nitro-1Hbenzimidazol-1-yl)-N,N-diethylethan-1-amine)	9751	I
Iunitazene (N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro1H-benzimidazol-1-yl)ethan-1-amine)	9756	I
Metonitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1Hbenzimidazol-1-yl)ethan-1-amine	9757	I
N-pyrrolidino etonitazene; etonitazepyne (2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1Hbenzimidazole)	9758	I
Protonitazene (N,N-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine)	9759	I
Metodesnitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine)	9764	I
Etodesnitazene; etazene (2-(2-(4-ethoxybenzyl)-1Hbenzimidazol-1-yl)-N,N-diethylethan-1-amine)	9765	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide	9816	I
Para-Methylfentanyl (N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide; also known as 4-methylfentanyl).	9817	I
4′-Methyl acetyl fentanyl (N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide)	9819	I
ortho-Methyl methoxyacetyl fentanyl (2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide)	9820	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Para-fluorobutyryl fentanyl	9823	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Para-chloroisobutyryl fentanyl	9826	I
Isobutyryl fentanyl	9827	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Para-methoxybutyryl fentanyl	9837	I
Ocfentanil	9838	I
Thiofuranyl fentanyl (N-(1-phenethylpiperidin-4-yl)-Nphenylthiophene-2-carboxamide; also known as 2-thiofuranyl fentanyl; thiophene fentanyl).	9839	I
Valeryl fentanyl	9840	I
Phenyl fentanyl (N-(1-phenethylpiperidin-4-yl)-Nphenylbenzamide; also known as benzoyl fentanyl)	9841	I
beta′-Phenyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N,3-diphenylpropanamide; also known as β′-phenyl fentanyl; 3-phenylpropanoyl fentanyl).	9842	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide	9843	I
Crotonyl fentanyl ((E–N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide)	9844	I
Cyclopropyl Fentanyl	9845	I
ortho-Fluorobutyryl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide; also known as 2-fluorobutyryl fentanyl).	9846	I
Cyclopentyl fentanyl	9847	I
ortho-Methyl acetylfentanyl (N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide; also known as 2-methyl acetylfentanyl).	9848	I
Fentanyl related compounds as defined in 21 CFR 1308.11(h)	9850	I
Fentanyl carbamate (ethyl (1-phenethylpiperidin-4-yl)(phenyl)carbamate)	9851	I
ortho-Fluoroacryl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)acrylamide)	9852	I
ortho-Fluoroisobutyryl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9853	I
Para-Fluoro furanyl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9854	I
2′-Fluoro ortho-fluorofentanyl (N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)propionamide; also known as 2′-fluoro 2-fluorofentanyl).	9855	I
beta-Methyl fentanyl (N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide; also known as β-methyl fentanyl).	9856	I
meta-Fluorofentanyl (N-(3-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide)	9857	I
meta-Fluoroisobutyryl fentanyl (N-(3-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9858	I
para-Methoxyfuranyl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9859	I
3-Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-Nphenylfuran-3-carboxamide)	9860	I
2′,5′-Dimethoxyfentanyl (N-(1-(2,5-dimethoxyphenethyl)piperidin-4-yl)-Nphenylpropionamide)	9861	I
Isovaleryl fentanyl (3-methyl-N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide)	9862	I
ortho-Fluorofuranyl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9863	I
alpha′-Methyl butyryl fentanyl (2-methyl-N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide)	9864	I
para-Methylcyclopropylfentanyl (N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide)	9865	I
Zipeprol (1-methoxy-3[-4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol)	9873	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II

Controlled substance	Drug code	Schedule
Secobarbital	2315	II
Glutethimide	2550	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
ANPP (4-Anilino-N-phenethyl-4-piperidine)	8333	II
Norfentanyl (N-phenyl-N-(piperidin-4-yl) propionamide)	8366	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine intermediate-B	9233	II
Oliceridine (N-[(3-methoxythiophen-2yl)methyl] ({2-[9r)-9-(pyridin-2-yl)-6-oxaspiro[4.5] decan-9-yl] ethyl {time})amine fumarate).	9245	II
Methadone	9250	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Thebaine	9333	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Thiafentanil	9729	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to bulk manufacture the listed controlled substances for forensic purposes, to research analytical reference standards and as Active Pharmaceutical Ingredients for Phase 1 trials. In reference to drug codes 7360 (Marihuana), and 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetic.

No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2024–27670 Filed 11–25–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1455]

Bulk Manufacturer of Controlled Substances Application: Organix Chemistry Solutions, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Organix Chemistry Solutions, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before January 27, 2025. Such persons may also file a written request for a hearing on the application on or before January 27, 2025.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on October 16, 2024, Organix Chemistry Solutions, LLC, 32 Cabot Road, Woburn, Massachusetts, 01801–1004 applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I
Lysergic acid diethylamide	7315	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
3,4-Methylenedioxyamphetamine	7400	I
3,4-Methylenedioxymethamphetamine	7405	I
5-Methoxy-N–N-dimethyltryptamine	7431	I
Alpha-Methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C–D)	7508	I
2-(2,5-Dimethoxyphenyl) ethanamine (2C–H)	7517	I
Heroin	9200	I
Morphine	9300	II

The company plans to synthesize the listed controlled substances for distribution to its customers. In reference to drug codes 7360 (Marihuana), and 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2024–27674 Filed 11–25–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1446]

Importer of Controlled Substances Application: National Center for Natural Products Research

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: National Center for Natural Products Research has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 26, 2024. Such persons may also file a written request for a hearing on the application on or before December 26, 2024.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on September 16, 2024, National Center for Natural Products Research, 806 Hathorn Road, 135 Coy Waller Lab, University, Mississippi 38677 applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to acquire new genetic materials with improved cannabinoids for research and manufacturing purposes. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2024–27694 Filed 11–25–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1458]

Bulk Manufacturer of Controlled Substances Application: Isosciences, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Isosciences, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before January 27, 2025. Such persons may also file a written request for a hearing on the application on or before January 27, 2025.

ADDRESSES: The Drug Enforcement Administration requires that all

comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on October 28, 2024, Isosciences, LLC, 340 Mathers Road, Ambler, Pennsylvania 19002–3420 applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Methcathinone	1237	I
Lysergic acid diethylamide	7315	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
3,4-Methylenedioxyamphetamine	7400	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
5-Methoxy-N-N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
Dihydromorphine	9145	I
Heroin	9200	I
Nicocodeine	9309	I
Nicomorphine	9312	I
Normorphine	9313	I
Thebacon	9315	I
Normethadone	9635	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide	9816	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide	9843	I
Amphetamine	1100	II
Methamphetamine	1105	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Isomethadone	9226	II
Methadone	9250	II
Methadone intermediate	9254	II
Morphine	9300	II
Thebaine	9333	II
Levo-alphacetylmethadol	9648	II
Oxymorphone	9652	II
Thiafentanil	9729	II
Alfentanil	9737	II
Sufentanil	9740	II
Carfentanil	9743	II
Fentanyl	9801	II

The company plans to bulk manufacture the listed controlled substances to be used in analytical testing. In reference to drug codes 7360 (Marihuana), and 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2024–27693 Filed 11–25–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0049]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision Without Change of a Previously Approved Collection Recordkeeping for Electronic Prescriptions for Controlled Substances

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until January 27, 2025.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Heather E. Achbach, Regulatory Drafting and Policy Support Section, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 776–3882; Email: *Heather.E.Achbach@dea.gov* or *DEA.PRA@dea.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *Title of the Form/Collection:* Recordkeeping for Electronic Prescriptions for Controlled Substances.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No form number is associated with this collection. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): Not-for-profit institutions; Federal, State, local, and tribal governments.

Abstract: DEA is requiring that each registered practitioner apply to an approved credential service provider approved to obtain identity proofing and a credential. Hospitals and other institutional practitioners may conduct this process in-house as part of their credentialing. For practitioners currently working at or affiliated with a registered hospital or clinic, the hospital/clinic have to check a government-issued photographic identification. This may be done when the hospital/clinic issues credentials to new hires or newly affiliated physicians. For individual practitioners, two people need to enter logical access control data to grant permissions for practitioners authorized to approve and sign controlled substance prescriptions using the electronic prescription application. For institutional practitioners, logical access control data is entered by two people from an entity within the hospital/clinic that is separate from the entity that conduct identity proofing in-house. Similarly, pharmacies have to set logical access controls in the pharmacy application so that only authorized employees have permission to annotate or alter prescription records. Finally, if the electronic prescription or pharmacy application generates an incident report, practitioners, hospitals/clinics, and pharmacies have to review the incident report to determine if the event identified by the application represents a security incident.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that 158,884 registrants participate in this information collection, taking an estimated 40 minutes for Practitioner, 128 minutes for Hospital/Clinic, and 20 minutes for Pharmacy.

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* DEA estimates that this collection takes 107,733 annual burden hours.

7. An estimate of the total annual cost burden associated with the collection, if applicable: $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
Practitioner	154,571	1	154,571	0.67 (40 minutes) ...	103,563
Hospital/Clinic	1,526	1	1,526	2.13 (128 minutes)	1,526
Pharmacy	2,787	1	2,787	0.33 (20 minutes) ...	2,787
Unduplicated Totals	158,884	N/A	158,884	1.043	107,733

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: November 21, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–27683 Filed 11–25–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0339]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection; Comments Requested: Generic Clearance for Cognitive, Pilot and Field Studies for Bureau of Justice Statistics Data Collection Activities

AGENCY: Bureau of Justice Statistics, Department of Justice

ACTION: 30-Day notice.

SUMMARY: The Bureau of Justice Statistics (BJS), Department of Justice (DOJ) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until December 26, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Devon Adams, Bureau of Justice Statistics, 999 N Capitol St. NE, Washington, DC 20531 (email: *Devon.Adams@usdoj.gov;* telephone: 202–307–0765).

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register**, volume 89 pages 77545–6, on September 23, 2024. No comments were received.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB Control Number [1121–0240]. This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Abstract: Over the next three years, BJS anticipates undertaking a variety of new surveys and data collections, as well as reassessing ongoing statistical projects, across a number of areas of criminal justice, including law enforcement, courts, corrections, and victimization. This work will entail development of new survey instruments, redesigning and/or modifying existing surveys, procuring administrative data from state and local government entities, and creating or modifying establishment surveys. In order to inform BJS data collection protocols, to develop accurate estimates of respondent burden, and to minimize respondent burden associated with each new or modified data collection, BJS will engage in cognitive, pilot and field test activities to refine instrumentation and data collection methodologies. BJS envisions using a variety of techniques, including but not limited to tests of different types of survey and data collection operations, sample frame development, focus groups, cognitive testing, pilot testing, exploratory interviews, experiments with questionnaire design, and usability testing of electronic data collection instruments.

Following standard Office of Management and Budget (OMB) requirements, BJS will submit a change request to OMB individually for every group of data collection activities undertaken under this generic clearance. BJS will provide OMB with a copy of the individual instruments or questionnaires (if one is used), as well as other materials describing the project.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Generic Clearance for cognitive, pilot and field studies for Bureau of Justice Statistics data collection Activities.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form numbers not available for generic clearance. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Administrators or staff of state and local agencies or programs in the relevant fields; administrators or staff of non-government agencies or programs in the relevant fields; individuals; policymakers at various levels of government.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* We estimate that approximately 30,000 respondents will be involved in exploratory, field test, pilot, cognitive, and focus group work conducted under this clearance over the requested 3-year clearance period. The average response time per respondent will be specific to each project covered under the clearance. Specific estimates of the number of respondents and the average response time are not known for each pilot study or development project covered under a generic clearance at this time. Project specific estimates will

be submitted to OMB separately for each project conducted under this clearance. An estimate of the overall number of burden hours for activities under this generic.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden for identified and future projects covered under this generic clearance over the 3-year clearance period is approximately 25,000 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* N/A.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: November 21, 2024

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–27681 Filed 11–25–24; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0034]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Previously Approved Collection; The National Forensics Laboratory Information System Collection of Analysis Data

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until January 27, 2025.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Heather E. Achbach, Regulatory Drafting and Policy Support Section, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 776–3882; Email: *Heather.E.Achbach@dea.gov* or *DEA.PRA@dea.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* The National Forensics Laboratory Information System Collection of Analysis Data.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No form number is associated with this collection. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): Not-for-profit institutions; Federal, State, local, and tribal governments.

Abstract: This collection provides the Drug Enforcement Administration (DEA) with a national database on analyzed drug evidence from non-federal laboratories. Information from this database is combined with the other existing databases to develop more accurate, up-to-date information on abused drugs. This database represents a voluntary, cooperative effort on the part of participating laboratories to provide a centralized source of analyzed drug data.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that 2,640 registrants participate in this information collection, taking an estimated 0.32003 mins per registrant annually.

The time per response is 8 minutes for Current collection of the continuous, ongoing NFLIS-Drug Program, 10 minutes for Collection of the NFLIS–MEC Program and Collection of the NFLIS-Tox Program, 30 minutes for Survey of the NFLIS–MEC Program, 45 minutes for Collection of the NFLIS-Tox Program and Survey of the NFLIS-Tox Program.

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* DEA estimates that this collection takes 1,860 annual burden hours.

7. An estimate of the total annual cost burden associated with the collection, if applicable: $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
Current collection of the continuous, ongoing NFLIS-Drug Program.	140	134 respondents monthly, 6 respondents quarterly.	1632	0.13 (8 minutes)	218
Survey of the NFLIS-Drug Program.	140	once in 2019	140	0.5 (30 minutes)	70

TOTAL BURDEN HOURS—Continued

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
Collection of the NFLIS–MEC Program.	2100	monthly and quarterly (unknown breakdown).	2100	0.17 (10 minutes) ...	350
Survey of the NFLIS–MEC Program.	2100	once in 2020	1260	0.75 (45 minutes) ..	945
Collection of the NFLIS-Tox Program.	400	monthly and quarterly (unknown breakdown).	400	0.17 (10 minutes) ...	67
Survey of the NFLIS-Tox Program	400	once in 2021	280	0.75 (45 minutes) ...	210
Unduplicated Totals	2,640	2.2015	5,812	0.32003	4,840

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: November 21, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–27680 Filed 11–25–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Stipulation of Settlement and Judgment Under the System Unit Resource Protection Act

On October 17, 2024, the Department of Justice lodged a proposed Stipulation of Settlement and Judgment (''Stipulation'') with the United States District Court for the Eastern District of Washington in the lawsuit entitled *United States* v. *Avista Corporation,* Civil Action No. 2:24–cv–00358–JAG.

The United States filed this lawsuit under the System Unit Resource Protection Act and Washington State and federal trespass law. The complaint alleges that defendant Avista Corporation's unauthorized activities to stabilize, move, and replace an unpermitted power pole within the Lake Roosevelt National Recreation Area (the ''Park'') in northeastern Washington caused significant injuries to cultural and natural resources at the Park. The complaint seeks recovery of damages and response costs.

Under the Stipulation, Defendant will pay $900,000 to the U.S. Department of the Interior, National Park Service, for response costs and damages, with interest.

On October 22, 2024, the Department of Justice published a notice in the **Federal Register** opening a public comment period on the Stipulation for a period of thirty (30) days, through November 21, 2024. Due to a technical error in posting the Stipulation on the Department of Justice's website, the Stipulation was inadvertently removed from the website on October 23, 2024. The Stipulation was reposted to the Department of Justice's website on November 18, 2024. By this notice, the Department of Justice is extending the public comment period by an additional thirty (30) days, through December 21, 2024. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Avista Corporation,* D.J. Ref. No. 90–5–1–1–12423. All comments must be submitted no later December 21, 2024. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Stipulation may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* If you require assistance accessing the Stipulation, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Kathryn C. Macdonald,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024–27632 Filed 11–25–24; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0095]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: Census of Public Defender Offices

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until December 26, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Ryan Kling, Statistician, Judicial Statistics Unit, Bureau of Justice Statistics, 999 North Capitol Street NE, Washington, DC 20002 (email: *Ryan.Kling@usdoj.gov;* telephone: 202–704–0076).

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** on September 5, 2024, allowing a 60-day comment period. BJS received 2 comments during the 60-day period, and they are being addressed in the full package to OMB.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and/or
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB Control Number: OMB 1121–0339. This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* New Collection.

2. *Title of the Form/Collection:* Census of Public Defender Offices (CPDO).

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form number(s): The instrument is CPDO–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics (Judicial Statistics Unit), in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected Public: Respondents will be leaders of local publicly funded public defender offices.

5. *Abstract:* The Census of Public Defender Offices (CPDO, OMB Number 1121–0339) is the only national data collection identifying and surveying all public defender offices in the U.S. and Territories since the first iteration of CPDO in 2007. For purposes of this project, public defender offices are eligible for inclusion if they are publicly funded, have a physical address, at least one W–2 earning attorney, and provide direct public defense representation for adults and/or juveniles who are accused of a crime or delinquency or accused in a trial court of violating conditions of a sentence.

After locating all public defender offices in the U.S. within the defined scope, the 2024 CPDO will gather important metrics on public defender office operations from office leaders. Developed in consultation with public defense leaders, the survey includes sections addressing general office operations including expenditures and funding streams, staffing, caseloads, eligibility standards, and office resources.

The 2024 instrument is a combination of questions from the 2007 iteration and new or updated questions reflecting emerging issues in the field of public defense. Retaining historical questions will allow for trend analysis while the newer questions will provide informative data useful for practitioners, researchers and policymakers. Some examples of information provided by the CPDO include:

- Caseloads and case types
- Staff sizes and roles
- Staff attrition
- Staff salary ranges
- Demographics of chief public defender and staff attorneys
- Initial public defender appointment and contact practices
- Case management system capacity

BJS will use the information gathered in CPDO in published reports and statistics. The reports will be made available to the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, others interested in criminal justice statistics, and the general public via the BJS website.

6. *Obligation To Respond:* The obligation to respond is voluntary.

7. *Total Estimated Number of Respondents:* BJS will send the survey to approximately 2,000 public defender offices (in 50 states, the District of Columbia and five U.S. Territories).

8. *Estimated Time per Respondent:* The expected burden placed on each respondent is just over 1 hour.

9. *Frequency:* Periodic—the prior similar census was 17 years prior.

10. *Total Estimated Annual Time Burden:* The total respondent burden is about 1,890 hours. BJS estimates approximately 6% (120) of offices receiving the survey will screen out of the survey due to ineligibility. The burden for out-of-scope entities will be less than 5 minutes.

	Number of public defender offices	Time per survey	Total time (in minutes)	Total burden hours
Out of scope public defender offices	120	5	600	10 hours (600 mins/60 mins).
In scope public defender offices	1,880	62	116,560	1,943 hours (116,560 mins/60 mins).
Total	2,000			1,953 hours.

11. *Total Estimated Annual Other Costs Burden:* No costs other than the cost of the hour burden exist for this data collection.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: November 21, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–27684 Filed 11–25–24; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2024–04]

Exemption Application No. L–11954; Exemption From Certain Prohibited Transaction Restrictions Involving the Fedeli Group, Inc. Employee Benefits Plan Located in Cleveland, OH

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This document contains a notice of exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) issued by the Department of Labor (the Department) to the Fedeli Group Employee Benefits Plan.

DATES: *Exemption date:* This exemption will be in effect on November 26, 2024.

FOR FURTHER INFORMATION CONTACT: Mrs. Blessed Chuksorji-Keefe of the Department at (202) 693–8567. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 6, 2023, the Department published a notice of proposed exemption in the **Federal Register** at 88 FR 76253. The proposed exemption involved the reinsurance of risks and the receipt of premiums by Risk Specialists Insurance Company, Inc. (Risk Specialists) in connection with insurance contracts sold by THP Insurance Company, Inc. (THP) or THP's successor to provide medical and hospital coverage to participants in the Fedeli Group Inc. Employee Benefits Plan (the Benefit Plan or the Applicant). THP, is unrelated to the Fedeli Group, Inc. and any entities related to Fedeli. (collectively, Fedeli Group). The Applicant requested an individual exemption pursuant to ERISA section 408(a) in accordance with the Department's exemption procedures set forth in 29 CFR part 2570, subpart B.[1]

Based on the record, the Department has determined to grant the proposed exemption. This exemption provides only the relief specified herein. It provides no relief from violations of any law other than the prohibited transaction provisions of ERISA, as expressly stated herein.

The Department makes the requisite findings under ERISA Section 408(a) based on the Applicant's adherence to all the conditions of the exemption. Accordingly, affected parties should be aware that the conditions incorporated in this exemption, considered individually and as a whole, are necessary for the Department to grant the relief requested by the Applicant. Absent these or similar conditions, the Department would not have granted this exemption.

[1] 76 FR 66637, 66644, (October 27, 2011).

Background

1. As discussed in greater detail below and in the notice of proposed exemption, Fedeli Group seeks to use its captive insurance company, Risk Specialists, to reinsure participants' benefit claims under the Benefit Plan.

Parties to the Transaction

2. *Fedeli Group:* Fedeli Group is a corporation based in Cleveland, Ohio that provides insurance products and risk management services. The Fedeli Group is 51 percent owned by The Umberto P. Fedeli Restated Revocable Trust (dated July 16, 2016) 19 percent owned by the Umberto P. Fedeli 2012 Discretionary Trust (dated November 28, 2012) and 20% owned by the Umberto P. Fedeli 2009 Discretionary Trust (dated December 23, 2009). The Fedeli Group sponsors and administers the Benefit Plan.

3. *Risk Specialists:* Risk Specialists is a property and casualty captive insurance company that is licensed and operates under applicable Tennessee law. Risk Specialists is 100 percent owned by Risk Specialists Captive Holdings, LLC, a limited liability company formed in Ohio on the same date as Risk Specialists. Risk Specialists Captive Holdings, LLC is 51 percent owned by the Fedeli Revocable Trust, 29% owned by the Fedeli 2012 Trust, and 20 percent owned by the Fedeli 2009 Trust. Risk Specialists serves as the reinsurer with respect to 13 different lines of insurance coverages provided to Fedeli Group and unrelated third parties.

4. *THP.* THP Insurance Company, Inc. is a domestic stock insurance company domiciled in West Virginia and licensed in both Ohio and West Virginia. THP is unrelated to all Fedeli Group-related entities and is currently rated ''A+'' by A.M. Best Company.

5. *The Benefit Plan.* The Benefit Plan is a self-funded employee welfare benefit plan covering medical and hospital expenses for eligible Fedeli Group employees that is sponsored and administered by the Fedeli Group.

The Transaction

6. Fedeli Group plans to use its captive insurance company, Risk Specialists, to reinsure the Benefit Plan's claims. The Plan will enter into a Master Group Policy with THP, pursuant to which THP will provide group health insurance coverage to eligible participants under the Benefit Plan. THP will enter into a reinsurance agreement (the Reinsurance Agreement) with Risk Specialists. Under this arrangement, Risk Specialists will be responsible for the Benefit Plan's insurance claims under the Master Group Policy with THP, and Risk Specialists will indirectly receive the Benefit Plan's premium payments to THP. The Reinsurance Agreement between THP and Risk Specialists will be ''indemnity only,'' which means that THP will be responsible for Benefit Plan claims under the Master Group Policy to the extent Risk Specialists does not satisfy those claims under the Reinsurance Agreement.

7. As described in the notice of proposed exemption, the Applicant represents that the only benefits Fedeli Group expects to receive from the proposed Captive Approach relative to the Plan's current self-funding arrangement are the incidental benefits that would result from more predictability and better control over its benefit funding obligations. The proposed exemption describes that the Captive Approach will result in reduced overall plan costs because benefit expenses will be paid based on actual experience, as opposed to a third-party insurance carrier (the Third-Party Approach) requiring a fixed payment at a premium charged by an insurance carrier where the premium amount does not change regardless of the amount of claims that are incurred.

ERISA Analysis

8. The reinsurance arrangement would violate certain prohibited transaction provisions of ERISA for the following reasons:

- Fedeli Group is a party in interest with respect to the Benefit Plan pursuant to ERISA section 3(14)(C), because it is an employer whose employees are covered by the Benefit Plan;
- The Trusts are parties in interest with respect to the Benefit Plan under ERISA section 3(14)(E) because they collectively own 100% of Fedeli Group, the Benefit Plan sponsor.
- Risk Specialists, the captive reinsurer, is a party in interest with respect to the Benefit Plan under ERISA section 3(14)(G) because it is 100% owned by the Trusts.

9. ERISA section 406(a) prohibits a wide range of transactions between plans and parties in interest with respect to those plans. As relevant here,

ERISA section 406(a)(l)(D) prohibits a plan fiduciary from engaging in a transaction if the fiduciary knows or should know the transaction constitutes a direct or indirect transfer of any plan assets for the use or benefit of a party in interest. The reinsurance arrangement would result in an indirect transfer of Benefit Plan premium payments to Risk Specialists, which is a party in interest with respect to the Benefit Plan.

10. ERISA section 406(b)(1) of ERISA prohibits a fiduciary from dealing with plan assets for the fiduciary's own interest or own account. The fiduciaries of the Benefit Plan would violate ERISA section 406(b)(1) by causing the Benefit Plan to pay premiums to THP, with the knowledge that the premiums will ultimately be directed to Risk Specialists, the captive reinsurer.

Merits of the Transaction

11. As described in further detail in the notice of proposed exemption, a qualified, independent fiduciary has concluded that the reinsurance arrangement will reduce each Benefit Plan participant's share of the Benefit Plan premium paid to THP by at least $2,023.20 per participant per year for the duration of the exemption relative to the contribution the participant would otherwise have made under a noncaptive arrangement with a competitive third party insurer receiving no more than reasonable compensation within the meaning of ERISA section 408(b)(2). Historically, Benefit Plan participants contributed approximately 25% towards the cost of the Benefit Plan. Under this exemption, all the savings from the reinsurance arrangement will be used to reduce Benefit Plan participants' share of the Benefit Plan's premiums, and Benefit Plan participants will contribute no more than 17.38% of the Benefit Plan's costs throughout the duration of the exemption.

12. Therefore, this exemption requires the Fedeli Group to use any of the savings it derives from the captive reinsurance arrangement to reduce the amount each Benefit Plan participant is required to contribute toward the premiums the Benefit Plan pays to THP or another fronting insurer. If any Fedeli Group-related entity receives a direct or indirect profit, tax benefit, investment gain or other remunerative benefit through the reinsurance arrangement, the Fedeli Group must further enhance the Benefit Plan in an amount greater than the $2,023.20 per participant per year contribution reduction in a manner consistent with the terms and conditions of this exemption.

13. On an on-going basis, the independent fiduciary is required to review all relevant financial information of Risk Specialists and any other Fedeli-related entity as is necessary to ensure that this and the other terms and conditions described in this proposal are met and to annually certify in a written report submitted to the Department that all requirements of the proposed exemption have been met. Furthermore, as described in the notice of proposed exemption, this exemption requires a number of protective conditions designed to ensure that the rights of the Plan and its participants and beneficiaries are protected.

Comments Received Regarding Proposed Exemption

In the proposed exemption, the Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the proposed exemption by December 21, 2023. The Department did not receive any written comments or requests for a public hearing.[2]

Therefore, on basis of the entirety of the public record for this exemption application and the conditions for relief included below, the Department finds that the exemption is administratively feasible for the Department, in the interests of the Benefit Plan and its participants and beneficiaries, and protective of the rights of the Benefit Plan's participants and beneficiaries.

The complete application file (L–11954) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, please refer to the notice of proposed exemption published on November 6, 2023, at 88 FR 76253.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA Section 408(a) does not relieve a fiduciary or other party in interest from certain requirements of other ERISA provisions, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA Section 404, which, among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with ERISA section 404(a)(1)(B).

(2) As required by ERISA section 408(a), the Department hereby finds that the exemption is: (a) administratively feasible for the Department; (b) in the interests of affected plans and of their participants and beneficiaries; and (c) protective of the rights of participants and beneficiaries of the Benefit Plan.

(3) This exemption is supplemental to and not in derogation of any other ERISA provisions, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that the Department is granting an administrative exemption for this transaction is not dispositive to determining whether the transaction is in fact a prohibited transaction.

(4) The Department's grant of this exemption is based on the express condition that the material facts and representations contained in the application accurately describe all material terms of the transactions that are the subject of the exemption.

Accordingly, the Department grants the following exemption under the authority of ERISA Section 408(a)in accordance with its exemption procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011):

Exemption

Section I. Covered Transactions

The restrictions of ERISA sections 406(a)(1)(D) and 406(b)(1) will not apply to the reinsurance of risks and the receipt of premiums therefrom by Risk Specialists LLC (Risk Specialists), in connection with insurance contracts sold by THP Insurance Company, Inc. (THP) or any successor insurance company to THP, which is unrelated to the Fedeli Group, Inc. (Fedeli Group or the Applicant), including any entity related to Fedeli Group to provide medical and hospital coverage to participants in the Fedeli Group, Inc. Employee Benefits Plan (the Benefit Plan) (these covered transactions are referred to as the Captive Reinsurance Arrangement) provided that the conditions set forth in Section II are met.

Section II. Conditions

(a) All of the savings from the Captive Reinsurance Arrangement will be used to reduce the amount that each Benefit Plan participant is required to contribute toward the premium the

[2] The Department notes that it did not make any changes to the operative text of the proposed exemption in this final grant notice except for minor editorial revisions.

Benefit Plan pays to THP or another fronting insurer. The cost savings will be determined relative to the reasonable cost the Benefit Plan would otherwise have paid for comparable benefits pursuant to a non-captive arrangement with an unrelated, third-party insurer. In no year will the reduction in Benefit Plan participant contributions be less than $2,023.20 per participant per year. The premium reduction will benefit all Plan participants equally and will be verified by the Independent Fiduciary as described below.

(b) Benefit Plan participant contributions will be further reduced by an amount equal to any net benefit (the Extra Benefit) any Fedeli Group entity received that is directly or indirectly generated by the Captive Reinsurance Arrangement over each five-year period, the first of which begins on the grant date this exemption is granted. Extra Benefits include, but are not limited to, increased earned income, increased savings, a tax reduction or a profit or any benefit arising from a further diversification of Risk Specialist's risks in connection with adding Plan-related insurance risks to Risk Specialist's other risks. The reduction will be received by Benefit Plan participants on a pro rata basis in the year following the five-year period to which the Extra Benefit relates; plus an additional interest payment on the amount of the Extra Benefit at the Internal Revenue Code's federal underpayment rate established in Code section 6621(b). The interest on the Extra Benefit will be calculated for the period from the end of the Benefit Plan year the Extra Benefit was earned through the start of the Benefit Plan year in which the Extra Benefit is applied to reduce Benefit Plan participants' contributions.

(c) Benefit Plan participants will contribute no more than 17.38% of the premium paid by the Benefit Plan to THP or another fronting insurer.

(d) *Risk Specialists:*

(1) Is a party in interest with respect to the Benefit Plan by reason of a stock affiliation with Fedeli Group that is described in ERISA section 3(14)(E) or (G);

(2) Is licensed to sell insurance or conduct reinsurance operations in the state of Tennessee;

(3) Has obtained a Certificate of Authority from the insurance commissioner of the State of Tennessee to transact the business of a captive insurance company, which has neither been revoked nor suspended, and has undergone a financial examination (within the meaning of the law of its domiciliary State, Tennessee) by the Insurance Commissioner of the State of Tennessee within five years before the end of the year preceding the year in which the reinsurance transaction occurred;

(4) Has undergone and shall continue to undergo an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction covered by this exemption; and

(5) Is licensed to conduct reinsurance transactions by a state whose law requires that an actuarial review of reserves be conducted annually by an independent firm of actuaries and reported to the appropriate regulatory authority.

(e) The Benefit Plan will pay no more than adequate consideration with respect to insurance that is part of the Captive Reinsurance Arrangement.

(f) No commissions will be paid by the Benefit Plan with respect to the direct sale of such contracts or the reinsurance thereof.

(g) In the initial year of any contract involving Risk Specialists and THP or any successor insurer, the Benefit Plan's participants and beneficiaries will receive an immediate and objectively determined benefit in the form of decreased participant contributions, and such benefits will continue in all subsequent years of each contract and in every renewal of each contract.

(h) In the initial year and in subsequent years of coverage provided by THP or another fronting insurer (either, a Fronting Insurer), the formulae used by THP or a Fronting Insurer to calculate premiums will be similar to formulae used by other insurers providing comparable life insurance coverage under similar programs that are not captive reinsured. Furthermore, the premium charges calculated in accordance with the formulae will be reasonable and will be comparable to the premiums charged by the Fronting Insurer and its competitors with the same or a better financial strength rating providing the same coverage under comparable programs that are not captive reinsured.

(i) Fedeli Group will only contract with insurers with a financial strength rating of ''A'' or better from A.M. Best Company. The reinsurance arrangement between any fronting insurer and Risk Specialists will be indemnity insurance only, which means that the fronting insurer will not be relieved of any liability to the Benefit Plan should Risk Specialists be unable or unwilling to cover any liability arising from the reinsurance arrangement.

(j) Participants and beneficiaries in the Benefit Plan will receive no less than the immediate and objectively determined increased benefits the participant and beneficiary received in the initial year of each such contract involving Risk Specialists and THP in subsequent years of every contract of reinsurance involving Risk Specialists and THP.

(k) For each taxable year of Risk Specialists, the gross premiums received in that taxable year by Risk Specialists for benefit insurance provided to Fedeli Group and its employees with respect to which Risk Specialists is a party in interest by reason of the relationship to Fedeli Group as described in ERISA section 3(14)(E) or (G), will not exceed 50% of the gross premiums received for all lines of insurance (*i.e.,* benefit insurance and non-benefit insurance) in that taxable year by Risk Specialists.

(l) The Benefit Plan will retain a qualified independent fiduciary (the Independent Fiduciary) to analyze the transactions covered by the exemption and render an opinion that the terms and conditions of this exemption have been satisfied.

(m) The Independent Fiduciary will:

(1) Monitor the transactions described here on behalf of the Benefit Plan on a continuing basis to ensure such transactions remain in the interest of the Benefit Plan;

(2) Take all appropriate actions to safeguard the interests of the Benefit Plan;

(3) Enforce compliance with all conditions of this exemption and all conditions and obligations imposed on any party dealing with the Benefit Plan;

(4) Review all contracts, and any renewals of such contracts, pertaining to the Captive Reinsurance Arrangement, to determine whether the requirements of this exemption, and the terms of the increased benefits continue to be satisfied; and

(5) Provide an annual, certified report to the Department, under penalty of perjury, indicating whether the terms and conditions of the exemption continue to be satisfied. Each report will be completed within six months after the end of the twelve-month period to which it relates (the first twelve-month period begins on the first day of the implementation of the Captive Reinsurance Arrangement), and be submitted to the Department within 60 days thereafter. The relevant report will include all the objective data necessary to demonstrate that the Primary Benefit Test has been met.

(n) The Benefit Plan, Fedeli Group and its related parties have not, and will not, indemnify the Independent Fiduciary, in whole or in part, for negligence and/or for any violations of

state or federal law that may be attributable to the Independent Fiduciary in performing its duties under the Captive Reinsurance Arrangement. In addition, no contract or instrument will purport to waive any liability under state or federal law for any such violations. In the event a successor Independent Fiduciary is appointed to represent the interests of the Plan with respect to the subject transaction, no time shall elapse between the resignation or termination of the former Independent Fiduciary and the appointment of the successor Independent Fiduciary.

(o) No Fedeli Group entity or related entity will use participant-related data or information generated by or derived from the proposed arrangement in a manner that benefits the Fedeli Group or related entity.

(p) No amount of THP's reserves that are attributable to the Plan participants' contributions will be transferred to Fedeli Group or a related party.

(q) Fedeli Group will not evade the conditions in this exemption by offsetting or reducing any benefits provided to Fedeli Group employees to defray the costs, expenses, or obligations of complying with this exemption.

(r) All expenses associated with the exemption and the exemption application, including any payment to the Independent Fiduciary, will be paid by Fedeli Group and not the Plan.

(s) All the material facts and representations set forth in the Summary of Facts and Representation are and will be true and accurate at all times.

Exemption date: This exemption will be in effect on November 26, 2024.

Signed at Washington, DC.

George Christopher Cosby,

Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2024–27630 Filed 11–25–24; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Characteristics of the Insured Unemployed

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before December 26, 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: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This report is the only source of current, consistent demographic information (age, race/ethnic, sex, occupation, industry) on the Unemployment Insurance (UI) claimant population. These characteristics identify important claimant cohorts for legislative, economic and social planning purposes, and evaluation of the UI program on the Federal and State levels. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 9, 2024 (89 FR 39649).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Characteristics of the Insured Unemployed.

OMB Control Number: 1205–0009.

Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 636.

Total Estimated Annual Time Burden: 426 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–27629 Filed 11–25–24; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–24–2025; NARA–2025–009]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: We must receive responses on the schedules listed in this notice by January 13, 2025.

ADDRESSES: To view a records schedule in this notice, or submit a comment on one, use the following address: *https://www.regulations.gov/docket/NARA-24-0025/document.* This is a direct link to the schedules posted in the docket for this notice on regulations.gov. You may

submit comments by the following method:

Federal eRulemaking Portal: https://www.regulations.gov. On the website, enter either of the numbers cited at the top of this notice into the search field. This will bring you to the docket for this notice, in which we have posted the records schedules open for comment. Each schedule has a 'comment' button so you can comment on that specific schedule. For more information on *regulations.gov* and on submitting comments, see their FAQs at *https://www.regulations.gov/faq.*

If you are unable to comment via *regulations.gov*, you may email us at *request.schedule@nara.gov* for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on. You can find the control number for each schedule in parentheses at the end of each schedule's entry in the list at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Kimberly Richardson, Strategy and Performance Division, by email at *regulation_comments@nara.gov* or at 301–837–2902. For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov* or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we may or may not make changes to the proposed records schedule. The schedule is then sent for final approval by the Archivist of the United States. After the schedule is approved, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we made to the proposed schedule. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Agriculture, Agricultural Research Service, Records of the Plum Island Animal Disease Research Center (DAA–0310–2024–0002).
2. Department of the Army, Agency-wide, Deploy to Redeploy and Retrograde Analytical Tool (DAA–AU–2022–0005).
3. Department of Health and Human Services, National Institutes of Health, Certificates of Confidentiality (DAA–0443–2024–0002).
4. Department of Justice, Bureau of Prisons, Inmate Case Files-Unsentenced (DAA–0129–2024–0001).
5. Department of Justice, Bureau of Prisons, Treaty Transfer System (DAA–0129–2024–0006).
6. Department of Labor, Office of Federal Contract Compliance Programs, Comprehensive Records Schedule (DAA–0448–2020–0001).
7. Department of Transportation, Federal Aviation Administration, DroneZone (DAA–0237–2023–0007).
8. Department of Transportation, Office of the Secretary of Transportation, Records of the Office of Hearings (DAA–0398–2025–0001).
9. Department of Veterans Affairs, Veterans Benefits Administration, Rulemaking Records (DAA–0015–2024–0008).
10. Central Intelligence Agency, Agency-wide, Foreign Capabilities Collection Records (DAA–0263–2023–0002).
11. Consumer Financial Protection Bureau, Office of Consumer Response, Consumer Response System 2–1 Records (DAA–0587–2023–0002).
12. Peace Corps, Agency-wide, Audio-Visual Records (DAA–0490–2024–0003).

William P. Fischer,

Acting Chief Records Officer for the U.S. Government.

[FR Doc. 2024–27647 Filed 11–25–24; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–390; NRC–2024–0201]

Tennessee Valley Authority; Watts Bar Nuclear Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. NPF–90, issued on February 7, 1996, and held by the Tennessee Valley Authority (TVA, the licensee) for the operation of Watts Bar Nuclear Plant (Watts Bar), Unit 1. The proposed action would revise the expiration date for Facility Operating License No. NPF–90 from November 9, 2035, to February 7, 2036. Specifically, the expiration date of the Watts Bar, Unit 1, full-power operating license (FPOL) would be revised such that it would expire 40 years from the date of issuance of the FPOL, as permitted by the NRC's regulations. The NRC staff is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) associated with the proposed amendment.

DATES: The EA and FONSI referenced in this document are available on November 26, 2024.

ADDRESSES: Please refer to Docket ID NRC–2024–0201 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0201. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents.''
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kimberly Green, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1627; email: *Kimberly.Green@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an amendment to Facility Operating License No. NPF–90, issued to TVA, for operation of Watts Bar, Unit 1, located in Rhea County, Tennessee. The licensee requested the amendment to the Facility Operating License by letter dated April 17, 2024. If approved, the amendment would revise the expiration date of the license such that it would expire 40 years from the date of the issuance of the FPOL, as is permitted by section 50.51 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Continuation of license.'' Because this action does not fall within the NRC's list of categorical exclusions in 10 CFR 51.22, ''Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review,'' the NRC prepared an EA, as required by 10 CFR 51.21, ''Criteria for and identification of licensing and regulatory actions requiring environmental assessments.'' Based on the results of the EA that follows, the NRC has determined not to prepare an environmental impact statement for the amendment and is issuing a FONSI.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would revise the expiration date of Facility Operating License No. NPF–90, for Watts Bar, Unit 1, from November 9, 2035, to February 7, 2036, as described in the licensee's application dated April 17, 2024.

Need for the Proposed Action

On November 9, 1995, the NRC issued a low-power testing license (No. NPF–20) that authorized TVA to operate Watts Bar, Unit 1, at up to 5 percent of rated thermal power. On February 7, 1996, the NRC issued an FPOL (No. NPF–90) that authorized TVA to operate Watts Bar, Unit 1, at up to 100 percent of rated thermal power, with an expiration date 40 years from the date of the issuance of the low-power license.

The proposed action would allow the licensee to recapture the 90 days during which Watts Bar, Unit 1, operated at low power, and extend the license expiration date to February 7, 2036. The proposed action is consistent with NRC policy established in the Staff Requirements Memorandum (SRM) for SECY–98–296, ''Staff Requirements—SECY–98–296—Agency Policy Regarding Licensee Recapture of Low-Power Testing or Shutdown Time for Nuclear Power Plants,'' dated March 30, 1999, and SECY–98–296, ''Agency Policy Regarding Licensee Recapture of Low-Power Testing or Shutdown Time for Nuclear Power Plants,'' dated December 21, 1998.

Environmental Impacts of the Proposed Action

NUREG–0498, ''Final Environmental Statement related to the operation of Watts Bar Nuclear Plant, Units Nos. 1 and 2'' (FES–OL), dated December 1978, concluded that Watts Bar, Units 1 and 2, could operate with minimal environmental impacts. Supplement 1 to NUREG–0498, which was issued to re-examine the issues associated with the environmental review before issuance of an operating license, concluded that the changes in the design of the Watts Bar plant, the proposed operations, and the affected environment, including population and demographics, land use, water use, regional climatology and site meteorology, background radiation, terrestrial environment, and the aquatic environment since the publication of the 1978 FES–OL, are not significant and, therefore, do not result in a significant change in the environmental impacts described in the 1978 FES–OL.

The proposed action would not affect the design or operation of Watts Bar, Unit 1, and does not involve any plant modifications or increase the licensed power for the plant. Therefore, the proposed action would have no direct impact on land use or water resources, including terrestrial and aquatic biota. In addition, the proposed action would have no noticeable effect on socioeconomic and environmental justice conditions in the region, and no adverse effect on historic and cultural resources. Similarly, the proposed action would not significantly increase

the probability or consequences of accidents or change the types of effluents released offsite. Because the proposed action would extend the operating license by 90 days, which represents only a small fraction of the 40-year operating life considered in NUREG–0498, there would be no significant increase in the amount of any effluent released or waste generated, and no significant increase in occupational or public radiation exposure. The additional quantities of effluents and waste generated during the proposed 90-day period of extension would be nominal and in accordance with current operating requirements and regulatory limits. Therefore, the NRC staff concludes that there would be no significant radiological or non-radiological environmental impacts associated with the proposed action. The proposed action would have no effect on air pollutant emissions or ambient air quality. Therefore, the proposed action would have no significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the amendment request (*i.e.,* the ''no-action'' alternative). Denial of the amendment request would result in 90 fewer days of operation because the FPOL would expire on its current expiration date of November 9, 2035. Therefore, there would be no change in current environmental impacts. Accordingly, the environmental impacts from the proposed action and the no-action alternative would be similar.

Alternative Use of Resources

There are no unresolved conflicts concerning alternative uses of available resources under the proposed action.

Agencies and Persons Consulted

The NRC staff did not enter into consultation with any other Federal agencies or persons regarding the environmental impact of the proposed action. However, in accordance with 10 CFR 50.91, ''Notice for public comment; State consultation,'' the licensee provided copies of its application to the State of Tennessee. The NRC staff consulted with the State of Tennessee on November 1, 2024, regarding its proposed determination of no significant hazards consideration, and the State had no comments.

III. Finding of No Significant Impact

TVA requested a license amendment to revise the expiration date of the Watts Bar, Unit 1, license such that it would expire 40 years from the date of issuance of the FPOL, as permitted by 10 CFR 50.51. The proposed action is in accordance with the licensee's application dated April 17, 2024.

Consistent with 10 CFR 51.21, the NRC conducted an environmental review of the proposed action and, in accordance with 10 CFR 51.32(a)(4), this FONSI incorporates the EA in Section II of this document by reference. As stated earlier, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC staff has determined an environmental impact statement for the proposed action is not warranted.

This FONSI and related environmental documents are available for public inspection online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by email to *PDR.Resource@nrc.gov.*

IV. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS.

Document description	Adams Accession No.
Watts Bar Nuclear Plant, Unit 1, License Amendment Request to Recapture Low-Power Testing Time (WBN–TS–23–19) dated April 17, 2024.	ML24108A015.
Watts Bar Nuclear Plant, Unit 1, Issuance of Low-Power Operating License No. NPF–20, dated November 9, 1995.	ML020780254.
Watts Bar Nuclear Plant, Unit 1, Issuance of Full-Power Operating License No. NPF–20, dated February 7, 1996.	ML073460320 (Package).
SRM for SECY–98–296, ''Staff Requirements—SECY–98–296—Agency Policy Regarding Licensee Recapture of Low-Power Testing or Shutdown Time for Nuclear Power Plants,'' dated March 30, 1999.	ML20205C095.
SECY–98–296, ''Agency Policy Regarding Licensee Recapture of Low-Power Testing or Shutdown Time for Nuclear Power Plants,'' dated December 21, 1998.	ML992870025.
NUREG–0498, ''Final Environmental Statement related to the operation of Watts Bar Nuclear Plant, Units Nos. 1 and 2'' (FES–OL), dated December 1978.	ML082560457 (Package).
Supplement 1 to NUREG–0498, dated April 1995	ML081430592.

Dated: November 21, 2024.

For the Nuclear Regulatory Commission.

Kimberly Green,

Senior Project Manager, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2024–27667 Filed 11–25–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 11005472; NRC–2024–0195]

Westinghouse Electric Company, LLC; Export License Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity to provide comments, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering issuing an export license (XR169/02), requested by Westinghouse Electric Company, LLC (WEC) by application dated June 11, 2015. The application seeks the NRC's approval to: export nuclear equipment and components to China, covered under NRC regulations; expand the description of the nuclear equipment and components; add two additional units at both the Sanmen and Haiyang sites for a total of four units at each site; change the name of one of the ''Suppliers and/or Other Parties to the Export''; update the licensee's address; change the licensee point of contact; and extend the

license date of expiration from July 23, 2015, to July 23, 2035. The NRC is providing notice of the opportunity to comment, request a hearing, and petition to intervene on WEC's application.

DATES: Submit comments by December 26, 2024. A request for a hearing or petition for leave to intervene must be filed by December 26, 2024.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0195. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearing.Docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Andrea Jones, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 404–997–4443; email: *Andrea.Jones2@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to NRC–2024–0195 or Docket No. 11005472 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0195.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The export license application is available in ADAMS under Accession No. ML15164A003.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include NRC–2024–0195 or Docket No. 11005472 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On June 11, 2015, WEC submitted an application to renew and amend export license XR169/01 to: (1) export nuclear equipment and components covered under part 110 of title 10 of the *Code of Federal Regulations* (10 CFR), appendix A, to be used at the Sanmen Nuclear Power Plant (NPP) Units 1–4 and Haiyang NPP Units 1–4, located in the People's Republic of China, for a total of four units at each site (the application expanded the scope of the export to include Units 3 and 4 at each site, whereas previously only Units 1 and 2 were included); (2) update the language on the requested license to include paragraphs (10)–(11) of appendix A to 10 CFR part 110; (3) delete Stone & Webster Asia, Inc. from ''Other Parties to Export'' and replace it with its new legal name, CB&I Stone & Webster Asia, Inc.; (4) update the licensee's address; (5) change the licensee point of contact; and (6) extend the license date of expiration from July 23, 2015 to July 23, 2035.

In accordance with 10 CFR 110.70(b), the NRC is providing notice of the receipt of the application; providing the opportunity to submit written comments concerning the application; and providing the opportunity to request a hearing or petition for leave to intervene, for a period of 30 days after publication of this notice in the **Federal Register**. A hearing request or petition for leave to intervene must include the information specified in 10 CFR 110.82(b). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner in accordance with 10 CFR 110.89(a), either by delivery, by mail, or filed with the NRC electronically in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

The information concerning this application for an export license is as follows.

NRC EXPORT LICENSE APPLICATION

Application Information	
Name of Applicant	Westinghouse Electric Company.
Date of Application	June 11, 2015.
Date Received	August 25, 2015.
Application No	XR169/02.
Docket No	11005472.
ADAMS Accession No	ML15164A003.
Description of Material	
Material Type	Application to renew and amend export license XR169/01 to: (1) export to China, nuclear equipment and components covered under appendix A of 10 CFR part 110, to be used at the Sanmen NPP Units 1–4 and Haiyang NPP Units 1–4, located in the People's Republic of China, for a total of four units at each site (eight total); (2) change the name of one of the ''Suppliers and/or Other Parties to the Export''; (3) update the requested amendment license to include paragraphs (10) and (11) of appendix A of 10 CFR part 110; (4) update the licensee's address; (5) change the licensee point of contact; and (6) extend the license date of expiration from July 23, 2015 to July 23, 2035.
Total Quantity	All nuclear equipment and components are covered under appendix A of 10 CFR part 110, paragraphs (1)–(11).
End Use	Electricity generation.
Country of Destination	People's Republic of China.

Dated: November 21, 2024.

For the Nuclear Regulatory Commission.

David Skeen,

Director, Office of International Programs.

[FR Doc. 2024–27665 Filed 11–25–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0202]

Monthly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Monthly notice.

SUMMARY: Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular monthly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding the pendency before the Commission of a request for a hearing from any person.

DATES: Comments must be filed by December 26, 2024. A request for a hearing or petitions for leave to intervene must be filed by January 27, 2025. This monthly notice includes all amendments issued, or proposed to be issued, from October 11, 2024, to November 6, 2024. The last monthly notice was published on October 29, 2024.

ADDRESSES: You may submit comments by any of the following methods however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0202. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Angela Baxter, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8209; email: *Angela.Baxter@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0202, facility name, unit number(s), docket number(s), application date, and subject 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–2024–0202.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2024–0202, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown in this notice, the Commission finds that the licensees' analyses provided, consistent with section 50.91 of title 10 of *the Code of Federal Regulations* (10 CFR) ''Notice for public comment; State consultation,'' are sufficient to support the proposed determinations that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take action on any amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration, which will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and on the NRC's public website at *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate.*

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID)

certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The following table provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensees' proposed NSHC determinations. For further details with respect to these license amendment applications, see the applications for amendment, which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

License Amendment Requests

Arizona Public Service Company, et al; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Maricopa County, AZ

Docket Nos	50–528, 50–529, 50–530.
Application date	August 28, 2024.
ADAMS Accession No	ML24241A278.
Location in Application of NSHC	Pages 7–10 of the Enclosure.
Brief Description of Amendments	The proposed amendments would revise Technical Specification (TS) Section 3.5.1, ''Safety Injection Tanks (SITs)—Operating,'' and TS Section 3.5.2, ''Safety Injection Tanks (SITs)—Shutdown,'' and their bases. Specifically, the proposed TS changes revise Surveillance Requirements (SR) 3.5.1.3 and SR 3.5.2.3 to increase the upper limit of their SIT pressure bands, and to list their pressure requirements in units of pounds per square inch absolute as reflected in the Palo Verde Nuclear Generating Station, Units 1, 2, and 3 safety analyses, with no instrument uncertainties included, instead of the SIT instrument units of pounds per square inch gauge with instrument uncertainties included.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Carey Fleming, Senior Counsel, Pinnacle West Capital Corporation, 500 N. 5th Street, MS 8695, Phoenix, AZ 85004.
NRC Project Manager, Telephone Number.	William Orders, 301–415–3329.

Energy Northwest; Columbia Generating Station; Benton County, WA

Docket No	50–397.
Application date	September 23, 2024.
ADAMS Accession No	ML24267A302.

LICENSE AMENDMENT REQUESTS—Continued

Location in Application of NSHC	Pages 2–3 of the Enclosure.
Brief Description of Amendment	The proposed amendment would modify the Columbia Generating Station technical specifications (TSs) to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–592, ''Revise Automatic Depressurization System (ADS) Instrumentation Requirements.'' The proposed amendment would revise TS 3.3.5.1, ''Emergency Core Cooling System (ECCS) Instrumentation,'' Actions to reflect the plant design and the safety significance of inoperable ADS monitoring channels.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Ryan Lukson, Assistant General Counsel, Energy Northwest, MD 1020, P.O. Box 968, Richland, WA 99352.
NRC Project Manager, Telephone Number.	Mahesh Chawla, 301–415–8371.

Entergy Louisiana, LLC, and Entergy Operations, Inc.; River Bend Station, Unit 1; West Feliciana Parish, LA; Entergy Operations, Inc., System Energy Resources, Inc., Cooperative Energy, A Mississippi Electric Cooperative, and Entergy Mississippi, LLC; Grand Gulf Nuclear Station, Unit 1; Claiborne County, MS

Docket Nos	50–416, 50–458.
Application date	September 19, 2024.
ADAMS Accession No	ML24263A271.
Location in Application of NSHC	Pages 1–3 of the Enclosure.
Brief Description of Amendments	The proposed amendments would revise the technical specifications (TSs) for Grand Gulf Nuclear Station, Unit 1, and River Bend Station, Unit 1. The proposed change would revise the ''Emergency Core Cooling System (ECCS) Instrumentation'' TS Actions related to automatic depressurization system instrumentation monitoring channels, consistent with NRC-approved Industry/Technical Specifications Task Force (TSTF) Standard Technical Specification Change Traveler TSTF–592, ''Revise Automatic Depressurization System (ADS) Instrumentation Requirements.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Susan Raimo, Associate General Counsel—Nuclear, 101 Constitution Avenue NW, Washington, DC 20001.
NRC Project Manager, Telephone Number.	Michael Mahoney, 301–415–3867.

NextEra Energy Point Beach, LLC; Point Beach Nuclear Plant, Units 1 and 2; Manitowoc County, WI

Docket Nos	50–266, 50–301.
Application date	October 8, 2024.
ADAMS Accession No	ML24282A760.
Location in Application of NSHC	Pages 22–24 of the Enclosure.
Brief Description of Amendments	The proposed amendments would modify the Point Beach Nuclear Plant, Units 1 and 2 licensing basis to implement a change to the approved voluntary implementation of the provisions of 10 CFR 50.69, ''Risk-informed categorization and treatment of structures, systems and components for nuclear power reactors.'' The proposed amendments would incorporate the use of an alternative seismic method into the previously approved 10 CFR 50.69 categorization process. Additionally, the proposed amendments would make editorial corrections to Unit 1 License Condition M and Unit 2 License Condition L, ''Additional Conditions,'' Functions 5 and 6 on Technical Specification (TS) table 3.3.1–1, and TS section 5.5.18.h.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Steven Hamrick, Senior Attorney 801 Pennsylvania Ave NW, Suite 220, Washington, DC 20004.
NRC Project Manager, Telephone Number.	Scott Wall, 301–415–2855.

Southern Nuclear Operating Company, Inc.; Joseph M. Farley Nuclear Plant, Units 1 and 2; Houston County, AL

Docket Nos	50–348, 50–364.
Application date	September 27, 2024.
ADAMS Accession No	ML24271A291.
Location in Application of NSHC	Pages E–6 through E–8 of the Enclosure.
Brief Description of Amendments	The proposed amendments would revise the Joseph M. Farley Nuclear Plant (Farley), Units 1 and 2, Updated Final Safety Analysis Report to provide gap release fractions for high burnup fuel rods that exceed the linear heat generation rate limit stated in Regulatory Guide (RG) 1.183, Revision 0, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors.'' Specifically, the proposed amendments would allow Farley, Units 1 and 2, to be excepted from Footnote 11 to Table 3, ''Non-[Loss-of-Coolant-Accident] Fraction of Fission Product Inventory in Gap,'' of RG 1.183, Revision 0.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Millicent Ronnlund, Vice President and General Counsel, Southern Nuclear Operating Co., Inc., P.O. Box 1295, Birmingham, AL 35201–1295.
NRC Project Manager, Telephone Number.	Zachary Turner, 301–415–6303.

Virginia Electric and Power Company; Surry Power Station, Unit Nos. 1 and 2; Surry County, VA

Docket Nos	50–280, 50–281.
Application date	September 3, 2024.

LICENSE AMENDMENT REQUESTS—Continued

ADAMS Accession No	ML24248A171.
Location in Application of NSHC	Pages 49 to 51 of Attachment 1.
Brief Description of Amendments	The proposed amendments would modify Technical Specification (TS) 3.7, ''Instrumentation Systems,'' and TS 3.14, ''Circulating and Service Water (SW) System,'' that support the use of temporary SW piping and maintenance activities on the existing SW piping.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	W.S. Blair, Senior Counsel, Dominion Energy Services, Inc., 120 Tredegar St, RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number.	John Klos, 301–415–5136.
Vistra Operations Company LLC ; Beaver Valley Power Station, Units 1 and 2; Beaver County, PA	
Docket Nos	50–334, 50–412.
Application date	September 17, 2024.
ADAMS Accession No	ML24261B850.
Location in Application of NSHC	Pages 4–5 of Attachment 1.
Brief Description of Amendments	The proposed amendments would revise Technical Specifications (TS) 3.5.2, ''ECCS [emergency core cooling system]—Operating,'' LCO [limiting condition for operation] 3.5.2, to remove Note 4, which allowed a one-time use of an alternate manual flow path to support repair of a leak. Additionally, the application requests a revision to correct three titles of references cited in TS 5.6.3, ''CORE OPERATING LIMITS REPORT (COLR).''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Roland Backhaus, Senior Lead Counsel-Nuclear, Vistra Corp., 325 7th Street NW, Suite 520, Washington, DC 20004.
NRC Project Manager, Telephone Number.	V. Sreenivas, 301–415–2597.
Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX	
Docket Nos	50–445, 50–446.
Application date	September 12, 2024.
ADAMS Accession No	ML24256A088.
Location in Application of NSHC	Pages 13–15 of the Enclosure.
Brief Description of Amendments	The proposed amendments would revise technical specifications to eliminate use of the defined term core alterations and revise requirements during handling of irradiated fuel by adopting Technical Specifications Task Force (TSTF) Traveler TSTF–51, ''Revise containment requirements during handling irradiated fuel and core alterations;'' TSTF–471, ''Eliminate use of term CORE ALTERATIONS in ACTIONS and Notes,'' and TSTF–571–T, ''Revise Actions for Inoperable Source Range Neutron Flux Monitor.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Roland Backhaus, Senior Lead Counsel-Nuclear, Vistra Corp., 325 7th Street NW, Suite 520, Washington, DC 20004.
NRC Project Manager, Telephone Number.	Samson Lee, 301–415–3168.
Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Coffey County, KS	
Docket No	50–482.
Application date	September 12, 2024.
ADAMS Accession No	ML24260A071.
Location in Application of NSHC	Pages 13–16 of Attachment I.
Brief Description of Amendment	The proposed amendment would revise the licensing basis as described in the Wolf Creek Updated Safety Analysis Report to allow the use of a risk-informed approach to address safety issues discussed in Generic Safety Issue (GSI)–191, ''Assessment of Debris Accumulation on PWR [pressurized-water reactor] Sump Performance.'' The amendment would also add a new Technical Specification 3.6.8, ''Containment Sump.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address.	Chris Johnson, Corporate Counsel Director, Evergy, One Kansas City Place, 1KC-Missouri HQ 16, 1200 Main Street, Kansas City, MO 64105.
NRC Project Manager, Telephone Number.	Samson Lee, 301–415–3168.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these

actions, were published in the **Federal Register** as indicated in the safety evaluation for each amendment.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to each action, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the following table. The safety evaluation will provide the ADAMS accession numbers for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT ISSUANCES

Constellation FitzPatrick, LLC and Constellation Energy Generation, LLC; James A. FitzPatrick Nuclear Power Plant; Oswego County, NY	
Docket No	50–333.
Amendment Date	October 17, 2024.
ADAMS Accession No	ML24276A133.
Amendment No	357.
Brief Description of Amendment	The amendment revised the technical specification (TS) requirements in Section 1.3 regarding completion times and Section 3.0 regarding limiting condition for operation and surveillance requirement usage. These changes are consistent with the NRC-approved Technical Specification Task Force (TSTF) Traveler TSTF–529, Revision 4, ''Clarify Use and Application Rules.'' Additionally, the amendment makes several administrative changes to the TS.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Nine Mile Point Nuclear Station, LLC and Constellation Energy Generation, LLC; Nine Mile Point Nuclear Station, Unit 1; Oswego County, NY	
Docket No	50–220.
Amendment Date	October 16, 2024.
ADAMS Accession No	ML24268A338.
Amendment No	253.
Brief Description of Amendment	The amendment revised the Nine Mile Point Nuclear Station Point, Unit 1 (NMP1), technical specifications (TSs) by relocating surveillance requirement (SR) 4.3.6.a to the licensee-controlled surveillance frequency control program (SFCP). The SFCP was previously implemented at NMP1 by License Amendment No. 222 dated May 16, 2016; however, the SR was not fully revised with the adoption of NRC-approved Technical Specification Task Force (TSTF) Standard Technical Specifications (STS) Change Traveler TSTF–425, Revision 3, ''Relocated Surveillance Frequencies to Licensee Control—RITSTF [Risk-Informed TSTF] Initiative 5b.'' Specifically, the amendment corrected the SR specification to include the surveillance frequency for the verification of the operability of the valves, position switches, and position indicators and alarms, in the SFCP, consistent with TSTF–425, Revision 3.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2; San Luis Obispo County, CA	
Docket Nos	50–275, 50–323.
Amendment Date	October 24, 2024.
ADAMS Accession No	ML24261B949.
Amendment Nos	246 (Unit 1) and 248 (Unit 2).
Brief Description of Amendments	The amendments revised Technical Specification 5.6.6, ''Reactor Coolant System (RCS) PRESSURE AND TEMPERATURE LIMITS REPORT (PTLR).'' Specifically, the amendments revised the fluence calculational methodology used to determine the reactor coolant system pressure and temperature limits.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Dated: November 19, 2024.

For the Nuclear Regulatory Commission.

Bo Pham,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2024–27489 Filed 11–25–24; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2025–431 and K2025–428; MC2025–432 and K2025–429; MC2025–433 and K2025–430; MC2025–434 and K2025–431; MC2025–435 and K2025–432; MC2025–436 and K2025–433; MC2025–437 and K2025–434; MC2025–438 and K2025–435; MC2025–439 and K2025–436; MC2025–440 and K2025–437; MC2025–441 and K2025–438; MC2025–442 and K2025–439; MC2025–443 and K2025–440; MC2025–444 and K2025–441; MC2025–445 and K2025–442; MC2025–456 and K2025–443; MC2025–447 and K2025–444; MC2025–448 and K2025–445; MC2025–449 and K2025–446; MC2025–450 and K2025–447; MC2025–452 and K2025–449; MC2025–453 and K2025–450; MC2025–454 and K2025–451; MC2025–455 and K2025–452; MC2025–456 and K2025–453; MC2025–457 and K2025–454; MC2025–458 and K2025–455]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 27, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)-(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).:* MC2025–431 and K2025–428; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 467 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Elsie Lee-Robbins; *Comments Due:* November 27, 2024.

2. *Docket No(s).:* MC2025–432 and K2025–429; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 744 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Elsie Lee-Robbins; *Comments Due:* November 27, 2024.

3. *Docket No(s).:* MC2025–433 and K2025–430; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 745 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* November 27, 2024.

4. *Docket No(s).:* MC2025–434 and K2025–431; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 468 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* November 27, 2024.

5. Docket *No(s).:* MC2025–435 and K2025–432; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 746 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Maxine Bradley; *Comments Due:* November 27, 2024.

6. *Docket No(s).:* MC2025–436 and K2025–433; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 747 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Elsie Lee-Robbins; *Comments Due:* November 27, 2024.

7. *Docket No(s).:* MC2025–437 and K2025–434; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 748 to the Competitive Product

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Maxine Bradley; *Comments Due:* November 27, 2024.

8. *Docket No(s).:* MC2025–438 and K2025–435; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 749 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Christopher Mohr; *Comments Due:* November 27, 2024.

9. *Docket No(s).:* MC2025–439 and K2025–436; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 750 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Christopher Mohr; *Comments Due:* November 27, 2024.

10. *Docket No(s).:* MC2025–440 and K2025–437; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 751 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Maxine Bradley; *Comments Due:* November 27, 2024.

11. *Docket No(s).:* MC2025–441 and K2025–438; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 752 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jana Slovinska; *Comments Due:* November 27, 2024.

12. *Docket No(s).:* MC2025–442 and K2025–439; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 753 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jana Slovinska; *Comments Due:* November 27, 2024.

13. *Docket No(s).:* MC2025–443 and K2025–440; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 754 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Maxine Bradley; *Comments Due:* November 27, 2024.

14. *Docket No(s).:* MC2025–444 and K2025–441; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 469 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Kenneth Moeller; *Comments Due:* November 27, 2024.

15. *Docket No(s).:* MC2025–445 and K2025–442; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 755 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Maxine Bradley; *Comments Due:* November 27, 2024.

16. *Docket No(s).:* MC2025–446 and K2025–443; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 470 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Kenneth Moeller; *Comments Due:* November 27, 2024.

17. *Docket No(s).:* MC2025–447 and K2025–444; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 756 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Christopher Mohr; *Comments Due:* November 27, 2024.

18. *Docket No(s).:* MC2025–448 and K2025–445; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 757 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Christopher Mohr; *Comments Due:* November 27, 2024.

19. *Docket No(s).:* MC2025–449 and K2025–446; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 758 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Christopher Mohr; *Comments Due:* November 27, 2024.

20. *Docket No(s).:* MC2025–450 and K2025–447; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 759 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Gregory Stanton; *Comments Due:* November 27, 2024.

21. *Docket No(s).:* MC2025–452 and K2025–449; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 761 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Gregory Stanton; *Comments Due:* November 27, 2024.

22. *Docket No(s).:* MC2025–453 and K2025–450; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 762 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Katalin Clendenin; *Comments Due:* November 27, 2024.

23. *Docket No(s).:* MC2025–454 and K2025–451; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 471 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Kenneth Moeller; *Comments Due:* November 27, 2024.

24. *Docket No(s).:* MC2025–455 and K2025–452; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 763 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:*

Almaroof Agoro; *Comments Due:* November 27, 2024.

25. *Docket No(s).:* MC2025–456 and K2025–453; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 764 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* November 27, 2024.

26. *Docket No(s).:* MC2025–457 and K2025–454; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 472 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Katalin Clendenin; *Comments Due:* November 27, 2024.

27. *Docket No(s).:* MC2025–458 and K2025–455; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 765 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 19, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* November 27, 2024.

III. Summary Proceeding(s)

None. *See* Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2024–27597 Filed 11–25–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–291, OMB Control No. 3235–0328]

Proposed Collection; Comment Request; Extension: Form ID—EDGAR Password

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 ''Paperwork Reduction Act''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form ID (OMB Control No. 3235–0328) must be completed and filed with the Commission by all individuals, companies, and other organizations who seek access to file electronically on the Commission's Electronic Data Gathering, Analysis, and Retrieval system (''EDGAR''). Those seeking access to file on EDGAR typically include those who are required to make certain disclosures pursuant to the federal securities laws. The information provided on Form ID is an essential part of the security of EDGAR. Form ID must be submitted whenever an applicant seeks an EDGAR identification number (Central Index Key or CIK) and/or access codes to file on EDGAR. The currently approved burden includes an estimate of 66,519 Form ID filings annually and a further estimate that it takes approximately 0.279289 hours per response for a total annual burden of 18,578 hours.

Written comments are invited on: (a) whether this 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 imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by January 27, 2025.

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.

Please direct your written comment to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: November 20, 2024.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27622 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101662; File No. SR–NASDAQ–2024–045]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Modify the Application of the Minimum Bid Price Compliance Periods and the Delisting Appeals Process for Bid Price Non-Compliance in Listing Rules 5810 and 5815 Under Certain Circumstances

November 20, 2024.

I. Introduction

On August 6, 2024, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the application of the minimum bid price compliance periods and the delisting appeals process for bid price non-compliance in Nasdaq Rules 5810 and 5815 under certain circumstances. The proposed rule change was published for comment in the **Federal Register** on August 23, 2024.[3] On October 3, 2024, pursuant to Section 19(b)(2) of the Exchange Act,[4] 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 disapprove the proposed rule change.[5] This order institutes proceedings under Section 19(b)(2)(B) of the Exchange Act [6] to determine whether to approve or disapprove the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 100767 (Aug. 19, 2024), 89 FR 68228 (''Notice''). Comments received on the Notice are available on the Commission's website at: *https://www.sec.gov/comments/sr-nasdaq-2024-045/srnasdaq2024045.htm*.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 101238, 89 FR 81956 (Oct. 9, 2024) (designating November 21, 2024, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change).

[6] 15 U.S.C. 78s(b)(2)(B).

II. Description of the Proposed Rule Change [7]

A. Background

Nasdaq Rules require a company's equity securities listed on the Nasdaq Global Select, Global, and Capital Markets to maintain a minimum bid price of at least one dollar per share (the ''Bid Price Requirement'').[8] Upon failure of a company's security to satisfy the Bid Price Requirement, Nasdaq Rule 5810(c)(3)(A) provides for an automatic compliance period of 180 calendar days from the date Nasdaq notifies the company of the deficiency for the company to achieve compliance with the Bid Price Requirement.[9] Subject to certain requirements,[10] including notifying Nasdaq of the company's intent to cure this deficiency, a company listed on, or that transfers to, the Nasdaq Capital Market may be provided with a second 180-day compliance period.[11] If a company is not eligible for the second compliance period, or the company is eligible but does not resolve the bid price deficiency during the second 180-day compliance period, the company is issued a Delisting Determination under Nasdaq Rule 5810 with respect to that security, which can be appealed to a Nasdaq Listing Qualifications Hearings Panel (''Hearings Panel'').[12] A timely request for a hearing ordinarily stays the suspension of the security from trading pending the issuance of a written Hearings Panel decision.[13] The Hearings Panel may, where it deems appropriate, grant an exception to the Bid Price Requirement and allow a company up to an additional 180 days from the date of the Delisting Determination to regain compliance.[14] As a result, a company may be continuously deficient with the Bid Price Requirement and continue trading on Nasdaq for more than 360 days (but not more than 540 days).[15]

The Nasdaq Rules set forth two circumstances that can curtail the bid price compliance periods. First, Nasdaq Rule 5810(c)(3)(A)(iii) provides that if a company's security has a closing bid price of $0.10 or less for 10 consecutive trading days, Nasdaq must issue a Delisting Determination with respect to that security, notwithstanding any otherwise available compliance period. Second, Nasdaq Rule 5810(c)(3)(A)(iv) provides that if a company's security fails to meet the Bid Price Requirement and the company has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 250 shares or more to one, then the company is not eligible for any compliance periods and Nasdaq must issue a Delisting Determination with respect to that security.

Based on the Exchange's experience administering the rules described above, it is proposing two modifications to the delisting process in Nasdaq Rules 5810 and 5815. These proposed changes are described in more detail below.

B. Suspension After Second Compliance Period

First, the Exchange proposes to adopt Nasdaq Rule 5815(a)(1)(B)(ii)d. to provide that notwithstanding the general rule that a timely request for a hearing shall ordinarily stay the suspension and delisting action pending the issuance of a written panel decision, a request for a hearing shall not stay the suspension of the securities from trading where the matter relates to a request made by a company that was afforded the second 180-day compliance period described in Nasdaq Rule 5810(c)(3)(A)(ii) and that failed to regain compliance with the Bid Price Requirement during that period.[16] The Exchange states that pursuant to Nasdaq Rule 5815(c)(1)(A), the Hearings Panel will continue to have discretion, where it deems appropriate, to provide an exception for up to 180 days from the Delisting Determination date for the company to regain compliance with the Bid Price Requirement.[17]

The Exchange also proposes to clarify in proposed Nasdaq Rule 5815(a)(1)(B)(ii)d. that, pursuant to Nasdaq Rule 5810(c)(3)(A), a company achieves compliance with the Bid Price Requirement by meeting the applicable standard for a minimum of 10 consecutive business days, unless Staff exercises its discretion to extend this 10-day period as set forth in Nasdaq Rule 5810(c)(3)(H).[18]

The Exchange states in its proposal that it believes that two consecutive compliance periods for a total of 360 days is a sufficient period of time for a company to regain compliance with the Bid Price Requirement.[19] Nasdaq states that it provides a company with a second bid price compliance period only if the company reviewed its circumstances and notified Nasdaq that it intends to cure the bid price deficiency by effecting a reverse stock split within the second 180-day compliance period.[20] As such, the Exchange states that it believes it is not appropriate for a company in these circumstances to continue trading on Nasdaq during the pendency of the Hearings Panel review process.[21]

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[7] All capitalized terms not otherwise defined in this order shall have the meanings set forth in the Nasdaq Listing Rules.

[8] *See* Nasdaq Rules 5550(a)(2) (Primary Equity Security listed on the Nasdaq Capital Market), 5555(a)(1) (Preferred Stock and Secondary Classes of Common Stock listed on the Nasdaq Capital Market), 5450(a)(1) (Primary Equity Security listed on the Nasdaq Global or Global Select Markets), and 5460(a)(3) (Preferred Stock and Secondary Classes of Common Stock listed on the Nasdaq Global or Global Select Markets).

[9] A failure to meet the Bid Price Requirement occurs when a company's security has a closing bid price below $1.00 for a period of 30 consecutive business days. *See* Nasdaq Rule 5810(c)(3)(A). Compliance can be achieved by meeting the Bid Price Requirement for a minimum of 10 consecutive business days during the applicable compliance period, unless Staff exercises its discretion to extend this 10-day period as discussed in Nasdaq Rule 5810(c)(3)(H). *See id.*

[10] If a company listed on the Nasdaq Capital Market is not deemed in compliance before the expiration of the 180-day compliance period, it will be afforded an additional 180-day compliance period, provided that on the 180th day of the first compliance period it meets the applicable market value of publicly held shares requirement for continued listing and all other applicable standards for initial listing on the Nasdaq Capital Market (except the bid price requirement) based on the company's most recent public filings and market information and notifies Nasdaq of its intent to cure this deficiency. *See* Nasdaq Rule 5810(c)(3)(A)(ii). If a company does not indicate its intent to cure the deficiency, or if it does not appear to Nasdaq that it is possible for the company to cure the deficiency, the company will not be eligible for the second compliance period. *See id.* If the company has publicly announced information (*e.g.,* in an earnings release) indicating that it no longer satisfies the applicable listing criteria, it will not be eligible for the additional compliance period under this rule. *See id.*

[11] *See id.*

[12] *See* Nasdaq Rule 5815 (Review of Staff Determinations by Hearings Panel).

[13] *See* Nasdaq Rule 5815(a)(1)(B).

[14] *See* Nasdaq Rule 5815(c) (Scope of the Hearings Panel's Discretion).

[15] *See* Notice, *supra* note 3, at 68229.

[16] *See* proposed Nasdaq Rule 5815(a)(1)(B)(ii)d. The Exchange states that a company that is suspended under the proposed rule could appeal the Delisting Determination to a Hearings Panel, but its securities would trade in the over-the-counter (''OTC'') market while that appeal is pending. *See* Notice, *supra* note 3, at 68229.

[17] *See* Notice, *supra* note 3, at 68229. The Exchange also states that, pursuant to Nasdaq Rule 5815(c)(1)(E), the Hearings Panel will continue to have the authority to find the company in compliance with all applicable listing standards and reinstate the trading of the company's securities on Nasdaq (*e.g.,* if the company effects a reverse stock split and maintains a $1.00 closing bid price for at least 10 consecutive days while trading in the OTC market). *See id.*

[18] *See* proposed Nasdaq Rule 5815(a)(1)(B)(ii)d.

[19] *See* Notice, *supra* note 3, at 68229. The Exchange states that it has observed that some companies do not regain compliance during the second 180-day compliance period notwithstanding the company's notification to Nasdaq of its intent to do so. *See id.* at 68228. The Exchange states that in these circumstances, Nasdaq issues a Delisting Determination; however, as described above, the company could continue its listing by appealing that decision to a Hearings Panel, which has the discretion to provide up to 180 additional days from the date of the Delisting Determination. *See id.* at 68228–29.

[20] *See id.* at 68229.

[21] The Exchange states that if a company was not afforded the second 180-day compliance period, the

C. Delisting Determination If Failure To Meet Bid Price Requirement Occurs Within One Year After Reverse Stock Split

Second, the Exchange proposes to amend Nasdaq Rule 5810(c)(3)(A)(iv) to provide that if a company's security fails to meet the Bid Price Requirement and the company has effected a reverse stock split over the prior one-year period, then the company shall not be eligible for any compliance period specified in Nasdaq Rule 5810(c)(3)(A) and the Listing Qualifications Department shall issue a Delisting Determination under Rule 5810 with respect to that security.[22] The Exchange states that this proposed change would apply to a company even if the company was in compliance with the Bid Price Requirement at the time of its prior reverse stock split.[23]

The Exchange states that it has observed that some companies, typically those in financial distress or experiencing a prolonged operational downturn, engage in a pattern of repeated reverse stock splits to regain compliance with the Bid Price Requirement.[24] The Exchange believes that such actions are often indicative of serious difficulties within such companies and, generally, are not temporary such that the company is not likely to regain compliance in a manner consistent with the Bid Price Requirement within the prescribed compliance periods described above.[25] Accordingly, the Exchange states that it believes it is appropriate for investor protection reasons that such companies be immediately subject to the delisting process, rather than being provided a 180-day compliance period pursuant to Nasdaq Rule 5810.[26]

III. Proceedings To Determine Whether To Approve or Disapprove SR–NASDAQ–2024–045 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act[27] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,[28] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with the Exchange Act and, in particular, with Section 6(b)(5) of the Exchange Act,[29] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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.

The development and enforcement of meaningful listing standards[30] by an exchange is of critical importance to financial markets and the investing public. Among other things, such listing standards help ensure that exchange-listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity to promote fair and orderly markets. Meaningful listing standards also are important given investor expectations regarding the nature of securities that have achieved an exchange listing, and the role of an exchange in overseeing its market and assuring compliance with its listing standards.[31]

The Exchange's proposal could lead to the earlier delisting of companies that fail to comply with the Bid Price Requirement. As discussed above, currently, if a company whose security has failed to meet the Bid Price Requirement for one or two compliance periods timely appeals its Delisting Determination to the Hearings Panel, the trading suspension of that security is stayed during the pendency of the Hearings Panel review. The Exchange now proposes that those securities that were afforded, and that failed to meet the Bid Price Requirement during, the second compliance period would not receive a stay of suspension upon appeal. In addition, the Exchange now proposes that a company whose security fails to meet the Bid Price Requirement and that has effected a reverse stock split of any ratio within the prior year will not be eligible for any compliance periods.

Comments received on the proposal were generally supportive; however, one commenter opposed the proposed amendment to Nasdaq Rule 5810.[32] One commenter stated that the proposal is a ''carefully crafted crucial step in safeguarding the interests of retail investors and maintaining the integrity of our capital markets.'' [33] Other commenters supported the proposal as a ''step in the right direction,'' though they believe the proposal does not go far enough to address concerns with exchanges' listing standards related to minimum bid price requirements and the process for enforcing such standards.[34]

Another commenter, while generally supporting the proposal, expressed concern that the proposed amendment to Nasdaq Rule 5810 would not take into consideration the ratio of the prior reverse stock split or whether the security was in compliance with the Bid Price Requirement at the time of the reverse split.[35] In the Notice and in response to this commenter,[36] the Exchange stated that it already has a rule that takes into account the cumulative ratio of prior reverse stock

company would not be affected by this proposal and its security would not be suspended from trading on Nasdaq during an appeal to the Hearings Panel, if any. *See id.* at 68228 n.8.

[22] *See id.* at 68229.

[23] *See id.* at 68229 n.10.

[24] *See id.* at 68229.

[25] *See id.* The Exchange further states that companies facing these challenges ''will continue oscillating between compliance and non-compliance with the Bid Price Requirement.'' *Id.*

[26] *See id.* The Exchange states that a company could appeal the Delisting Determination to the Hearings Panel, where it could receive up to 180 days to regain compliance, as described above. *See id.*

[27] 15 U.S.C. 78s(b)(2)(B).

[28] *Id.*

[29] 15 U.S.C. 78f(b)(5).

[30] The Commission notes that this reference to ''listing standards'' is referring to both initial and continued listing standards.

[31] *See* Securities Exchange Act Release No. 101271 (Oct. 7, 2024), 89 FR 82652, 82653 n.23 and accompanying text (Oct. 11, 2024) (SR–NASDAQ–2024–029) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to Modify the Application of Bid Price Compliance Periods).

[32] *See infra* note 42.

[33] *See* Letter from Jennifer Becker, dated Aug. 28, 2024.

[34] *See, e.g.,* Letters from Christopher A. Iacovella, President and Chief Executive Officer, American Securities Association, Stephen Hall, Legal Director, Better Markets, Tyler Gellasch, President and CEO, Healthy Markets Association, John Ramsay, Chief Market Policy Officer, Investors Exchange LLC, and Joseph Saluzzi, Partner, Themis Trading LLC, dated Aug. 23, 2024; American Consumer & Investor Institute, dated Sept. 13, 2024; Daniel Zinn, General Counsel, and Flavia Vehbiu, Deputy General Counsel, OTC Markets Group Inc., dated Sept. 17, 2024. These commenters support the recommendations contained in the Petition for Rulemaking on Exchange Listings of Penny Stocks filed with the Commission by Virtu Financial, Inc., dated July 15, 2024. *See also* Letter from Ellen Greene, Managing Director, Equities & Options Market Structure, and Joseph Corcoran, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated Oct. 8, 2024.

[35] *See* Letter from Anonymous, dated Sept. 10, 2024 (''Anonymous Letter'').

[36] *See* Letter from Arnold Golub, Vice President, Deputy General Counsel, Nasdaq, dated Oct. 5, 2024 (''Nasdaq Response Letter'').

splits.[37] Yet since that rule's adoption, the Exchange has continued to observe some companies engaging in a pattern of effecting consecutive reverse stock splits, which are often accompanied by dilutive issuances of securities and which potentially cause investor confusion and operational difficulties for market participants.[38] The Exchange further stated that, regardless of the reason for the reverse split, a company can control the ratio of the split and choose a sufficiently high ratio to remain in compliance with the Bid Price Requirement for at least one year post-reverse split.[39] Where the company does not choose a sufficiently high ratio, and therefore becomes non-compliant within one year, Nasdaq believes that the resulting pattern of repeated reverse splits is often indicative of deep financial or operational distress that renders the company inappropriate for trading on Nasdaq for investor protection reasons.[40] Nasdaq further stated that this pattern creates the same investor confusion and operational difficulties regardless of whether the company was previously non-compliant, and thus that the rationale for the proposed amendment to Nasdaq Rule 5810 remains the same regardless of whether the company was in compliance with the Bid Price Requirement at the time of the reverse split.[41]

Finally, another commenter stated that it opposed the proposed amendment to Nasdaq Rule 5810 because it could, among other things, incentivize market manipulative trading strategies and negatively impact access to capital for a segment of Nasdaq-listed small companies, particularly biotechnology companies.[42]

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change.'' [43] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[44] and any failure of a self-regulatory organization to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.[45]

The Commission is instituting proceedings to allow for additional consideration and comment on the proposed rule change's consistency with the Exchange Act. In particular, the Commission asks commenters to address whether the proposal includes sufficient data and analysis to support a conclusion that the proposal is consistent with the requirements of Section 6(b)(5) of the Exchange Act.[46]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act [47] or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Exchange Act,[48] any request for an opportunity to make an oral presentation.[49]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by December 17, 2024. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 31, 2024. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change. 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–2024–045 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–2024–045. 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–2024–045 and should be submitted on or before December 17,

[37] *See* Notice, *supra* note 3, at 68228. As described above, Nasdaq Rule 5810(c)(3)(A)(iv) provides that if a company's security fails to meet the Bid Price Requirement and the company has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 250 shares or more to one, then the company is not eligible for any compliance periods and Nasdaq must issue a Delisting Determination with respect to that security.

[38] *See* Notice, *supra* note 3, at 68229; Nasdaq Response Letter at 2–3.

[39] *See* Nasdaq Response Letter at 3.

[40] *See id.*

[41] *See id. See also supra* section II.C.

[42] *See* Letter from Seth Lederman, Tonix Pharmaceuticals Holding Corp., dated Nov. 14, 2024. The commenter also stated that it did not object to the proposed change in Nasdaq Rule 5815. *See id.* at 2.

[43] 17 CFR 201.700(b)(3).

[44] *See id.*

[45] *See id.*

[46] 15 U.S.C. 78f(b)(5).

[47] 15 U.S.C. 78f(b)(5).

[48] 17 CFR 240.19b–4.

[49] Section 19(b)(2) of the Exchange Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

2024. Rebuttal comments should be submitted by December 31, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[50]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27609 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–641, OMB Control No. 3235–0685]

Submission for OMB Review; Comment Request; Extension: Rules 3a68–2 and 3a68–4(c)

Upon Written Request, Copies Available From: US 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 (''SEC'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided in Rules 3a68–2 and 3a68–4(c) under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*).

Rule 3a68–2 creates a process for interested persons to request a joint interpretation by the SEC and the Commodity Futures Trading Commission (''CFTC'') (together with the SEC, the ''Commissions'') regarding whether a particular instrument (or class of instruments) is a swap, a security-based swap, or both (*i.e.,* a mixed swap). Under Rule 3a68–2, a person provides to the Commissions a copy of all material information regarding the terms of, and a statement of the economic characteristics and purpose of, each relevant agreement, contract, or transaction (or class thereof), along with that person's determination as to whether each such agreement, contract, or transaction (or class thereof) should be characterized as a swap, security-based swap, or both (*i.e.,* a mixed swap). The Commissions also may request the submitting person to provide additional information.

The SEC expects 25 requests pursuant to Rule 3a68–2 per year. The SEC estimates the total paperwork burden associated with preparing and submitting each request would be 20 hours to retrieve, review, and submit the information associated with the submission. This 20-hour burden is divided between the SEC and the CFTC, with 10 hours per response regarding reporting to the SEC and 10 hours of response regarding third party disclosure to the CFTC.[1] The SEC estimates this would result in an aggregate annual burden of 500 hours (25 requests x 20 hours/request).

The SEC estimates that the total costs resulting from a submission under Rule 3a68–2 would be approximately $17,520 for outside attorneys to retrieve, review, and submit the information associated with the submission. The SEC estimates this would result in aggregate costs each year of $438,000 (25 requests × 30 hours/request × $584).

Rule 3a68–4(c) establishes a process for persons to request that the Commissions issue a joint order permitting such persons (and any other person or persons that subsequently lists, trades, or clears that class of mixed swap) to comply, as to parallel provisions only, with specified parallel provisions of either the Commodity Exchange Act (''CEA'') or the Exchange Act, and related rules and regulations (collectively ''specified parallel provisions''), instead of being required to comply with parallel provisions of both the CEA and the Exchange Act.

The SEC expects ten requests pursuant to Rule 3a68–4(c) per year. The SEC estimates that nine of these requests will have also been made in a request for a joint interpretation pursuant to Rule 3a68–2, and one will not have been. The SEC estimates the total burden for the one request for which the joint interpretation pursuant to 3a68–2 was not requested would be 30 hours, and the total burden associated with the other nine requests would be 20 hours per request because some of the information required to be submitted pursuant to Rule 3a68–4(c) would have already been submitted pursuant to Rule 3a68–2. The burden in both cases is evenly divided between the SEC and the CFTC.

The SEC estimates that the total costs resulting from a submission under Rule 3a68–4(c) would be approximately $29,200 for the services of outside attorneys to retrieve, review, and submit the information associated with the submission of the one request for which a request for a joint interpretation pursuant to Rule 3a68–2 was not previously made (1 request × 50 hours/request × $584). For the nine requests for which a request for a joint interpretation pursuant to Rule 3a68–2 was previously made, the SEC estimates the total costs associated with preparing and submitting a party's request pursuant to Rule 3a68–4(c) would be $8,760 less per request because, as discussed above, some of the information required to be submitted pursuant to Rule 3a68–4(c) already would have been submitted pursuant to Rule 3a68–2. The SEC estimates this would result in an aggregate cost each year of $183,960 for the services of outside attorneys (9 requests × 35 hours/request × $584).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

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 December 26, 2024 to (i) *www.reginfo.gov/public/do/PRAMain* or *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov,* and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*.

Dated: November 20, 2024

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27621 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35396; File No. 813–00414]

Greystone & Co. II LLC; Greystone Employee Investments LP

November 20, 2024.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order (''Order'') under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from all provisions of the Act, except sections 9, 17, 30, and 36 through 53, and the rules and regulations under the Act (the ''Rules and Regulations''). With respect

[50] 17 CFR 200.30–3(a)(57).

[1] The burdens imposed by the CFTC are included in this collection of information.

to sections 17(a), (d), (e), (f), (g), and (j) of the Act, sections 30(a), (b), (e), and (h) of the Act and the Rules and Regulations and rule 38a–1 under the Act, applicants request a limited exemption as set forth in the application.

SUMMARY OF APPLICATION: Applicants request an order to exempt certain limited partnerships, limited liability companies, corporations, business or statutory trusts or other entities (''Funds'') organized primarily for the benefit of eligible employees of Greystone & Co. II LLC and its affiliates from certain provisions of the Act. Each Fund will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act.

APPLICANTS: Greystone & Co. II LLC; and Greystone Employee Investments LP.

FILING DATES: The application was filed on January 2, 2024 and amended on May 21, 2024.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on December 16, 2024, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: *mail to:* The Commission: *Secretarys-Office@sec.gov.* Applicant: Gary Levine, Greystone & Co. II LLC, *gary.levine@greyco.com;* Vadim Avdeychik, Clifford Chance US LLP, *Vadim.avdeychik@cliffordchance.com.*

FOR FURTHER INFORMATION CONTACT: Chris Chase, Senior Counsel, or Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' first amended and restated application, dated May 21, 2024, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system.

The SEC's EDGAR system may be searched at, *http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27607 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101669; File No. SR–CboeEDGX–2024–076]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Relating to Routing Codes

November 20, 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 November 12, 2024, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

Effective November 1, 2024, the Exchange proposes to amend its EDGX Fee Schedule applicable to its equities trading platform. By implementing a remove fee (as opposed to a rebate) for fee code, AA, and removing fee codes, I and RR.[3]

Fee Codes

The Exchange proposes to implement a remove fee for fee code, AA. The proposed changes are as follows:

- For securities priced above $1.00,[4] fee code AA is appended to orders that are routed to EDGA using the ALLB [5] routing strategy. Currently, orders appended with fee code AA receive a rebate of $0.0016.

The Exchange now proposes to amend fee code, AA, as follows:

- For securities priced above $1.00, fee code AA will continue to be appended to orders that are routed to EDGA using the ALLB routing strategy. However, orders appended with fee code AA will now pay a fee of $0.0030. The Exchange does not propose to add a fee or rebate for removing liquidity for securities priced below $1.00.

The Exchange also proposes to remove fee codes, I and RR. For orders in securities priced at $1.00 or above,

[3] The Exchange initially filed the proposed fee change on November 1, 2024 (SR–CboeEDGX–2024–073). On November 12, 2024, the Exchange withdrew that filing and submitted this filing.

[4] The Exchange notes for securities priced below $1.00, there is no fee or rebate for removing liquidity from EDGA using the ALLB routing strategy.

[5] ALLB is a routing option under which an order checks the System for available shares and is then sent to Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., and/or Cboe EDGA Exchange, Inc., in accordance with the System routing table. If shares remain unexecuted after routing, they are posted on the EDGX Book, unless otherwise instructed by the User. *See* Rule 11.11(g)(7).

orders routed to EDGA using the routing option, ROUC, and appended with fee code I, received a rebate [6] of $0.00160 for removing liquidity from the EDGA Book.[7] However, effective November 1, 2024,[8] EDGA will be transitioning from an inverted fee model [9] to a maker taker fee model.[10] As such, orders routed to EDGA that remove liquidity will now be charged a remove fee for removing liquidity from the EDGA Book. Therefore, the Exchange has elected to discontinue this fee code as Members that utilize the ROUC [11] strategy, and append their orders with fee code, I, will no longer receive a rebate for removing liquidity on EDGA, and EDGX does not desire to assess such orders a fee.

Similarly, orders routed to EDGA using routing option, DIRC,[12] received a rebate of $0.00160 for removing liquidity from the EDGA Book. Again, because EDGA will be transitioning to a maker-taker fee model, orders removing liquidity from the EDGA Book will no longer receive a rebate, but instead will be charged a remove fee. Therefore, the Exchange has chosen to discontinue this fee code, as users of the DIRC routing option that append their order with fee code, RR, and direct their orders to EDGA, will no longer receive a rebate for removing liquidity, and EDGX does not desire to assess such orders a fee.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[13] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [14] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [15] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4) [16] as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Adjusting fee code AA from paying a rebate to assessing a removal fee, is necessary to reflect the economics of a maker-taker fee model. Prior to the November 1, 2024, orders entered onto EDGX, that were appended with fee code, AA, and were routed to EDGA using routing option ALLB, received a rebate [17] of $0.0016 for removing liquidity from the EDGA Book. However, given EDGA's transition to a maker-taker fee model, orders that remove liquidity will now need to pay a liquidity removal fee, rather than receive a rebate. Accordingly, removal of the current $0.00160 rebate associated with fee code, AA, and implementation of a $0.0030 remove fee is appropriate and consistent with the economics of a maker-taker model, as well as the expectations of Members that remove liquidity from EDGA (*i.e.,* Members would expect to pay a fee to remove liquidity). Moreover, the proposed fee is not unfairly discriminatory because it applies to all Members equally, in that all Members will pay the same fee for orders routed to EDGA using the ALLB routing strategy, and appended with fee code, AA.

The Exchange further believes that its proposal to now charge a fee to orders appended with the fee code, AA, is reasonable, equitable, and consistent with the Act because such change is designed to decrease the Exchange's expenditures with respect to transaction pricing in order to offset some of the costs associated with the Exchange's current pricing structure, which provides various rebates for liquidity-adding orders, and the Exchange's operations generally, in a manner that is consistent with the Exchange's overall pricing philosophy of encouraging added liquidity. Moreover, the proposed fee ($0.0030 per share for securities priced above $1.00) is reasonable and appropriate because it is consistent with EDGA's passthrough fee of $0.0030,[18] and the remove fee assessed to the Exchange by other trading venues.[19]

The Exchange also believes that its proposal to remove fee codes I and RR, from the Fee Schedule, is reasonable, equitable, and not unfairly discriminatory as it does not change the fees or rebates assessed by the Exchange. Rather, these proposed changes merely remove fee codes that the Exchange no longer desires to support because EDGA's transition to a maker-taker fee model would result in Members that utilize these fee codes being assessed a fee for removing liquidity, and this is contrary to what Members would expect when utilizing ROUC and DIRC, which are routing strategies typically used to achieve low-cost executions when removing liquidity. Moreover, the Exchange is not required to offer fee codes I and RR to its Members. Therefore, the proposed rule change is reasonably designed to update the Fee Schedule to accurately reflect the Exchange's current product

[6] The Exchange notes that there is no fee or rebate for removing liquidity for securities priced below $1.00.

[7] The term ''EDGA Book'' shall mean the Systems' electronic file of order. *See* Rule 1.5(d).

[8] S*ee* SR–CboeEDGA–2024–042; *see also,* SR–CboeEDGA–2024–045.

[9] The inverted fee model is a pricing structure in which a market, such as an exchange, charges its participants a fee to provide liquidity in securities, and provides a rebate to participants that remove liquidity in securities. *See* SEC Market Structure Advisory Committee, Memorandum on ''Maker-Taker Fees on Equities Exchanges,'' October 20, 2015, available at: *https://www.sec.gov/spotlight/emsac/memo-maker-taker-fees-on-equities-exchanges.pdf.*

[10] The maker-taker fee model is a pricing structure in which a market, such as an exchange, generally pays its members a per share rebate to provide (*i.e.,* ''make'') liquidity in securities and assesses on them a fee to remove (*i.e.,* ''take'') liquidity. *Id.*

[11] ROUC is a routing option under which an order checks the System for available shares and then is sent to destinations on the System routing table, Nasdaq OMX BX, and NYSE. If shares remain unexecuted after routing, they are posted on the EDGX Book, unless otherwise instructed by the User. *See* Rule 11.11(g)(1).

[12] DIRC is a routing option under which an order checks the System for available shares, and then utilizes the DRT routing option to access alternative trading systems, as well as directed immediate or cancel/directed intermarket sweep orders (ISO) to access venues specified by the Member.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *Id.*

[16] 15 U.S.C. 78f(b)(4).

[17] The Exchange notes that prior to November 1, 2024, there is no fee or rebate for removing liquidity from EDGA using routing option, ALLB, for securities priced below $1.00. Moreover, the Exchange is not proposing to add a fee or rebate for removing liquidity from EDGA using routing strategy, ALLB, for securities priced below $1.00.

[18] *See* Cboe U.S. Equities Fee Schedules, EDGA Equities, ''Standard Rates—Removing Liquidity'' is $0.0030.

[19] NYSE Arca charges a removal fee of $0.0030. *See* Section III—Standard Rates—Transactions (applicable when Tier Rates do not apply), Removing Liquidity, pg. 3, available at: *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf;* NYSE charges a removal fee of $0.0030 for orders that remove midpoint liquidity. *See* NYSE Stock Exchange Price List, ''Equity per Share Charge—per transaction—MPL orders that remove liquidity from the NYSE (Adding Tier Credits do not apply) and with no Retail Modifier, as defined in Rule 13 (''Retail Modifier'')), pg. 5, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf;* Nasdaq charges a removal fee of $0.0030. *See* Fees to Remove Liquidity, Shares Executed at or above $1.00, available at: *https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.*

offerings and is designed to reduce any potential confusion regarding the routing of orders from EDGX to EDGA, using routing options ROUC or DIRC.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change merely updates the Fee Schedule to reflect that fee code, AA, is now attached to a passthrough fee rather than payment of a rebate, as well as remove fee codes that the Exchange no longer wishes to, nor is required to, maintain. In this regard, the proposed changes are necessary and appropriate because they are designed to make the Fee Schedule more accurate and to reduce any potential confusion without having any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and paragraph (f) of Rule 19b–4 [21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeEDGX–2024–076 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–CboeEDGX–2024–076. 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–CboeEDGX–2024–076 and should be submitted on or before December 17, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27616 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101663; File No. SR–CboeBZX–2024–091]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the Franklin Crypto Index ETF, a Series of the Franklin Crypto Trust, Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

November 20, 2024.

On September 19, 2024, Cboe BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the Franklin Crypto Index ETF, a series of the Franklin Crypto Trust, under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on October 8, 2024.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 22, 2024. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates January 6, 2025, as the date by which the Commission shall either

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 101233 (Oct. 2, 2024), 89 FR 81600.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBZX–2024–091).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27610 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35397; File No. 812–15536]

Willow Tree Capital Corporation, et al.

November 21, 2024.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

Applicants: Willow Tree Capital Corporation, Willow Tree Capital Corp. Advisors LLC, Willow Tree Credit Partners LP, Willow Tree Fund I (Offshore), LP, Willow Tree Fund I, LP, Willow Tree Fund II (Offshore), LP, Willow Tree Fund II, LP, Willow Tree Credit Partners SBIC Management LP, Willow Tree Credit Partners SBIC, LP, Willow Tree CLO I LLC and Willow Tree CLO II LLC.

Filing Dates: The application was filed on December 21, 2023 and amended on April 3, 2024, August 6, 2024, October 9, 2024, and November 15, 2024.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on December 16, 2024 and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Justin Lee, *lee@ewillowtreelp.com,* and Anne G. Oberndorf, *anneoberndorf@eversheds-sutherland.com.*

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, or Thomas Ahmadifar, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' fourth amended and restated application, dated November 15, 2024, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, *https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27675 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101665; File No. SR–NYSE–2024–75]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37

November 20, 2024.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 7, 2024, New York Stock Exchange LLC (''NYSE'' 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 Rule 7.37 to specify the Exchange's source of data feeds from Long-Term Stock Exchange, Inc. (''LTSE'') for purposes of order handling, order execution, order routing, and regulatory compliance. 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. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update and amend the use of data feeds table in Rule 7.37(e), which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37(e) to specify that, with respect to LTSE, the Exchange will receive a LTSE direct feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance, and will use the SIP Data Feed as its secondary source for data from LTSE.

The Exchange proposes to make this change operative in the fourth quarter of 2024, and, in any event, before the end of the first quarter of 2025. The Exchange proposes to announce the implementation date of this change by Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposal to update the table in Rule 7.37(e) to include the LTSE direct feed will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will enhance competition because providing the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance would enhance transparency and enable investors to better assess the quality of the Exchange's execution and routing services. The Exchange also believes the proposal would enhance competition because it would potentially enhance the performance of its order handling and execution of orders in equity securities by receiving market data directly from LTSE. Finally, the proposed rule change would not impact competition between market participants because it will affect all market participants equally.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.[9]

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)[10] 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–NYSE–2024–75 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–NYSE–2024–75. 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

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 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, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 15 U.S.C. 78s(b)(2)(B).

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–NYSE–2024–75 and should be submitted on or before December 17, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27612 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101670; File No. SR–NYSE–2024–76]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules 3170, 9120, 9522, 9523, and 9524

November 20, 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 November 12, 2024, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 certain rules to replace ''Department of Member Regulation'' and ''Member Regulation'' with ''Exchange'' and make related changes. 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. 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 Exchange proposes to amend certain rules to replace ''Department of Member Regulation'' and ''Member Regulation'' with ''Exchange'' and make related changes. Specifically, the Exchange would amend Rule 3170 (Tape Recording of Registered Persons by Certain Firms) and the following rules from the Rule 9000 Series (Code of Procedure): Rule 9120 (Definitions); Rule 9522 (Initiation of Eligibility Proceeding; Member Regulation Consideration); Rule 9523 (Acceptance of Member Regulation Recommendations and Supervisory Plans by Consent Pursuant to SEA Rule 19h-1); and Rule 9524 (Exchange Board of Directors Consideration).

Background

Rule 3170 governs the tape recording of registered persons by certain firms and requires certain notifications to be made to the Exchange's Department of Member Regulation.

Rule 9120(j) defines ''Department of Member Regulation'' to mean the Department of Member Regulation of the Financial Industry Regulatory Authority (''FINRA'') for purposes of the Exchange's disciplinary rules set forth in the Rule 8000 and Rule 9000 Series.

The Rule 9520 Series governs eligibility proceedings for persons subject to statutory disqualifications.[4]

Rule 9522 governs the initiation of an eligibility proceeding by the Exchange and the member organization's obligation to file an application to initiate an eligibility proceeding if it has been subject to certain disqualifications. Further, the rule provides that Member Regulation could approve a written request for relief from the eligibility requirements under certain circumstances.

Rule 9523 allows Member Regulation to recommend a supervisory plan to which the disqualified member organization, sponsoring member organization, and/or disqualified person, as the case may be, may consent and by doing so, waive the right to hearing or appeal if the plan is accepted and the right to claim bias or prejudgment, or prohibited ex parte communications.

Rule 9524 governs requests for review by the Exchange Board of Directors of a decision to reject a supervisory plan under Rule 9523.

Finally, Rule 0 provides, among other things, that Exchange Rules that refer to Exchange staff or Exchange departments should be understood as also referring to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the Regulatory Services Agreement (''RSA'') in existence between the Exchange and FINRA, as applicable.

Proposed Rule Change

The Exchange proposes to replace all references to ''Department of Member Regulation'' and ''Member Regulation'' in Rules 3170, 9522, 9523 and 9524 with ''Exchange'' or ''the Exchange.'' Consistent with Rule 0, references to the Exchange encompass FINRA staff and departments acting on the Exchange's behalf pursuant to the RSA. The proposed change would simplify the Exchange's rules by eliminating specific references that could change over time, thereby eliminating the need for additional rule changes in the future.[5]

[11] 17 CFR 200.30–3(a)(12), (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange's 2013 filing adopting the FINRA disciplinary rules represented that the proposed Rule 9520 Series would govern eligibility proceedings for persons subject to statutory disqualifications that are not FINRA members. *See* Securities Exchange Act Release Nos. 68678 (January 16, 2013), 78 FR 5213, 5230 (January 24, 2013) (SR–NYSE–2013–02) (Notice); 69045 (March 5, 2013), 78 FR 15394, 15399 (March 11, 2013) (SR–NYSE–2013–02) (Order). At the time, there were several member organizations that were not FINRA members. Today, only a single member organization is also not a FINRA member. All FINRA members are subject to the FINRA Rule 9520 Series, which is substantively the same as the Exchange's version. Hence, as a practical matter, all member organizations would be subject to the same Rule 9520 standards.

[5] *See, e.g.,* Securities Exchange Act Release No. 98874 (November 7, 2023), 88 FR 78071 (November

Continued

The proposed change is also consistent with the rules of other exchanges that have adopted FINRA's disciplinary rules and have omitted specific references to FINRA departments in their Rule 9520 Series.[6] Moreover, the proposed change would correct the reference in Rule 3170 since the Exchange does not have a Department of Member Regulation. The Exchange would also delete Rule 9120(i) consisting of the word ''Reserved,'' as well as Rule 9120(j) defining Department of Member Regulation for purposes of the Exchange's disciplinary rules as unnecessary. The remaining definitions would be renumbered.

In addition, the Exchange proposes to delete references to ''Department of Member Regulation'' in subsections (a)(1)(B), (a)(3), and (a)(4)(b)(1)(B) of Rule 9523 without inserting a reference to the Exchange where the deletion will clarify that the Exchange is intended. Further, in Rule 9524(b), the Exchange would delete the reference to ''CRO'' (Chief Regulatory Officer) as redundant. The Exchange would also delete the last sentence of Rule 9524(a) stating that the Exchange Secretary will provide notice of a request to review a decision to reject a supervisory plan under Rule 9523 to the CRO and Department of Member Regulation as redundant.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[7] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

The Exchange believes that the proposed changes, taken together, would increase the clarity and transparency of the Exchange's rules and remove impediments to and perfect the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public could more easily navigate and understand the Exchange rules. The Exchange further believes that the proposed amendments would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency and clarity, thereby reducing potential confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with deleting and, where applicable, replacing, specific references to FINRA departments in its rules and otherwise adding clarity and transparency to the Exchange's rules. Since the proposal does not substantively modify system functionality or processes on the Exchange, the proposed changes will not impose any burden on competition.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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)[12] 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–NYSE–2024–76 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–NYSE–2024–76. 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

14, 2023) (SR–NYSE–2023–39) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules 9521 and 9522 To Correct Obsolete References to a FINRA Department). The current rule filing was made to avoid having Exchange rules contain similar outdated or incorrect references and avoid similar future rule filings.

[6] *See, e.g.,* Investor Exchange Rule Series 9.520 (Eligibility Proceedings).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 15 U.S.C. 78s(b)(2)(B).

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–NYSE–2024–76 and should be submitted on or before December 17, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27617 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101666; File No. SR–BX–2024–019]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Withdrawal of a Proposed Rule Change To Adopt an OTTO Protocol

November 20, 2024.

On June 26, 2024, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt an OTTO protocol and associated fee. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] On July 15, 2024, the proposed rule change was published for comment in the **Federal Register**.[4] On August 23, 2024, the Commission issued an order temporarily suspending the proposed rule change pursuant to Section 19(b)(3)(C) of the Act[5] and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] On November 15, 2024, the Exchange withdrew the proposed rule change (SR–BX–2024–019).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27613 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101668; File No. SR–NYSEAmer–2024–70]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change to Amend Rule 7.37E

November 20, 2024.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 7, 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 Rule 7.37E to specify the Exchange's source of data feeds from Long-Term Stock Exchange, Inc. (''LTSE'') for purposes of order handling, order execution, order routing, and regulatory compliance. 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. 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 Exchange proposes to update and amend the use of data feeds table in Rule 7.37E(d), which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37E(d) to specify that, with respect to LTSE, the Exchange will receive a LTSE direct feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance, and will use the SIP Data Feed as its secondary source for data from LTSE.

The Exchange proposes to make this change operative in the fourth quarter of 2024, and, in any event, before the end of the first quarter of 2025. The Exchange proposes to announce the implementation date of this change by Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release No. 100479 (July 9, 2024), 89 FR 57485.

[5] 15 U.S.C. 78s(b)(3)(C).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 100810, 89 FR 70234 (August 29, 2024). The Commission has received one comment letter on the proposed rule change, as well as a response from the Exchange to the Order Instituting Proceedings. Comments received on the proposed rule change are available at: *https://www.sec.gov/comments/sr-bx-2024-019/srbx2024019.htm.*

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposal to update the table in Rule 7.37(e) to include the LTSE direct feed will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will enhance competition because providing the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance would enhance transparency and enable investors to better assess the quality of the Exchange's execution and routing services. The Exchange also believes the proposal would enhance competition because it would potentially enhance the performance of its order handling and execution of orders in equity securities by receiving market data directly from LTSE. Finally, the proposed rule change would not impact competition between market participants because it will affect all market participants equally.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.[9]

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)[10] 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–2024–70 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–2024–70. 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–2024–70 and should be submitted on or before December 17, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27615 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 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, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101667; File No. SR–NYSECHX–2024–33]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37

November 20, 2024.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 7, 2024, the NYSE Chicago, Inc. (''NYSE Chicago'' 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 Rule 7.37 to specify the Exchange's source of data feeds from Long-Term Stock Exchange, Inc. (''LTSE'') for purposes of order handling, order execution, order routing, and regulatory compliance. 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. 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 Exchange proposes to update and amend the use of data feeds table in Rule 7.37(d), which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37(d) to specify that, with respect to LTSE, the Exchange will receive a LTSE direct feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance, and will use the SIP Data Feed as its secondary source for data from LTSE.

The Exchange proposes to make this change operative in the fourth quarter of 2024, and, in any event, before the end of the first quarter of 2025. The Exchange proposes to announce the implementation date of this change by Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposal to update the table in Rule 7.37(e) to include the LTSE direct feed will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will enhance competition because providing the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance would enhance transparency and enable investors to better assess the quality of the Exchange's execution and routing services. The Exchange also believes the proposal would enhance competition because it would potentially enhance the performance of its order handling and execution of orders in equity securities by receiving market data directly from LTSE. Finally, the proposed rule change would not impact competition between market participants because it will affect all market participants equally.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [6] and Rule 19b–4(f)(6) thereunder.[7] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.[9]

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)[10] 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–NYSECHX–2024–33 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–NYSECHX–2024–33. 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–NYSECHX–2024–33 and should be submitted on or before December 17, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27614 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 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, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101664; File No. SR–Phlx–2024–15]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Withdrawal of a Proposed Rule Change To Amend the Exchange's Fees for Top of PHLX Options (TOPO), PHLX Orders, and TOPO Plus Orders

November 20, 2024.

On March 20, 2024, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change (File Number SR–Phlx–2024–15) to increase fees for certain market data products. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] On March 28, 2024, the proposed rule change was published for comment in the **Federal Register**.[4] On May 16, 2024, the Commission issued an order temporarily suspending the proposed rule change pursuant to Section 19(b)(3)(C) of the Act[5] and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] On September 20, 2024, pursuant to Section 19(b)(2) of the Exchange Act,[8] the Commission designated a longer period within which to issue an order approving or disapproving the proposed rule change.[9] On November 19, 2024, the Exchange withdrew the proposed rule change (SR–Phlx–2024–15).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27611 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release No. 99841 (March 22, 2024), 89 FR 21648.

[5] 15 U.S.C. 78s(b)(3)(C).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 100160, 89 FR 45036 (May 22, 2024). The Commission has received one comment letter on the proposed rule change, as well as a response from the Exchange to the Order Instituting Proceedings. Comments received on the proposed rule change are available at: *https://www.sec.gov/comments/sr-phlx-2024-15/srphlx202415.htm.*

[8] 15 U.S.C. 78s(b)(2).

[9] *See* Securities Exchange Act Release No. 101115, 89 FR 78928 (September 26, 2024). The Commission designated November 23, 2024, as the date by which the Commission shall approve or disapprove the proposed rule change.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–450, OMB Control No. 3235–0505]

Proposed Collection; Comment Request; Extension: Rule 303 of Regulation ATS

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 303 of Regulation ATS (17 CFR 242.303) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this

existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Regulation ATS sets forth a regulatory regime for ''alternative trading systems'' (''ATSs''), which are entities that carry out exchange functions but are not required to register as national securities exchanges under the Act. In lieu of exchange registration, an ATS can instead opt to register with the Commission as a broker-dealer and, as a condition to not having to register as an exchange, must instead comply with Regulation ATS. Rule 303 of Regulation ATS (17 CFR 242.303) describes the record preservation requirements for ATSs. Rule 303 also describes how such records must be maintained, what entities may perform this function, and how long records must be preserved.

Under Rule 303, ATSs are required to preserve all records made pursuant to Rule 302, which includes information relating to subscribers, trading summaries, and time-sequenced order information. Rule 303 also requires ATSs to preserve any notices provided to subscribers, including, but not limited to, notices regarding the ATSs operations and subscriber access. For an ATS subject to the fair access requirements described in Rule 301(b)(5)(ii) of Regulation ATS, Rule 303 further requires the ATS to preserve at least one copy of its standards for access to trading, all documents relevant to the ATS's decision to grant, deny, or limit access to any person, and all other documents made or received by the ATS in the course of complying with Rule 301(b)(5) of Regulation ATS. For an ATS subject to the capacity, integrity, and security requirements for automated systems under Rule 301(b)(6) of Regulation ATS, Rule 303 requires an ATS to preserve all documents made or received by the ATS related to its compliance, including all correspondence, memoranda, papers, books, notices, accounts, reports, test scripts, test results, and other similar records. Rule 303(a)(1)(v) of Regulation ATS requires every ATS to preserve the written safeguards and written procedures mandated under Rule 301(b)(10). As provided in Rule 303(a)(1), ATSs are required to keep all of these records, as applicable, for a period of at least three years, the first two in an easily accessible place. In addition, Rule 303 requires ATSs to preserve records of partnership articles, articles of incorporation or charter, minute books, stock certificate books, copies of reports filed pursuant to Rule 301(b)(2) and Rule 304, and records made pursuant to Rule 301(b)(5) for the life of the ATS. ATSs that trade both NMS Stock and securities other than NMS Stock are required to file, and also preserve under Rule 303, both Form ATS and related amendments and Form ATS–N and related amendments.

The information contained in the records required to be preserved by Rule 303 will be used by examiners and other representatives of the Commission, state securities regulatory authorities, and the self-regulatory organizations to ensure that ATSs are in compliance with Regulation ATS as well as other applicable rules and regulations. Without the data required by the Rule, regulators would be limited in their ability to comply with their statutory obligations, provide for the protection of investors, and promote the maintenance of fair and orderly markets. Respondents consist of ATSs that choose to register as broker-dealers and comply with the requirements of Regulation ATS.

There are currently107 respondents. The Commission believes that the average ongoing hourly burden for a respondent to comply with the baseline record preservation requirements under Rule 303 is approximately 15 hours per year. We thus estimate that the average aggregate ongoing burden to comply with the baseline Rule 303 record preservation requirements is approximately1,605 hours per year (107 ATSs × 15 hours = 1,605 hours). In addition, there are currently two ATSs that transact in both NMS stock and non-NMS stock on their ATSs. These two ATSs have a slightly greater burden because they have to keep both Form ATS and Form ATS–N and related documents (*e.g.,* amendments). For these two ATS's, we estimate that the ongoing burden above the current baseline estimate for preserving records will be approximately 1 hour annually per ATS for a total annual burden above the current baseline burden estimate of 2 hours for all respondents. Thus, the estimated average annual aggregate burden for alternative trading systems to comply with Rule 303 is approximately 1,607 hours (1,605 hours + 2 hours).

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by January 27, 2025.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: November 20, 2024.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27620 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101671; File No. SR–NYSE–2024–73]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Harmonize NYSE Rule 3110.19(d)

November 20, 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 November 13, 2024, New York Stock Exchange LLC (''NYSE'' 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 harmonize NYSE Rule 3110.19(d) (Obligation to Provide List of RSLs) with certain recent changes by the Financial Industry Regulatory Authority, Inc. (''FINRA'') to FINRA Rule 3110.19(d). 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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. 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 Exchange proposes to harmonize NYSE Rule 3110.19(d) (Obligation to Provide List of RSLs [4]) to harmonize the rule with certain recent changes by FINRA. Specifically, the Exchange would remove the reference to a list of RSLs and the quarterly timeframe for member firms to provide the list to FINRA and replace it with the requirement that member firms provide current information identifying all locations designated as RSLs in the frequency, manner and format as FINRA may prescribe. The proposed rule change would harmonize the Exchange's residential supervisory location rule with FINRA and thus promote uniform inspection standards across the securities industry. Additionally, because the proposed changes to NYSE Rule 3110.19(d) would be substantially similar to FINRA Rule 3110.19(d), this rule change enables NYSE Rule 3110 to continue to be incorporated into the agreement between NYSE and FINRA to allocate regulatory responsibility for common rules (the ''17d–2 Agreement'').

Background and Proposed Rule Change

The NYSE recently adopted NYSE Rule 3110.19, which permits a member organization to designate a private residence at which an associated person engages in specified supervisory activities, subject to certain safeguards and limitations, as an RSL, a non-registered location.[5] NYSE Rule 3110 is based on FINRA Rule 3110.[6]

Currently, NYSE Rule 3110.19(d) requires a member organization that elects to designate any of its offices or locations as an RSL to provide FINRA with a current list of those offices or locations by the 15th day of the month following each calendar quarter in the manner and format (*e.g.,* through an electronic process or such other process) as FINRA may prescribe.

Recently, FINRA amended its Rule 3110.19(d) to replace the requirement for member firms to provide to FINRA a quarterly list of RSLs in the manner and format prescribed by FINRA with the requirement for member firms to provide to FINRA current information identifying their RSLs in the frequency, manner and format prescribed.[7] In this regard, the locations or offices that member firms have designated as RSLs would be reported to FINRA on a rolling basis, consistent with the requirements to keep information current on the Form U4, rather than only four times per year.

To harmonize NYSE Rule 3110.19(d) with these recent FINRA changes, the Exchange would make conforming changes to its rule, including the heading. The Exchange would also delete a stray ''the'' before FINRA in the last sentence of NYSE Rule 3110.19(d), as follows (deleted text in brackets, new text italicized):

(d) Obligation To Provide Information Identifying [List of] RSLs

A member organization that elects to designate any office or location of the member organization as an RSL pursuant to this Supplementary Material shall provide FINRA with [a] current *information* identifying [list of] all locations designated as RSLs [by the 15th day of the month following each calendar quarter] in the *frequency,* manner and format (*e.g.,* through an electronic process or such other process) as [the] FINRA may prescribe.

No other changes to NYSE Rule 3110.19(d) are proposed.

In conformity with the FINRA rule change, the Exchange proposes a November 26, 2024 implementation date for the proposed rule change. The Exchange believes that a waiver of the operative delay so that the proposal can be operative at the same time as the FINRA change will be implemented supports the waiver and would permit Exchange member organizations to rely on the same implementation date for the same changes.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5),[9] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

The Exchange believes that the proposed rule change furthers the objectives of the Act by harmonizing Exchange rules modeled on FINRA rules with respect to how member organizations that elect to designate any offices or locations as an RSL must provide information identifying such offices or locations to FINRA, resulting in less burdensome and more efficient regulatory compliance. As previously noted, the proposed changes are the same as those recently made by FINRA to FINRA Rule 3110.19(d). As such, the proposed rule change would facilitate rule harmonization among self-regulatory organizations with respect to regulatory reporting requirements, thereby fostering cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

[4] ''RSL'' stands for Residential Supervisory Location.

[5] *See* Securities Exchange Act Release No. 101325 (October 15, 2024), 89 FR 84221 (October 21, 2024) (SR–NYSE–2024–64) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Harmonize NYSE Rule 3110).

[6] *See id.,* 89 FR at 84221. *See generally* Securities Exchange Act Release No. 73554 (November 6, 2014), 79 FR 67508 (November 13, 2014) (SR–NYSE–2014–56).

[7] *See* Securities Exchange Act Release No. 101052 (September 17, 2024), 89 FR 77567 (September 23, 2024) (SR–FINRA–2024–015). As explained in its filing, FINRA amended the Form U4 Instructions to include a new question requiring FINRA member firms to indicate whether a non-registered (*i.e.,* non-branch) location that is identified on Form U4 as a private residence is an RSL by responding ''Yes'' or ''No'' (the ''RSL Question''). According to FINRA, this change rendered the requirement for FINRA member firms to provide information to FINRA identifying RSLs in a quarterly list set forth in FINRA Rule 3110.19(d) unnecessary. Moreover, the FINRA By-Laws impose a 30-day timeframe upon FINRA members to keep Form U4 current at all times, and because the RSL Question would be part of the Form U4, FINRA maintained that the 30-day updating requirement makes unnecessary the quarterly timeframe for firms to provide FINRA a list of RSLs as currently required under Rule 3110.19(d). *See id.,* 89 FR at 77569. The implementation date for these changes is November 26, 2024.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather is intended solely to reduce potential compliance burdens on member organizations by aligning NYSE Rule 3110.19(d) with FINRA Rule 3110.19(d) to facilitate designation of certain offices or locations as RSLs, thereby providing greater harmonization with FINRA rules.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Exchange stated that this proposed rule change is non-controversial because it does not present any new or novel issues. In particular, NYSE is harmonizing its supervision rules with those of FINRA, on which they are based and which have been previously approved by the Commission. By conforming the Exchange's rules to FINRA's, the proposed rule change would promote the application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to the 17d–2 Agreement. As such, the Exchange believes that the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system in accordance with Exchange Act Section 6(b)(5).

In addition, the Exchange stated that since FINRA implementation of its rule change will be November 26, 2024, waiving the 30-day operative delay would provide Exchange member organizations the ability to rely on the same implementation date for the same changes. Further, the Exchange stated that waiver of the operative delay should reduce any potential confusion that may otherwise occur on the part of joint members of the Exchange and FINRA as to the applicable rules governing the obligation to provide information identifying RSLs to FINRA. For these reasons, the Commission believes that waiver of the 30-day operative delay for this proposed rule change is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[15]

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) [16] 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–NYSE–2024–73 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–NYSE–2024–73. 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–NYSE–2024–73 and should be submitted on or before December 17, 2024.

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–27618 Filed 11–25–24; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20761 and #20762; SOUTH CAROLINA Disaster Number SC–20014]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of SOUTH CAROLINA

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of South Carolina (FEMA–4835–DR), dated September 29, 2024.

Incident: Tropical Storm Debby.

DATES: Issued on November 20, 2024.

Incident Period: August 4, 2024 through August 22, 2024.

Physical Loan Application Deadline Date: November 29, 2024.

Economic Injury (EIDL) Loan Application Deadline Date: June 30, 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 Private Non-Profit organizations in the State of South Carolina, dated September 29, 2024, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Beaufort, Florence.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Alejandro Contreras,

Acting Deputy Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–27637 Filed 11–25–24; 8:45 am]

BILLING CODE 8026–09–P

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20858 and #20859; SEMINOLE TRIBE of FLORIDA Disaster Number FL–20018]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the Seminole Tribe of Florida

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Seminole Tribe of Florida (FEMA–4844–DR), dated November 5, 2024.

Incident: Hurricane Milton.

DATES: Issued on November 20, 2024.

Incident Period: October 5, 2024, through November 2, 2024.

Physical Loan Application Deadline Date: January 6, 2025.

Economic Injury (EIDL) Loan Application Deadline Date: August 5, 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 Private Non-Profit organizations in the Seminole Tribe of Florida, dated November 5, 2024, is hereby amended to update the incident period for this disaster as beginning October 5, 2024, and continuing through November 2, 2024.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Alejandro Contreras,

Acting Deputy Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–27690 Filed 11–25–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20732 and #20733; FLORIDA Disaster Number FL–20014]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Florida

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Florida (FEMA–4828–DR), dated October 5, 2024.

Incident: Hurricane Helene.

DATES: Issued on November 1, 2024.

Incident Period: September 23, 2024 through October 7, 2024.

Physical Loan Application Deadline Date: December 4, 2024.

Economic Injury (EIDL) Loan Application Deadline Date: July 7, 2025.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Vanessa Morgan, 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 Private Non-Profit organizations in the State of Florida, dated October 5, 2024, is hereby amended to update the incident period for this disaster as beginning September 23, 2024 and continuing through October 7, 2024.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Alejandro Contreras,

Acting Deputy Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–27634 Filed 11–25–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20498 and #20499; Illinois Disaster Number IL–20007]

Presidential Declaration Amendment of a Major Disaster for the State of Illinois

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 Illinois (FEMA–4819–DR), dated September 20, 2024.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

DATES: Issued on November 20, 2024.

Incident Period: July 13, 2024 through July 16, 2024.

Physical Loan Application Deadline Date: December 13, 2024.

Economic Injury (EIDL) Loan Application Deadline Date: June 20, 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 Illinois, dated September 20, 2024, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to December 13, 2024.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Alejandro Contreras,

Acting Deputy Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–27633 Filed 11–25–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20856 and #20857; SEMINOLE TRIBE of FLORIDA Disaster Number FL–20017]

Presidential Declaration Amendment of a Major Disaster for the Seminole Tribe of Florida

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Seminole Tribe of Florida (FEMA–4844–DR), dated November 5, 2024.

Incident: Hurricane Milton.

DATES: Issued on November 20, 2024.

Incident Period: October 5, 2024 through November 2, 2024.

Physical Loan Application Deadline Date: January 6, 2025.

Economic Injury (EIDL) Loan Application Deadline Date: August 5, 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 Seminole Tribe of Florida, dated November 5, 2024, is hereby amended to update the incident period for this disaster as beginning October 5, 2024, and continuing through November 2, 2024.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Alejandro Contreras,

Acting Deputy Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–27688 Filed 11–25–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice 12583]

60-Day Notice of Proposed Information Collection: Application for a U.S. Passport

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department of State will accept comments from the public up to January 27, 2025.

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

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2024–0040 in the Search field. Then click the ''Comment Now'' button and complete the comment form. Email and regular mail options have been suspended to centralize receiving and addressing all comments in a timely manner.

Email: Passport-Form-Comments@State.gov.

You must include the DS form number (if applicable), information collection title, and the OMB control number in the email subject line.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application for a U.S. Passport.
- *OMB Control Number:* 1405–0004.
- *Type of Request:* Renewal of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support (CA/PPT/S/PMO).
- *Form Number:* DS–11.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 12,669,500.
- *Estimated Number of Responses:* 12,669,500.
- *Average Time per Response:* 85 minutes.
- *Total Estimated Burden Time:* 17,948,460 hours.
- *Frequency:* On occasion.
- *Obligation To Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Application for a U.S. Passport (form DS–11) solicits data necessary for Passport Services to issue a United States passport (book and/or card format) pursuant to authorities granted to the Secretary of State by 22 U.S.C. 211a *et seq.,* and Executive Order 11295 (August 5, 1966) for the issuance of passports to U.S. nationals. The issuance of U.S. passports requires the determination of identity, nationality, and entitlement with reference to the provisions of Title III of the Immigration and Nationality Act (INA) (8 U.S.C. 1401–1504), the 14th Amendment to the Constitution of the United States, other applicable treaties and laws, and implementing regulations at 22 CFR parts 50 and 51. The specific regulations pertaining to the Application for a U.S. Passport are at 22 CFR 51.20 through 51.28.

Methodology

Passport Services collects information from U.S. citizens and non-citizen

nationals when they complete and submit the Application for a U.S. Passport (form DS–11). Passport applicants can either download the DS–11 from the internet or obtain one from an acceptance facility/passport agency or U.S. embassy/consulate abroad. The form must be completed and executed at an acceptance facility, passport agency, or U.S. embassy/consulate (if abroad), and submitted with evidence of citizenship and identity.

Amanda E Smith,

Managing Director for Passport Support Operations, Bureau of Consular Affairs, Passport Services, Department of State.

[FR Doc. 2024–27703 Filed 11–25–24; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 12582]

60-Day Notice of Proposed Information Collection: U.S. Passport Renewal Application for Eligible Individuals

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department of State will accept comments from the public up to January 27, 2025.

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

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering Docket Number: DOS–2024–0043 in the Search field. Then click the ''Comment Now'' button and complete the comment form. Email and regular mail options have been suspended to centralize receiving and addressing all comments in a timely manner.

Email: Passport-Form-Comments@State.gov.

You must include the DS form number (if applicable), information collection title, and the OMB control number in the email subject line.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* U.S. Passport Renewal Application for Eligible Individuals.
- *OMB Control Number:* 1405–0020.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support (CA/PPT/S/PMO).
- *Form Number:* DS–82.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 8,321,500.
- *Estimated Number of Responses:* 8,321,500.
- *Average Time per Response:* 40 minutes.
- *Total Estimated Burden Time:* 5,547,700 hours per year.
- *Frequency:* On occasion.
- *Obligation To Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The U.S. Passport Renewal Application for Eligible Individuals (form DS–82) is used by eligible citizens and non-citizen nationals of the United States who need to renew their current or recently expired U.S. passport.

Methodology

Passport Services collects information from U.S. nationals when they complete and submit the DS–82. The Department features an online application process called Online Passport Renewal (OPR). Using the online platform, eligible applicants can complete the required steps for passport renewal. Passport applicants can download the DS–82 from the internet or obtain the form from an acceptance facility/passport agency. The form must be completed, signed, and submitted by mail or in person at an acceptance facility, passport agency, or U.S. embassy/consulate (if abroad).

Amanda E Smith,

Managing Director for Passport Support Operations, Bureau of Consular Affairs, Passport Services, Department of State.

[FR Doc. 2024–27705 Filed 11–25–24; 8:45 am]

BILLING CODE 4710–06–P

TENNESSEE VALLEY AUTHORITY

Johnsonville Fossil Plant Ash Impoundment Closure

AGENCY: Tennessee Valley Authority.

ACTION: Notice of intent.

SUMMARY: The Tennessee Valley Authority (TVA) intends to prepare an environmental impact statement (EIS) to evaluate the potential environmental effects associated with the future management of coal combustion residuals (CCR) material in Ash Pond 2 at the Johnsonville Fossil Plant (JOF) located in Humphreys County, Tennessee. This EIS supports the implementation of the closure of Ash Pond 2, a CCR surface impoundment at JOF, in a manner that is protective of human health and the environment. TVA's intention to prepare an EIS to address CCR management at JOF Ash Pond 2 was previously noticed in November 2019. The project was paused after completion of scoping while TVA continued to refine the project proposal and alternatives. This current notice is to reinitiate the EIS.

DATES: The public scoping period begins with the publication of this Notice of Intent in the **Federal Register**. To ensure consideration, comments must be postmarked, emailed, or submitted online no later than December 30, 2024.

ADDRESSES: Written comments should be sent to Brittany Kunkle, NEPA Compliance Specialist, 400 W Summit Hill Drive, WT 11B–K, Knoxville, TN 37902. Comments also may be submitted online at: *https://www.tva.gov/nepa* or by email to *nepa@tva.gov.* To ensure your comment is correctly dispositioned, please specify the project when submitting comments. Please note that TVA encourages comments submitted electronically.

FOR FURTHER INFORMATION CONTACT: Brittany Kunkle, 865–632–6470, *brkunkle@tva.gov,* or by mail at the address above.

SUPPLEMENTARY INFORMATION: The EIS identification number is EISX–455–00–000–1723542522. This notice is provided in accordance with the National Environmental Policy Act

(NEPA) along with the Council on Environmental Quality (40 CFR parts 1500 to 1508) and associated TVA regulations and procedures (18 CFR part 1318), and Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations (36 CFR part 800).

Background

The Tennessee Valley Authority is the largest public power company in the United States providing electricity to 153 local power companies, 60 direct served customers, and serving roughly 10 million people across seven states. TVA is founded on a mission of service, providing low-cost, reliable power, environmental stewardship, and economic development. TVA is an industry leader in responsible coal ash management, pioneering new technologies to ensure our sites are safe, secure, and protective of human health and the environment.

JOF had ten coal-fired generating units that had a combined capacity of 1,254 megawatts. Units 5 through 10 ceased power generation in 2012 and were retired on December 31, 2015. Units 1 through 4 ceased operation and were retired on December 31, 2017. While in operation, JOF consumed approximately 3.5 million tons of coal per year and produced approximately 7,195 million kilowatt-hours of electricity a year. A portion of the CCR produced as a by-product of burning coal by the collective units was stored in Ash Pond 2. It is estimated that approximately 4.5 million cubic yards of CCR material remains in JOF Ash Pond 2.

In January 2019, TVA completed the *Final Johnsonville Fossil Plant Decontamination and Deconstruction Environmental Assessment* and Finding of No Significant Impact (FONSI) analyzing the potential demolition of the JOF generating units and facilities. As a result of the retirement of all coal-fired generating units at JOF, CCR is no longer being generated and Ash Disposal Area Number 2 (Ash Pond 2) is no longer receiving CCR materials.

In June 2016, TVA issued the Final Ash Impoundment Closure Programmatic Environmental Impact Statement (PEIS) that analyzed methods for closing CCR impoundments at TVA fossil plants and identified specific screening and evaluation factors to help frame its evaluation of closures at its other facilities. A Record of Decision was released in July 2016 that would allow future environmental reviews of qualifying CCR impoundment closures to tier from the PEIS. The PEIS can be found at *https://www.tva.com/nepa.* This EIS is intended to tier from the 2016 PEIS to evaluate the closure alternatives for the JOF Ash Pond 2.

Preliminary Proposed Action and Alternatives

In addition to a No Action Alternative, this EIS will address reasonable alternatives that meet the purpose and need for the project. TVA plans to consider the following: (1) Closure-in-Place of Ash Pond 2, (2) Closure-by-Removal of Ash Pond 2 to an Existing Offsite permitted Landfill or (3) Closure-by-Removal to an Onsite or Offsite Beneficial Reuse Processing Facility, with unusable CCR and excavated soil material going to an existing offsite permitted landfill. If beneficial reuse is selected, subsequent environmental analyses would be conducted as appropriate.

TVA has not selected an offsite landfill for any potential disposal of CCR from JOF. Therefore, impacts of any potential offsite CCR disposal options would be based on ''bounding'' characteristics of, for example, CCR transport to suitable existing landfills, using conservative assumptions for defining the upper bound of potential effects. Public comments are invited concerning both the scope of the review and environmental issues that should be addressed.

TVA has not made any decisions about the final disposition of CCR storage at JOF. TVA is preparing this EIS to inform TVA decision makers, other agencies, and the public about the potential for environmental impacts associated with the final disposition of CCR at JOF Ash Pond 2. Final closure decisions may be subject to change depending on feedback from regulatory agencies.

Project Purpose and Need

The purpose of this project is to address the closure of Ash Pond 2, a CCR surface impoundment at JOF. As a result of the retirement of all coal-fired generating units at JOF, CCR is no longer being generated and Ash Disposal Area Number 2 (Ash Pond 2) is no longer receiving CCR materials and should be closed in a manner that is protective of the human health and the environment. This EIS will address the direct, indirect, and cumulative impacts of various alternatives for permanent closure of Ash Pond 2 on the environment.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

Public scoping is integral to the process for implementing NEPA and ensures that issues are identified early and properly studied, issues of little significance do not consume substantial time and effort, and the analysis of those issues is thorough and balanced. The final range of issues to be addressed in the environmental review will be determined, in part, from scoping comments received. TVA is particularly interested in public input on other reasonable alternatives that should be considered in the EIS. The preliminary identification of reasonable alternatives and environmental issues in this notice is not meant to be exhaustive or final.

Public Participation

TVA is committed to the meaningful involvement of our stakeholders and the affected communities in the decision-making process. The public is invited to submit comments on the scope of this EIS no later than the date identified in the **DATES** section of this notice. Federal, state, and local agencies and Native American Tribes are also invited to provide comments. Written requests by agencies or Indian tribes to participate as a cooperating agency or consulting party must also be received by this date. Any comments received, including names and addresses, will become part of the administrative record and will be available for public inspection.

After consideration of comments received during the scoping period, TVA will develop and distribute a scoping document that will summarize public and agency comments that were received and provide a schedule for completing the EIS process. Following analysis of the affected resources, TVA will prepare a Draft EIS for public review and comment. A final decision on proceeding with the management and final disposal of CCR and closure of the Ash Pond 2 surface impoundment will be based on a number of factors including public input, the conclusions of the EIS, the requirements of the CCR Rule, relevant legal requirements, engineering and risk evaluations, and financial considerations. TVA's intention to prepare an EIS to address CCR management in JOF Ash Pond 2 was previously noticed (84 FR 62562, November 15, 2019). The project was paused after completion of scoping while TVA continued to refine the project proposal and alternatives. Comments received during the previous

scoping period will also be considered during the development of the Draft EIS.

TVA expects to release the Draft EIS in late 2025. TVA anticipates holding a community meeting near JOF after releasing the Draft EIS. Meeting details will be posted on TVA's website and advertised in local media. TVA expects to release the Final EIS in Summer 2026.

Michael McCall,

Vice President, Environment and Sustainability.

[FR Doc. 2024–27844 Filed 11–22–24; 4:15 pm]

BILLING CODE 8120–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0028]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 13 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: Comments must be received on or before December 26, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2024–0028 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2024–0028) in the keyword box and click ''Search.'' Next, choose the only notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC, 20590–0001 between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2024–0028), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/* FMCSA–2024–0028. Next, choose the only notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2024–0028) in the keyword box and click ''Search.'' Next, choose the only notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. 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 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 13 individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4,

assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the ME in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication, and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

As a result of MEs misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified ME based on the physical qualification standards and medical best practices.

On January 15, 2013, FMCSA announced in a notice of final disposition titled, ''Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders,'' (78 FR 3069), its decision to grant requests from 22 individuals for exemptions from the regulatory requirement that interstate CMV drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' Since that time, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in § 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (78 FR 3069).

III. Qualifications of Applicants

Timothy Andersen

Timothy Andersen is a 39-year-old class D license holder in Wisconsin. They have a history of epilepsy and have been seizure free since 2006. They take anti-seizure medication with the dosage and frequency remaining the same since November 20, 2013. Their physician states that they are supportive of Timothy Andersen receiving an exemption.

Randson Burdette

Randson Burdette is a 33-year-old class D license holder in Ohio. They have a history of epilepsy and have been seizure free since 2005. They have not taken anti-seizure medication since 2016. Their physician states that they are supportive of Randson Burdette receiving an exemption.

Giovanni Dale

Giovanni Dale is a 33-year-old class R license holder in Mississippi. They have a history of epilepsy and have been seizure free since 2007. They take anti-seizure medication with the dosage and frequency remaining the same since 2008. Their physician states that they are supportive of Giovanni Dale receiving an exemption.

Robert Edwards

Robert Edwards is a 37-year-old class C license holder in Nevada. They have a history of tonic-clonic seizures and have been seizure free since June 2014. They take anti-seizure medication with the dosage and frequency remaining the same since June 2014. Their physician states that they are supportive of Robert Edwards receiving an exemption.

Chad Johnson

Chad Johnson is a 53-year-old class C license holder in Iowa. They have a history of seizure disorder and have been seizure free since 2003. They take anti-seizure medication with the dosage and frequency remaining the same since 2004. Their physician states that they are supportive of Chad Johnson receiving an exemption.

Austin Little

Austin Little is a 29-year-old class C license holder in Pennsylvania. They have a history of epilepsy and have been seizure free since December 24, 2015. They take anti-seizure medication with the dosage and frequency remaining the same since 2015. Their physician states that they are supportive of Austin Little receiving an exemption.

Denton O'Conner

Denton O'Conner is a 36-year-old class D license holder in New York. They have a history of tonic-clonic seizures and have been seizure free since August 2012. They have not taken anti-seizure medication since September 2016. Their physician states that they are supportive of Denton O'Conner receiving an exemption.

Monroe Peterson

Monroe Peterson is a 34-year-old class C license holder in Iowa. They have a history of seizure disorder and have been seizure free since 2014. They take anti-seizure medication with the dosage and frequency remaining the same since August 2014. Their physician states that they are supportive of Monroe Peterson receiving an exemption.

Austin Rodriguez

Austin Rodriguez is a 29-year-old class C license holder in California. They have a history of primary generalized epilepsy and have been seizure free since April 12, 2007. They take anti-seizure medication with the dosage and frequency remaining the same since 2013. Their physician states that they are supportive of Austin Rodriguez receiving an exemption.

Wayne Scaggs

Wayne Scaggs is a 35-year-old class D license holder in Ohio. They have a history of epilepsy and have been seizure free since 2016. They take anti-seizure medication with the dosage and frequency remaining the same since July 2016. Their physician states that they are supportive of Wayne Scaggs receiving an exemption.

Richard Sievers

Richard Sievers is a 53-year-old class ABCD commercial driver's license (CDL) holder in Wisconsin. They have a history of complex partial seizures and have been seizure free since 2014. They take anti-seizure medication with the

and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

dosage and frequency remaining the same since 2019. Their physician states that they are supportive of Richard Sievers receiving an exemption.

Beth Smith

Beth Smith is a 58-year-old class D license holder in Montana. They have a history of epilepsy and have been seizure free since April 26, 2013. They take anti-seizure medication with the dosage and frequency remaining the same since November 2013. Their physician states that they are supportive of Beth Smith receiving an exemption.

Brandon White

Brandon White is a 35-year-old class AM1 CDL holder in California. They have a history of generalized tonic-clonic seizures related to epilepsy and have been seizure free since March 11, 2011. They take anti-seizure medication with the dosage and frequency remaining the same since February 2013. Their physician states that they are supportive of Brandon White receiving an exemption.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–27668 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0102; FMCSA–2014–0104; FMCSA–2014–0384; FMCSA–2017–0057; FMCSA–2017–0058; FMCSA–2018–0136; FMCSA–2022–0035; FMCSA–2022–0037]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 13 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below. Comments must be received on or before December 26, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2014–0102, Docket No. FMCSA–2014–0104, Docket No. FMCSA–2014–0384, Docket No. FMCSA–2017–0057, Docket No. FMCSA–2017–0058, Docket No. FMCSA–2018–0136, Docket No. FMCSA–2022–0035, or Docket No. FMCSA–2022–0037 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2014–0102, FMCSA–2014–0104, FMCSA–2014–0384, FMCSA–2017–0057, FMCSA–2017–0058, FMCSA–2018–0136, FMCSA–2022–0035, or FMCSA–2022–0037) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2014–0102, Docket No. FMCSA–2014–0104, Docket No. FMCSA–2014–0384, Docket No. FMCSA–2017–0057, Docket No. FMCSA–2017–0058, Docket No. FMCSA–2018–0136, Docket No. FMCSA–2022–0035, or Docket No. FMCSA–2022–0037), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/,* insert the docket number (FMCSA–2014–0102, FMCSA–2014–0104, FMCSA–2014–0384, FMCSA–2017–0057, FMCSA–2017–0058, FMCSA–2018–0136, FMCSA–2022–0035, or FMCSA–2022–0037) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2014–0102, FMCSA–2014–0104, FMCSA–2014–0384, FMCSA–2017–0057, FMCSA–2017–0058, FMCSA–2018–0136, FMCSA–2022–0035, or FMCSA–2022–0037) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through

Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. 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 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

The 13 individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 13 applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The 13 drivers in this notice remain in good standing with the Agency. In addition, the Agency has reviewed each applicant's certified driving record from their State Driver's Licensing Agency (SDLA). The information obtained from each applicant's driving record provides the Agency with details regarding any moving violations or reported crash data, which demonstrates whether the driver has a safe driving history and is an indicator of future driving performance. If the driving record revealed a crash, FMCSA requested and reviewed the related police reports and other relevant documents, such as the citation and conviction information. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of December and are discussed below.

As of December 16, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following nine individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Blair Chappell (PA)
James Dignan (IL)
Ahmed Gabr (NC)
Arnold Hatton (DE)
Peter Mannella (WA)
Keith Miller (PA)
Scott Perdue (GA)
Allen Whitener (TX)
Eric Woods (MD)

The drivers were included in docket number FMCSA–2014–0102, FMCSA–2014–0104, FMCSA–2014–0384, FMCSA–2017–0057, FMCSA–2017–0058, FMCSA–2018–0136, or FMCSA–2022–0035. Their exemptions are applicable as of December 16, 2024 and will expire on December 16, 2026.

As of December 22, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Michael Clark (MD); and Michael Piirainen (ME).

The drivers were included in docket number FMCSA–2022–0035. Their exemptions are applicable as of December 22, 2024 and will expire on December 22, 2026.

As of December 30, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Saranne Fewel (OK); and Jared Healan (CO).

The drivers were included in docket number FMCSA–2022–0037. Their exemptions are applicable as of December 30, 2024 and will expire on December 30, 2026.

V. Terms and Conditions

The exemptions are extended subject to the following conditions: each driver (1) must report to FMCSA any crashes as defined in § 390.5T, within 7 days of the crash; (2) must report to FMCSA any citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391, within 7 days of the citation and conviction; (3) must submit to FMCSA annual certified driving records from their SDLA; and (4) is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the driver must meet all the applicable commercial driver's license testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with

the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 13 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41 (b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–27590 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2024–0112]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) summarized below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before January 27, 2025.

ADDRESSES: Written comments and recommendations for the proposed ICR should be submitted on *regulations.gov* to the docket, Docket No. FRA–2024–0112. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number (2130–NEW) in any correspondence submitted. FRA will summarize comments received in a subsequent 30-day notice.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: *arlette.mussington@dot.gov* or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60 days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, comments received will advance three objectives: (1) reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Class I Railroads Annual Excepted Track Inventory.

OMB Control Number: 2130–NEW.

Abstract: FRA's Track Safety Standards (TSS; 49 CFR part 213) prescribe minimum safety requirements for railroad track that is part of the general railroad system of transportation. The TSS were first established in October 1971, following the enactment of the Federal Railroad Safety Act of 1970 in which Congress granted FRA comprehensive authority over ''all areas of railroad safety.'' 49 U.S.C. 20103. The TSS are an evolving set of safety requirements, subject to continuous revision, allowing the regulations to keep pace with industry innovations and agency research and development.

FRA added the excepted track provision (§ 213.4) to the TSS in 1982 in response to an industry outcry for regulatory relief on those rail lines producing little or no income. With some limitations, § 213.4 permits railroads to designate track as ''excepted'' from compliance with minimum safety requirements for roadbed, track geometry, and track structure. FRA believed that without some relief for low density lines, railroads would accelerate abandonment of those lines rather than invest their slim resources where returns would be limited. In 1998, FRA amended § 213.4, by adding new safety requirements, after FRA and state inspectors found instances where railroads had taken advantage of the permissive language in the 1982 provision to conduct operations in a manner not envisioned when FRA drafted the provision. At the time of those revisions, it was estimated there were between 8,000 and 9,000 miles of excepted track nationwide.

Over 25 years later, to better understand the current condition of rail infrastructure in the United States, FRA is seeking to compare the current amount of excepted track to historic levels. FRA is also seeking to better understand the extent and manner in which the industry is utilizing the excepted track provision. Additionally, while FRA has not currently found systemic misuse of excepted track or evidence of significant safety concerns, FRA has received complaints alleging misuse of § 213.4, and the information FRA proposes to collect as part of this new ICR will be useful in ensuring that the provision continues to be used in a safe and effective manner.

Accordingly, FRA is initiating this new ICR to gather excepted track data from all Class I freight railroads. Specifically, the proposed information collection will request that the railroads provide FRA with data regarding the amount of excepted track currently in operation (number of track miles and tonnage). The requested data will be collected using Excel-based form FRA F 6180.289 Class I Railroads Annual Excepted Track Inventory Reporting. To minimize the burden of this ICR, FRA is requesting an annual inventory (for three years) only of Class I freight railroads' excepted track. FRA believes all Class I freight railroads already maintain lists of excepted track locations and tonnage, so the effort to

report the requested information should be minimal. Once FRA has collected this information, it will be used to help confirm that the excepted track provision continues to be used in a safe and effective manner, and consistent with the original intent of § 213.4.

Type of Request: Approval of a new collection of information.

Affected Public: Railroads.

Form(s): FRA F 6180.289.

Respondent Universe: 6.

Frequency of Submission: Annually.

Reporting Burden: 2 hours per railroad per year.

Total Estimated Annual Responses: 6.

Total Estimated Annual Burden: 12 hours per year.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $1,069.56.[1]

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,

Deputy Chief Counsel.

[FR Doc. 2024–27696 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2024–0016]

Agency Information Collection Activity Under OMB Review: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

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

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

DATES: Comments must be submitted on or before December 26, 2024.

ADDRESSES: Written comments and recommendations 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 Review—Open for Public Comments'' or by using the search function.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–10, Washington, DC 20590 (202) 366–0354 or *tia.swain@dot.gov.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On September 25, 2024, FTA published a 60-day notice (89 FR 78429) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 2132–0572.

Background: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Federal Transit Administration and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both

[1] The dollar equivalent cost is derived from the 2023 Surface Transportation Board Full Year Wage A&B data series using employee group 200 (Professional Administrative Staff) hourly wage rate of $50.93. The total burden wage rate (straight time plus 75%) used is $89.13 ($50.93 × 1.75 = $89.13).

the respondents and the Federal Government;

- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered is not used for the purpose of substantially informing influential policy decisions; and
- Information gathered yields qualitative information; the collections are not designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for sub mission for other generic mechanisms that are designed to yield quantitative results.

Current Action: Extension of a currently approved collection.

Respondents: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Estimated Total Annual Respondents: 10,000.

Estimated Annual Burden on Respondents: 7,582 hours.

Frequency: Once per request.

Kusum Dhyani,

Director, Office of Management Planning.

[FR Doc. 2024–27704 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

AGENCY: Federal Transit Administration (FTA), United States Department of Transportation (DOT).

ACTION: Notice of calendar year 2025 random drug and alcohol testing rates.

SUMMARY: This notice announces the calendar year 2025 drug and alcohol random testing rates for specific recipients of FTA financial assistance. The minimum random drug testing rate will remain at 50 percent, and the random alcohol testing rate will remain at 10 percent.

DATES: *Applicability Date:* January 1, 2025.

FOR FURTHER INFORMATION CONTACT: Iyon Rosario, Senior Drug and Alcohol Program Manager in the Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–366–2010 or email: *Iyon.Rosario@dot.gov*).

SUPPLEMENTARY INFORMATION: On January 1, 1995, FTA required large transit employers to begin drug and alcohol testing of employees performing safety-sensitive functions and to submit annual reports by March 15 of each year beginning in 1996, pursuant to drug and alcohol regulations adopted by FTA at 49 CFR parts 653 and 654 in February 1994. The annual report includes the number of employees who had a verified positive test for the use of prohibited drugs and the number of employees who tested positive for the misuse of alcohol during the reported year. Small employers commenced the required testing on January 1, 1996, and began reporting the same information as the large employers beginning March 15, 1997.

FTA updated the testing rules by merging them into a new 49 CFR part 655, effective August 1, 2001 (66 FR 42002). The regulation maintained a random testing rate for prohibited drugs at 50 percent and the misuse of alcohol at 10 percent. The Administrator may lower the random testing rate to 25 percent if the violation rates drop below 1.0 percent for drug testing and 0.5 percent for alcohol testing for two consecutive years. Accordingly, in 2007, FTA reduced the random drug testing rate from 50 percent to 25 percent (72 FR 1057). In 2018, however, FTA returned the random drug testing rate to 50 percent for calendar year 2019 based on verified industry data for calendar year 2017, which showed that the rate had exceeded 1 percent (83 FR 63812).

Pursuant to 49 CFR 655.45, the Administrator's decision to determine the minimum annual percentage rate for random drug and alcohol testing is based, in part, on the reported positive drug and alcohol violation rates for the entire public transportation industry. The information used for this determination is drawn from the Drug and Alcohol Management Information System (MIS) reports required by 49 CFR 655.72. To ensure the reliability of the data, the Administrator must consider the quality and completeness of the reported data, obtain additional information or reports from employers, and make appropriate modifications in calculating the industry's verified positive results and violation rates.

For calendar year 2025, the Administrator has determined that the minimum random drug testing rate for covered employees will remain at 50 percent based on a verified positive rate for prohibited drug use of 1.23 percent for calendar year 2023 and 1.090 percent for calendar year 2022. Further, the Administrator has determined that the minimum random alcohol testing rate for the calendar year 2025 will remain at 10 percent because the violation rate was lower than 0.5 percent for the calendar years 2023 and 2022. The random alcohol violation rates were 0.18 percent for 2023 and 0.18 for 2022.

Detailed reports on FTA's drug and alcohol testing data collected from transit employers may be obtained from FTA, Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–2010, or at: *https://transit-safety.fta.dot.gov/DrugAndAlcohol/Publications/Default.aspx.*

Veronica Vanterpool,

Deputy Administrator.

[FR Doc. 2024–27646 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2024–0124]

Transforming Transportation Advisory Committee; Public Meeting

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: The Office of the Secretary of Transportation (OST) announces a public meeting of the Transforming Transportation Advisory Committee (TTAC) on Friday, December 13, 2024. This notice announces the date, time, and location of the meeting, which will be virtually open to the public. The purpose of the TTAC is to provide information, advice, and recommendations to the Secretary on matters relating to transportation innovations.

DATES: This meeting will be held on Friday, December 13, 2024 from 8:30 a.m. until approximately 3 p.m. Eastern Time (ET). A link allowing for live viewing of the meeting will be posted to *https://www.transportation.gov/ttac* ahead of the meeting start time.

ADDRESSES: The TTAC members will be meeting in-person at USDOT Headquarters in Washington, DC. The public may attend the meeting virtually, with information available on the USDOT TTAC website (*https://www.transportation.gov/ttac*) at least one week in advance of the meeting date.

FOR FURTHER INFORMATION CONTACT: TTAC Designated Federal Officer, c/o Ben Levine, Deputy Assistant Secretary for Research and Technology, Office of the Secretary, *ttac@dot.gov,* (202) 941–6180.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Secretary of Transportation (Secretary) established TTAC as a Federal Advisory Committee in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Ch. 10) to provide information, advice, and recommendations to the Secretary on matters relating to transportation innovations. TTAC is tasked with advice and recommendations to the Secretary about needs, objectives, plans, and approaches for transportation innovations.

Description of Duties

TTAC will undertake only tasks assigned to it by the Secretary of Transportation or designee and provide direct, first-hand information, advice, and recommendations by meeting and exchanging ideas on the tasks assigned. In addition, TTAC will respond to ad-hoc informational requests from OST.

II. Agenda

At the meeting, the agenda will cover the following topics:

1. Call to Order, Official Statement of the Designated Federal Officer, Meeting Logistics
2. Opening Remarks
3. Subcommittee Updates
4. Recap of Meeting Progress and Review of Next Steps

III. Public Participation

The meeting will be open to the public via livestream. Members of the public who wish to observe the virtual meeting can access the livestream accessible on the following website: *https://www.transportation.gov/ttac.*

We are committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as interpretation or other ancillary aids, or if you require translation into a language other than English, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than Friday, December 6, 2024.

Members of the public may also submit written materials, questions, and comments to the Committee in advance to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than Friday, December 6, 2024.

All advance submissions will be reviewed by the Designated Federal Officer. If approved, advance submissions shall be circulated to the TTAC members for review prior to the meeting. All advance submissions will become part of the official record of the meeting.

Authority: The Committee is a discretionary Committee under the authority of the U.S. Department of Transportation (DOT), established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. Ch. 2.

Issued in Washington, DC, on November 21, 2024.

Benjamin Ross Levine,

Deputy Assistant Secretary for Research and Technology.

[FR Doc. 2024–27676 Filed 11–25–24; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2024–0132]

Notice of Proposed Agency Information Collection Activities; Modification of Existing Information Collection.

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Department of Transportation (the Department) invites public comments on a request to the Office of Management and Budget (OMB) to approve modifications to a currently approved Information Collection Request (ICR). The forms have been updated to reflect efficiencies in the application process adopted by the Department, provide clarifying information, and make the forms easier for applicants to use. The general process of applying for credit assistance is not changing; applications are still accepted on a rolling basis. The ICR continues to be necessary for the Department to evaluate projects and project sponsors for credit program eligibility and creditworthiness as required by law.

DATES: We must receive your comments on or before January 27, 2025.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket No. DOT–OST–2024–0132. Interested persons are invited to submit written comments on the proposed information collection through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The Build America Bureau at *BuildAmerica@dot.gov* or (202) 366–2300.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2105–0569.

Title: Letter of Interest and Application Forms for the Railroad Rehabilitation and Improvement Financing and Transportation Infrastructure Financing and Innovation Act Credit Programs.

Type of Review: Modification of existing information collections.

Background: The RRIF credit program has its origins in Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 821 *et seq.,* which authorized the Federal Railroad Administration to provide railroads certain financial assistance. This Title V financing program was replaced by the RRIF program under section 7203 of the Transportation Equity Act for the 21st Century of 1998, Pub. L. 105–178 (1998) (TEA 21). RRIF was subsequently amended by: the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109–59 (2005) (SAFETEA–LU); the Rail Safety Improvement Act of 2008, Division A of Pub. L. 110–432; the Fixing America's Surface Transportation Act (Pub. L. 114–94) (2015) (FAST Act) and the Bipartisan Infrastructure Law (BIL) (Pub. L. 117–58). All applicants for RRIF credit program assistance are required to submit a completed application. 49 U.S.C. 22403(a). The information collection activity request for the RRIF credit program application was most recently approved in 2021 (OMB Control Number 2105–0569). See 86 FR 51717 and 86 FR 33475.

The Transportation Infrastructure Finance and Innovation Act of 1998 was enacted as part of TEA 21. The TIFIA program was subsequently amended by SAFETEA–LU, the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141) (2012) (MAP–21), the FAST Act and the Bipartisan Infrastructure Law (BIL). All applicants for TIFIA credit program assistance are required to submit a completed LOI and application. 23 U.S.C. 602(a)(1)(A). The existing information collection activity request for the TIFIA credit program letter of interest and application was most recently approved in 2021 (OMB Control Number 2105–0569). See 86 FR 51717 and 86 FR 33475.

The National Surface Transportation and Innovative Finance Bureau (referenced hereafter as the Build America Bureau or the Bureau), established by the Secretary on July 20, 2016, in accordance with the FAST Act, was created to streamline and improve access to the Department's Federal credit programs, including RRIF and TIFIA. The Bureau was made responsible for administering the application processes for the TIFIA and RRIF credit programs. To streamline and conform these application processes, the Bureau created a single LOI form and a single application form that can be used by applicants of either credit program. Both the LOI form and the application form have been updated to reflect efficiencies in the application process adopted by the Department, provide clarifying information, and make the forms easier for applicants to use. Because some key statutory differences exist between the two programs' application processes and eligibility criteria, the forms have been reorganized to clearly identify where an item of information applies only for one of the programs and need not be answered by applicants of the other program. The Department seeks OMB approval to modify the LOI and application. The forms have also been reviewed to ensure that all information requested is necessary for the Department to properly perform its functions in administering its credit programs and updated to reflect the current statutory requirements.

The LOI asks the applicant to describe, among other things, the project and its location, purpose and cost; the proposed financial plan, the status of environmental review, and certain information regarding satisfaction of other eligibility requirements under the applicable credit program. The application serves as the official request for credit and, therefore, requires the same information required of the LOI, plus detailed information about the applicant's legal and management structure, its financial health, the revenue stream pledged to repay the loan, and other information regarding satisfaction of eligibility requirements. TIFIA and RRIF credit assistance is awarded based on a project's satisfaction of TIFIA and RRIF (as applicable) eligibility requirements. The Department is authorized to prescribe the form and contents of the LOI and application. 49 U.S.C. 22403(a) and 23 U.S.C. 601(a)(6).

Respondents: State and local governments, transit agencies, government-sponsored authorities, special authorities, special districts, ports, private railroads, and certain other private entities.

Estimated Annual Number of Respondents: Based on the number and type of interested stakeholders that have contacted the Department about the RRIF and TIFIA programs in fiscal years (FY) 2021–2024, the Department estimates that it will receive, on an annual basis, twenty (20) RRIF letters of interest (LOIs), twenty (20) TIFIA LOIs, five (5) RRIF applications, and nine (9) TIFIA applications.

Estimated Total Annual Burden Hours: The Department estimates that it will generally take applicants not fewer than twenty (20) person-hours to assemble a single LOI (for either credit program) and not fewer than one hundred (100) person-hours to assemble a single application (for either credit program). (Person-hour estimates provided for a RRIF application assume that the applicant will initially submit an LOI, reducing the number of person-hours spent on the application.) Based on the anticipated annual total number of respondents, the total annual hour burden of this collection for RRIF LOIs and applications is 960 and for TIFIA LOIs and applications is 1,440 hours.

Frequency of Collection: This information collection will occur on a rolling basis as interested entities seek RRIF or TIFIA credit assistance.

Public Comments Invited: The Department invites interested respondents to comment on a proposed information collection activity (summarized below) with respect to: (i) whether the information collection activities are necessary for the Department to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of the Department's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for the Department to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for the Department to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). See 44 U.S.C. 3506(c)(2)(A)(i)–(iv); 5 CFR 1320.8(d)(1)(i)–(iv). The Department believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, the Department reasons that comments received will advance three objectives: (i) reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Duane Callender,

Executive Director (Acting), the Build America Bureau.

[FR Doc. 2024–27702 Filed 11–25–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is revising the entries of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List). All property and interests in property subject to U.S. jurisdiction of these persons remain blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on November 19, 2024. See **SUPPLEMENTARY INFORMATION** section for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance, tel.: 202–622–2490; or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: *https://ofac.treasury.gov.*

Notice of OFAC Action

On November 19, 2024, OFAC published the following revised information for the entries on the SDN List for the following persons blocked under the relevant sanctions authorities listed below.

Individuals:

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Individuals

1. AL-ZEIN, Mazen Hassan (Arabic: مازن حسان الزين) (a.k.a. EL ZEIN, Mazen Hassan; a.k.a. "AL-ZAYN, Mazin"; a.k.a. "EL ZEIN, Mazen"), Burj Daman Tower, Apartment 3406, Dubai International Financial Center, Dubai 99573, United Arab Emirates; Al Mustaqbal Street, Iris Bay Building, Apt. No. 2304, Business Bay, Dubai, United Arab Emirates; DOB 21 Jun 1974; POB Beirut, Lebanon; nationality Lebanon; Additional Sanctions Information – Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 784197494718279 (Lebanon); Identification Number 178295160001 (United Kingdom) (individual) [SDGT] (Linked To: MOUKALLED, Hassan Ahmed).

   Designated pursuant to section 1(a)(iii)(A) of Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism," 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041 ("E.O. 13224, as amended"), for having acted or purported to act for or on behalf of, directly or indirectly, HASSAN AHMED MOUKALLED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. OBEID, Boutros Georges (a.k.a. ABIR, Boutros Georges; a.k.a. OBAID, Boutros George; a.k.a. OBEID, Botros Georges; a.k.a. OBEID, Boutros; a.k.a. OBEID, Pierre Boutros George), Dekwaneh, Lebanon; DOB 14 Dec 1959; POB Cheyah, Lebanon; nationality Lebanon; Additional Sanctions Information - Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport LR0084771 (Lebanon) issued 15 Sep 2016 expires 15 Sep 2021 (individual) [SDGT] (Linked To: HIZBALLAH).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Entity

1. TASNEEM TRADING COMPANY LIMITED, Hong Kong, China; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 07 Oct 2013; Company Number 1976604 (Hong Kong) [SDGT] (Linked To: GUANGZHOU TASNEEM TRADING COMPANY LIMITED).

   Designated pursuant to section 1(a)(iii)(B) of E.O. 13224, as amended, for owning or controlling, directly or indirectly, GUANGZHOU TASNEEM TRADING COMPANY LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2024–27643 Filed 11–25–24; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have 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 these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on November 19, 2024. See **SUPPLEMENTARY INFORMATION** section for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; or Assistant Director for Sanctions Compliance, tel.: 202–622–2490; or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: *https://ofac.treasury.gov.*

Notice of OFAC Action

On November 19, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

BILLING CODE 4810–AL–P

Individuals

1. HAMAD, Ghazi (Arabic: غازي حمد) (a.k.a. HAMAD, Ghazi Ahmad; a.k.a. "UMAR, Abu"), Saudi Arabia; Sao Paulo, Brazil; Azerbaijan; Qatar; DOB 1964; POB Gaza Strip; nationality Palestinian; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A0028383 (Palestinian); alt. Passport A0027535 (Palestinian) (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism," 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041 (E.O. 13224, as amended), for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. NAIM, Basem (Arabic: باسم نعيم) (a.k.a. NAEM, Basem; a.k.a. NAIM, Bassem), Gaza; DOB 24 Jan 1963; POB Beit Hanoun, Gaza Strip; nationality Palestinian; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A0016271 (Palestinian) (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. MARI, Salama Aziz Muhammad (a.k.a. MARA'I, Salame Aziz Muhammad), Turkey; DOB 03 Sep 1972; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 984251678 (Palestinian) (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a

person whose property and interests in property are blocked pursuant to E.O. 13224.

4. GHANIMAT, Abd Al-Rahman Ismail Abd Al-Rahman (a.k.a. "GHANIMAT, Abd al Rahman"; a.k.a. "RANIMAT, Abd al Rahman"), Turkey; West Bank; Gaza; DOB 1972; citizen Palestinian; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 975757147 (Palestinian) (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

5. NAZZAL, Mohammad (a.k.a. NAZZAL, Muhammad; a.k.a. RAHMAN, Muhammad Essam Rizk Abdul), Damascus, Syria; Amman, Jordan; Karachi, Sindh, Pakistan; Doha, Qatar; DOB 1963; POB Amman, Jordan; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 9631022654 (Jordan) (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

6. AKARI, Musa Daud Muhammad, Turkey; DOB 1971; citizen Palestinian; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 28191492 (Palestinian) (individual) [SDGT] (Linked To: HAMAS).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, HAMAS, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2024–27642 Filed 11–25–24; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities, Proposed Collection, and Comment Request; Terrorism Risk Insurance Program—Data Collection Forms

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Secretary of the Treasury (Secretary) administers the Terrorism Risk Insurance Program (TRIP or Program), including the issuance of regulations and procedures regarding the Program. The Federal Insurance Office (FIO) assists the Secretary in the administration of the Program. The Department of the Treasury (Treasury), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on approved information collections for annual data collection that are due for extension by the Office of Management and Budget (OMB) (currently approved under OMB 1505–0257). These forms will be utilized, beginning in calendar year 2025, in connection with both the federal and state annual data calls regarding terrorism risk insurance. State insurance regulators, through the National Association of Insurance Commissioners (NAIC), will separately address any comments sought or made in connection with the state data call.

DATES: Submit comments on or before January 27, 2025.

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal: *https://www.regulations.gov,* within Docket No. TREAS–TRIP–2024–0016, or by mail to the Federal Insurance Office, Attn: Richard Ifft, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delays, it is recommended that comments be submitted electronically. If submitting comments by mail, please submit an original version with two copies. Comments concerning the proposed data collection forms and collection process should be captioned with ''TRIP Data Call Form Comments.'' Please include your name, group affiliation, address, email address, and telephone number(s) in your comment. Where appropriate, a comment should include a short Executive Summary (no more than five single-spaced pages).

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Lead Management and Senior Insurance Policy Analyst, Terrorism Risk Insurance Program, Federal Insurance Office, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622–2922 (not a toll-free number), or Mallory Marchant, Policy Advisor, Federal Insurance Office, at (202) 622–4793 (not a toll-free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Terrorism Risk Insurance Act of 2002, as amended (TRIA),[1] established the Terrorism Risk Insurance Program (TRIP or Program).[2] The Act establishes a temporary federal program of shared public and private compensation for insured commercial property and casualty losses resulting from an ''act of terrorism,'' as defined by TRIA. The Act requires the Secretary to perform periodic analyses of certain matters concerning the Program. In order to assist the Secretary with these analyses and administration of the Program, TRIA requires insurers to submit on an annual basis certain insurance data and information regarding their participation in the Program.[3] FIO is authorized to assist the Secretary in the administration of the Program.[4]

Treasury began collecting data from insurers in 2016 on a voluntary basis,[5] and on a mandatory basis beginning in 2017.[6] Treasury also arranged in 2017 for workers' compensation rating bureaus to provide most of the workers' compensation insurance data elements.[7] In 2018, Treasury and state insurance regulators (which also collect information on terrorism risk insurance in a separate data call) agreed on joint reporting templates substantially similar to those used by Treasury in prior years.[8] The forms that are currently approved for use by Treasury, and which were utilized during the 2024 TRIP Data Call, expire effective March 31, 2025.

Treasury seeks to continue to use the same forms for the next three-year period, subject to non-material modifications each year during the upcoming three-year period relating to the dates for which data is sought, the incorporation of any changes to relevant Program thresholds, and changes to the unique modeled loss question posed each year to estimate the potential impact upon the Program from hypothetical terrorism loss events.

In accordance with TRIA, Treasury has evaluated whether publicly available sources can supply the information needed in the annual data call. Information relating to workers' compensation exposures is available from the workers' compensation rating bureaus, and Treasury will continue to coordinate with those entities to provide that information on behalf of participating insurers. Treasury has determined, however, that all other data components remain unavailable from other sources. Accordingly, Treasury will continue to request this remaining data and information directly from insurers. By continuing to collect information on a consolidated basis with state regulators, however, Treasury will achieve a significant reduction in overall data collection burdens for participating insurers.

II. Data Collection Process

Treasury expects the data collection process to remain the same while the proposed forms are in effect. Treasury again proposes to use four different data collection forms,[9] depending upon the type of insurer involved. Insurers will fill out the form identified ''Insurer (Non-Small) Groups or Companies,'' unless the insurer meets the definition of a small insurer, captive insurer, or alien surplus lines insurer as set forth in 31 CFR 50.4. Such small insurers, captive insurers, and alien surplus lines insurers are required to complete separate forms that are tailored for each type of entity. Separate instructions providing guidance on each requested data element accompany each form. There are reporting thresholds that affect what form a particular insurer needs to complete, or whether the insurer is subject to any reporting. Reporting insurers submit information to Treasury through a portal managed by a data aggregator retained by Treasury, as required by TRIA. State regulators require insurers to submit the same information for state purposes through a portal operated by New York State.

Treasury will issue a **Federal Register** Notice each year identifying when the data collect portal is open to receive submissions, identifying any non-material changes to the reporting forms and instructions, and providing further technical details respecting the reporting. To the extent Treasury determines to make any material changes to the existing data collection forms, it will provide public notice and opportunity to comment, incidental to an application for approval to OMB.

III. Request for Comments

Copies of the existing forms that Treasury seeks to renew and associated instructions are available for electronic review on the Treasury website at *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/terrorism-risk-insurance-program/annual-data-collection.* Treasury is requesting public feedback on the content of these reporting forms.

IV. Procedural Requirements

Paperwork Reduction Act. Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval that will be submitted for review under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3507(d). Comments should be sent to Treasury in the form discussed in the **ADDRESSES** section of this notice. Comments on the collection of information should be received by January 27, 2025.

[1] 15 U.S.C. 6701 note. Because the provisions of TRIA (as amended) appear in a note, instead of particular sections, of the United States Code, the provisions of TRIA are identified by the sections of the law.

[2] *See* 31 CFR part 50.

[3] TRIA sec. 104(h).

[4] 31 U.S.C. 313(c)(1)(D).

[5] 81 FR 11649 (March 4, 2016).

[6] A reporting exemption was extended to small insurers that wrote less than $10 million in TRIP-eligible lines premiums in 2016. *See* 81 FR 95310 (December 27, 2016); 82 FR 20420 (May 1, 2017).

[7] 82 FR 20420 (May 1, 2017).

[8] 83 FR 14718 (April 5, 2018).

[9] *See* 31 CFR 50.51(c).

Comments are being sought with respect to the collection of information in the proposed annual TRIP Data Call. *Treasury specifically invites comments on:* (a) Whether the proposed collection is responsive to the statutory requirement; (b) the accuracy of the estimate of the burden of the collections of information (*see below*); (c) ways to enhance the quality, utility, and clarity of the information collection; (d) ways to use 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 maintain the information.

The information sought by Treasury comprises data elements that insurers currently collect or generate, although not necessarily grouped together the way in which insurers currently collect and evaluate the data. Based upon insurer submissions to the 2024 TRIP Data Call, Treasury estimates that for purposes of future annual TRIP Data Calls, approximately 90 Program participants will be required to submit the ''Insurer (Non-Small) Groups or Companies'' data collection form, 200 Program participants will be required to submit the ''Small Insurer'' form, 625 Program participants will be required to submit the ''Captive Insurer'' form, and 100 Program participants will be required to submit the ''Alien Surplus Lines Insurers'' form.

Treasury has previously analyzed the potential burdens associated with completing the annual TRIP Data Call forms.[10] Treasury expects each set of reporting templates to incur a different level of burden, based upon the different components contained in each reporting template and the number of insurers within each that will need to respond to each worksheet. Based upon its prior estimates, Treasury anticipates that approximately 90 hours will be required on average to collect, process, and report the data for each non-small insurer. For each small insurer, approximately 32 hours will be required to collect, process, and report data. Approximately 52 hours will be required to collect, process, and report data for each captive insurer. Finally, approximately 57 hours will be required to collect, process, and report data for each alien surplus lines insurer.

Assuming this breakdown, and when applied to the number of estimated reporting insurers, the estimated annual burden would be 52,700 hours ((90 non-small insurers × 90 hours) + (200 small insurers x 32 hours) + (625 captive insurers × 52 hours) + (100 alien surplus lines insurers × 57 hours)). At a blended, fully loaded hourly rate of $69.45,[11] the cost would be $3,660,015 across the industry as a whole, or $6,250.50 per non-small insurer, $2,222.40 per small insurer, $3,611.40 per each captive insurer, and $3,958.65 each per alien surplus lines insurer.

Dated: November 20, 2024.

Steven E. Seitz,

Director, Federal Insurance Office.

[FR Doc. 2024–27640 Filed 11–25–24; 8:45 am]

BILLING CODE 4810–AK–P

[10] *See* Terrorism Risk Insurance Program 2022 Data Call, 86 FR 64600, 64603 (November 18, 2021). The proportion of insurers completing the various worksheets within each category of form today remain roughly the same as Treasury calculated in 2021, leading to no change in the number of hours burden estimates for each catetory of insurer.

[11] Based on data from the Bureau of Labor Statistics, for *Insurance Carriers and Related Activities, https://www.bls.gov/iag/tgs/iag524.htm#earnings.* The average wage rate for all insurance employees was $45.30 in August 2024, and the total benefit compensation in the 2nd Quarter of 2024 was 34.8%, which is a benefit multiplier of 1.533. Therefore, a fully loaded wage rate for insurance employees is $69.45, or $45.30 × 1.533.

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0501]

Agency Information Collection Activity Under OMB Review: Veterans Mortgage Life Insurance Inquiry

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 by December 26, 2024.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: *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. 2900–0501.''

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, (202) 461–8900, *vacopaperworkreduact@va.gov.*

SUPPLEMENTARY INFORMATION:

Title: Veterans Mortgage Life Insurance Inquiry (VA Form 29–0543).

OMB Control Number: 2900–0501 *https://www.reginfo.gov/public/do/PRASearch.*

Type of Review: Extension without change of a currently approved collection.

Abstract: The Veterans Mortgage Life Insurance Inquiry solicits information needed from Veterans for the proper maintenance of Veterans Mortgage Life Insurance accounts. The form is authorized by 38 U.S.C. 2106 and 38CFR 8a.3(e).

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 72714, September 5, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 17.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 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. 2024–27600 Filed 11–25–24; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 89 Tuesday,
No. 228 November 26, 2024

Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Part 35

Compensation for Reactive Power Within the Standard Power Factor Range; Final Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM22–2–000; Order No. 904]

Compensation for Reactive Power Within the Standard Power Factor Range

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final determination.

SUMMARY: In this final determination, the Federal Energy Regulatory Commission (Commission) finds that allowing transmission providers to charge transmission customers for a generating facility's provision of reactive power within the standard power factor range is unjust and unreasonable. The Commission, therefore, is revising Schedule 2 of its *pro forma* open-access transmission tariff (OATT), section 9.6.3 of its *pro forma* large generator interconnection agreement (LGIA), and section 1.8.2 of its *pro forma* small generator interconnection agreement (SGIA) to prohibit the inclusion in transmission rates of any charges related to the provision of reactive power within the standard power factor range by generating facilities.

DATES: Effective January 27, 2025.

FOR FURTHER INFORMATION CONTACT:
Paul Robinson (Technical Information), Office of Energy Market Regulation, 888 First Street NE, Washington, DC 20426, (202) 502–8460, *Paul.Robinson@ferc.gov*
Jennifer Enos (Legal Information), Office of the General Counsel, 888 First Street NE, Washington, DC 20426, (202) 502–6247, *Jennifer.Enos@ferc.gov*

SUPPLEMENTARY INFORMATION:

Table of Contents

1. In this final determination, pursuant to section 206 of the Federal Power Act (FPA), the Federal Energy Regulatory Commission finds that allowing public utility transmission providers (transmission providers) [1] to charge transmission customers for a generating facility's provision of reactive power within the standard power factor range is unjust and unreasonable. The Commission, therefore, is revising Schedule 2 of the

[1] Section 201(e) of the FPA, 16 U.S.C. 824(e), defines ''public utility'' to mean ''any person who owns or operates facilities subject to the jurisdiction of the Commission under this subchapter.'' As stated in the Order No. 888 *pro forma* OATT, ''transmission provider'' is a ''public utility (or its Designated Agent) that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce and provides transmission service under the Tariff.'' *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996) (cross-referenced at 75 FERC ¶ 61,080), *order on reh'g,* Order No. 888–A, FERC Stats. & Regs. ¶ 31,048 (cross-referenced at 78 FERC ¶ 61,220), *order on reh'g,* Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g,* Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Pol'y Study Grp.* v. *FERC,* 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. N.Y.* v. *FERC,* 535 U.S. 1 (2002); *Pro forma* OATT section I.1 (Definitions). The term ''transmission provider'' includes a public utility transmission owner when the transmission owner is separate from the transmission provider, as is the case in regional transmission organizations (RTO) and independent system operators (ISO).

Commission's *pro forma* OATT to prohibit transmission providers from including in their transmission rates any charges associated with the provision of reactive power within the standard power factor range from generating facilities and requiring transmission providers to make compliance filings to update Schedule 2 of their OATTs accordingly.[2] The final determination further revises the Commission's *pro forma* LGIA and *pro forma* SGIA to remove the requirement that a transmission provider pay an interconnection customer for reactive power within the standard power factor range if the transmission provider pays its own or affiliated generating facilities for the same service, and the final determination requires transmission providers to make compliance filings to update their *pro forma* interconnection agreements accordingly. As a result of this final determination, transmission providers will be required to pay an interconnection customer for reactive power only when the transmission provider requests or directs the interconnection customer to operate its facility *outside* the standard power factor range set forth in its interconnection agreement.

2. As discussed below, the Commission has a statutory duty to ensure that transmission rates are and remain just and reasonable. We find that this reform will ensure that transmission providers do not pass onto transmission customers unjust and unreasonable charges that lack a sufficient economic basis or justification and yield no commensurate benefit for ratepayers.

I. Background

A. Historical Framework Including Order Nos. 888 and 2003

3. Almost all bulk electric power is generated, transported, and consumed in alternating current (AC) networks. Reactive power, which is measured in megavolt-amperes reactive (MVAr),[3] is a critical component of operating an AC electricity system and is required to control system voltage within appropriate ranges for efficient and reliable operation of the transmission system. Reactive power supports the voltages that must be controlled to provide for delivery of real power and for system reliability. Reactive power can be produced or absorbed [4] by generating facilities, power electronic equipment such as flexible AC transmission system devices, transmission lines and equipment, and load. As relevant here, generating facilities must either produce or absorb reactive power for the transmission system to maintain voltage levels required to reliably supply real power from generation to load.

4. In Order No. 888, the Commission required that reactive supply and voltage control from generating facilities be offered as a discrete ancillary service by transmission providers and, to the extent feasible, charged for on the basis of the amount required.[5] The Commission explained that there are two ways of supplying reactive power and controlling voltage. One is to install facilities as part of the transmission system, the cost of which is part of the cost of basic transmission service. The second is to use generating facilities to supply reactive power and voltage control, which must be unbundled from basic transmission service.

5. With respect to compensation, the Commission stated that the transmission provider's ''rates for ancillary services should be cost-based.'' [6] The Commission expected, however, that transmission customers would be able to change the amount of reactive power service they required. The Commission also identified the possibility that reactive power could potentially be supplied by ''a competitive market for such service'' if ''technology or industry changes'' made such a market possible.[7]

6. The Commission's policy on reactive power compensation has evolved since issuing Order No. 888 in 1996.[8] In Order No. 2003, the Commission adopted a standard agreement for the interconnection of large generating facilities (the *pro forma* LGIA), and specifically addressed the circumstances under which a transmission provider must pay an interconnection customer for reactive power depending upon whether such reactive power was inside or outside the standard power factor range.[9] This standard agreement included the requirement that interconnection customers maintain a composite power delivery at a continuous rate of power output at the generating facility's point of interconnection at a power factor within the range of 0.95 leading to 0.95 lagging when synchronized to the transmission system, unless the transmission provider has established a different power factor range.[10] Order No. 2003 required that a transmission provider compensate an interconnection customer for reactive power when the transmission provider requests that the interconnection customer operate its generating facility outside the established power factor range. With respect to reactive power within the established power factor range, the Commission concluded in Order No. 2003 that the interconnection customer should not be compensated for reactive power when operating within the range established in the interconnection agreement because doing so ''is only meeting [the generating facility's] obligation.'' [11] However, in Order No. 2003–A, the Commission clarified that ''if the Transmission Provider pays its own or its affiliated generators for reactive power within the established range, it must also pay the Interconnection Customer.'' [12] This standard is generally referred to as the ''comparability standard.'' [13]

[2] Operating ''inside the standard power factor range'' refers to a generating facility providing reactive power within the power factor range set forth in the generating facility's interconnection agreement when the unit is online and synchronized to the transmission system. The standard power factor range is sometimes referred to as the ''deadband.'' *Compensation for Reactive Power Within the Standard Power Factor Range,* Notice of Proposed Rulemaking, 89 FR 21,454 (Mar. 28, 2024) (cross-referenced at 186 FERC ¶ 61,203, at P 2 n.1) (NOPR).

[3] MVAr is the typical unit of measurement for reactive power.

[4] A generating facility's leading reactive power indicates its ability to absorb reactive power, and its lagging reactive power indicates its ability to produce reactive power.

[5] Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,705–07 & n.359.

[6] *Id.* at 31,720.

[7] *Id.* at 31,707 & n.359.

[8] *Id.* at 31,705–07 & n.359.

[9] *Standardization of Generator Interconnection Agreements & Procs.,* Order No. 2003, 68 FR 49846 (Aug. 19, 2003), 104 FERC ¶ 61,103, at P 546 (2003), *order on reh'g,* Order No. 2003–A, 69 FR 15932 (Mar. 26, 2004), 106 FERC ¶ 61,220, *order on reh'g,* Order No. 2003–B, 70 FR 265 (Jan. 4, 2005), 109 FERC ¶ 61,287 (2004), *order on reh'g,* Order No. 2003–C, 70 FR 37661 (June 30, 2005), 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regul. Util. Comm'rs* v. *FERC,* 475 F.3d 1277 (D.C. Cir. 2007).

[10] The power factor is the ratio of a generating facility's real power to its apparent power, where apparent power is the total power output of the system (both real and reactive power). Power factors can range from 1.0 to 0.0, with 1.0 representing only real power and 0.0 representing only reactive power.

[11] Order No. 2003, 104 FERC ¶ 61,103 at P 546.

[12] Order No. 2003–A, 106 FERC ¶ 61,220 at P 416. Order No. 2003–A also exempted wind generating facilities from maintaining the established power factor range. *Id.* P 34.

[13] In Order No. 2006, the Commission adopted identical power factor and compensation requirements for small generating facilities (those with a capacity of 20 MW or less) and initially exempted small wind generating facilities from the reactive power requirement before Order No. 827 eliminated such exemptions. *Reactive Power Requirements for Non-Synchronous Generation,* Order No. 827, 81 FR 40793 (June 23, 2016), 155 FERC ¶ 61,277, *order on clarification and reh'g,* 157 FERC ¶ 61,003 (2016); *Standardization of Small Generator Interconnection Agreements & Procs.,* Order No. 2006, 111 FERC ¶ 61,220, *order on reh'g,* Order No. 2006–A, 70 FR 71760 (Nov. 30, 2005),

Continued

7. Order No. 661 established technical requirements for interconnecting large wind resources and maintained the exemption from providing reactive power, except where the transmission provider showed, through a system impact study, that reactive power capability was required to ensure safety or reliability.[14] In Order No. 2006,[15] the Commission adopted identical power factor and compensation requirements for small generating facilities (facilities that have a capacity of no more than 20 megawatts (MW)) but exempted small wind generating facilities from the reactive power requirement. Subsequently, in Order No. 827,[16] the Commission eliminated the exemptions for both small and large wind generating facilities, thus requiring those facilities to provide reactive power. The Commission explained that it had previously exempted wind generators from the uniform reactive power requirement because, historically, the costs to design and build a wind generator that could provide reactive power were high and could have created an obstacle to the development of wind generation. But the Commission found in Order No. 827 that, due to technological advancements since the establishment of those exemptions, the cost of providing reactive power no longer presented an obstacle to the development of wind generation, and therefore found that the exemptions had become unjust and unreasonable.[17] The Commission therefore required all newly interconnecting non-synchronous generating facilities to provide reactive power within the range of 0.95 leading to 0.95 lagging at the high-side of the generator substation transformer as a condition of interconnection.

8. In sum, ''Order Nos. 2003 and 2003–A establish a reactive power compensation policy that, in the first instance, treats the provision of reactive power inside the [standard power factor range] as an obligation of good utility practice rather than as a compensable service and permits compensation inside the [standard power factor range] only as a function of comparability.'' [18] ''Put differently, reactive support by generating facilities operating within the standard power factor range ensures that when these facilities inject real power—the product that their facilities exist to create and sell—onto the grid under normal conditions, they can do their part to maintain adequate voltages and to not threaten reliability.'' [19] By contrast, reactive power provided *outside* of the standard power factor range is considered an ancillary service for transmitting power across the transmission system to serve load,[20] and thus, the Commission has required compensation for such service.

9. Consistent with Order Nos. 2003 and 2003–A and Commission precedent that pre-dated those Orders, the Commission has permitted transmission providers to eliminate separate compensation for generating facilities providing reactive power within the standard power factor range.[21] In these cases, the Commission affirmed its determination that the provision of reactive power within the standard power factor range is not compensable except as a matter of comparability. For example, in *BPA,* the Commission granted a complaint filed by Bonneville Power Administration (BPA) arguing that the rate schedules of certain independent power producers (IPP) for reactive power within the standard power factor range, often referred to as a ''deadband,'' were no longer just and reasonable given BPA's decision to no longer pay its own or affiliated generators for providing this service.[22] The Commission found that ''Commission policy clearly allows BPA to discontinue paying all its merchants for inside the deadband reactive power service,'' explaining that ''[t]he Commission's policy is not new; we confirmed it in Order No. 2003, when we stated that an interconnecting generator 'should not be compensated for reactive power when operating its Generating Facility within the established power factor range, since it is only meeting its obligation.'' [23]

10. The Commission has also found that a transmission provider's decision to end compensation for reactive power within the standard power factor range does not compromise a generating facility's ability to recover costs that it may incur in producing reactive power within this range.[24] For example, the Commission has observed that generating facilities ''may be able to recover the costs for reactive power within the deadband in other ways—such as through higher power sales rates of their own.'' [25] In response to arguments by certain independent power producers that such recovery is infeasible because of competition, the Commission has found that ''since the incremental cost of reactive power service within the deadband is minimal, the infeasibility argument lacks plausibility. The purpose for which generation assets are built (including reactive power capability to maintain voltage levels for generation entering the grid) is to make sales of real power.'' [26]

11. The Commission made similar findings in *MISO,* wherein it accepted an FPA section 205 application by

113 FERC ¶ 61,195 (2005), *order granting clarification,* Order No. 2006–B, 71 FR 42587 (July 27, 2006), 116 FERC ¶ 61,046 (2006).

[14] *Interconnection for Wind Energy,* Order No. 661, 70 FR 34993 (June 16, 2005), 111 FERC ¶ 61,353, *order on reh'g,* Order No. 661–A, 70 FR 75005 (Dec. 19, 2005), 113 FERC ¶ 61,254 (2005).

[15] Order No. 2006, 111 FERC ¶ 61,220.

[16] Order No. 827, 155 FERC ¶ 61,277.

[17] *See also PJM Interconnection, L.L.C.,* 151 FERC ¶ 61,097, at P 28 (2015) (finding that, since Order No. 661, the cost of the technology necessary for a non-synchronous resource to provide reactive power has lessened such that the cost of installing equipment that is capable of providing reactive power is comparable to the costs of a traditional generator).

[18] *Bonneville Power Admin.* v. *Puget Sound Energy, Inc.,* 120 FERC ¶ 61,211 (2007) (*BPA*), *order denying reh'g and granting clarification,* 125 FERC ¶ 61,273, at P 18 (2008) (BPA Rehearing Order). *See also* BPA Rehearing Order, 125 FERC ¶ 61,273 at P 15 & n.24 (''[N]either affiliated nor non-affiliated generators have an inherent right to any compensation for reactive power inside the deadband.''). *Accord., Midcontinent Indep. Sys. Operator, Inc.,* 182 FERC ¶ 61,033 (*MISO*), *order on reh'g,* 184 FERC ¶ 61,022, at P 23 (2023) (MISO Rehearing Order); *Sw. Power Pool, Inc.,* 119 FERC ¶ 61,199 (*SPP*), *order on reh'g, Sw. Power Pool, Inc.,* 121 FERC ¶ 61,196, at 61,968 (2007) (SPP Order on Rehearing) (''[R]eactive power is required for an interconnecting generator to deliver its power and reactive power produced within the deadband and is, therefore, generally not compensable.''); *Mich. Elec. Transmission Co.,* 97 FERC ¶ 61,187, at 61,852–53 (2001) (*METC Rehearing Order*) (''Providing reactive power within design limitations is not providing an ancillary service; it is simply ensuring that a generator lives up to its obligations.''); *Consumers Energy Co.,* 94 FERC ¶ 61,230, at 61,834 (2000) (affirming the Commission's rejection of generators' request for reactive power compensation when operating within a facility's reactive power design limitation, stating that as a condition of interconnecting to the transmission provider's system, ''to ensure system security,'' the generator was required to provide equipment, ''*at its own cost,* to meet its reactive power obligations as provided for in [its interconnection agreement].''(emphasis added)); *cf. Dynegy Midwest Generation, Inc.,* 125 FERC ¶ 61,280, at P 16 (2008) (''Reactive power is a localized service that is quickly used by transmission system components and cannot be transported over long distances.'').

[19] MISO Rehearing Order, 184 FERC ¶ 61,022 at P 23.

[20] *See, e.g., id.* at PP 23–24 (citing METC Rehearing Order, 97 FERC at 61,852–53).

[21] *See, e.g., MISO,* 182 FERC ¶ 61,033 at PP 52–53; MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 26–27; *Pub. Serv. Co. of N.M.,* 178 FERC ¶ 61,088, at PP 29–31 (2022) (*PNM*); *Nev. Power Co.,* 179 FERC ¶ 61,103, at PP 20–21 (2022); *BPA,* 120 FERC ¶ 61,211 at P 20; *E.ON U.S. LLC,* 119 FERC ¶ 61,340, at P 15 (2007); *Entergy Servs., Inc.,* 113 FERC ¶ 61,040, at P 38 (2005).

[22] *BPA,* 120 FERC ¶ 61,211 at PP 19–20; BPA Rehearing Order, 125 FERC ¶ 61,273 at PP 10–11.

[23] *BPA, 120* FERC ¶ 61,211 at PP 19–20 (citing Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 546); METC Rehearing Order, 97 FERC at 61,852 (''Providing reactive power within design limitations is not providing an ancillary service; it is simply ensuring that a generator lives up to its obligations.'').

[24] *Id.* PP 19–22.

[25] *Id.* P 21 (citing *Sw. Power Pool, Inc.,* 119 FERC ¶ 61,199, at P 39).

[26] *Id.*

Midcontinent Independent System Operator, Inc. (MISO) transmission owners to end generator compensation for the provision of reactive power within the standard power factor range.[27] In accepting MISO transmission owners' proposal, the Commission reiterated its longstanding policy ''that the provision of reactive power within the standard power factor range is, in the first instance, an obligation of the interconnecting generator and good utility practice,'' such that ''MISO [transmission owners] do not have an obligation to continue to compensate an independent generator for reactive power within the standard power factor range when its own or affiliated generators are no longer being compensated.'' [28] The Commission also rejected any reliance arguments, reasoning in part that the provision of reactive power within the standard power factor range required little or no incremental investment given that, for both synchronous and non-synchronous generating facilities,[29] the same equipment is used for the production of real power and reactive power.[30] In addition, the Commission found that generating facilities have other opportunities, beyond Schedule 2, to seek to recover their costs of providing reactive power.[31]

12. Consistent with Order Nos. 2003 and 2003–A and other Commission precedent, multiple RTOs/ISOs and non-RTO/ISO transmission providers have elected not to compensate generating facilities for providing reactive power within the standard power factor range under Schedule 2 of their OATTs.[32]

13. Of the six Commission-jurisdictional RTOs/ISOs, only three currently compensate generating facilities for reactive power provided within the standard power factor range. Generating facilities in PJM Interconnection, L.L.C. (PJM) [33] generally use the cost-based AEP Methodology to calculate cost-of-service rates for the production of reactive power.[34] Because the same generation equipment contributes to the production of both real power and reactive power, the AEP Methodology allocates the costs of each piece of equipment to real power service and reactive power service by assigning the cost of each piece of equipment to either real power service, reactive power service, or both. ISO New England Inc. (ISO–NE) [35] and New York Independent System Operator, Inc. (NYISO) [36] compensate generating facilities for reactive power under flat rate designs that are adjusted for inflation.[37]

14. California Independent System Operator Corporation (CAISO),[38] Southwest Power Pool, Inc. (SPP),[39] and MISO [40] do not pay separately for reactive power within the standard power factor range.

15. Outside the RTOs/ISOs, transmission providers that pay for the provision of reactive power within the standard power factor range generally use the AEP Methodology to set reactive power compensation on an individual generating facility basis. Many non-RTO/ISO transmission providers do not pay separately for reactive power provided within the standard power factor range.[41]

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[27] *MISO,* 182 FERC ¶ 61,033 at P 53 (''Bearing in mind that the provision of reactive power within the standard power factor range is, in the first instance, an obligation of the interconnecting generator and good utility practice, MISO [transmission owners] do not have an obligation to continue to compensate an independent generator for reactive power within the standard power factor range when its own or affiliated generators are no longer being compensated.'' (citation omitted)); *see also PNM,* 178 FERC ¶ 61,088 at PP 29, 33 (accepting PNM's revisions to eliminate compensation for reactive service under Schedule 2 and rejecting generators' arguments that it is ''just and reasonable for it to be compensated for investments made'' to provide reactive support consistent with interconnection requirements even though PNM elected to no longer pay its own or affiliated generators for such reactive power).

[28] *MISO,* 182 FERC ¶ 61,033 at P 53. The Commission found ''those protests that challenge these well-established policies to be collateral attacks on these earlier determinations.'' *Id.*

[29] Synchronous generating facilities (*e.g.,* coal, gas, nuclear resources) produce electricity in sync with the transmission system at the system frequency. Non-synchronous generating facilities (*e.g.,* solar, wind, battery storage resources) produce electricity that is initially not in sync with the transmission system and use inverters to convert their electrical output to synchronize with the transmission system. *See* FERC, *Payment for Reactive Power,* 7 (Apr. 22, 2014) (2014 Staff Report), *https://www.ferc.gov/sites/default/files/2020-05/04-11-14-reactive-power.pdf.*

[30] MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 29–30 (citing *S. Co. Servs., Inc.,* 80 FERC ¶ 61,318, at 62,091 (1997) (noting also that the primary function of a generating plant is to produce real power; thus, if costs were allocated based on the ''predominant'' function of the equipment, ''all of the costs of generation would thus be assigned to real power production and there would be no basis for any separate reactive power charge''); *BPA,* 120 FERC ¶ 61,211 at P 21 (finding that the incremental cost of reactive power service within the standard power factor range is minimal); METC Rehearing Order, 97 FERC at 61,852–53 (''[R]eactive power provided, not as an ancillary service, but rather as a 'no cost' service within reactive design limitations, may therefore, be provided without compensation.'').

[31] MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 40–42; *SPP,* 119 FERC ¶ 61,199 at P 39 (stating that IPPs ''are free to negotiate rates that they charge their customers for real power that are sufficient to compensate them for any costs that they may incur in producing reactive power within their deadbands, just as affiliated generators may seek to negotiate rates that they charge their customers that are sufficient to compensate them for the costs of any reactive power that they provide within their deadbands.'').

[32] *See, e.g., MISO,* 182 FERC ¶ 61,033 at PP 52–53; MISO Rehearing Order, 184 FERC ¶ 61,022 at P 26; *PNM,* 178 FERC ¶ 61,088 at PP 29–31; *Nev. Power Co.,* 179 FERC ¶ 61,103 at PP 20–21; *BPA,* 120 FERC ¶ 61,211 at P 20; *E.ON U.S. LLC,* 119 FERC ¶ 61,340 at P 15; *Entergy Servs., Inc.,* 113 FERC ¶ 61,040 at P 38.

[33] PJM Interconnection, L.L.C., Intra-PJM Tariffs, OATT Schedule 2, (Reactive Supply and Voltage Control from Generation or Other Sources Service) (4.0.0).

[34] The AEP Methodology derives its name from Opinion No. 440, where the Commission approved AEP's, a vertically integrated utility, method for calculating the costs of synchronous generation equipment associated with the production of reactive power. *See Am. Elec. Power Serv. Corp.,* Opinion No. 440, 88 FERC ¶ 61,141 (1999), *order on reh'g,* 92 FERC ¶ 61,001 (2000). In *WPS Westwood,* the Commission recommended that all generating facilities that have actual cost data and support documentation use the AEP Methodology. *See WPS Westwood Generation, LLC,* 101 FERC ¶ 61,290, at P 14 (2002).

[35] ISO New England Inc., ISO New England Inc. Transmission, Markets and Services Tariff, Schedule 2 (Reactive Supply and Voltage Control Service) (8.0.0).

[36] New York Independent System Operator, Inc., NYISO Tariffs, NYISO OATT, § 6.2 OATT Schedule 2 (Charges For Voltage Support Service) (6.0.0).

[37] Both ISO–NE and NYISO proposed their respective reactive power capability compensation mechanisms pursuant to section 205 filings. *See ISO New England Inc.,* 122 FERC ¶ 61,056, at P 1 (2008) (settling, in part, for a new flat rate in $/kVAR-yr). *N.Y. Indep. Sys. Operator, Inc.,* Docket No. ER02–617–000 (Feb. 5, 2002) (delegated order accepting NYISO's amended Rate Schedule 2 of the Market Administration and Control Area Services Tariff).

[38] CAISO never provided compensation for reactive power within the standard power factor range. *See Cal. Indep. Sys. Operator Corp.,* 160 FERC ¶ 61,035, at P 7 (2017) (explaining that CAISO considered the possibility of compensating generating facilities for reactive power in its stakeholder process, but decided against it, reasoning that the ability to provide reactive power is part of a generator's fixed costs, which are recovered through power purchase agreements).

[39] *SPP,* 119 FERC ¶ 61,199 at P 30.

[40] *MISO,* 182 FERC ¶ 61,033 at PP 52–66; MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 23–55.

[41] *See, e.g.,* Arizona Public Service Company, FERC Electric Tariff Vol. No. 2, Schedule 2 (Reactive Supply and Voltage Control from Generation or Other Sources Service) (6.0.0) (''This service will be provided at no charge until [Arizona Public Service Company] has developed a rate that has been filed with the Commission and allowed to be implemented; however, Transmission Customers taking service at transmission voltage levels shall be responsible for maintaining a power factor of ± 95.0%, and Transmission Customers taking service at distribution voltage levels shall maintain a power factor of not less than 90% lagging but in no event leading, unless agreed to by [Arizona Public Service Company].''); Public Service Company of New Mexico, PNM Open Access Transmission Tariff, Schedule 2 (Reactive Supply and Voltage Control from Generation or Other Sources Service) (2.1.0) (''As of October 1, 2021, the Effective Date of this Schedule 2, the Transmission Provider is not charging for Reactive Supply and Voltage Control from Generation or Other Sources Service from its own resources. As a result, there will be no separate charge for such service.'').

B. Notice of Inquiry and Notice of Proposed Rulemaking

16. On November 18, 2021, the Commission issued a Notice of Inquiry (NOI) [42] in this proceeding, seeking comment on various issues regarding reactive power compensation and market design as a result of the significant changes that have taken place in the electric industry in the last two decades, including changes in the generation resource mix and a general shift away from cost-of-service rates for generating facilities selling into Commission-jurisdictional markets. Generally, the Commission sought to ''examine whether the current regime for reactive power capability compensation requires revisions to ensure that payments for reactive power capability accurately reflect the costs associated with reactive power capability.'' [43]

17. On March 21, 2024, the Commission issued a NOPR in this same proceeding. Based on a review of the comments submitted in response to the Commission's NOI in the instant docket, as well as the Commission's experience in the years since the issuance of Order Nos. 2003 and 2003–A, the NOPR preliminarily found that where transmission providers require transmission customers to pay for the provision of reactive power within the standard power factor range, transmission rates may be unjust and unreasonable, as they include costs without a sufficient economic basis or justification. In support of such preliminary finding, the NOPR explained that generating facilities provide reactive power within the standard power factor range at no cost or *de minimis* cost, and that providing reactive power within the standard power factor range is already an obligation of the generating facility as an interconnection customer and consistent with good utility practice.[44] The NOPR also stated that current compensation may result in undue compensation or other market distortions. The NOPR proposed, pursuant to FPA section 206,[45] that a just and reasonable replacement rate was to prohibit transmission providers from including in their transmission rates any charges associated with the supply of reactive power within the standard power factor range from a generating facility.

18. Specifically, the NOPR proposed to add the following sentence to the end of Schedule 2 of the *pro forma* OATT: [46] ''However, such rates shall not include compensation to generating facilities for the supply of reactive power within the power factor range specified in its interconnection agreement.'' Second, the NOPR proposed to remove the following clause from section 9.6.3 of the *pro forma* LGIA: [47] ''provided that if Transmission Provider pays its own or affiliated generators for reactive power service within the specified range, it must also pay Interconnection Customer.'' Third, the NOPR proposed to remove the following sentence from section 1.8.2 of the *pro forma* SGIA: [48] ''In addition, if the Transmission Provider pays its own or affiliated generators for reactive power service within the specified range, it must also pay the Interconnection Customer.''

19. Comments on the NOPR were due on June 26, 2024. Thirty-one parties filed comments.[49] Comments were submitted by RTOs/ISOs and other transmission providers, generating facilities, generation developers, transmission owners, load-serving entities (LSE), Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM (PJM IMM), trade associations representing specific generation technologies, and consumer advocates. Of these, and with few exceptions, transmission owners, LSEs, the PJM IMM, independent filers,[50] and consumer advocates supported or did not oppose the NOPR proposal to eliminate compensation in the standard power factor range,[51] while generating facilities, generation developers, and trade associations representing specific generation technologies oppose the NOPR proposal.[52]

[42] *Reactive Power Capability Compensation,* Notice of Inquiry, 177 FERC ¶ 61,118 (2021) (NOI).

[43] *Id.* P 19.

[44] Real power, which accomplishes useful work (*e.g.,* runs motors), is typically measured in MWs.

[45] 16 U.S.C. 824e.

[46] *See pro forma* OATT, Schedule 2.

[47] *See pro forma* LGIA, § 9.6.3.

[48] *See pro forma* SGIA, § 1.8.2.

[49] *See* app. A.

[50] C T Gaunt states that reactive power cannot be delivered and also that it cannot be lost in transmission through a transformer or power system. Thus, C T Gaunt claims that there are no grounds for arguing against the Commission's determination in the NOPR. C T Gaunt Reply Comments at 2–3.

[51] American Electric Power Service Corporation (AEP) (on behalf of itself and its affiliates, including Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., AEP Kentucky Transmission Company, Inc., AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission Company, Inc., AEP Oklahoma Transmission Company, Inc., and AEP Southwestern Transmission Company, Inc.); Ameren Service Company (Ameren) (on behalf of Ameren Illinois Company d/b/a Ameren Illinois, Union Electric Company d/b/a Ameren Missouri and Ameren Transmission Company of Illinois); C T Gaunt; New England Consumer Advocates (consisting of the Office of Massachusetts Attorney General Andrea Joy Campbell, the Connecticut Office of Consumer Counsel, the Maine Office of Public Advocate, the New Hampshire Office of Consumer Advocate, and the Rhode Island Division of Public Utilities and Carriers); Joint Consumer Advocates (including the Illinois Attorney General, Illinois Citizens Utility Board, Maryland Office of People's Counsel, the New Jersey Division of Rate Counsel, the North Carolina Utilities Commission Public Staff, the Office of the People's Counsel for the District of Columbia, and the West Virginia Consumer Advocate Division of the Public Service Commission), Joint Customers (including Old Dominion Electric Cooperative, Northern Virginia Electric Cooperative, Inc., and Dominion Energy Services, Inc. on behalf of Virginia Electric and Power Company d/b/a Dominion Energy Virginia); Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty); MISO; MISO Transmission Owners (including Ameren, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois, and Ameren Transmission Company of Illinois; Arkansas Electric Cooperative Corporation; City Water, Light & Power; Cooperative Energy; Dairyland Power Cooperative; East Texas Electric Cooperative; Entergy Arkansas, LLC; Entergy Louisiana, LLC; Entergy Mississippi, LLC; Entergy Texas, Inc.; Great River Energy; Indianapolis Power & Light Company; Lafayette Utilities System; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power, Inc.; Southern Indiana Gas & Electric Company (d/b/a CenterPoint Energy Indiana South); and Southern Minnesota Municipal Power Agency); the Ohio Office of the Federal Energy Advocate of the Public Utilities Commission of Ohio (Ohio FEA); Portland General Electric Company (PGE); PJM; the PJM IMM; the Transmission Access Policy Study Group (TAPS) (an association of transmission dependent utilities in 35 states). For convenience, we have listed each commenter and the parties they represent. For brevity, for the remainder of this rule, we will refer to each commenter by their abbreviated names as defined in this footnote.

[52] The American Council on Renewable Energy (ACORE); Calpine Corporation (Calpine); Eagle Creek Reactive Generators (including Mahoning Creek Hydroelectric Company, LLC, York Haven Power Company, LLC, Eagle Creek Reusens Hydro, LLC, Great Falls Hydroelectric Company Limited Partnership, Lake Lynn Generation, LLC, PE Hydro Generation, LLC, Black River Hydroelectric, LLC, All Dams Generation, LLC, and Eagle Creek Hydro Power, LLC); EDP Renewables North America LLC (EDPR); Elevate Renewables F7, LLC (Elevate); Generation Developers (including Vistra Corp. and Dynegy Marketing and Trade, LLC); Glenvale LLC (Glenvale); Indicated Reactive Power Suppliers (including KMC Thermo, LLC, Bitter Ridge Wind Farm, LLC, Guernsey Power Station LLC, Moxie Freedom LLC, Safe Harbor Water Power Corporation, BIF III Holtwood LLC, Brookfield Power Piney & Deep Creek LLC, Erie Boulevard Hydropower, L.P., Carr Street Generating Station, L.P., Bear Swamp Power Company LLC, Brookfield White Pine Hydro LLC, Brookfield Renewable Trading and Marketing LP, and Reworld Waste, LLC

II. Discussion

20. In this final determination, the Commission adopts the NOPR as proposed, except with respect to the timing of the compliance procedures and implementation. Based on our review of the record, we find there is substantial evidence to support the conclusion that allowing transmission providers to charge transmission customers for a generating facility's provision of reactive power within the standard power factor range results in unjust and unreasonable transmission rates. As explained in the NOPR, generating facilities providing reactive power within the standard power factor range are only meeting their obligations under their interconnection agreements and in accordance with good utility practice, and in doing so, incur no or at most *de minimis* variable costs beyond the cost of providing real power. Moreover, providing compensation for the provision of reactive power within the standard power factor range risks overcompensation and market distortion in ways that did not exist prior to the existence of organized markets.

21. We find that these reforms will not adversely impact reliability. We also find that generating facilities have the opportunity to seek to recover any costs associated with providing reactive power within the standard power factor range through their rates for selling real power, including energy or capacity sales, whether in organized or bilateral markets. Given that the primary function of a generating facility is to produce real power and that the provision of reactive power within the standard power factor range is necessary for the provision of real power, we find that the existing means of cost recovery for real power are not only reasonable but also the most logical outcome.

22. Based on more than two decades of experience since Order No. 2003, and the record developed in this proceeding, we find that, even as a function of comparability, charging transmission customers under Schedule 2 for the provision of reactive power within the standard power factor range has become unjust and unreasonable. As explained above and for the reasons discussed below, in Order No. 2003, the Commission found generators should not receive compensation for the provision of reactive power within the standard power factor as it was an obligation of good utility practice. Based on rehearing requests, in Order No. 2003–A, the Commission agreed that where vertically integrated transmission owners continued to have rate schedules providing payment to their affiliated generating facilities for reactive power service within the standard power factor range, such transmission owners were also required to pay non-affiliated interconnection customers for the same provision of reactive power. At the time of Order Nos. 2003 and 2003–A, functional unbundling of transmission service [53] and the development of organized wholesale electricity markets [54] were relatively nascent, and so too was the Commission's experience with the impacts of establishing the comparability standard for the provision of reactive power within the standard power factor range. At the time, establishing the comparability standard appeared consistent with Order No. 2003's stated intent of ''minimiz[ing] opportunities for undue discrimination and expedit[ing] the development of new generation, while protecting reliability and ensuring that rates are just and reasonable.'' [55]

23. Since Order No. 2003, however, many industry changes have occurred. Some vertically integrated utilities have divested their generation. Competitive markets have developed, leading many generators to recover their costs through market-based rather than cost-based rates. The development of competitive markets makes even more challenging any allocation of costs between real power production, under market-based rates, and reactive power service, under cost of service rates.[56] When rates are market-based, challenges in allocation will affect the competitive positions of the entities.[57] New technologies have developed that provide reactive power through different means and to which the AEP Methodology that predates these technologies does not squarely apply. With fewer vertically integrated utilities, the continued development of competitive markets, and new technologies, the initial justification for compensation (*i.e.,* that the Commission required separate compensation on a comparable basis because vertically integrated transmission owners continued to have rate schedules providing payment to their affiliated generating facilities for reactive power service) is no longer broadly applicable. Indeed, the wide-ranging rates for reactive power resulting from cost-of-service proceedings further undermine the principle of comparability as some generating facilities now receive substantially higher rates for the provision of reactive power within the

f/k/a Covanta; Independent Power Producers of New York, Inc. (IPPNY); Indicated Trade Associations (including Electric Power Supply Association, The PJM Power Providers Group the New England Power Generators Association, Inc., Independent Power Producers of New York, Inc., the Coalition of Midwest Power Producers); ISO–NE; Middle River Power LLC (including Coalition of Midwest Power Producers, the Electric Power Supply Association, the PJM Power Providers Group, the New England Power Generators Association, Inc., and the Independent Power Producers of New York, Inc.); National Hydropower Association (NHA) (a national trade association with over 320 member companies); New England Power Generators Association, Inc. (NEPGA); New England Power Pool (NEPOOL); New England States Committee on Electricity (NESCOE); Nuclear Energy Institute (NEI); North American Generator Forum (NAGF); NYISO; Onward Energy Holdings, LLC (Onward Energy); PSEG (including Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC, and each wholly owned, direct or indirect subsidiaries of Public Service Enterprise Group Incorporated) (PSEG); Reactive Service Providers (including CIP, D. E. Shaw Renewable Investments, L.L.C., Invenergy Renewables LLC, Leeward Renewable Energy, LLC, Lightsource Renewable Energy Operations, LLC, NextEra Energy Resources, LLC,1 Ørsted Wind Power North America, LLC, and RWE Clean Energy, LLC); Clean Energy Associations (including Solar Energy Industries Association (SEIA) and American Clean Power Association (ACP)). For brevity, for the remainder of this rule, we will refer to each commenter by their abbreviated names as defined in this footnote.

[53] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,654 (''We conclude that functional unbundling of wholesale services is necessary to implement non-discriminatory open access transmission.'').

[54] *Regional Transmission Orgs.,* Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (1999) (cross-referenced at 89 FERC ¶ 61,285) (''We conclude that properly structured RTOs throughout the United States can provide significant benefits in the operation of the transmission grid.''), *order on reh'g,* Order No. 2000–A, FERC Stats. & Regs. ¶ 31,092 (2000) (cross-referenced at 90 FERC ¶ 61,201), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish Cty.* v. *FERC,* 272 F.3d 607 (D.C. Cir. 2001).

[55] *See, e.g.,* Order No. 2003, 104 FERC ¶ 61,103 at P 12 (explaining that standard interconnection procedures and a standard agreement will: ''(1) limit opportunities for Transmission Providers to favor their own generation; (2) facilitate market entry for generation competitors by reducing interconnection costs and time; and (3) encourage needed investment in generator and transmission infrastructure'').

[56] *See* In re Permian Basin Area Rate Cases, 390 U.S. at 804 (''There is ample support for the Commission's judgment that the apportionment of actual costs between two jointly produced commodities, only one of which is regulated by the Commission, is intrinsically unreliable.''); *A.A. Poultry Farms, Inc.* v. *Rose Acre Farms, Inc.,* 881 F.2d 1396, 1400 (7th Cir. 1989) (''How does one allocate the cost of activities that have joint products? Agencies engaged in ratemaking struggle with these problems for years, even decades, without producing clear answers.''); Richard A. Posner, Natural Monopoly and Its Regulation, 21 Stan. L. Rev. 548, 595 (1969) (''where services involve joint or common costs a rational allocation is impossible even in theory. How much of the cost of a telephone handset is assignable to local and how much to interstate telephone service?'').

[57] When both real power and reactive power rates were cost-based, the only effect of the allocation was to change the allocation of costs and the rates for transmission and generation service; the transmission provider would not exceed its total revenue requirement.

standard power factor range than others.[58]

24. All of these changes taken together, coupled with the record developed here, make clear that separate compensation for the provision of reactive power within the standard power factor range results in unjust and unreasonable rates to transmission customers, because such compensation is not necessary for comparability or to ensure continued investment in the capability of generating facilities to provide reactive power within the standard power factor range.[59] We acknowledge that this final determination represents a change in policy,[60] a change we find appropriate based on the record before us, as explained in detail herein.[61]

25. Accordingly, we are modifying Schedule 2 of the *pro forma* OATT, section 9.6.3 of the *pro forma* LGIA, and section 1.8.2 of the *pro forma* SGIA, and we are requiring transmission providers to make corresponding revisions to their OATTs and *pro forma* interconnection agreements, to prohibit transmission providers from including in their transmission rates any charges associated with the provision of reactive power within the standard power factor range from generating facilities.

26. We discuss below the issues raised in the comments.

A. Need for Reform

27. The NOPR preliminarily found that where transmission providers require transmission customers to pay for generating facilities' provision of reactive power within the standard power factor range, transmission rates may be unjust and unreasonable, as such rates may include costs without a sufficient economic basis or justification and such costs may not result in transmission customers receiving commensurate reliability benefits.[62] In support of the need for reform, the NOPR preliminarily found that generating facilities providing reactive power within the standard power factor range are only meeting their obligations under their interconnection agreements and in accordance with good utility practice, and in doing so, incur no or at most a *de minimis* increase in variable costs beyond the cost of providing real power.[63] The NOPR also highlighted various adverse impacts of the Commission's policy on reactive power compensation, which have been exacerbated by the increasing volume of filings for reactive power compensation and in turn, increasing reactive power-related costs to transmission customers.[64] For example, in many regions, generating facilities are sited without regard to where there is a geographic need for reactive power, which is significant given that unlike real power, reactive power cannot be efficiently transmitted long distances.[65] Additionally, adjudicating cost-of-service reactive power rates has become increasingly administratively burdensome and may result in inconsistent rate treatment across generating facilities.[66] Furthermore, in regions where generating facilities may seek to recover their costs by participating in organized competitive wholesale markets, providing separate compensation for the provision of reactive power within the standard power factor range risks overcompensation and market distortion in ways that did not exist prior to the existence of organized markets.[67] Finally, as explained in the NOPR, the costs to transmission customers have increased substantially without any commensurate increase in benefits.[68]

28. The NOPR also preliminarily found that cessation of payments for reactive power within the standard power factor range for generating facilities does not compromise a generating facility's ability to recover costs–if any–that it may incur in producing reactive power within such range because generating facilities have the opportunity to seek to recover such costs in other ways, such as through energy or capacity sales.[69]

1. Comments

29. AEP, Ameren, Joint Consumer Advocates, Joint Customers, MISO Transmission Owners, New England Consumer Advocates, Ohio FEA, PGE, PJM, the PJM IMM, and TAPS agree there is a need for reform and, accordingly, support the NOPR proposal to eliminate compensation for reactive power within the standard power factor range.[70]

30. Many commenters argue that there is substantial evidence to support the conclusion that allowing transmission providers to charge transmission customers for a generating facility's provision of reactive power from within the standard power factor range results in unjust and unreasonable transmission rates.[71] They also agree that current generator compensation for the provision of reactive power within the standard power factor range lacks sufficient economic basis or justification,[72] and that customers may

[58] The PJM IMM notes that total settled reactive power revenue requirements for oil-fueled steam units average $993/MW-year whereas other units have settled reactive power revenue requirements as high as $18,750/MW-year. IMM Initial Comments at 5.

[59] *See, e.g.,* PJM IMM Initial Comments at 11–12 (''The salient difference between PJM and CAISO, SPP, and MISO is that PJM customers paid $388,044,837.00 in out of market payments for reactive capability in 2023, and customers in CAISO, SPP and MISO, paid $0.00''); For Schedule 2 service in 2023, PJM paid $388 million, NYISO paid $75 million, and ISO–NE paid $18 million. *See* PJM 2023 Annual Report at 5, *https://services.pjm.com/annualreport2023/*); 2023 NYISO Voltage Support Service Rates, *https://www.nyiso.com/documents/20142/35126567/2023-OATT-MST-Schedule-2-VSS-Rates-FINAL-for-posting.pdf/f59317b0-41c6-9f41-5d61-e7f502af82c2*); 2023 Annual Markets Report at 154, *iso-ne.com/static-assets/documents/100011/2023-annual-markets-report.pdf.*

[60] *See* Order No. 2003–C, 111 FERC ¶ 61,401 at P 42 (finding that because providing reactive power within the established range is an ''important service,'' payment for such service does not constitute a ''windfall'').

[61] *PJM Power Providers Grp.* v. *FERC,* 88 F.4th 250, 271–72 (3d Cir. 2023), *amended sub nom. PJM Power Provisers Grp.* v. *FERC,* No. 21–3068, 2024 WL 259448 (3d Cir. Jan. 24, 2024) (''An agency may alter its 'view of what is in the public interest.' The fact that contrary agency precedent exists 'gives us no more power than usual to question the Commission's substantive determinations.' The agency need not establish that 'the reasons for the new policy are better than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better.' '') (citing *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009)); *In re Permian Basin Area Rate Cases,* 390 U.S. 747, 784 (1968) (*Permian Basin*); *see also Motor Vehicle Mfrs. Ass'n of U.S., Inc.* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29, 42 (1983) (''[W]e fully recognize that regulatory agencies do not establish rules of conduct to last forever.'') (internal quotations omitted); *Greater Bos. Television Corp.* v. *FCC,* 444 F.2d 841, 852 (D.C. Cir. 1970) (an agency may change its course as long as it ''suppl[ies] a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored.''), *cert. denied,* 403 U.S. 923 (1971)).

[62] NOPR, 186 FERC ¶ 61,203 at PP 25, 40.

[63] *Id.* PP 28–33.

[64] *Id.* PP 34–40.

[65] *Id.* P 35.

[66] *Id.* PP 36–38.

[67] *Id.* P 39.

[68] *Id.* P 40.

[69] *Id.* P 42.

[70] AEP Initial Comments at 1–2; Ameren Initial Comments at 2–3; Joint Consumer Advocates Initial Comments at 1; Joint Customers Initial Comments at 2; MISO Transmission Owners Initial Comments at 1, 5; New England Consumer Advocates Initial Comments at 6; Ohio FEA Initial Comments at 3; PGE Initial Comments at 1; PJM Initial Comments at 1, 3; PJM IMM Initial Comments at 2; TAPS Initial Comments at 1.

[71] *See, e.g.,* Joint Customers Reply Comments at 10–11 (''Standing on its own, the record in this proceeding is sufficient to justify the conclusion that compensating generators, any generators, for reactive service within the standard power factor range is not just and reasonable. Through the NOI comments, the development of the NOPR, and comments to the NOPR, the Commission has supported its conclusions and addressed potential concerns.'').

[72] Joint Consumer Advocates Initial Comments at 1, 5; Joint Customers Initial Comments at 5–6; Joint Customers Reply Comments at 1–2; MISO Transmission Owners Reply Comments at 2; PGE Initial Comments at 5; TAPS Initial Comments at 3.

not be receiving commensurate reliability benefits.[73]

31. Joint Customers maintain, for example, that the NOPR builds on longstanding Commission policy, reaffirmed since Order No. 2003, that no compensation is appropriate for reactive service within the standard power factor range and that challenges to the sufficiency of the record or the process are unfounded.[74] Joint Customers explain that ''[t]he only *change* the Commission is making in the NOPR is to determine that transmission providers no longer should have the option to compensate, affiliate and non-affiliate alike. And for that discrete change, that the *exception* to the general rule on compensation should be closed, the Commission has plainly created a sufficient record.'' [75]

32. PJM supports the NOPR and asserts that it would largely eliminate the problems with the current reactive power compensation regime in PJM, including the resource-intensive administrative burdens of reactive power rate proceedings and the ''black box'' settlements that ''seem[ ] at odds with the Commission's general precedent on efficient energy and ancillary service price formation.'' [76] MISO explains that it has not experienced reliability concerns since eliminating compensation for reactive power within the standard power factor range in December 2022 [77] and that it would not expect to see any effect on reliability through eliminating compensation for reactive power within the standard power factor range.[78]

33. MISO Transmission Owners support the need for reform, arguing that the current framework for reactive power compensation is neither just nor reasonable given that it results in transmission customers being required to pay for a service that generators already are required to provide and that costs them little or nothing to provide.[79]

34. Many commenters agree that the current reactive power framework does not result in commensurate reliability benefits.[80] First, many commenters agree that compensation for providing reactive power within the standard power factor range is unnecessary to maintain reliability.[81] Second, many commenters also agree with the NOPR that under the current framework, compensation for reactive power within the standard power factor range is not tied to whether there is a particular geographic need for reactive power.[82] TAPS, for example, contends that the existing approach to reactive power capability compensation does not adequately consider a generator's actual contribution to reliability or lack thereof and thus requires consumers to pay excessive charges for reactive power that may not be needed or is in the wrong location.[83] Similarly, Joint Customers contend that ''[t]his incentive structure to provide payment based on reactive capability results in the building of unnecessary capabilities in locations it is not or may not be needed and does not allocate the costs associated with reactive capability in a manner that is at least roughly commensurate with the benefits received.'' [84]

35. Further, like PJM, many commenters agree with the NOPR regarding the administrative burden for all parties to determine Schedule 2 rates.[85] Joint Consumer Advocates argue that ''the existing compensation framework for generators that supply reactive power has led to unjust and unreasonable rates'' and note that ''[d]ue to limited resources, the [Joint Consumer Advocates] have generally been unable to participate in the numerous reactive proceedings and assist the Commission with the review and scrutiny of generator submissions. But such review and scrutiny are essential given the sheer number of filings and the absence of standardized accounting for the costs claimed in them by generators.'' [86]

36. AEP states that it supports the Commission's proposal to prospectively terminate reactive power compensation to generators for maintaining the ability to produce reactive power within the standard power factor range because it ''will more equitably balance the interests of customers and generators, ensure that reactive power will continue to be provided as a requirement of interconnection, and significantly decrease the administrative burdens associated with individualized, opaque, and inconsistent cost-of-service reactive power rate proceedings.'' [87]

37. Similarly, New England Consumer Advocates state that ''[t]ransmission rates have been rising in recent years and costs are only expected to increase in the near term to accommodate projected future transmission system

[73] Joint Customers Initial Comments at 13–17; MISO Transmission Owners Reply Comments at 8, 19; New England Consumer Advocates Initial Comments at 4–6; TAPS Initial Comments at 3.

[74] Joint Customers Reply Comments at 10–11.

[75] *Id.* at 11 (emphasis in original).

[76] PJM Initial Comments at 1–3.

[77] MISO Initial Comments at 2.

[78] *Id.*

[79] MISO Transmission Owners Initial Comments at 5.

[80] Joint Customers Initial Comments at 12; MISO Transmission Owners Initial Comments at 19; MISO Transmission Owners Reply Comments at 3–5; New England Consumer Advocates Initial Comments at 4–6; TAPS Initial Comments at 3–5.

[81] *See, e.g.,* PJM IMM Initial Comments at 11–12 (''There will be no adverse reliability impacts in PJM (or other similarly situated regions) for the same reasons that . . . there have been no observable impacts in regions that do not compensate generating facilities for the supply of reactive power with the standard power factor range. As in the case of CAISO, SPP and MISO, new and existing generating facilities in PJM are required to provide reactive power within the standard power factor range as a condition of obtaining and maintaining interconnection service. There is no evidence that expanding the just and reasonable approach to compensation already in place in CAISO, SPP and MISO to PJM will have any adverse impact on reliability in PJM.''); MISO Transmission Owners Initial Comments at 13 (''When the MISO Transmission Owners proposed to eliminate compensation for producing reactive power within the deadband, the most common protest from generators was that it would impact the reliability of the grid. However, such claims are not supported by evidence and distract from the underlying fact that generators are obligated to provide reactive power within the deadband whether or not they are compensated for it.'' (citations omitted)).

[82] *See, e.g.,* Ohio FEA Initial Comments at 5 (''As a result, in areas like PJM, generators currently receive compensation regardless of proximity to locations on the transmission system where there is an actual need for additional reactive power.''); Joint Customers Initial Comments at 17 (''Further, the failure to account for transmission system needs or grid geography in the current regime in regions like PJM undermine the reliability benefits of generators that interconnect to the system with reactive capabilities, whether meeting or exceeding their baseline interconnection requirements. The current paradigm has resulted in the development and deployment of generator based reactive capability that is ill-suited to the needs of the transmission system, and specifically that is well in excess of needs. Eliminating the incentive to overbuild reactive capability will not negatively impact reliability.'').

[83] TAPS Initial Comments at 4–5.

[84] Joint Customers Initial Comments at 12 (citing *Ill. Com. Comm'n.* v. *FERC,* 576 F.3d 470, 477 (7th Cir. 2009)).

[85] AEP Initial Comments at 4–6; Joint Customers Initial Comments at 1–5; PJM IMM Initial Comments at 9.

[86] Joint Consumer Advocates Initial Comments at 7. *See also* PJM IMM Initial Comments at 9 (''Applying cost of service rules is costly, burdensome and unnecessary. Most reactive proceedings for generators in PJM are resolved in black box settlements that require substantial time and resources from all parties, fail to address the merits of the cost support provided, result from an unsupported split the difference approach, and that produce a wide, unreasonable and discriminatory disparity among the rates per paid per MW-year for the same service.''); Joint Customers Initial Comments at 7 (''As well documented in comments to the NOI and described in the NOPR, the current individualized consideration of reactive filings purporting to apply the *AEP* [M]ethodology places a heavy burden on customers, Transmission Providers, and the Commission while resulting in customer charges with dubious connection to any clear benefits to the customers paying those charges. This combination created an intolerable condition necessitating Commission action to reform the compensation structure.'').

[87] AEP Initial Comments at 4–5.

needs. At this time of increasingly onerous retail energy costs, particularly in New England, the Commission must ensure that transmission providers are passing on to consumers only those costs which are just and reasonable, and for which consumers receive commensurate benefit.'' [88]

38. The PJM IMM argues that opposing comments come largely from generation owners opposed to the removal of subsidies that have benefited them, even though such subsidies are primarily the result of the ''nonsensical, wasteful and unworkable'' attempts to allocate a portion of costs recoverable in markets to a guaranteed reactive payment based on an outdated and arbitrary cost-of-service approach referred to as the AEP Methodology.[89]

39. Other commenters opposed the NOPR, arguing that existing reactive power rates remain just and reasonable.[90] Reactive Service Providers argue that ''changes to cost allocation'' following Order No. 888 (*i.e.,* functional unbundling) do not warrant a change to reactive power compensation.[91] Reactive Service Providers contend that reactive power supply being unaffected in regions where transmission providers no longer pay for reactive power is not evidence that reactive power compensation is unjust and unreasonable,[92] that the ''comparability'' policy cannot be used as a basis to end compensation,[93] that administrative burden is not a basis to find that compensation is unjust and unreasonable,[94] and that inconsistent rate treatment across generating facilities does not mean that compensation is unjust and unreasonable.[95]

40. Reactive Service Providers argue that the Commission should study individual generating facilities to determine if reactive power is still needed.[96] Reactive Service Providers also argue that the Commission must ensure that compensation for providing reactive power outside the standard power factor range is adequate.[97]

41. Indicated Trade Associations assert that the NOPR would grant transmission providers unlawfully preferential treatment, creating a preference for higher cost transmission solutions, and suggest that the Commission should withdraw the NOPR proposal and refocus its efforts on improving the methodologies used to determine reactive power rates.[98] Further, Indicated Trade Associations assert that concerns raised about the AEP Methodology being burdensome and a lack of refund protections for customers do not justify eliminating reactive power compensation within the standard power factor range altogether.[99]

42. ISO–NE argues that ISO–NE's Schedule 2 VAR compensation program should not be disturbed.[100] ISO–NE asserts that its treatment of reactive power is distinct from its energy and capacity markets.[101] ISO–NE further states that its VAR service is not based on cost-of-service and is different from the standard AEP Methodology but is instead based on a resource's capability to provide reactive power. ISO–NE explains that its VAR service compensates resources at a uniform payment rate (*i.e.,* a single rate for reactive power provided within and outside of the standard power factor range) and is not resource-intensive to calculate.[102] ISO–NE adds that total VAR payments amounted to 0.25% of the total energy, ancillary services, and capacity markets combined (or approximately 18–20 million dollars) for the same given period. NEPOOL argues that one of the reasons Schedule 2 has worked well for New England is that it provides a simple fixed rate for the main component of VAR service, which pays part of the costs of a reactive power resource's capability to provide VAR service to the transmission system when needed. NEPOOL explains that this same fixed rate is provided to all qualified resources without further analysis of, or dispute about, resource-specific costs.[103] NEPOOL argues that one of the reasons Schedule 2 has worked well for New England is that it provides a simple fixed rate for the main component of VAR service, which pays part of the costs of a reactive power resource's capability to provide VAR service to the transmission system when needed, without further analysis of, or dispute about, resource-specific costs.[104]

43. NYISO challenges the Commission's preliminary conclusion that compensating generating facilities for providing reactive power within the standard power factor range has resulted in unjust and unreasonable transmission rates and urges the Commission to allow NYISO to maintain its current reactive power compensation program.[105] NYISO states that it supports the NOPR's objective to avoid administratively burdensome processes and procedures to determine individualized cost-of-service reactive power rates for generation facilities. NYISO adds that NYISO's existing reactive power and Voltage Support Service (VSS) compensation structure, which uses a flat dollars per MVAr-year structure, is just and reasonable.[106] NYISO maintains that this structure aligns costs directly with services provided, ensures reliability benefits

[88] New England Consumer Advocates Initial Comments at 3–4. *See also* PJM IMM Initial Comments at 5 (''Most recent cases settled prior to issuance of the NOPR have settled for costs well in excess of the average cost and well in excess of the ARR offset amount. The issue is growing in significance.''); MISO Transmission Owners Initial Comments at 5 (''The Commission's preliminary findings that led to the changes proposed in the NOPR are accurate. The current framework for reactive power compensation can result in transmission customers being required to pay for a service that generators already are required to provide and that costs them little or nothing to provide. Therefore, the current framework allows for compensation that is neither just nor reasonable.'').

[89] PJM IMM Reply Comments at 1–2.

[90] Clean Energy Associations Initial Comments at 2–3; Indicated Trade Associations Reply Comments at 16; NEI Initial Comments at 1.

[91] Reactive Service Providers Initial Comments at 4, 29–34.

[92] *Id.* at 41–43.

[93] *Id.* at 43–48.

[94] *Id.* at 48–52.

[95] *Id.* at 53–54.

[96] *Id.* at 76–77.

[97] *Id.* at 77.

[98] Indicated Trade Associations Reply Comments at 16–17.

[99] *Id.* at 8–9.

[100] ISO–NE Initial Comments at 1–2, NESCOE Reply Comments at 2; NEPGA Reply Comments at 6–7; NEPOOL Reply Comments at 6–7. ISO–NE explains that its VAR service consists of four components: (1) the fixed Capacity Cost (CC) rate, under which Qualified Reactive Resources are eligible to receive VAR payments for their measurable capability to provide VAR service to the New England Transmission System; (2) the variable Lost Opportunity Cost, which compensates for the value of a resource's lost opportunity in the wholesale energy market in situations where a resource that would otherwise be economically dispatched is directed by the ISO to reduce real power output to provide more reactive power; (3) the variable Cost of Energy Consumed, which compensates for the cost of energy consumed by the resource solely to provide reactive power; and (4) the Cost of Energy Produced, which compensates for the difference between the locational marginal price and a resource's offer price, if the locational marginal price is lower than the offer price, for each hour the resource provides reactive power. ISO–NE Initial Comments at 3–4. ISO–NE notes that the components other than the CC component may occur infrequently and are far less than the CC rate component. ISO–NE Initial Comments at 4 n.5.

[101] ISO–NE Initial Comments at 1–2.

[102] *Id.* at 3–5, 14. The ISO New England Ancillary Service Schedule 2 Business Procedure is available on the ISO–NE website: *https://www.iso-ne.com/static-assets/documents/rules_proceds/operating/gen_var_cap/schedule_2_var_business_procedure.pdf.* Operating Procedures include primarily: ISO New England Operating Procedure No. 12—Voltage and Reactive Control, available at *https://www.iso-ne.com/static-assets/documents/rules_proceds/operating/isone/op12/op12_rto_final.pdf*; and ISO New England Operating Procedures No. 23—Generating Resource Auditing, available at *http://www.iso-ne.com/static-assets/documents/rules_proceds/operating/isone/op23/op23_rto_final.pdf.*

[103] NEPOOL Reply Comments at 6–7.

[104] *Id.* at 6–7.

[105] NYISO Initial Comments at 1.

[106] *Id.* at 2; IPPNY Reply Comments at 1–2.

commensurate with expenses,[107] provides market-like incentives, and encourages resources to offer reactive power cost-effectively by rewarding increased capability and maintaining necessary equipment,[108] which reduces the need for complex, individualized cost-based payments and integrates reactive power support efficiently into the broader market framework, promoting economic efficiency and reliability.[109] NYISO contends that a uniform implementation approach is not suitable given the varying regional needs and existing effective compensation frameworks.[110]

44. Indicated Trade Associations, Generation Developers, NEI and PSEG raise constitutional claims with respect to the NOPR proposal. Indicated Trade Associations argue that the proposed rule violates the Takings Clause of the Fifth Amendment to the United States Constitution.[111] They argue that public utilities have the statutory and constitutional right to compensation for the services they provide, including reactive power, and the Commission cannot deprive public utilities of just and reasonable compensation simply by characterizing the provision of reactive power as a condition of interconnection, particularly where it was the Commission that established this condition. Similarly, Generation Developers argue that forcing generators to supply an identifiable portion of the reactive power they generate, without any compensation, as a condition of interconnection to the transmission system, falls squarely within the kinds of takings prohibited by the Takings Clause.[112] PSEG states that, in accordance with the FPA and the Supreme Court precedent in *Hope,* the Commission has a duty to protect public utilities from rates that are confiscatory.[113] PSEG argues that the proposed rule, not unlike the Commission denying transmission owners the opportunity to earn a return on network upgrades in *Ameren,* essentially compels generators to provide a service without the ability to recover their fixed associated costs, which is unjust and unreasonable, unduly discriminatory, and confiscatory and in violation of the FPA and judicial precedent.[114]

45. MISO Transmission Owners disagree with commenters arguing that the NOPR proposal constitutes an unconstitutional taking.[115] They contend that the commenters' claim that the Order No. 2003 requirement for generators to provide reactive power within the standard power factor range violates the Takings Clause of the U.S. Constitution is a collateral attack on Order No. 2003. They contend that, while some contractual rights are considered ''property'' within the meaning of the Takings Clause of the Fifth Amendment, the contractual relationship entered into when a generator interconnects with a transmission system does not implicate a taking that must be compensated.[116] MISO Transmission Owners state that the Commission determined in Order No. 2003 that generators ''should not be compensated for reactive power when operating [their] Generating Facilit[ies] within the established power factor range, since [they are] only meeting [their] obligation.'' Moreover, they state that ''as 'legislation [that] readjust[s] rights and burdens is not unlawful solely because it upsets otherwise settled expectations,' the Commission's action implementing the changes in the NOPR would not constitute an unconstitutional taking just because the changes would 'impact the benefits and burdens' of the agreement entered into by generators interconnecting with the Transmission System.'' [117] They contend that ''[g]enerators have only a unilateral expectation of payment for the provision of reactive power and not a legitimate claim of entitlement to compensation.'' [118]

46. Eagle Creek and the NHA both assert that existing reactive service rates enjoy the Mobile-Sierra presumption. The NHA asserts that, in order for the Commission to disallow the existing reactive service rates, each rate on-file must be demonstrated by the Commission to ''seriously harm the public interest.'' [119] Eagle Creek and the NHA both note that, given the highly localized nature of reactive power, it is unclear how the Commission could assess these individual contracts without conducting a case-by-case analysis through individual section 206 proceedings.[120] Eagle Creek and the NHA claim that absent such proceedings, generating facilities would be deprived of their current just and reasonable compensation and previous investments made by generating facilities would be compromised.[121] The NHA and Eagle Creek assert that, by relying on a generic rulemaking to effectively cancel all reactive power rates, the NOPR is an ''act of convenience'' and ''an indirect attempt to strip the value of existing rates without facing the legal challenge that the Mobile-Sierra doctrine presents.'' [122]

47. Joint Customers disagree with Eagle Creek and the NHA's argument that the Commission cannot eliminate compensation within the standard power factor range without initiating individual rate proceedings.[123] Joint Customers explain that precedent cases, such as *PNM* and *MISO,* demonstrate that changes to the underlying Schedule 2 tariff provisions effectively eliminate compensation for third-party generators without separate rate challenges.[124]

48. Reactive Service Providers and Generation Developers argue that the NOPR violates the D.C. Circuit's holding

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[107] NYISO Initial Comments at 2–5.

[108] *Id.* at 7–8.

[109] *Id.* at 7–8.

[110] *Id.* at 14.

[111] Indicated Trade Associations Initial Comments at 22–24 (citing *Smyth* v. *Ames,* 169 U.S. 466, 546 (1898)).

[112] Generation Developers Initial Comments at 26 (citing *Horne* v. *Dept. of Ag.,* 576 U.S. 350, 359, 367 (2015); *FPC* v. *Hope Nat. Gas Co.,* 320 U.S. 591, 603 (1944); *Bluefield Waterworks & Improvement Co.* v. *Pub. Serv. Comm'n,* 262 U.S. 679, 690 (1923)).

[113] PSEG Initial Comments at 18–19 (citing *Bluefield Waterworks & Improvement Co.* v. *Pub. Serv. Comm'n,* 262 U.S. at 690; *Duquesne Light Co.* v. *Barash,* 488 U.S. 299, 308 (1989) (''If the rate does not afford sufficient compensation, the State has taken the use of the utility property without paying just compensation.'')).

[114] PSEG Initial Comments at 19–20 (citing *Ameren Servs. Co.* v. *FERC,* 880 F.3d 571, 581–82 (D.C. Cir. 2018)).

[115] MISO Transmission Owners Reply Comments at 12 n.33.

[116] *Id.* (citing *Transmission Plan. & Cost Allocation by Transmission Owning & Operating Pub. Utils.,* Order No. 1000–A, 77 FR 32184 (May 31, 2012), 139 FERC ¶ 61,132, at P 368 (citing *Connolly* v. *Pension Guar. Corp.,* 475 U.S. 211, 224 (1986)), *order on reh'g and clarification,* Order No. 1000–B, 77 FR 64890 (Oct. 24, 2012), 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth.* v. *FERC,* 762 F.3d 41 (D.C. Cir. 2014)).

[117] *Id.* (citing Order No. 1000–A, 139 FERC ¶ 61,132 at P 369 (citing *Connolly* v. *Pension Guar. Corp.,* 475 U.S. at 223)).

[118] *Id.* (citing *Bd. of Regents of State Coll.* v. *Roth,* 408 U.S. 564, 577 (1972) (''To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it.''); *Del. Riverkeeper Network* v. *FERC,* 895 F.3d 102, 108–09 (D.C. Cir. 2018) (citing *Town of Castle Rock, Colo.* v. *Gonzales,* 545 U.S. 748, 756 (2005)).

[119] Eagle Creek Initial Comments at 4; NHA Initial Comments at 8–9.

[120] Eagle Creek Initial Comments at 4; NHA Initial Comments at 8.

[121] Eagle Creek Initial Comments at 4–5; NHA Initial Comments at 8.

[122] NHA Initial Comments at 8–9; *see also* Eagle Creek Initial Comments at 4–5.

[123] Joint Customers Reply Comments at 13–14.

[124] *Id.* (''There is no validity to the argument that individual rate challenges must be pursued by the Commission or complainants, and it is well established that a change to the underlying Schedule 2 in a transmission provider's tariff, as proposed by the Commission in the NOPR, will contemporaneously end compensation to third-party generators with no further action required.''); *see also* PJM IMM Initial Comments at 9 (''The NOPR does not propose a new Commission policy. Rather, it extends and makes uniform policies that have long applied in jurisdictional markets.'').

in *Atlantic City.*[125] They assert that by using the Commission's authority under section 206 of the FPA to eliminate reactive power compensation, the NOPR essentially strips generating facilities of their ability to make filings under section 205 of the FPA to recover the costs of the reactive power service that they provide.[126]

2. Commission Determination

49. Based on our review of the record, we find that there is substantial evidence to support the conclusion that transmission rates are unjust and unreasonable to the extent they include charges associated with the provision of reactive power within the standard power factor range. We therefore adopt the preliminary findings in the NOPR concerning the need for reform [127] and, pursuant to section 206 of the FPA, conclude that certain revisions to Schedule 2 of the *pro forma* OATT, *pro forma* LGIA, and *pro forma* SGIA are necessary to ensure rates that are just, reasonable, and not unduly discriminatory or preferential.

50. We agree with commenters that the current framework allows for transmission rates that are ''neither just nor reasonable'' and ''can result in transmission customers being required to pay for a service that generators already are required to provide and that costs them little or nothing to provide.'' [128] As reflected in the record, absent reform, transmission customers would be required to continue to pay charges associated with generating facilities' provision of reactive power within the standard power factor range even though such charges are without a sufficient economic basis and do not result in transmission customers receiving commensurate reliability benefits. The need for reform is particularly acute given that ''transmission rates have been rising in recent years and costs are only expected to increase in the near term to accommodate projected future transmission system needs.'' [129]

51. As described below, most commenters agree or do not dispute that real and reactive power are provided as joint products,[130] with joint costs.[131] Similarly, most commenters agree or do not dispute that, under their interconnection agreements and in accordance with good utility practice, generating facilities have a long-standing obligation to provide reactive power within the standard power factor range in order to interconnect reliably to the transmission system. Most commenters agree or do not dispute that generating facilities must produce reactive power within the standard power factor range to allow the generating facilities' real power to reliably flow to load.[132] As such, we disagree with some commenters who challenge the Commission's preliminary finding that providing reactive power within the standard power factor range has no or *de minimis* costs [133] and find, as discussed in greater detail below, that there is substantial evidence to conclude that in satisfying such obligations generating facilities incur no incremental investment, or fixed costs, and at most *de minimis* variable costs over and above those needed to provide real power.[134] This is because no additional equipment is required to provide reactive power; rather the same equipment that is needed to produce, and is used to produce, real power also provides reactive power functions, at no additional capital cost. Variable costs, if any, are limited to the fuel costs (in synchronous facilities) or the cost of foregone direct current power (in non-synchronous facilities) necessary to provide the reactive power and to reliably inject real power into the transmission system.[135] For example, in *Panda Stonewall* the annual revenue requirement of $2,051,894 included just $10,018 of identified variable costs.[136] In light of this evidence, we find that charging transmission customers for the provision of reactive power within the standard power factor range results in unjust and unreasonable rates.[137]

52. ISO–NE and NYISO oppose the NOPR and seek flexibility to preserve their existing reactive power compensation regimes. We deny their requests. ISO–NE and NYISO principally argue that their flat-rate

[125] *Atl. City Elec. Co.* v. *FERC,* 295 F.3d 1 (D.C. Cir. 2002) (*Atl. City*).

[126] Generation Developers Initial Comments at 31–32 (citing *Atl. City,* 295 F.3d at 9–10); Reactive Service Providers Initial Comments at 54.

[127] NOPR, 186 FERC ¶ 61,203 at PP 24–27, 28.

[128] *See, e.g.,* MISO Transmission Owners Initial Comments at 5; Joint Customers Initial Comments at 6–16, PJM IMM Initial Comments at 1–4, 6–9; PJM IMM Reply Comments at 2–3, 6–7; Ameren Initial Comments 2–3; AEP Initial Comments at 4–5; Ohio FEA Initial Comments at 5–6; TAPs Initial Comments at 1, 3–8; PGE Initial Comments at 3–4.

[129] *See, e.g.,* New England Consumer Advocates Initial Comments at 3 & n.7 (citing, *e.g.,* Massachusetts Attorney General Maura Healey, Initial Comments, Docket No. RM21–17–000, at 28 (filed Aug. 17, 2022); *see also* New England States Committee on Electricity, New England States' Vision for a Clean, Affordable, and Reliable 21st Century Regional Electric Grid (2020), *https://nescoe.com/resource-center/vision-stmt-oct2020/*).

[130] *See PSC VSMPO-Avisma Corp.* v. *U.S.,* 688 F.3d 751, 756 (Fed. Cir. 2012) (''[J]oint products [are] two dissimilar end products that are produced from a single production process.'') (citing Robert A. Anthony & James S. Reece, *Accounting Principles* 442 (5th ed. 1983).

[131] A joint cost is an expenditure that benefits more than one product, and for which it is not possible to separate the contribution to each product. *Permian Basin,* 390 U.S. at 761 n.25 (citing Accounting Tools, *The Supply and Price of Natural Gas 25* (1962)) (''Joint costs 'are incurred when products cannot be separately produced.'''); *https://www.accountingtools.com/articles/joint-cost.*

[132] *See SPP,* 119 FERC ¶ 61,199, at P 28 (''[I]f a generator is to sell (and be able to deliver) its power to a customer, reactive power is essential to the transaction. Thus, it is hardly surprising that the Commission has concluded, . . . , that the provision of sufficient reactive power is an obligation of a generator interconnected to the system, and that, . . . , a generator is not entitled to separate compensation for providing reactive power within its deadband.'').

[133] *See, e.g.,* Eagle Creek Initial Comments at 3–4; Indicated Trade Associations Initial Comments at 7; ACORE Initial Comments at 2; Elevate Renewables Initial Comments at 9–12; Generation Developers Initial Comments at 13; Glenvale Initial Comments at 9–10; Indicated Reactive Power Suppliers Initial Comments at 2, 9–10; Indicated Trade Associations Initial Comments at 2, 6; Middle River Power Initial Comments at 2–3; NEI Initial Comments at 4–5, 8–9; NHA Initial Comments at 2, 4–5.

[134] Although the Commission found in the MISO Rehearing Order, and earlier, that ''Reactive Service requires *little or no* incremental investment'' *see, e.g.,* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 29 (emphasis added), we note that beyond vague assertions that incremental fixed costs are incurred, no evidence of investment or fixed costs specific to providing reactive power was provided in response to requests for such costs in the MISO Rehearing Order, the NOI, or the NOPR. As such, the Commission concludes below that there are *no* incremental or fixed costs to provide reactive power beyond those to provide real power.

[135] Under certain transmission system conditions, the generating facility may operate at a power factor of 1.0, which represents zero incremental variable costs and thus zero total costs of providing reactive power. A generating facility operating at any reactive power level (*i.e.,* a power factor other than 1.0) will incur some amount of incremental fuel cost, but the Commission generally considers these costs *de minimis* within the standard power factor range. *See, e.g., APS,* 94 FERC at 61,080 (''We note that operating a generating unit within the proposed [standard power factor range] does not affect the generation output of a unit.''); Commission Staff Report, *Principles for Efficient and Reliable Reactive Power Supply and Consumption,* Docket No. AD05–1–000, at 96 (2005 Staff Report) (2005) (''The marginal cost of providing reactive power from within a generator's capability curve (D-curve) is near zero.'').

[136] *Panda Stonewall, LLC,* 176 FERC ¶ 61,072, at P 6 n.9 (2021). We note that the heating losses component reflects the incremental fuel cost of providing reactive power. *See, e.g., Panda Stonewall, LLC,* 174 FERC ¶ 61,266, at P 155 (2021) (''The *AEP* methodology already has a means in place to provide compensation for the small amount of additional fuel used during the production of reactive power, which is a heating loss calculation based on the MW-hours of actual reactive power production and the usage charges for fuel.'').

[137] *See Belmont Mun. Light Dep't* v. *FERC,* 38 F.4th at 173, 179, 186 (2022) (finding that the Commission's approval of a portion of ISO–NE's Inventoried Energy Program ''was not reasoned decisionmaking'' and ''thwart[ed] the [Commission's] own 'longstanding policy that rate incentives must be prospective and that there must be a connection between the incentive and the conduct meant to be induced'' because it would compensate market participants for conduct they already engage in as part of standard business operations).

compensation regimes are transparent, not administratively burdensome, designed to prevent double-recovery, and able to procure significant reliability benefits at ''reasonable'' or ''low'' cost. However, these arguments ignore the preliminary findings of the NOPR, namely that generating facilities providing reactive power within the standard power factor range are only meeting their obligations under their interconnection agreements in accordance with good utility practice, and in doing so incur no or at most a *de minimis* increase in variable costs beyond the cost of providing real power. As explained in this final determination and decades of prior Commission precedent, in order to reliably interconnect to the transmission system and deliver real power to customers, generating facilities must be capable of maintaining voltage levels for injecting real power into the transmission system.[138] As relevant here, these findings apply equally to flat-rate compensation regimes like ISO–NE's and NYISO's, as well as the compensation regimes of PJM and certain non-RTO regions. Thus, the ISO–NE and NYISO regimes, while easier to implement administratively, also impose unreasonable and unsupportable costs on transmission customers.

53. ISO–NE's and NYISO's claims regarding transparency, administrative burden, and preventing double recovery all presuppose that compensation is due, and thus that a compensation method is needed. But, where compensation is found to be unjust and unreasonable, as we find here, such a compensation methodology will necessarily result in unjust and unreasonable rates and thus is not permissible.

54. Additionally, we agree with New England Consumer Advocates,[139] who argue that any payment for reactive power capability within the standard power factor range must yield some roughly commensurate incremental benefit *above and beyond* that which would accrue absent payment.[140] As discussed below,[141] ISO–NE and NYISO allude generally to reliability benefits from reactive power compensation over the full range of a resource's capability to provide reactive power—that is, both within and outside of the standard power factor range—rather than the narrower focus of this final determination. And, in both ISO–NE (except for certain circumstances as explained by ISO–NE) [142] and NYISO, as everywhere, generating facilities must provide reactive power within the standard power factor range to make sales of real power regardless of whether they receive separate compensation.[143]

55. We do not dispute that the provision of reactive power within the standard power factor range provides reliability benefits, only that there are no incremental fixed costs other than joint costs that are also associated with the production of real power and at most *de minimis* incremental variable costs that would warrant a separate compensation mechanism. We also find that there is substantial evidence to conclude that, under the current reactive power compensation framework, reactive power-related transmission charges are not tied to geographic need and result in excess reactive power capability that is not required for interconnection and does not provide transmission customers with commensurate reliability benefits.[144] Accordingly, we deny ISO–NE's and NYISO's respective requests for flexibility to include in transmission rates charges associated with the provision of reactive power within the standard power factor range.

56. We reject commenters' arguments that the final determination violates the Fifth and Fourteenth Amendments of the U.S. Constitution. The final determination's elimination of reactive power payments for the provision of reactive power within the standard power factor range is not confiscatory and would not amount to a taking of property. As noted above, generating facilities incur no or at most a *de minimis* increase in variable costs beyond the cost of providing real power and have the opportunity to seek recovery of any costs they do incur. In addition, commenters' arguments that the obligation to provide reactive power within the standard power factor range is unconstitutional are impermissible

[138] *See, e.g., BPA,* 120 FERC ¶ 61,211 at P 21 (''The purpose for which generation assets are built (including reactive power capability to maintain voltage levels for generation entering the grid) is to make sales of real power.''); *SPP,* 119 FERC ¶ 61,199 at P 28 (''[I]f a generator is to sell (and be able to deliver) its power to a customer, reactive power is essential to the transaction''). *See also PJM Interconnection, L.L.C.,* 145 FERC ¶ 61,280, at P 17 (2013) (approving tariff revisions that require interconnection customers to pay for upgraded telecommunication equipment (phasor measurement units) as the ''data is integral to improved communication and to the reliability of the system and, as such, benefits both the system and the generators'').

[139] New England Consumer Advocates Initial Comments at 5 (''To the extent . . . benefits are achieved by compliance with a generating facility's interconnection agreement and/or as 'good utility practice,' [New England Consumer Advocates] agree[] with the Commission that ratepayers should not be paying separately for the costs to produce a joint reactive power product.'').

[140] *See, e.g., Ill. Com. Comm'n.* v. *FERC,* 576 F.3d at 476 (''[The Commission] is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members.'').

[141] *See infra* II.D.2.

[142] ISO–NE notes that not all generating facilities are obligated to provide reactive power within the standard power factor range. ISO–NE Initial Comments at 9. Specifically, ISO–NE notes that several older generating facilities in New England have interconnection agreements that pre-date the obligation to provide reactive power within the standard power factor range. *Id.* ISO–NE states that these resources choose to participate in the Schedule 2 VAR compensation program, incurring an obligation to maintain and provide VAR service in New England. *Id.* Any generating facilities with individualized bilateral contracts providing for reactive power compensation within the standard power factor range may pursue claims that they have an independent contractual right to reactive power compensation within the standard power factor range, but we express no opinion here as to whether any such generator would be entitled to such compensation.

[143] *See, e.g., BPA,* 120 FERC ¶ 61,211 at P 21 (''The purpose for which generation assets are built (including reactive power capability to maintain voltage levels for generation entering the grid) is to make sales of real power.''); SPP Order on Rehearing, 121 FERC ¶ 61,196 at P 15 (''As we have previously explained, reactive power *is required for an interconnecting generator to deliver its power* and reactive power produced within the [standard power factor range] and is, therefore, generally not compensable.'' (emphasis added)).

[144] Joint Customers Initial Comments at 12 (''This incentive structure to provide payment based on reactive capability results in the building of unnecessary capabilities in locations it is not or may not be needed and does not allocate the costs associated with reactive capability in a manner that is at least roughly commensurate with the benefits received.'' (citing *Ill. Com. Comm'n.* v. *FERC,* 576 F.3d at 477)); MISO Transmission Owners Initial Comments at 8 (''Moreover, the capability-based compensation methodology currently permitted by the Commission . . . allows and even incentivizes generators to add as much reactive equipment as they desire, *i.e.,* to gold plate a facility's reactive capability, regardless of whether that reactive support is needed at that point on the grid.''); TAPS Initial Comments at 4–5 (''Nor can customers be assured they are receiving reliability benefits commensurate to the reactive power compensation paid under the current approach. The existing approach to reactive power capability compensation does not adequately consider a generator's actual contribution to reliability, or lack thereof. For example, that approach does not account for relevant factors such as location, the need for reactive power, deliverability to where reactive power may be needed, possible degradation in generator performance or other changes over time. The result is that the current approach to reactive power compensation requires consumers to pay excessive charges for reactive power that may not be needed or is in the wrong location.'' (citations omitted)). *See Belmont Mun. Light Dep't* v. *FERC,* 38 F.4th at 187–90 (finding that the Commission's acceptance of ISO–NE's Inventoried Energy Program ''was not reasoned decision making'' because record evidence indicated that certain types of generating facilities ''would not change their behavior in response to payments.'').

collateral attacks on our prior determinations and unpersuasive.[145]

57. The Commission has repeatedly held that ''the provision of sufficient reactive power is an obligation of a generator interconnected to the system, and . . . as a general matter, a generator is not entitled to separate compensation for providing reactive power within its deadband.'' [146] A generating facility must in fact produce reactive power to move real power from the generating facility to the transmission system to deliver its real power to customers, while maintaining system reliability.[147] It is only by virtue of comparability that generating facilities were previously entitled to reactive power compensation.[148]

58. Simply stated, the obligation to provide reactive power within the standard power range exists independent of, and was not altered by, the NOPR's proposal: it was stated in Order No. 2003 and applies to individual generating facilities through their interconnection service agreements. This final determination changes only the allowance for transmission providers to provide compensation at their discretion to their own and affiliated generating facilities, and then to third-party generating facilities under the comparability standard for the provision of reactive power within the standard power factor range. This change eliminates a stream of revenue under Schedule 2, but we find here that such elimination is just and reasonable given that the record demonstrates that generating facilities incur no or at most a *de minimis* increase in variable costs beyond the cost of providing real power.[149] Moreover, to the extent that generating facilities have any costs associated with providing reactive power within the standard power factor range, generating facilities may seek to recover these costs through energy or capacity sales.[150] Accordingly, and consistent with precedent, commenters have not persuaded us that they have a property interest in continued compensation under Schedule 2, or that this final determination would unconstitutionally deprive generating facilities of that putative property interest under the Takings Clause or Due Process Clause of the Fifth Amendment.

59. We disagree with Eagle Creek's and the NHA's assertions that most reactive service rate schedules on file enjoy the *Mobile-Sierra* presumption and as a result, in order for the Commission to disallow the existing reactive service rates, each rate on file must be demonstrated by the Commission to ''seriously harm the public interest.'' [151] While the *Mobile-Sierra* doctrine establishes a more rigorous application of the just and reasonable standard when the Commission proposes to change an individual contract negotiated at arms-length,[152] reactive power-related transmission rates are not individually negotiated contract rates, but rather transmission owner tariff-based rates of general applicability reflected in the transmission owner's Schedule 2.[153] The fact that the Commission has accepted generating facilities' rate filings setting forth reactive power rates covering the provision of reactive power within the standard power factor range establishes only the rate at which the generating facility is obligated to sell reactive power to a transmission provider; that rate does not establish an obligation for the transmission provider to purchase such reactive power. Those individual rates establish only the charges that transmission providers will include in transmission rates if, and only if the transmission providers' OATTs require the payment of compensation for reactive power.[154]

60. As discussed above, the final determination requires revisions to

[145] MISO Transmission Owners Reply Comments at 12 n.33 (''Moreover, as 'legislation [that] readjust[s] rights and burdens is not unlawful solely because it upsets otherwise settled expectations,' the Commission's action implementing the changes in the NOPR would not constitute an unconstitutional taking just because the changes would 'impact the benefits and burdens' of the agreement entered into by generators interconnecting with the Transmission System. Generators have only a unilateral expectation of payment for the provision of reactive power and not a legitimate claim of entitlement to compensation.'') (citations omitted). *See also MISO,* 182 FERC ¶ 61,033 at P 62; MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 52–54 (''Vistra has not persuaded us that it has a property interest in continued Reactive Service compensation under the Tariff, nor that MISO TOs' proposal would unconstitutionally deprive generators of that putative property interest under the Takings Clause or Due Process Clause of the Fifth Amendment.'').

[146] *See, e.g., MISO,* 182 FERC ¶ 61,033 at P 62 (citing *SPP,* 119 FERC ¶ 61,199 at P 28); MISO Rehearing Order, 184 FERC ¶ 61,022 at P 52 (finding that protesters constitutional claims were impermissible collateral attacks on the Commission's prior determinations given ''[t]he obligation to provide Reactive Service exists independent of, and was not altered by, MISO TOs' proposal: it was stated in Order No. 2003 and applies to individual generators through their GIAs.'').

[147] *See, e.g.,* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 53 (''[T]he function of generators' Reactive Service is to ensure that generators' real power can enter the transmission grid while maintaining system reliability.''); *SPP,* 119 FERC ¶ 61,199 at P 28 (explaining that if a generator is to sell (and be able to deliver) its power to a customer, reactive power is essential to the transaction).

[148] NOPR, 186 FERC ¶ 61,203 at P 4 (citing Order No. 2003–A, 106 FERC ¶ 61,220 at P 416). *See also* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 26 (''On rehearing, we continue to reject, as collateral attacks on that longstanding policy, arguments that stand-alone compensation for Reactive Service is generically required—for example, to ensure that generators can recover their costs for Reactive Service capability. These arguments would negate the conclusions in Order Nos. 2003 and 2003–A that such compensation should not be provided, except as required by the comparability standard.'').

[149] *See* MISO Transmission Owners Initial Comments at 6 (''The MISO Transmission Owners' experience supports the Commission's preliminary finding that providing reactive power within the standard power factor range requires little or no cost to generators. Generators incur little or no costs beyond what is already needed to produce real power because the same equipment used to produce real power includes reactive power functions.'' (citations omitted)); PJM IMM Reply Comments at 3 (''Neither the [Indicated Trade Associations] nor any other opposing commenter, nor any of the precedent relied upon by opposing commenters, identify any additional costs or more than de minimis costs incurred by generators in order to provide reactive capability.'').

[150] MISO Rehearing Order, 184 FERC ¶ 61,022 at P 53; *BPA,* 120 FERC ¶ 61,211 at P 20; BPA Rehearing Order, 125 FERC ¶ 61,273 at P 11; *see also* NOPR, 186 FERC ¶ 61,203 at P 24; *see also* MISO Transmission Owners Initial Comments at 6; PJM IMM Reply Comments at 3.

[151] Eagle Creek Initial Comments at 4; NHA Initial Comments at 8–9.

[152] The Commission has explained that the *Mobile-Sierra* ''public interest'' presumption applies to an agreement only if the agreement has certain characteristics that justify the presumption. In ruling on whether the characteristics necessary to justify a *Mobile-Sierra* presumption are present, the Commission must determine whether the agreement at issue embodies either: (1) individualized rates, terms, or conditions that apply only to sophisticated parties who negotiated them freely at arm's length; or (2) rates, terms, or conditions that are generally applicable or that arose in circumstances that do not provide the assurance of justness and reasonableness associated with arm's-length negotiations. Unlike the latter, the former constitute contract rates, terms, or conditions that necessarily qualify for a *Mobile-Sierra* presumption. *E.g., Linden VFT, LLC* v. *Pub. Serv. Elec. & Gas Co.,* 161 FERC ¶ 61,264, at P 27 (2017); *PJM Interconnection, L.L.C.,* 161 FERC ¶ 61,262, at P 18 (2017); *Sw. Power Pool, Inc.,* 144 FERC ¶ 61,059, at P 127 (2013), *order on reh'g and compliance,* 149 FERC ¶ 61,048, at P 94 (2014) (citations omitted); *Midwest Indep. Transmission Sys. Operator, Inc.,* 142 FERC ¶ 61,215, at P 177 (2013), *order on reh'g and compliance,* 147 FERC ¶ 61,127, at P 108 (2014) (citations omitted).

[153] *See, e.g., Wabash Valley Power Ass'n, Inc.* v. *FERC,* 45 F.4th 115, 120 (D.C. Cir. 2022) (''[A] contract requiring the purchaser to pay a utility's 'going rate' on file with FERC, without more, does not eliminate review under the ordinary just-and-reasonable standard.'').

[154] *Cf. Whitetail Solar 3, LLC,* Opinion No. 583, 184 FERC ¶ 61,145, at P 45 (2023) (affirming the Presiding Judge's finding that Schedule 2, not Applicants' interconnection agreements, determines whether generating facilities are eligible for compensation, therefore, ''there is no reason for the Commission to amend the [interconnection agreements] of all existing distribution-connected generation, as Applicants suggest would be necessary in light of the Initial Decision.''); *see also MISO,* 182 FERC ¶ 61,033 at P 63 (''As described above, MISO [Transmission Owners] have the unilateral right to change Schedule 2 through an FPA section 205 filing and by doing so, they automatically change the rate payable for Reactive Service that generators contractually agreed to in section 9.6.3 of their GIAs.'' (citations omitted)).

Schedule 2 to prohibit the inclusion in transmission rates of charges associated with reactive power in the standard power factor range and, for consistency, also requires conforming revisions to the *pro forma* LGIA and *pro forma* SGIA to remove language related to the comparability standard. Since Schedule 2 is a tariff-based rate, that rate can be modified under the ordinary just and reasonable standard.[155] However, this final determination does not affect the ability of generating facilities to pursue claims that they have an independent contractual right to reactive power compensation within the standard power factor range, based on a bilateral agreement with the relevant transmission owner.[156]

61. We also find that Generation Developers' and Reactive Service Providers'[157] assertions that the final determination would violate *Atlantic City* by depriving generating facilities of their FPA section 205 filing rights lack merit. The Commission is not depriving generating facilities of their filing rights. The commenters' arguments fundamentally misunderstand generating facility compensation under the Commission's *pro forma* OATT and interconnection agreements. The final determination is not adjusting, overturning, or reducing to zero any generating facility's rate for reactive power within the standard power factor range. The final determination addresses only the justness and reasonableness of transmission rates chargeable to transmission customers under Schedule 2 and by extension, payable to the transmission providers' own generating facilities or affiliated generating facilities and third-party generating facilities under the comparability standard, consistent with their interconnection agreements, not any independent right of generating facilities to establish a rate under FPA section 205. While this does result in generating facilities, affiliated and non-affiliated, no longer being entitled to compensation for the provision of reactive power within the standard power factor range as a function of comparability, the Commission has found that such an outcome does not undermine the generating facilities' FPA section 205 filing rights.[158]

B. Cost of Producing Reactive Power

62. The NOPR preliminarily found that providing compensation for the provision of reactive power within the standard power factor range is unjust and unreasonable. The Commission relied on three key points to support this preliminary finding.

63. First, the NOPR relied on the Commission's prior findings that, for both synchronous and non-synchronous generating facilities, because all equipment used to produce reactive power is also necessary to produce and deliver real power to the transmission system, there are no incremental fixed costs associated with the provision of reactive power within the standard power factor range.[159] The NOPR also explained that the Commission has repeatedly found, that ''[v]ariable costs of generating reactive power are *de minimis*'' and ''generally limited to changes in losses within the generating facility which are part of the overall efficiency of the resource and, as such, are typically captured in the resource offers.'' [160] Thus, by providing reactive power within the standard power factor range, both synchronous and nonsynchronous facilities incur no additional fixed costs and at most *de minimis* variable costs beyond which they already incur to provide real power.[161]

64. Second, the NOPR relied on the fact that all generating facilities must provide reactive power within the standard power factor range as an obligation of good utility practice and to meet the obligations under their interconnection agreements.[162]

[155] *See* Joint Customers Reply Comments at 14 (''There is no validity to the argument that individual rate challenges must be pursued by the Commission or complainants, and it is well established that a change to the underlying Schedule 2 in a transmission provider's tariff, as proposed by the Commission in the NOPR, will contemporaneously end compensation to third-party generators with no further action required.'').

[156] For example, ISO–NE and NEPOOL claim that certain agreements exist that do not obligate certain non-generator resources to provide reactive power either within or outside of the standard power factor range and are still entitled to compensation. *See supra* n.142; ISO–NE Initial Comments at 9; NEPOOL Reply Comments at 9. We express no opinion here as to whether any such generating facility, such as those situations noted by ISO–NE and NEPOOL, would be entitled to such compensation under such agreements.

[157] Generation Developers Initial Comments at 31–32 (citing *Atl. City,* 295 F.3d at 9–10); Reactive Service Providers Initial Comments at 54.

[158] *Cf. MISO,* 182 FERC ¶ 61,033 at P 65 (''[W]e find that MISO TOs' proposal does not restrict independent power producers' FPA section 205 rights to file a rate for reactive power; instead, the proposal addresses only the rates chargeable to transmission customers under Schedule 2 and by extension, payable to resources consistent with their GIAs, not any independent right of generators to seek compensation under FPA section 205.''); Opinion No. 583, 184 FERC ¶ 61,145 at P 45 (''Applicants' [interconnection agreements] do not establish an independent right outside the context of Schedule 2 to reactive power compensation for merely meeting the technical requirements required for interconnection.''); *see also* Joint Customers Initial Comments at 14 (''Without comparability as an issue, it is *existing* Commission policy that it is inappropriate to compensate within the standard power factor range. The Order No. 2003 determination that compensation should not be paid for reactive service meeting interconnection requirements remains well supported.'' (emphasis in original)). We also note that individual generating facility reactive power tariffs themselves do not establish a payment obligation, only the rate that a buyer will pay *if* it takes service. A tariff rate is an offer to sell service at the stated rate; it does not establish an obligation on any party to pay that rate. *See* 18 CFR 35.2(c)(1) (''The term *tariff* as used herein shall mean a statement of (1) electric service as defined in paragraph (a) of this section *offered on a generally applicable basis*) (emphasis added)); *Sw. Power Pool, Inc.,* 149 FERC ¶ 61,048 at P 106 (''The Commission's use of the term 'tariff rates' as generally applicable rates is justified by the definition of the term 'tariff' set forth in the Commission's regulations under the FPA, which state, in part, that a tariff is 'a statement of . . . electric service . . . offered on a generally applicable basis.' ''). In order to constitute an obligation, a party must sign a *pro forma* or other service agreement. *See Cal. Indep. Sys. Operator Corp.,* 100 FERC ¶ 61,234, at 61,834 (2002) (''[T]he Commission moved to a paradigm of standard agreements in which terms and conditions that are included in a public utility's OATT and bilateral contracts are replaced by *pro forma* service agreements''). Therefore, if transmission providers revise their Schedule 2's to eliminate compensation for the provision of reactive power within the standard power factor range, no party will exist to pay the generating facility's filed tariff rate. *See, e.g., PNM,* 178 FERC ¶ 61,088 (finding that the transmission owner is not required to pay for reactive power, but not instituting section 206 proceedings to cancel reactive power tariffs).

[159] NOPR, 186 FERC ¶ 61,203 at PP 29–31 (''[S]ynchronous and non-synchronous resources provide real and reactive power as joint products, with joint costs.'').

[160] *Id.* P 31.

[161] *Id.* PP 8, 28.

[162] *Id.* P 33 (citing *MISO,* 182 FERC ¶ 61,033 at P 53 (''Bearing in mind that the provision of reactive power within the standard power factor range is, in the first instance, an obligation of the interconnecting generator and good utility practice, MISO [transmission owners] do not have an obligation to continue to compensate an independent generator for reactive power within the standard power factor range when its own or affiliated generators are no longer being compensated.'' (citations omitted)); *id.* P 54 (''We find unpersuasive protesters' arguments that it is not just and reasonable to eliminate compensation for Reactive Service within the standard power factor range because generators have come to rely on the compensation for Reactive Service in order for the generators to remain financially viable. The Commission has previously rejected such arguments, finding that all newly interconnecting generators are required to provide reactive power within the power factor range of 0.95 leading to 0.95 lagging as a condition of interconnection.'' (citations omitted)); *PNM,* 178 FERC ¶ 61,088 at PP 29, 33 (rejecting generating facility's arguments that it is ''just and reasonable for it to be compensated for investments made'' to provide reactive support consistent with interconnection requirements even though transmission provider elected to no longer pay its own or affiliate generators for such reactive power); *Nev. Power Co.,* 179 FERC ¶ 61,103 at P 22 (finding that the generating facility's argument, ''that it is not just and reasonable to eliminate their compensation for reactive service because they made investments in their generating facilities based on the expectation that they would receive compensation for reactive service,'' unpersuasive because all newly interconnecting generators are required to provide reactive power within the standard power factor range as a condition of

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Additionally, the NOPR emphasized that ''reactive support by generating facilities operating within the standard power factor range ensures that when these facilities inject real power—the product that their facilities exist to create and sell—onto the grid under normal conditions, they can do their part to maintain adequate voltages and to not threaten reliability.'' [163] In other words, a generating facility must produce reactive power within the standard power factor range in order to generate and safely inject real power into the transmission system and comply with reliability requirements. As such, providing reactive power within the standard power factor range can be regarded as a joint product with providing real power, with joint costs.

65. Third, the NOPR noted that in regions where generating facilities recover their costs by participating in organized competitive wholesale markets, providing separate compensation for the provision of reactive power within the standard power factor range risks overcompensation and market distortions in ways that did not exist prior to the existence of organized markets.[164] The NOPR explained that the AEP Methodology was created in an era of vertically integrated utilities, when most utilities filed FERC Form No. 1s, used the Uniform System of Accounts (USofA) to classify their costs, and recovered those costs through cost-based rates.[165] Today, however, most generating facilities recover their costs through competitive markets in both RTO/ISO and non-RTO/ISO regions, so the imprecision of the AEP Methodology, the NOPR explained, becomes more significant because it can lead to arbitrary increases in the utility's total recovery when cost-based reactive power payments are added to any market recoveries.[166] The NOPR added that this is especially true when markets fail to account for separate, cost-based reactive power revenues by using standard rate making techniques.[167]

interconnection); Order No. 2003, 104 FERC ¶ 61,103 at P 546.

[163] NOPR, 186 FERC ¶ 61,203 at P 13 (citing MISO Rehearing Order, 184 FERC ¶ 61,022 at P 23).

[164] *Id.* at P 39.

[165] *Id.*

[166] *Id.*

[167] *Id.* at 39 & nn.100–02. The Commission noted that, in PJM for example, while the capacity market rules currently account for reactive power payments to resources by assuming average reactive power compensation of $2,546 per MW-year, reactive power revenue requirements in PJM range from roughly $1,000 per MW-year to $13,000 per MW-year. The Commission noted that this wide range of actual compensation, which is both above and below the assumed reactive power compensation in the capacity market rules, can lead to market distortions.

1. Comments

66. Many commenters support the NOPR's finding that transmission charges for generating facilities' provision of reactive power within the standard power factor range are unjust and unreasonable.[168] Likewise, many commenters support the NOPR's preliminary finding that generating facilities already provide reactive power within the standard power factor range at no cost or *de minimis* cost.[169] Ameren and MISO Transmission Owners agree with the NOPR that providing reactive power within the standard power factor range requires little or no cost to generators because the same equipment used to produce real power includes reactive power functions.[170] In support, MISO Transmission Owners point to *MISO* and the MISO Rehearing Order wherein the Commission also concluded that, based on that record, reactive power service within the standard power factor range required little or no incremental investment. MISO Transmission Owners add that, as the Commission found in the MISO Rehearing Order, even newer wind turbines use inverters that allow generating facilities to produce and control reactive power without costly additional equipment.[171] MISO Transmission Owners also state that generating facility equipment typically comes with reactive power capabilities that not only meet the standard range requirements (*i.e.,* 0.95 leading and 0.95 lagging) but exceed them (*e.g.,* 0.80–0.90).[172] MISO Transmission Owners argue that since generating facilities bear no or at most *de minimis* incremental costs to provide reactive power within the standard power factor range, one must consider what the actual purpose is of compensating generating facilities for such service.[173]

67. Joint Customers state that attempts to undermine the NOPR, such as challenging the assertion that incremental costs of providing reactive service within the standard power factor range are *de minimis,* are meritless.[174] Joint Customers argue that the costs incurred by generators to meet interconnection requirements are necessary for safe and reliable grid operations and that arguments against the *de minimis* designation often misrepresent the incremental costs involved in meeting interconnection requirements versus providing additional reactive capability.[175] Joint Customers note that claims of excessive costs for non-synchronous generators to comply with power factor requirements are collateral attacks on prior Commission orders, particularly Order No. 827.[176]

68. The PJM IMM, MISO Transmission Owners, and several other commenters assert that providing reactive power within the standard power factor range is an obligation of interconnection and consistent with good utility practice.[177] The PJM IMM asserts that the Commission has a long

[168] AEP; Ameren; Joint Consumer Advocates; Joint Customers; MISO Transmission Owners; New England Consumer Advocates; Ohio FEA; PGE; PJM; the PJM IMM; the Transmission Access Policy Study Group.

[169] *See* Ameren Initial Comments at 3; Joint Customers Reply Comments at 11–13; MISO Transmission Owners Initial Comments at 5–7; New England Consumer Advocates Initial Comments at 4–6; PJM IMM Initial Comments at 4.

[170] Ameren Initial Comments at 3 (citing *BPA,* 120 FERC ¶ 61,211 at P 21 (''Evidence from numerous reactive power rate filings demonstrates newly interconnecting resources have the capability to provide reactive power, some well in excess of the required 0.95 leading to 0.95 lagging. It is also well-documented that the same equipment used to produce real power includes reactive power functions and thus there is little, if any, incremental cost associated with providing reactive power.'')); MISO Transmission Owners Initial Comments at 5–7 (citing *MISO,* 182 FERC ¶ 61,033 at P 55; MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 25 n.76, 29–30, 34, 41–42 (''[T]he record establishes, that Reactive Service requires little or no incremental investment.'')); MISO Transmission Owners Reply Comments at 9; *see also* Ohio FEA Initial Comments at 3.

[171] MISO Transmission Owners Initial Comments at 7 & n.18 (citing MISO Rehearing Order, 184 FERC ¶ 61,022 at P 30 n.98 (''[O]lder wind generators could not produce and control reactive power without the use of costly equipment [ ] 'because they did not use inverters like other non-synchronous generators' but modern turbines now use inverters and newer wind generators now can.'')).

[172] *Id.* at 7.

[173] *Id.* at 9.

[174] Joint Customers Reply Comments at 11–13.

[175] *Id.*

[176] *Id.* at 13 (citing Order No. 827, 155 FERC ¶ 61,277 at P 11 (''Prior to Order No. 827, non-synchronous generators were exempt from complying with power factor requirements. The entire point of Order No. 827 was to find that technological advancements had reduced the cost of compliance such that non-synchronous generators no longer needed the exemption. The order also explicitly maintained the compensation scheme for reactive power, with all that means for the elimination of compensation if not justified by comparability.'').

[177] PJM IMM Initial Comments at 6–9 (citing PJM, OATT, Attachment O, §§ 4.7.1.1.1., 4.7.1.2. (3.0.0)); Joint Consumer Advocates Initial Comments at 6–7; MISO Transmission Owners Reply Comments at 4; TAPS Initial Comments at 6; Ohio FEA Initial Comments at 5; Joint Customers Initial Comments at 14–16; PGE Initial Comments at 4 (citing *MISO,* 182 FERC ¶ 61,033 at P 53 (noting that in the acceptance of the MISO Transmission Owners application to end compensation within the standard power application, the Commission reiterated its policy ''that the provision of reactive power within the standard power factor range is, in the first instance, an obligation of the interconnecting generator and good utility practice.'')).

standing policy that ''treats the provision of reactive power inside the [standard power factor range] as an obligation of good utility practice rather than as a compensable service and permits compensation inside the [standard power factor range] only as a function of comparability.'' [178]

69. The PJM IMM states that reactive power is not the only design obligation the generation interconnection customers assume.[179] The PJM IMM notes, for example, that generating facilities are required to provide primary frequency response capability, but the PJM OATT does not provide an out of market payment for such service because it is treated as an obligation assumed by generation interconnection customers for receiving interconnection service.[180] MISO Transmission Owners also point out that the SEIA, the national trade association for the U.S. solar industry, has acknowledged that reactive power compensation does not affect a generator's operations and that provision of reactive power within the standard power factor range is required regardless of compensation.[181]

70. Additionally, MISO Transmission Owners agree that the Commission's line of precedent since Order No. 2003 has required interconnecting generators to be able to provide reactive power within the standard power factor range without compensation, with few exceptions.[182] MISO Transmission Owners argue that generators are incented by their own reliability requirements to install the equipment that will help keep their projects on-line and delivering real power, and that ''skimping'' on equipment that can provide reactive power across a range of operating conditions is not in generators' best operational interests or consistent with good utility practice.[183] MISO Transmission Owners state that generating facilities are also required by the North American Electric Reliability Corporation (NERC) reliability standards to operate in automatic voltage control mode and maintain a voltage set point provided by the transmission provider.[184]

71. MISO Transmission Owners and the PJM IMM agree with the NOPR's preliminary finding that the current reactive power compensation framework allows for undue compensation and potential market distortions, and they argue that the current compensation framework leads to ''black-box'' settlements that lack transparency and result in vastly disparate rates.[185] The PJM IMM argues that separately compensating resources based on a judgment-based allocation of capital costs is not appropriate in the PJM markets.[186] The PJM IMM argues that cost-of-service compensation for reactive power distorts markets and undermines competition.[187] The PJM IMM asserts that the current rules create strong incentives for generating facilities to attempt to maximize the allocation of capital costs to reactive service in order to maximize guaranteed, nonmarket revenues.[188] The PJM IMM claims that there is no reasonable basis for the disparity in the price to customers from different types of generators for the same service and that reactive power is a homogeneous product which should have the same price for all sellers. The PJM IMM notes that the most recent reactive power rate cases settled prior to issuance of the NOPR have resulted in costs well in excess of the reactive power revenue offset assumed in PJM's capacity market.[189]

72. Many other commenters, in contrast, challenge the Commission's preliminary finding that providing reactive power within the standard power factor range has no or *de minimis* costs.[190] The Indicated Trade Associations and Generation Developers emphasize that the costs of equipment and production associated with reactive power, particularly for renewable resources, are substantial and involve significant capital investments.[191] Indicated Reactive Power Suppliers, NEPGA, and Reactive Service Providers assert that eliminating compensation for reactive power within the standard power factor range is unjust and unreasonable, given the substantial capital costs incurred by generators.[192] They argue that the NOPR's proposal fails to account for these costs as well as for lost opportunities for real power generation and renewable energy credits.[193] They assert that the

[178] PJM IMM Initial Comments at 6–8 (citing NOPR, 186 FERC ¶ 61,203 at P 5 (citing BPA Rehearing Order, 125 FERC ¶ 61,273 at P 18)); *see also* MISO Transmission Owners Initial Comments at 10–12.

[179] PJM IMM Initial Comments at 8.

[180] *Id.* (citing PJM, OATT, Attachment O § 4.7.2. (3.0.0)).

[181] MISO Transmission Owners Initial Comments at 9 & n.24 (citing SEIA, *Reactive Power Compensation: How to Unlock New Revenue Opportunities for Solar and Storage Projects, Solar Energy Industries Association* 4 (July 29, 2020), *https://old.seia.org/sites/default/files/2023-01/Speaker%20Q&A%20-%20Reactive%20Power%20Compensation%20Webinar.pdf* (also attached as Exhibit I) (''Filing for and receiving reactive revenues has no impact on the generator's operating profile. The ISO/RTOs have a right to dispatch generators to provide reactive service as needed to maintain reliability.'')). The MISO Transmission Owners also add that ''[a]t the same time MISO was experiencing a dramatic increase in the amounts transmission customers paid for reactive power service prior to its elimination of compensation for reactive power service within the deadband, SEIA highlighted that MISO was one of the two 'most lucrative' regions for reactive power compensation, where generators received millions of dollars in compensation for having the capability to produce reactive power within the deadband, a capability that was already a condition of obtaining interconnection.'' *Id.* at 9–11.

[182] *Id.* at 10–11 (citing Order No. 2003, 104 FERC ¶ 61,103 at P 546; Order No. 2003–A, 106 FERC ¶ 61,220 at PP 410, 416; Order No. 827, 155 FERC ¶ 61,277 at P 59).

[183] *Id.* at 11 & n.29 (citing MISO Rehearing Order, 184 FERC ¶ 61,022 at P 35 n.116 (''[G]enerators have incentives to install equipment to ensure that their generation remains online and delivering real power.'')).

[184] *Id.* at 11–12 (citing Reliability Standard VAR–002–3—Generator Operation for Maintaining Network Voltage Schedules), at 2 (Aug. 1, 2014), *http://www.nerc.com/pa/Stand/Reliability%20Standards/VAR-002-3.pdf* (''R2 . . . Generator Operator shall maintain the generator voltage or Reactive Power schedule (within each generating Facility's capabilities).'').

[185] *Id.* at 8; PJM IMM Initial Comments at 4–6; *see also* Joint Customers Initial Comments at 4–6.

[186] PJM IMM Initial Comments at 3–4.

[187] *Id.* at 4–6.

[188] *Id.* at 4. The PJM IMM asserts that these revenues provide a nonmarket advantage to generating facilities that receive them, resulting in an arbitrary and nonmarket-based advantage (*i.e.,* distortionary).

[189] *Id.* at 6 (explaining that in PJM's capacity market, ''the parameters that define the demand curve . . . are based on the costs of new entry of a reference generating unit, less net revenues from other PJM markets'' such as reactive power revenues). The PJM IMM explains that the level of these net revenues that are subtracted, or offset, from the costs of new entry, are based on a calculation from the PJM IMM of the average Schedule 2 payment for reactive done in 2008 and based on reactive rates from prior years. However, the PJM IMM states that ''[m]ost recent cases settled prior to issuance of the NOPR have settled for costs well in excess of the average cost and well in excess of the [] offset amount'' and that ''[t]he issue is growing in significance.'' *Id.* at 5.

[190] Eagle Creek Initial Comments at 3–4; Indicated Trade Associations Initial Comments at 7; ACORE Initial Comments at 2; Elevate Renewables Initial Comments at 9–12; Generation Developers Initial Comments at 13; Glenvale Initial Comments at 9–10; Indicated Reactive Power Suppliers Initial Comments at 2, 9–10; Indicated Trade Associations Initial Comments at 2, 6; Middle River Power Initial Comments at 2–3; NEI Initial Comments at 4–5, 8–9; NHA Initial Comments at 2, 4–5. Indicated Trade Associations also assert that prior Commission orders cited by the NOPR to support the assertion that no costs or *de minimis* costs are incurred to provide reactive power within the standard power factor range do not provide evidence to support the conclusion. Indicated Trade Associations Initial Comments at 8 (citing *BPA,* 120 FERC ¶ 61,211 at P 21; BPA Rehearing Order, 125 FERC ¶ 61,273 at P 7 n.7; *Ariz. Pub. Serv. Co.,* 94 FERC ¶ 61,027, at 61,080 (2001) (*APS*)); Onward Energy Reply Comments at 2.

[191] Indicated Trade Associations Initial Comments at 10; Generation Developers Initial Comments at 13.

[192] Indicated Trade Associations Reply Comments at 6–7; NEPGA Reply Comments at 3 (citing Indicated Trade Association Initial Comments, Affidavit of Michael Borgatti, Docket No. RM22–2–000 at 9–10 (filed May 28, 2024)); Reactive Service Providers Initial Comments at 37–40.

[193] *See* Indicated Trade Associations Initial Comments at 11–12 (''[F]or renewable resources,

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Commission's proposal is inconsistent with the FPA's purpose of ensuring just and reasonable returns on investment, particularly for inverter-based resources, which incur distinct incremental costs for reactive power provision.[194]

73. Some commenters argue that there is an insufficient legal foundation under section 206 of the FPA to demonstrate that all existing reactive power rates are unjust and unreasonable.[195] Generation Developers assert that the fact that many generators are required to provide reactive power as a condition of receiving interconnection service and consistent with good utility practice does not provide a basis for concluding that the compensation received by generating facilities is unjust and unreasonable.[196] Generation Developers assert that the Commission's reasoning improperly assumes that generating facilities investing in reactive power capability are not performing a service that benefits the transmission system, but is instead only needed to support their own deliveries.[197] Generation Developers assert that the NOPR's categorical determination that the just and reasonable reactive power rate is zero, and thus all reactive rates that are not zero are unjust and unreasonable, fails to comply with the requirements of section 206 of the FPA.[198] NEI adds that the Commission failed to meet its section 206 burden because the NOPR does not offer substantial evidence that reactive power costs are zero or minimal, cost allocation is inappropriate, or reducing reactive power compensation to zero would allow generators to recover their costs, plus a reasonable rate of return.[199]

74. Generation Developers assert that the Commission ignores well-documented evidence that certain types of generating facilities, namely inverter-based generating facilities, incur distinct, incremental costs associated with providing reactive power.[200] Generation Developers assert that, when the Commission first required that generating facilities be capable of supplying reactive power within the standard power factor range in Order No. 2003, it explicitly exempted wind generating facilities from that requirement because most wind generators could not maintain the power factor range.[201] Generation Developers state that the Commission also generally exempted wind generators from operating within the standard power factor range in Order No. 661 because ''for wind plants, reactive power capability is a significant added cost.'' [202] Generation Developers assert that while the Commission removed this exemption in Order No. 827 [203] after finding that technological advancements made it so the cost of reactive power no longer presented an obstacle to the development of wind generation, it ''notably did not find that there were no such costs or even *de minimis* costs associated with the provision of reactive power by wind resources.'' [204] Instead, Generation Developers argue that the Commission removed this exemption based on its finding that imposing an obligation on non-synchronous generating facilities to provide reactive power within the standard power factor range was necessary to support transmission service and reliability.[205] Generation Developers add that, even if costs have declined over the years, the Commission has not demonstrated that it would be just and reasonable to nullify the rate schedules of facilities that came online years before the technological advancements referenced in Order No. 827 and had to make incremental investments to its facility to produce reactive power within the standard power factor range.[206]

75. Generation Developers argue that the 2014 Staff Report is the most recent and comprehensive evidence on the costs that non-synchronous generating facilities incur in providing reactive power.[207] Generation Developers assert that the NOPR does not provide any evidence to support that the costs of providing reactive power have changed since the Commission's observations in the 2014 Staff Report, but instead relies on a rehearing order in a proceeding concerning the MISO transmission owners' proposal to eliminate reactive power compensation within the standard power factor range for the proposition that non-synchronous generating facilities have no or *de minimis* costs.[208] Generation Developers assert that the Commission's reliance on a statement from the MISO Rehearing Order, and the purported failure of parties in that proceeding to demonstrate costs of non-synchronous facilities, does not satisfy the Commission's burden in this case.[209] Generation Developers add that the Commission's reliance on cases that pre-date the emergence of non-synchronous generating facilities for the proposition that all generating facilities have no or *de minimis* costs is misplaced.[210] For example, Generation Developers contend that the Commission erred in citing Duke Energy Corporation's comments to the NOI in support of its finding that the inverter is the most critical equipment for the production of reactive power from non-synchronous resources.[211]

76. PSEG similarly notes that the Commission has long used the AEP Methodology to allocate costs associated

having to back down generation in order to produce reactive power would also result in lost renewable electricity production tax credits, renewable energy certificates, and similar benefits''); Generation Developers Initial Comments at 13.

[194] *See* Indicated Trade Associations Reply Comments at 7; Generation Developers Initial Comments at 13, 20–21.

[195] Generation Developers Initial Comments at 24–25; Middle River Power Initial Comments at 4; NEI Initial Comments at 7; PSEG Initial Comments at 2–3, 11–12; Reactive Service Providers Initial Comments at 7–54; NYISO Initial Comments at 1.

[196] Generation Developers Initial Comments at 25.

[197] *Id.*

[198] *Id.* at 31; PSEG Initial Comments at 12–13.

[199] NEI Initial Comments at 8.

[200] Generation Developers Initial Comments at 13–17.

[201] *Id.* at 13 (citing Order No. 2003, 104 FERC ¶ 61,103 (noting that the Commission exempted wind generation from the requirement because ''wind generators for the most part cannot maintain the required power factor, simply because the necessary technology does not exist for wind generators'')).

[202] *Id.* at 13–14 (citing Order No. 661, 111 FERC ¶ 61,353 at P 46; Order No. 661–A, 113 FERC ¶ 61,254). Generation Developers add that in Order No. 661, the Commission was presented with evidence that ''wind turbines cannot meet the proposed power factor standard over the full range of real power output, and that dynamic VAR control (DVAR) banks or static capacitors would have to be installed *at an additional expense to meet the proposed power factor over the entire range.*'' Generation Developers Initial Comments at 13 (citing Order No. 661–A, 113 FERC ¶ 61,254 at P 45 (emphasis added)). Generation Developers state that while Order No. 661 was limited to wind resources, the Commission extended the exemption to other non-synchronous resources on a case-by-case basis. Generation Developers Initial Comments at 14 (citing *Nev. Power Co.,* 130 FERC ¶ 61,147, at P 27 (2010)).

[203] Order No. 827, 155 FERC ¶ 61,277 at P 21.

[204] Generation Developers Initial Comments at 14.

[205] *Id.* (citing Order No. 827, 155 FERC ¶ 61,277 at P 4) (''The Commission instead made its decision to apply reactive power requirements to non-synchronous resources based on its 'balancing the *costs* to newly-interconnecting non-synchronous generators of providing reactive power with the benefits to the transmission system of having another source of reactive power.' '').

[206] *Id.* at 17.

[207] *Id.* at 14–15 (citing 2014 Staff Report (''[M]ost dynamic reactive power, which is crucial to transmission system reliability, is provided by generators.''). Specifically, Generation Developers state that the 2014 Staff Report made the following findings: ''(1) the costs of reactive power equipment for wind generators range from 3.18% to 4% of their capital costs; and (2) the costs of adding reactive power capability to solar photovoltaic generators range from 2% to 20% of a project's total costs, depending on project size.'' *Id.* at 15 (citing 2014 Staff Report app. 2 at 2–3).

[208] *Id.* at 15 (citing NOPR, 186 FERC ¶ 61,203 at P 29 n.70 (citing MISO Rehearing Order, 184 FERC ¶ 61,022 at P 30)).

[209] *Id.*

[210] *Id.* at 16 (citing *BPA,* 120 FERC ¶ 61,211; METC Rehearing Order, 97 FERC at 61,852–53; *APS,* 94 FERC at 61,080).

[211] *Id.* at 16–17 n.52 (citing Duke Energy Corporation Initial Comments to the NOI at 4).

with the provision of reactive power within the standard power factor range.[212] PSEG witness Dr. Dumais observes that the AEP Methodology identifies four categories of equipment costs that are involved in the production of reactive power from synchronous generating facilities.[213]

77. Indicated Trade Associations argue that the cases cited to in the NOPR to support the finding that there are no or *de minimis* costs associated with producing reactive power do not support the Commission's assertion.[214] For example, Indicated Trade Associations assert that in *BPA,* the Commission summarily stated without evidence that ''the incremental cost of reactive power service within the deadband is minimal.'' [215] Indicated Trade Associations assert that, on rehearing, however, when a party argued that '' 'only the short-run marginal cost of producing the next increment of reactive power 'can logically be described as minimal' because it excludes capability costs,' . . . the Commission sidestepped this issue, stating that 'the issue of whether or not the cost is minimal is not relevant to whether the independent power producers are entitled to compensation.' '' [216] Indicated Trade Associations argue that in *APS,* another order cited in the NOPR, ''the Commission simply noted that intervenors 'have not demonstrated that [the proposed reactive power] requirement will limit the real power output of a generating unit and therefore will not result in any lost opportunity costs.' '' [217]

78. Elevate and Glenvale further argue that the Commission's assumption that all resource classes, including energy storage resources, incur no or minimal costs is unsupported by evidence.[218] Elevate asserts that recurring capital investments are required to address battery degradation caused by the provision of reactive power.[219] Specifically, Elevate argues that while the level of degradation increases as the reactive power to real power ratio moves further from unity, even the provision of reactive power within the standard power factor range contributes to the degradation of the storage resource's capability.[220] Elevate states that energy storage resources must make significant and recurring capital investments to address this degradation, which, in Elevate's experience, costs approximately one percent of the resource's original capital investment annually.[221] Elevate asserts that the record is devoid of any evidence that energy storage resources incur no or *de minimis* costs to provide reactive power.[222] Glenvale argues that there are marginal, operational, and replacement costs associated with providing reactive power within the power factor range for solar generating facilities.[223] Specifically, Glenvale asserts that, at the capital investment stage, there are different inverter options that allow generating facilities to provide reactive service outside of generating hours (*e.g.,* allowing solar generating facilities to provide reactive power at night) and that this incurs additional costs which would not be required if the generating facility were not set up to provide reactive power at night.[224] Glenvale also asserts that inverters use electricity to provide reactive power, explaining that when a generating facility is synchronized, this presents as reduced generation, and when a generating facility is not synchronized, the generator must either use an alternate power source or it presents as negative generation (both of which Elevate states result in additional costs).[225] Glenvale also states that the provision of reactive power can result in a reduced inverter service life.[226] Glenvale notes that it is difficult to allocate these costs among each of the three service conditions—within the standard power factor range while synchronized, within the standard power factor range at night, and outside the standard power factor range at all times—but Glenvale asserts that at least some of the costs are attributable to providing reactive power within the standard power factor range.[227] NEI asserts that there are real costs for nuclear generating facilities to provide and maintain reactive power capability, including: properly sized generators, maintenance associated with normal operations to preserve reactive power capability, and additional repairs that may be needed to address age-related degradation to equipment that might otherwise impair reactive power capability.[228]

79. Relatedly, NEI explains that nuclear generators are most likely to be called upon to provide reactive power services and thus are the generators most likely to face accelerated degradation and damage to reactive power equipment.[229]

80. Reactive Service Providers argue that there is no evidence to support the claim that providing reactive power within the standard power factor range requires no incremental investment, and that even if the investment needed were *de minimis,* that would not be a reason to not provide compensation.[230] Reactive Service Providers further contend that there is no evidence that the costs of providing reactive service have increased since the advent of RTOs and IPPs [231] or that generating facilities are recovering their costs in regions where transmission providers do not provide compensation.[232]

81. Eagle Creek criticizes the Commission's determination that there are no or *de minimis* costs associated with the provision of reactive power in the standard power factor range as flawed based on its own tariff cases under the AEP Methodology and argues that eliminating compensation for reactive power would be arbitrary and capricious.[233] ACORE, Indicated Reactive Power Suppliers, and Middle River Power similarly argue that their facilities have demonstrated just and reasonable compensation covering actual reactive power costs during settlement negotiations.[234]

[212] PSEG Initial Comments at 9.

[213] *Id.,* Prepared Testimony of Dr. Paul A. Dumais at 11, 1:11.

[214] Indicated Trade Association Initial Comments at 7–8.

[215] *Id.* at 8 (citing *BPA,* 120 FERC ¶ 61,211 at P 21).

[216] *Id.* (citing BPA Rehearing Order, 125 FERC ¶ 61,273 at n.7).

[217] *Id.* (quoting *APS,* 94 FERC at 61,080; citing NOPR, 186 FERC ¶ 61,203 at P 29 n.70).

[218] Elevate Initial Comments at 9–12; Elevate Reply Comments at 7–9; Glenvale Initial Comments at 9–10.

[219] Elevate Initial Comments at 9–12; Elevate Reply Comments at 7–9.

[220] Elevate Reply Comments at 8.

[221] *Id.*

[222] Elevate Initial Comments at 12.

[223] Glenvale Initial Comments at 9–10.

[224] *Id.* at 9.

[225] *Id.*

[226] *Id.* at 9–10 & n.29 (citing Ramanathan Thiagarajan, Adarsh Nagarajan, Peter Hacke, and Ingrid Repins, *Effect of Reactive Power on Photovoltaic Inverter Reliability and Lifetimes* (2019), *https://www.nrel.gov/docs/fy19osti/73648.pdf.*) (''One characterization in recent research is that providing reactive power within the standard power factor range reduces service life by one year, and that providing reactive power outside of the standard range reduces service life by a second year.'')).

[227] *Id.* at 10.

[228] NEI Initial Comments at 5.

[229] *Id.* at 14–16.

[230] Reactive Service Providers Initial Comments at 37–40.

[231] *Id.* at 31–34.

[232] *Id.* at 37–41.

[233] Eagle Creek Initial Comments at 3–4. Eagle Creek argues that, for each of its tariff cases, it submitted evidence documentation of the fixed and sunk costs that it invested to increase its reactive power generation. *Id.*

[234] ACORE Initial Comments at 2; Indicated Reactive Power Suppliers Initial Comments at 9; Middle River Power Initial Comments at 2–3 (noting that Middle River Power owns 19 fossil-fired generating facilities that recover approximately $4.5 million in annual reactive power revenues through their reactive service tariffs

Continued

82. Indicated Trade Associations assert that the Commission fails to reconcile the NOPR's insistence that there are no segregable costs associated with the provision of reactive power with its longstanding precedent of the AEP Methodology, where the Commission approved isolating costs of providing reactive power.[235] NEI asserts that, rather than point to actual data that demonstrates generating facility costs for providing reactive power, the NOPR relies on the misplaced theory that ''because both synchronous and non-synchronous resources provide real and reactive power as joint products, with joint costs, . . . any allocation of joint fixed costs between real and reactive power could be viewed as inherently arbitrary.'' [236] NEI and Generation Developers argue that the AEP Methodology compensates generators based on their actual costs and reactive capabilities, providing them with a just and reasonable opportunity to recover their investments in reactive service capability, and asserts that the Commission has repeatedly confirmed this cost allocation methodology and its underlying factual predicates in numerous proceedings.[237] Generation Developers suggest that the Commission has allocated real and reactive power costs using the AEP Methodology for over two decades [238] and has rejected arguments that the AEP Methodology results in an improper allocation of costs or is used merely as a matter of administrative convenience.[239] The NHA asserts that the Commission correctly identifies real power and reactive power as jointly produced commodities, but it incorrectly attributes the cost of all generation equipment to be predominantly for the production of real power.[240]

83. Clean Energy Associations assert that reactive power is not always coupled with real power as they believe the Commission states in the NOPR.[241] Middle River Power argues that the Commission's statement that generating facilities are being asked to provide reactive power in order to offset the impact of the power they inject into the system is incorrect.[242] Similarly, Middle River Power asserts that the Commission has previously found that generators are being asked to supply reactive power to support load. Clean Energy Associations argues that the Commission conflates the cost of equipment with the cost of providing an essential transmission service and that providing reactive power—even within the standard power factor range—comes at the expense of providing real power.[243] Clean Energy Associations note that a possible solution to this problem could be that the Commission distinguish ''reactive power capability'' from the ''reactive power service.'' [244]

84. ACORE asserts that a requirement to provide a service does not negate the fact that costs are incurred to provide that service.[245] Similarly, Elevate and Indicated Trade Associations argue that, even if it were true that resources do not incur distinct costs associated with reactive power, the Commission fails to point to precedent to support its conclusion that the lack of distinct costs is an appropriate basis on which to deny resources the ability to recover those costs.[246] The Indicated Trade Associations assert that the NOPR's assumption that there are no or minimal costs associated with the provision of reactive power directly contradicts Order No. 888, which Indicated Trade Associations argue found that reactive service from generating facilities must be priced at cost, thereby acknowledging that there are distinguishable costs associated with the provision of reactive power.[247] Middle River Power argues that the Commission has historically required compensation for reactive power as a separate ancillary service.[248]

85. Reactive Service Providers assert that the Commission has not supported its claim that generating facilities (and specifically IPP) already have an obligation to provide reactive service within the standard power factor range.[249] Reactive Service Providers argue that the NOPR's finding is contrary to decades of Commission precedent,[250] and the Commission ''lost its way as it proceeded to Order No. 2003 and beyond, caught up in a myopic view that unbundling and the emergence of the IPP industry somehow transferred the 'obligation' to provide reactive service within the standard range from the Transmission Provider to the IPP generator.'' [251] Reactive Service Providers assert that transmission providers alone have the obligation to maintain a reliable and stable transmission system, and generating facilities are purely a tool that transmission providers use to fulfill this obligation.[252] Reactive Service Providers assert that in Order No. 888, the Commission determined that various ancillary services support the transmission system so that load can be served, but the Commission notably did not find that generating facilities have this obligation.[253] Instead, Reactive Service Providers argue that the Commission merely recognized that generating facilities were a critical tool that transmission providers can use to maintain the safe and reliable operation of the transmission system.[254] Reactive Service Providers assert that, for Reactive Supply and Voltage Control from Generation Sources (which

on file with Commission, which it argues were ''demonstrated in rigorous proceedings before the Commission'' to be just and reasonable compensation covering actual costs).

[235] Indicated Trade Associations Initial Comments at 9; *see also id.* (citing *Va. Elec. & Power Co.,* 114 FERC ¶ 61,318, at P 3 (2006)) (''[T]he Commission expressly instructed generators to use the AEP Methodology '*to compute the portion of plant investment attributable to reactive power production* . . . Because these production plants produce real and reactive power, *AEP* developed an allocation factor to *segregate the reactive production function from the real power production function. The allocation factor is used to determine the amount of investment allocable to reactive power.*' '') (emphasis added by Indicated Trade Associations)).

[236] NEI Initial Comments at 10 (citing NOPR, 186 FERC ¶ 61,203 at P 30)

[237] *Id.* at 10–11; Generation Developers Initial Comments at 7–9.

[238] Generation Developers Initial Comments at 8–9 (citing *Dynegy Midwest Generation, Inc.,* 125 FERC ¶ 61,280 at P 11; *Bluegrass Generation Co., L.L.C.,* 118 FERC ¶ 61,214, *order on reh'g,* 121 FERC ¶ 61,018, at P 12 (2007)).

[239] *Id.* (citing *Bluegrass Generation Co.,* 121 FERC ¶ 61,018 at P 12 (''This policy is not a matter of administrative convenience . . . but the result of the Commission's deliberate determination that the AEP methodology is a just and reasonable manner of calculating a reactive power revenue requirement'').

[240] NHA Initial Comments at 4–5 (noting that ''[t]here is no basis for this assumption, especially if the Commission believes the AEP Methodology is incapable of isolating real and reactive cost.'').

[241] Clean Energy Associations Initial Comments at 7.

[242] Middle River Power Initial Comments at 3.

[243] Clean Energy Associations Initial Comments at 6–7.

[244] *Id.*

[245] ACORE Initial Comments at 2.

[246] Elevate Initial Comments at 9–10; Indicated Trade Associations Initial Comments at 9.

[247] Indicated Trade Associations Initial Comments at 9 (citing Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,720–21).

[248] Middle River Power Initial Comments at 2–3.

[249] Reactive Service Providers Initial Comments at 7 (citing NOPR, 186 FERC ¶ 61,203 at P 5).

[250] *Id.* at 9.

[251] *Id.* at 8.

[252] *Id.* at 8–9 (citing Affidavit of Dennis W. Bethel).

[253] *Id.* at 9 (citing Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,349 (noting that the Commission adopted the following definition of ancillary services: ''Those services that are necessary to support the transmission of capacity and energy from resources to load while maintaining reliable operation of the Transmission Provider's Transmission System in accordance with Good Utility Practice'' and that the Commission determined that ''A control area is part of an interconnected power system with a common generation control system. It may contain one or several utilities. The operator of the control area is responsible for balancing generation and load and for maintaining reliable system operation.'')).

[254] *Id.*

ultimately became Schedule 2), the Commission noted that:

> NERC states that reactive supply is provided from both generation resources and transmission facilities (*e.g.,* capacitors), and lists its provision as two services, distinguished by the facilities that supply them. NERC further distinguishes reactive supply service based on the source of the need for the service: (1) reactive supply needed to support the voltage of the transmission system; and (2) reactive supply needed to correct for the reactive portion of the customer's load at the delivery point.[255]

Reactive Service Providers assert that NERC did not identify the impact of generating facilities to the transmission system as a reason or need for reactive supply, but instead only identified the transmission system and load as needing the reactive service, noting that generating facilities would serve those needs at the point of interconnection.[256] Reactive Service Providers assert that, while both before and after Order No. 888, transmission providers holistically relied on generation- and transmission-based reactive assets to fulfill their obligations to maintain the voltage of the transmission system, generating facilities never had an independent obligation to provide reactive service, as the Commission asserts in the NOPR.[257]

86. Reactive Service Providers assert that when the Commission issued Order No. 2003, it summarily stated that, as a condition to obtain interconnection service, the generating facility must provide reactive service within the standard power factor range.[258] Reactive Service Providers argue that the Commission did not amass any evidence in the Order No. 2003 proceeding to explain why generating facilities have an obligation to provide reactive service within the standard power factor range and posit that the Commission may have come to this conclusion in Order No. 2003 and the NOPR ''because the Transmission Provider has always relied on generators as one of its tools to enable the Transmission Provider to fulfill its obligation to maintain the Transmission System in a safe and reliable manner.'' [259] Reactive Service Providers assert that none of the transmission system operators, NERC, and the Commission, in nearly all precedent, have ever concluded that generation has an ''obligation'' to provide reactive service within the standard range; the Commission's statement in Order No. 2003 is an outlier.[260]

87. Similarly, Reactive Service Providers assert that ''good utility practice'' does not entail an obligation for generating facilities to provide reactive power for free, and the Commission has not explained why it believes such obligation exists.[261] Reactive Service Providers argue that the current compensation scheme for reactive power is consistent with the Commission's definition of good utility practice because it includes practices that ''could have been expected to accomplish the desired result *at a reasonable cost* consistent with good business practices, reliability, safety and expedition.'' [262] Reactive Service Providers assert that good utility practice does not address what the electric industry (*i.e.,* the transmission provider) can achieve for free, but rather a cost that the transmission provider must pay as a matter of ''good business practices'' in order to fulfill its obligation.[263] Indicated Trade Associations argue that the Commission cannot deprive public utilities from just and reasonable compensation for reactive power within the standard power factor range by simply classifying it as a condition of interconnection, particularly when the Commission established that condition.[264]

88. Generation Developers assert that the NOPR errs in concluding that separate compensation for reactive power may result in a windfall to generators. Generation Developers note that many generators across markets are in fact increasingly unable to recover their costs.[265] Indicated Trade Associations similarly refute the NOPR's preliminary conclusion that separate compensation for reactive power within the standard power factor range may result in market distortions, contending that all rates are approved by the Commission and that any distortions are a result of PJM's capacity market rules.[266]

2. Commission Determination

89. Based on our review of the record, we conclude that compensation for the provision of reactive power within the standard power factor range is unjust and unreasonable because: (1) the provision of such reactive power requires either no or at most a *de minimis* increase in variable costs beyond the cost of providing real power; (2) such compensation may result in undue compensation and other market distortions; and (3) the provision of reactive power within the standard power factor range is an obligation of the generating facility as an interconnection customer and consistent good utility practice.[267]

90. As explained in the NOPR, because real and reactive power are provided as joint products with joint costs produced from the same

[255] *Id.* at 10 (citing Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,355).

[256] *Id.*

[257] *Id.* at 11.

[258] *Id.* at 11–12.

[259] *Id.* at 12.

[260] *Id.* at 12–19 (citing Order No. 661, 111 FERC ¶ 61,353 at PP 50–51 (''this Final Rule requires the wind plant to maintain the required power factor range only if the Transmission Provider shows through the System impact Study, that such capability is required of that plant to ensure safety or reliability. . . . ''[B]ecause the Transmission Provider is responsible for the safe and reliable operation of its transmission system (pursuant to NERC and regional reliability council standards), it is in the best position to establish if reactive power is needed in individual circumstances.''); Order No. 827, 155 FERC ¶ 61,277 at P 35 (''balancing the costs to newly-interconnecting non-synchronous generators of providing reactive power *with the benefits to the transmission system of having another source of reactive power*'') (emphasis added by Reactive Service Providers)); *id.* at 18 (''[I]n Order No. 901, the [Commission] continued the clear distinction between a Transmission Provider that has the obligation to plan and operate the Transmission System and generation that is a tool that Transmission Providers must account for and uses to fulfill its obligation to plan and operate the Transmission System.'') (citing *Reliability Standards to Address Inverter-Based Res.,* Order No. 901, 88 FR 74250 (Oct. 30, 2023) 185 FERC ¶ 61,042, at P 174 (2023)).

[261] *Id.* at 19.

[262] *Id.* at 19–20 (quoting at Order No. 2003, 104 FERC ¶ 61,103 at P 56) (emphasis added by Reactive Service Providers). Reactive Service Providers assert that the Commission adopted the same definition of ''good utility practice'' in Order No. 2003 as it did in Order No. 888. *Id.* at 19.

[263] *Id.* at 20.

[264] Indicated Trade Associations Initial Comments at 23 (citing *Banton* v. *Belt Line Ry. Corp.,* 268 U.S. 413, 420 (1925) (''[t]he commission under the guise of regulation may not compel the use and operation of the company's property for public convenience without just compensation.''); *Gulf Power Co.* v. *U.S.,* 187 F.3d 1324, 1331 (11th Cir. 1999) (''[c]haracterizing the mandatory access provision as a regulatory condition . . . cannot change the fact that it effects a taking by requiring a utility to submit to a permanent, physical occupation of its property'')).

[265] Generation Developers Initial Comments at 27 (citing CAISO, 2022 Annual Report on Market Issues & Performance 15 (July 11, 2023), *http://www.caiso.com/market/Pages/MarketMonitoring/AnnualQuarterlyReports/Default.aspx;* PJM, Energy Transition in PJM: Resource Retirements, Replacements and Risks 10 (Feb. 24, 2023), *https://insidelines.pjm.com/pjm-details-resource-retirements-replacements-and-risks.*).

[266] Indicated Trade Associations Reply Comments at 9.

[267] PJM IMM Initial Comments at 6–9; Joint Consumer Advocates Initial Comments at 6–7; MISO Transmission Owners Reply Comments at 4; TAPS Initial Comments at 6; Ohio FEA Initial Comments at 5; Joint Customers Initial Comments at 14–16; PGE Initial Comments at 4 (citing *MISO,* 182 FERC ¶ 61,033 at P 53 (noting that in the acceptance of the MISO Transmission Owners application to end compensation within the standard power application, the Commission reiterated its policy ''that the provision of reactive power within the standard power factor range is, in the first instance, an obligation of the interconnecting generator and good utility practice.'')).

equipment, any allocation of joint fixed costs between real and reactive power could be viewed as inherently arbitrary.[268] And while the production of reactive power within the standard power factor range can result in certain incremental variable costs such as fuel, maintenance, and potentially other costs, we continue to find, based on the record and past precedent, that variable costs of generating reactive power within the standard power factor range are at most *de minimis.*[269] With respect to fixed costs, for synchronous generating facilities, ''the same equipment is used to provide real and reactive power.'' [270] Non-synchronous generating facilities use a different physical process to produce reactive power, but ''the most critical element in VAR production, the inverter,'' [271] is also necessary for non-synchronous generating facilities to produce real power that can be reliably injected into AC systems.[272] In other words, for both synchronous and non-synchronous generating facilities, ''[t]here are few if any identifiable costs incurred by generators in order to provide reactive power'' [273] beyond the investments in equipment already necessary to generate and supply real power to the transmission system.[274]

91. While most commenters agree or do not dispute that all equipment used to produce reactive power, for both synchronous and non-synchronous generating facilities, is also necessary in order to produce and deliver to the transmission system real power, several commenters dispute the NOPR's findings that both synchronous and non-synchronous facilities incur no or at most a *de minimis* increase in costs beyond the cost of providing real power.[275] However, these commenters do not identify any specific costs beyond those incurred to ensure that real power can be reliably injected into the transmission system.[276] For example, Indicated Trade Associations, Generation Developers, and Glenvale emphasize that there are costs of equipment and production associated with reactive power, but they provide only vague references to those specific equipment costs and identify no distinct equipment (apart from equipment already needed for real power production).[277] Many of the commenters opposing the rule also conflate the cost of providing reactive power capability within and outside the standard power factor range.[278] For example, commenters suggest that there are opportunity costs to provide reactive power capability, even within the standard power factor range, because doing so requires a generating facility to forgo real power production.[279] As explained in the NOPR and in other Commission precedent, however, reactive power opportunity costs are an issue only when providing reactive power *outside* the standard power factor range. This is because, unlike operating within the standard power factor range, generating facilities operating outside the standard power factor range forgo generating more real power output and thus, forgo sales of real power.[280] Importantly, commenters do not provide any evidence to support their assertion that operating within the standard power factor range will limit the real power output of their generating facilities. To the contrary, rather than limiting real power output, real power cannot be supplied from a generating facility unless that facility is producing reactive power within the standard power factor range to generate and safely inject real power into the

[268] NOPR, 186 FERC ¶ 61,203 at P 30; (citing PJM IMM Initial Comments to the NOI at 2 (''There is no reason to include complex rules that arbitrarily segregate a portion of a resource's capital costs as related to reactive power and that require recovery of that arbitrary portion through guaranteed revenue requirement payments based on burdensome cost of service rate proceedings.''); *id.* at 3, 5, 21, 24; *Permian Basin,* 390 U.S. at 804 (''There is ample support for the Commission's judgment that the apportionment of actual costs between two jointly produced commodities, only one of which is regulated by the Commission, is intrinsically unreliable.''); Richard A. Posner, *Natural Monopoly and Its Regulation,* 21 Stan. L. Rev. 548, 595 (1969) (''[W]here services involve joint or common costs a rational allocation is impossible even in theory. How much of the cost of a telephone handset is assignable to local and how much to interstate telephone service?''); *see also A.A. Poultry Farms, Inc.* v. *Rose Acre Farms, Inc.,* 1400 (7th Cir. 1989) (''How does one allocate the cost of activities that have joint products? Agencies engaged in ratemaking struggle with these problems for years, even decades, without producing clear answers.'')).

[269] NOPR, 186 FERC ¶ 61,203 at P 31 (citing SPP Initial Comments to NOI at 2; PJM IMM Initial Comments to NOI at 4.).

[270] Ameren Initial Comments at 3; MISO Transmission Owner Reply Comments at 9. *See also* NOPR, 186 FERC ¶ 61,203 at P 29 (citing Edison Electric Institute Initial Comments to the NOI at 6).

[271] Duke Energy Corporation Initial Comments to the NOI at 4.

[272] *See, e.g.,* MISO Transmission Owners Initial Comments at 7 (''[E]ven newer wind turbines use inverters that allow for the generator to produce and control reactive power without costly additional equipment.); *see also* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 30 (''As to non-synchronous resources, the principal piece of equipment required for non-synchronous resources to produce reactive power is the inverter, which is already necessary to convert the direct current produced by non-synchronous resources to alternating current—*i.e.,* to supply real power that can be injected into alternating current power systems. On rehearing and in earlier protests, no party points to any other equipment costs incurred by non-synchronous generating facilities that are attributable to providing Reactive Service.'' (citations omitted)).

[273] PJM IMM Initial Comments to the NOI at 4; *see also* MISO Transmission Owners Reply Comments at 7–8.

[274] MISO Transmission Owners Initial Comments at 6 (''The MISO Transmission Owners' experience supports the Commission's preliminary finding that providing reactive power within the standard power factor range requires little or no cost to generators. Generators incur little or no costs beyond what is already needed to produce real power because the same equipment used to produce real power includes reactive power functions.'' (citations omitted)); PJM IMM Reply Comments at 3 (''Neither [Indicated Trade Associations] nor any other opposing commenter, nor any of the precedent relied upon by opposing commenters, identify any additional costs or more than de minimis costs incurred by generators in order to provide reactive capability.''); MISO Transmission Owners Reply Comments at 9–10 & n.29. *See also, BPA,* 120 FERC ¶ 61,211 at P 21 (finding that the incremental cost of reactive power service within the deadband is minimal); METC Rehearing Order, 97 FERC at 61,852–53 (''[R]eactive power provided, not as an ancillary service, but rather as a ''no cost'' service within reactive design limitations, may therefore, be provided without compensation.''); *APS,* 94 FERC at 61,080 (rejecting generators' arguments for reactive power compensation for operating within standard power factor range because the generators failed to demonstrate that ''such a requirement will limit the real power output of a generating unit and therefore will not result in any lost opportunity costs'' or that operating a generating unit within the proposed standard power factor range will ''affect the generation output of a unit'').

[275] NOPR, 186 FERC ¶ 61,203 at PP 8, 28.

[276] The only incremental costs identified in the NOPR were heating losses. NOPR, 186 FERC ¶ 61,203 at P 28 & n.74.

[277] Eagle Creek Initial Comments at 3–4; Generation Developers Initial Comments at 13; Glenvale Initial Comments at 9–10 Indicated Trade Associations Initial Comments at 7–12; Middle River Power Initial Comments at 2–3.

[278] *See* Clean Energy Associations Initial Comments at 6–7 (''However, during certain generating facility and grid operating conditions, when the generator provides an actual service (*i.e.,* injects reactive power to support voltage) it could come at the cost of production of real power. During that time, reactive power is prioritized and real power generated by the plant may be limited. In such a case the generation facility is prioritizing the utilization of their asset to assist or enhance grid stability at the cost of their revenue, which is primarily obtained from real power sales. The Commission should consider this opportunity cost in the context of interconnection customers that participate in regional wholesale markets.'')

[279] *See, e.g.,* Indicated Reactive Power Suppliers Initial Comments at 10 (''Stripping generators of the ability to be compensated for reactive power supply, including lost opportunity costs, within the [standard power factor range] is not just and reasonable and not supported by the record.''); Indicated Trade Associations Initial Comments at 11 (''The NOPR also completely ignores the fact that the provision of reactive power within the deadband represents a lost opportunity to produce real power, thereby resulting in lost opportunity costs.'').

[280] *See, e.g.,* NOPR, 186 FERC ¶ 61,203 at P 32 (''[I]f the transmission provider requires a generating facility to provide reactive power outside of the standard power factor range, the generating facility may have to 'reduce its MW output in order to comply with such an instruction[,]' which could limit the generating facility's opportunity to receive compensation for real power sales.'') (citing CAISO Initial Comments to NOI at 4).

transmission system and comply with reliability requirements.

92. Like in *MISO,* the commenters here fail to identify any incremental fixed costs associated with the provision of reactive power within the standard power factor range and identify only *de minimis* variable costs.[281] In *MISO,* the MISO transmission owners proposed to eliminate all charges under Schedule 2 for the provision of reactive power within the standard power factor range. Like here, protesters opposing MISO's proposal challenged the conclusion that reactive power within the standard power factor range required little or no incremental investment. The Commission rejected their protests, finding that they had failed to identify any record evidence demonstrating that there are more than minimal capital expenditures on equipment or additional operations and maintenance costs attributable to providing such reactive power. Like here, protesters alluded to alleged opportunity costs and operation and maintenance costs but failed to point to any evidence of such costs.

93. Although Generation Developers claim that the report is the most recent and comprehensive evidence on the costs of non-synchronous generating facilities to provide reactive power, Generation Developers' arguments regarding the evidence in the 2014 Staff Report ignore that the Commission found in the MISO Rehearing Order that even newer wind turbines use inverters that allow generating facilities to produce and control reactive power without costly additional equipment,[282] and has found elsewhere[283] that the provision of reactive power requires no or at most *de minimis* variable costs beyond the cost of producing real power.

94. Generation Developers also assert that the Commission's reliance on a statement from the MISO Rehearing Order, and the purported failure of parties in that proceeding to demonstrate significant incremental costs of non-synchronous facilities, does not satisfy the Commission's burden in this case.[284] Generation Developers add that the Commission's reliance on cases that pre-date the emergence of non-synchronous generating facilities for the proposition that all generating facilities have no or *de minimis* costs is misplaced.[285] Indicated Trade Associations similarly argue that Commission precedent cited in the NOPR (*i.e., BPA* and *APS*) does not support the conclusion that the incremental costs of the provision of reactive power within the standard power factor range are at most *de minimis*.[286]

95. We disagree with Indicated Trade Associations and Generation Developers. Commenters provide no support for the contention that decades of Commission precedent are irrelevant for purposes of supporting our findings here, including precedent from after the emergence of non-synchronous generating facilities.[287] As demonstrated by the decades of Commission precedent cited in the NOPR and here, many of the findings in this final determination are not new. The Commission has reached similar conclusions based on similar evidence (or lack thereof) in other proceedings, including with respect to the provision of reactive power within the standard power factor range by non-synchronous generating facilities.[288] This precedent coupled with the evidence in this record, supports this final determination, including with respect to non-synchronous generating facilities.[289]

96. Glenvale contends that certain types of non-synchronous generating facilities incur additional costs to provide reactive power when not providing real power, such as for solar generating facilities providing reactive power at night.[290] However, as these capabilities relate to the provision of reactive power when not providing real power, such costs necessarily are for the provision of reactive power outside the standard power factor range and thus are not impacted by and are beyond the scope of this proceeding.

97. Similarly, some commenters point to capital investments that expand a generating facility's reactive power capability beyond the standard power factor range,[291] but that capability, and thus that investment, does not address the relevant issue of whether transmission charges associated with the provision of reactive power within the standard range are just and reasonable.[292]

98. Eagle Creek and others argue that rates calculated using the AEP Methodology are themselves evidence of significant reactive-power-related capital investments.[293] Putting aside

[281] *See, e.g.,* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 29 (''We continue to conclude, and the record establishes, that Reactive Service requires little or no incremental investment.''); METC Rehearing Order, 97 FERC at 61,852–53 (''[R]eactive power provided, not as an ancillary service, but rather as a ''no cost'' service within reactive design limitations, may therefore, be provided without compensation.''); *APS,* 94 FERC at 61,080 (rejecting generators' arguments for reactive power compensation for operating within standard power factor range because the generators failed to demonstrate that ''such a requirement will limit the real power output of a generating unit and therefore will not result in any lost opportunity costs'' or that operating a generating unit within the proposed standard power factor range will ''affect the generation output of a unit''); *BPA,* 120 FERC ¶ 61,211 at P 21 (''[T]he incremental cost of reactive power service within the [standard power factor range] is minimal.''). *See also S. Co. Servs., Inc.,* 80 FERC at 62,091 (noting also that the primary function of a generating plants is to produce real power; thus, if costs were allocated based on the ''predominant'' function of the equipment, ''all of the costs of generation would thus be assigned to real power production and there would be no basis for any separate reactive power charge'').

[282] MISO Transmission Owners Initial Comments at 7 (citing MISO Rehearing Order, 184 FERC ¶ 61,022 at P 30 n.98 (''[O]lder wind generators could not produce and control reactive power without the use of costly equipment [ ] because they did not use inverters like other non-synchronous generators but modern turbines now use inverters and newer wind generators now can.'')).

[283] METC Rehearing Order, 97 FERC at 61,852–53.

[284] Generation Developers Initial Comments at 15.

[285] *Id.* at 16 (citing *BPA,* 120 FERC ¶ 61,211; METC Rehearing Order, 97 FERC at 61,852–53; *APS,* 94 FERC at 61,080).

[286] Indicated Trade Associations Initial Comments at 8 (citing *BPA,* 120 FERC ¶ 61,211 at P 21; BPA Rehearing Order, 125 FERC ¶ 61,273 at P 7 n.7; *APS,* 94 FERC at 61,080).

[287] *See, e.g., MISO,* 182 FERC ¶ 61,033; *PNM,* 178 FERC ¶ 61,088 at PP 29–31.

[288] *See, e.g.,* MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 29–31 (finding that providing reactive service requires ''little or no incremental investment'' by both synchronous and non-synchronous resources); *PJM Interconnection, L.L.C.,* 151 FERC ¶ 61,097 at PP 7, 28 (finding that non-synchronous generating facilities are comparable to traditional synchronous generating facilities, in that there are for both types of generating facilities very little if any incremental costs incurred to provide reactive power); 2005 Staff Report at 96 (''The marginal cost of providing reactive power from within a generator's capability curve (D-curve) is near zero.'').

[289] We also note that Order No. 827, which was issued in 2016, after the 2014 Commission Staff Report, removed the exemption for wind generating facilities to provide reactive power because of ''declining costs'' resulting from ''improvements in technology.'' Order No. 827, 155 FERC ¶ 61,277 at P 24. In Order No. 827, the Commission noted that other types of non-synchronous generating facilities were not exempt from the requirement to provide reactive power and that Order No. 827's findings applied to all newly interconnecting non-synchronous generating facilities. *Id.* P 22.

[290] Glenvale Initial Comments at 9–10.

[291] *See, e.g.,* Eagle Creek Initial Comments at 3 (''Where Eagle Creek Reactive Generators made specific capital investments that enhanced reactive service—for example, by installing upgraded exciters with demonstrable power factor improvements—their related reactive compensation case was necessarily strengthened.'').

[292] We note that the additional capabilities are not required as a condition of interconnection. Furthermore, all generating facilities are allowed to seek compensation when directed to provide reactive power beyond the standard power factor range. This final determination does not change the ability of generating facilities to seek compensation associated with providing reactive power outside the standard power factor range.

[293] *See, e.g.,* ACORE Initial Comments at 2 (''A requirement to provide a service does not negate the fact that costs are incurred, as demonstrated by the multiple settlements reached for payment of this

Continued

that these commenters provide no support for their contentions, the AEP Methodology is a *cost allocation methodology* only; it is not designed to, and does not, establish ''evidence of significant reactive-power-related capital investments.'' To the contrary, were it possible to identify discrete, incremental capital investments made to provide reactive power within the standard power range, the AEP Methodology could be utilized to allocate such reactive power costs incurred by the generator; however, no such incremental capital costs exist here, and so the AEP Methodology is inapplicable. In addition, as noted in the NOPR, the AEP Methodology originated in an era of vertically integrated utilities that recovered both generation and transmission costs entirely through cost-based rates and classified those costs under USofA accounting requirements.[294] The Commission accepted the AEP Methodology as a way to assign these costs using a cost-of-service allocation method for assigning joint costs between the generation and transmission functions. As the PJM IMM explains ''The AEP Method[ology] is not about identifying incremental costs incurred to provide reactive power . . . [but rather] allocates the costs of an integrated power plant between reactive power and real power.'' [295] As noted in the Fern Initial Decision, ''The standard techniques for addressing a facility that operates in both a monopoly market and a competitive market—cost allocation and revenue credit—have no connection to the AEP [M]ethod[ology],'' and ''[a]uto-transporting a monopoly-era method into an organized-market context—which is exactly what this proceeding's witnesses do, what dozens of settlements do and what this Initial Decision does—is not regulating based on physical facts.'' [296]

99. We also disagree with those commenters that suggest that the mere existence of joint products requires allocating costs to both real and reactive power production. These assertions disregard longstanding Commission precedent.[297] PSEG, for example, relies on *Dynegy Midwest Generation, Inc.* v. *FERC* for the proposition that ''the NOPR . . . conflicts with Commission and judicial precedents that have long recognized that there are specific fixed costs associated with the production of reactive power.'' [298] But the Commission explicitly rejected this same argument when Dynegy made it in the *MISO* proceeding.[299]

100. Thus, based on the totality of the record, we agree with Ameren that, for both synchronous and non-synchronous generating facilities, ''it is [ ] well-documented that the same equipment used to produce real power includes reactive power functions,'' and thus ''there is little, if any, incremental cost associated with providing reactive power'' beyond the investments in equipment already necessary to generate and supply real power to the transmission system.[300] As discussed below, we also find that the joint costs associated with the production of real and reactive power are costs that generating facilities must incur to provide the real power for which they are compensated.[301]

101. Reactive Service Providers argue that the Commission has not supported its claim that generating facilities already have an obligation to provide reactive service within the standard power factor range. Specifically, Reactive Service Providers assert that when the Commission issued Order No. 2003, it summarily stated that a generating facility must provide reactive service within the standard power factor range as a condition to obtain interconnection service, but it did not amass any evidence to explain why generating facilities have this obligation. Reactive Service Providers claim that Order No. 2003 is an outlier among Commission precedent and that none of the transmission system operators, NERC, or the Commission, in nearly all precedent, has ever articulated such obligation. However, as discussed at length above, outlined in the NOPR, and reiterated in recent Commission decisions, the Commission has for decades stated that ''the provision of reactive power within the standard power factor range is, in the first instance, an obligation of the interconnecting generator and good utility practice.'' [302] We find Reactive

service.''); Indicated Reactive Power Suppliers Initial Comments at 9 (''[S]ubstantial cost support included with the proposed reactive service tariffs of each of the Indicated Reactive Power Suppliers . . .meticulously demonstrate the fixed and sunk costs allocable to reactive power production using the AEP [M]ethodology'').

[294] *See, e.g.,* Joint Customers Reply Comments at 6–7; ELCON Initial Comments at 5. As noted in the NOI, most of the filings at the Commission seeking to establish rates for reactive power compensation are made by generating facilities (both synchronous and non-synchronous) that have received waivers of the Commission's requirement to maintain their accounts under the USofA rules and to file FERC Form No. 1.

[295] PJM IMM Reply Comments at 3. *See also* PJM IMM Initial Comments at 3 (''The *AEP* Method[ology] was based on three sentences in testimony filed in 1993 that provide no logical, engineering or economic support for allocating a part of generator capital investment to reactive. That testimony was about a subjective decision to reassign costs that were already fully accounted for and not about any asserted costs to provide reactive power that were not recovered elsewhere and not for any asserted additional costs of providing reactive power.''); Joint Customers Reply Comments at 12 (''The amount of *total plant cost* that is *allocated* to the reactive function based on a power factor for ratemaking purposes under the *AEP* [M]ethodology is not at all indicative of actual incremental costs for incremental levels of additional reactive capability.'' (emphasis in original)). *See also* 2005 Staff Report at 69 (''[T]he allocation factor used in the AEP Methodology does not directly relate to the incremental investment cost in providing reactive capability or supply'').

[296] *Fern Solar LLC,* 183 FERC ¶ 63,004, at P 937 (2023).

[297] *See, e.g.,* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 26 (''[W]e continue to reject, as collateral attacks on that longstanding policy, arguments that stand-alone compensation for Reactive Service is generically required—for example, to ensure that generators can recover their costs for Reactive Service capability.''); *Entergy Servs. Inc.,* 114 FERC ¶ 61,303, at P 14 (2006) (''In Order No. 2003, the Commission emphasized that an interconnecting generator should not be compensated for reactive power when operating its Generating Facility within the established power factor range, since it is only meeting its obligation. Generators interconnected to a transmission provider's system need only be compensated where the transmission provider directs the generator to operate outside the dead band.'' (internal citations omitted)).

[298] PSEG Initial Comments at 13 & n.33 (citing *Dynegy Midwest Generation, Inc.* v. *FERC,* 633 F.3d 1122, 1126 (D.C. Cir. 2011)).

[299] MISO Rehearing Order, 184 FERC ¶ 61,022 at P 31 (''Vistra challenges the conclusion that Reactive Service requires little or no incremental investment by claiming that the D.C. Circuit in *Dynegy* rejected that conclusion. We disagree with Vistra's interpretation of *Dynegy.* Rather, in *Dynegy,* the court concluded that the Commission had not made any such finding in that case, instead providing only a 'glancing remark' to this effect, and that the record in that case did not support such a finding. Here, in addition to noting the Commission's previous conclusions that Reactive Service capability requires little or no incremental investment, we have further explained immediately above the basis for this finding.'').

[300] *See, e.g.,* Ameren Initial Comments at 3; MISO Transmission Owners Initial Comments at 6 (''Generators incur little or no costs beyond what is already needed to produce real power.''); PJM IMM Initial Comments at 4 (''There are few if any identifiable costs incurred by generators in order to provide reactive power. Separately compensating resources based on a judgment based allocation of capital costs was never and is not now appropriate in the PJM markets. Generating units are fully integrated power plants that produce both the real and reactive power required for grid operation . . . . [T]here is no reason to include complex rules that arbitrarily segregate a portion of a resource's capital costs as related to reactive power.'').

[301] *See* PJM IMM Initial Comments at 12 (''The market approach should be used, as it is overwhelmingly more efficient than the current rate case, cost of service approach. Supporters of the cost of service approach have never explained why a nonmarket approach is required in PJM or why it is preferable to a market approach.''); *id.* at 11–12 (''There is no evidence that units are built as a result of reactive revenue. There is no evidence that sources of revenue are not fungible and that a decrease in reactive revenues could be not replaced with other sources of revenue. There is no basis for adding new resources to the already very crowded interconnection queue solely based on out of market subsidies from reactive revenues.'').

[302] *MISO,* 182 FERC ¶ 61,033 at PP 53–54 (citing Order No. 2003–A, 106 FERC ¶ 61,220 at P 416;

Service Providers' comments challenging this well-established policy to be a collateral attack on Order No. 2003.[303]

102. Further, as the Commission has explained, to interconnect reliably to the transmission system and deliver power to customers, generating facilities must be capable of maintaining voltage levels for injecting real power into the transmission system.[304] Said differently, ''if a generator is to sell (and be able to deliver) its power to a customer, reactive power is essential to the transaction.'' [305] Thus, standalone compensation for the provision of reactive power within the standard power factor range does not result in just and reasonable transmission rates.

103. Some commenters note that because Order No. 888 defined voltage support as a distinct ancillary service, it must be compensated separately.[306] The Commission's policy on reactive power compensation has evolved since issuing Order No. 888, which included provisions regarding reactive power from generating facilities as an ancillary service in Schedule 2 of the *pro forma* OATT.[307] Specifically, in Order No. 2003, when adopting the *pro forma* LGIA, the Commission initially concluded that the interconnection customer should not be compensated for reactive power when operating within the range established in the interconnection agreement because doing so ''is only meeting [the generating facility's] obligation.'' [308] And in Order No. 2003–A, the Commission clarified that ''if the Transmission Provider pays its own or its affiliated generators for reactive power within the established range, it must also pay the Interconnection Customer.'' [309] As a result, since Order No. 2003–A, the sole basis for reactive power capability compensation within the standard power factor range has been comparability (*i.e.,* to ensure comparable treatment between affiliated and unaffiliated generating facilities), not compensability (*i.e.,* an independent right to receive compensation for reactive power within the standard power factor range).[310] The Commission has reiterated these findings in subsequent orders permitting transmission providers to eliminate separate compensation for generating facilities providing reactive power within the standard power factor range.[311] Accordingly, commenters' arguments in this regard are without merit.

104. We also find Elevate's and Glenvale's arguments that some resource classes incur additional costs, including Elevate's claims about battery degradation, unpersuasive.[312] Elevate highlights battery degradation caused by the provision of reactive power, while Glenvale notes the operational and replacement costs associated with providing reactive power within the standard power factor range but neither explains how or why such costs are different and separate from the costs to provide real power. Degradation of components of a generator, including degradation of batteries, is a natural and inevitable result of power plant operation. As a result, the costs incurred by a generator to address such degradation, like other costs discussed above, are costs that generating facilities must incur to provide the real power for which they may seek compensation; nor

SPP, 119 FERC ¶ 61,199 at P 28) (''Accordingly, by designing their generating facilities to have the capability to provide reactive support, interconnecting generators are meeting the conditions of interconnection required of all generators and as a general matter are not entitled to compensation under the Commission's precedent unless the transmission provider pays its own or affiliated generators for reactive power within the standard power factor range.''); NOPR, 186 FERC ¶ 61,203 at P 16.

[303] *See e.g., ISO N. England Inc.,* 138 FERC ¶ 61,238, at P 17 (2012) (''[A] collateral attack is '[a]n attack on a judgment in a proceeding other than a direct appeal,' and is 'generally prohibited.' '' (quoting *N. England Conf. of Pub. Utils. Comm'rs* v. *Bangor Hydro-Elec. Co.,* 135 FERC ¶ 61,140, at P 27 (2011))).

[304] *See, e.g., MISO,* 182 FERC ¶ 61,033; MISO Rehearing Order, 184 FERC ¶ 61,022 at P 23 (citing METC Rehearing Order, 97 FERC at 61,852–53); *see also* MISO Transmission Owners Initial Comments at 11 (''Moreover, generators are incented by their own reliability requirements to install the equipment that is most likely to keep their projects on-line and delivering real power.'' (citations omitted)); NOPR, 186 FERC ¶ 61,203 at P 33 (''For example, CAISO states that ''[t]he rationale for the CAISO's existing approach to reactive power compensation is that the reactive power ranges called for in each interconnection agreement represent a reasonable range of what a generator is expected to provide the CAISO without additional compensation in accordance with good utility practice and as a condition of being part of the CAISO markets and CAISO grid.'') (citing CAISO Initial Comments to the NOI at 3).

[305] *SPP,* 119 FERC ¶ 61,199 at P 28. This has always been a physical reality of the transmission system, even for wind generating facilities that were exempted from providing reactive service within the standard power factor range prior to Order No. 827. Specifically, in Order No. 827, the Commission ''exempted wind generators from the uniform reactive power requirement because, historically, the costs to design and build a wind generator that could provide reactive power were high and *could have created an obstacle to the development of wind generation.*'' Order No. 827, 155 FERC ¶ 61,277 at P 4 (emphasis added). During this period of exemption, wind generating facilities would have had to rely on dynamic reactive power service supplied by other generating facilities and equipment on the transmission system capable of providing reactive support to allow their real power to reliably flow onto the transmission system. In essence, prior to Order No. 827, the Commission allowed the nascent wind industry to make up for these reactive power deficiencies by relying on transmission customers for reactive support because it determined that the costs of requiring them to provide their own reactive power could have been prohibitive. By the time of Order No. 827, that rationale for the exemption no longer existed, and the Commission, in removing this exemption for wind generating facilities in Order No. 827, noted that ''[d]ue to technological advancements, the cost of providing reactive power no longer presents an obstacle to the development of wind generation.'' *Id.* Additionally, the Commission expressed its concern ''that, as the penetration of non-synchronous generators continues to grow, exempting a class of generators from providing reactive power could create reliability concerns, especially if those generators represent a substantial amount of total generation in a particular region, or if many of the resources that currently provide reactive power are retired from operation. In addition, as noted above, maintaining the exemptions for wind generators places an undue burden on synchronous generators to supply reactive power without a reasonable technological or cost-based distinction between synchronous and non-synchronous generators.'' *Id.* P 25.

[306] *See, e.g.,* Indicated Trade Associations Initial Comments at 9 (''This assumption is at odds with Order No. 888, which expressly found that reactive service from generation facilities must be priced at cost''); NEI Initial Comments at 4 (''Unsurprisingly, in Order No. 888 the Commission found that reactive power is one of six ancillary services necessary to provide basic transmission service within every control area. Schedule 2 of the Open Access Transmission Tariff thus required that transmission providers provide—and transmission customers pay for—reactive power.''); PSEG Initial Comments at 13 (''The NOPR, if adopted, would effectively eliminate reactive power as one of ancillary services that the Commission has recognized since Order No. 888.''); Middle River Power Initial Comments at 2–3 (citing Indicated Energy Trade Associations Initial Comments at 21; Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,707 (''[T]ransmission customer actions do not eliminate entirely the need for generator-supplied reactive power.'' ''The transmission provider must provide at least some reactive power from generation sources.'')).

[307] NOPR, 186 FERC ¶ 61,203 at P 12; Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,705–07 & n.359; *see also* BPA Rehearing Order, 125 FERC ¶ 61,273 at P 18.

[308] Order No. 2003, 104 FERC ¶ 61,103 at P 546.

[309] Order No. 2003–A, 106 FERC ¶ 61,220 at P 416; *see also* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 24 (''Order No. 2003 reflects the distinction between these two different reactive power concepts. When the transmission provider asks the interconnecting generator to operate its facility outside the established power factor range, the transmission provider is required to pay the interconnecting generator for the provision of such reactive power. By contrast, compensation for reactive power when the generating facility is operating within the established power factor range is generally not required. The sole exception the Commission identified was that 'if the Transmission Provider pays its own or its affiliated generators for reactive power within the established range, it must also pay the Interconnection Customer.' '' (internal citations omitted)).

[310] BPA Rehearing Order 125 FERC ¶ 61,273 at P 18.

[311] *See, e.g., MISO,* 182 FERC ¶ 61,033 at PP 52–53; MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 23–25, 41; *PNM,* 178 FERC ¶ 61,088 at PP 29–31; *Nev. Power Co.,* 179 FERC ¶ 61,103 at PP 20–21; *BPA,* 120 FERC ¶ 61,211 at P 20; *E.ON U.S. LLC,* 119 FERC ¶ 61,340 at P 15; *Entergy Servs., Inc.,* 113 FERC ¶ 61,040 at P 38.

[312] Elevate Initial Comments at 9–12; Elevate Reply Comments at 7–9.

do transmission customers receive benefits that are commensurate with the charges for the provision of reactive power within the standard power factor range. Moreover, as discussed further below, battery storage resources, like all other generating facilities, still have the opportunity to seek to recover their costs through sales of energy and capacity, and the Commission's actions here do not undercut those opportunities.[313]

105. Similarly, regarding NEI's assertion that nuclear generating facilities incur disproportionate degradation from the provision of reactive power within the standard power factor range, we find that to the extent there are *de minimis* variable costs associated with providing reactive power within the standard power factor range, generating facilities in RTO/ISO markets could seek to recover such costs through energy and capacity markets. Transmission providers are responsible for maintaining voltage levels within their regions and have authority to direct generating facilities to operate at appropriate power factors to ensure system reliability.[314]

106. In response to Clean Energy Associations' assertion that reactive power is not always coupled with real power,[315] we reiterate that the final determination addresses only compensation for the provision of reactive power within the standard power factor range and that producing solely reactive power (*i.e.,* a power factor of zero) entails reactive power production outside of the standard power factor range. As such, we find Clean Energy Associations' concerns outside the scope of this final determination.

107. We also find that compensation for the provision of reactive power within the standard power factor range could result in undue compensation and other market distortions.[316] In response, Reactive Service Providers assert that generating facilities cannot be receiving windfalls from reactive power compensation because many generating facilities across multiple regions are retiring due to economic factors.[317] However, these statements confuse compensation for reactive power within the standard power factor range with general cost recovery for generating facilities, which involves many other revenue streams. Our findings here are that generating facilities incur no incremental fixed costs and at most *de minimis* variable costs incremental to the cost of providing real power, because no additional equipment is required to provide reactive power and variable costs are limited to the fuel costs (in synchronous facilities) or foregone direct current power (in non-synchronous facilities) necessary to provide the reactive power required to safely inject real power into the transmission system and comply with reliability requirements. Similarly, Indicated Trade Associations [318] contend that separate reactive power compensation cannot lead to market distortions because such rates have been approved by the Commission. But this argument ignores the final determination's central logic that such rates lack a sufficient economic basis, and the comments in this proceeding have not refuted that central logic.

108. As discussed further below, any purported *de minimis* variable costs associated with providing reactive within the standard power factor range can be recovered through other means.[319]

C. Cost Recovery

109. In the NOPR, the Commission preliminarily found that separate compensation for providing reactive power within the standard power factor range is not necessary for generating facilities to recover their costs.[320] The Commission noted that, although the prospect of receiving separate, fixed reactive power payments may be beneficial for developing certain generating facilities, resource developers continue to develop new generating facilities in regions without such payments.[321] Furthermore, the NOPR explained that the basis for these payments has always been comparability rather than compensability.[322]

110. Instead, in the context of RTO/ISO markets, the Commission preliminarily found it would be more efficient for generating facilities to seek to recover any identified costs to provide reactive power within the standard power factor range, to the extent they exist, through energy and capacity sales, because competition between generating facilities may incentivize efficiency and increase transparency.[323]

111. The Commission noted that it has previously and repeatedly rejected arguments that generating facilities need separate reactive power payments, because the incremental cost of reactive power within the standard power factor range is minimal.[324] Therefore, consistent with those findings, the NOPR preliminarily found that eliminating compensation for reactive power within the standard power factor range would not compromise the ability of IPPs in non-RTO/ISO regions to recover their costs associated with producing reactive power within the range because generating facilities have the opportunity to seek to recover such costs in other ways, such as through higher power sales rates or through

[313] PJM IMM Reply Comments at 4–5 (''The NOPR does not require a finding that generators recover all of their cost in markets. Markets do not include such guarantees. In competitive markets, generation owners may overrecover their costs in markets at times and generators may underrecover their costs at times. The point is that when markets provide an opportunity to recover all costs, those same costs should not be recovered in a separate cost of service rate. The same investment should not be recoverable and recovered in two parallel regulatory regimes. That result is plainly unjust and unreasonable.'').

[314] *See* MISO Transmission Owners Initial Comments at 11–12 (citing *VAR–002–3— Generator Operation for Maintaining Network Voltage Schedules,* North American Electric Reliability Corporation, at 2 (Aug. 1, 2014), *http://www.nerc.com/pa/Stand/Reliability%20Standards/VAR-002-3.pdf* (''R2 . . . Generator Operator shall maintain the generator voltage or Reactive Power schedule (within each generating Facility's capabilities).'').

[315] Clean Energy Associations Initial Comments at 7.

[316] *See, e.g.,* PJM IMM Initial Comments at 4 (''The current rules create strong incentives for generators to attempt to maximize the allocation of capital costs to reactive in order to maximize guaranteed, nonmarket revenues. Those nonmarket revenues provide a nonmarket advantage to those generators who receive them. This is a return to using the regulatory process for advantage rather than competing in the market. That advantage is arbitrary, not market based and therefore distortionary.'').

[317] Reactive Service Providers Initial Comments at 27.

[318] Indicated Trade Associations Reply Comments at 9.

[319] *See infra* II.C.2; *see also* Joint Customers Initial Comments at 16 (''Finally, there is no reason to believe incremental costs of reactive power could not be recovered in the same way other costs are recovered. This could be through capacity markets and through power sales, depending on the regional characteristics of how generators cover other costs.'').

[320] NOPR, 186 FERC ¶ 61,203 at P 45.

[321] For example, as of February 21, 2024, there were 453 total generating facilities in the CAISO interconnection queue, 440 of which were non-synchronous generating facilities. This corresponds to 122,885 MW of capacity, 120,043 MW of which comes from the non-synchronous generating facilities in the queue. *See* CAISO, *Formatted Generator Interconnection Queue Report, https://rimspub.caiso.com/rimsui/logon.do* (last visited Feb. 21, 2024). Similarly, as of February 21, 2024, there were 947 total generating facilities in the SPP interconnection queue, 770 of which were non-synchronous generating facilities. This corresponds to 175,243 MW of capacity, 141,879 MW of which comes from the non-synchronous generating facilities in the queue. *See* SPP, *Generator Interconnection Active Requests, https://opsportal.spp.org/Studies/GIActive* (last visited Feb. 21, 2024).

[322] NOPR, 186 FERC ¶ 61,203 at P 45.

[323] *Id.*

[324] *Id.* P 47 (citing *BPA,* 120 FERC ¶ 61,211 at P 21).

power purchase agreements (PPA).[325] The Commission further noted that the experiences of CAISO, SPP, MISO, and non-RTO/ISO regions where generating facilities do not receive separate compensation for the provision of reactive power within the standard power factor range and the evidence in the record demonstrate that: (1) eliminating compensation has not led to an insufficient supply of reactive power in those regions and that (2) generating facilities in these regions have been able to recover any purported costs associated with the production of reactive power.[326]

112. In the NOPR, the Commission sought comment on whether, and if so how, the elimination of separate compensation for reactive power within the standard power range would affect generating facilities' ability to recover their costs—if any.[327]

1. Comments

113. Several Commenters argue that the record supports the finding that generating facilities can recover any purported costs of providing reactive power in the standard power factor range through their sales of energy and capacity.[328] TAPS contends that the Commission is not required to guarantee that generating facilities recover their incremental costs of providing reactive power in the standard power factor range (to the extent those costs exist), but rather the ''opportunity to recover costs is all that is required.'' [329] TAPS explains that the Commission has never required payment of separate, cost-based reactive power compensation within the standard power factor range to all interconnecting generators in all circumstances, but has rather given transmission providers the option to provide for such reactive power compensation for its own generation, provided all generators on its system were treated comparably, and transmission providers could also eliminate such compensation for itself and others on a comparable basis.[330] New England Consumer Advocates states that any final determination should ensure that ratepayer costs for reactive power compensation are sufficiently justified, and that ISO–NE should articulate specific benefits and compare those benefits with the cost of compensation.[331]

114. Ohio FEA states that it supports prohibiting, as expeditiously as possible, the inclusion in transmission rates of charges related to the provision of reactive power within the standard power factor range because generators have an opportunity to recover all costs, including reactive power costs, through PJM markets.[332]

115. Several commenters argue that the NOPR's proposal would resolve cost causation issues that result from the current practice of providing separate compensation for reactive power within the standard power factor range.[333] Joint Customers, Ameren, TAPS, and MISO Transmission Owners argue that the current incentive to provide payment based on reactive power capability results in the building of unnecessary capabilities in locations it may not be needed and does not allocate costs associated with reactive power in a manner that is roughly commensurate with the benefits received.[334] They assert that the current scheme results in a proliferation of charges for reactive power that is disconnected from the actual benefits received.[335]

116. MISO Transmission Owners argue that, contrary to some commenters' claims, the NOPR's proposed changes do not violate cost causation principles because generating facilities will still be compensated for the reactive power their generating facilities supply when they are required to operate outside the standard power factor range.[336] MISO Transmission Owners state that ''cost causation involves customers paying for a cost that they cause, not suppliers receiving compensation for services provided,'' and assert that some ''commenters attempt to turn this concept on its head'' by ''plac[ing] the focus on the service provider rather than the paying customer in an attempt to require payment for a service they are already obligated to provide as a condition of interconnection.'' [337] MISO

[325] *Id.*

[326] *Id.* P 48.

[327] *Id.* P 49.

[328] *See* AEP Initial Comments at 4–6; Joint Consumer Advocates Initial Comments at 7–8 (''[Joint Consumer Advocates] assert that PJM generators will still have a more than ample opportunity to recover the costs associated with their provision of reactive power''); Joint Customers Initial Comments at 15 (''Generators have other means of covering costs incurred to meet interconnection design requirements.''); Joint Customers Reply Comments at 15; MISO Transmission Owners Initial Comments at 16–17; MISO Transmission Owners Initial Comments at 15 (''Moreover, transmission providers have mechanisms for maintaining system reliability in the face of premature retirements, including identifying resources as ''system support resources.'') (citations omitted)); Ohio FEA Initial Comments at 5 (''Ohio . . . supports competitive markets to induce efficiency and control costs'').

[329] TAPS Initial Comments at 7 & n.19 (citing *CXA La Paloma, LLC* v. *CAISO,* 165 FERC ¶ 61,148, at P 71 (2018) (''The Commission has been clear that suppliers in competitive wholesale electricity markets are not guaranteed full cost recovery, but only the opportunity to recover their costs.'')).

[330] *Id.* at 6–7 & n.18 (citing *MISO,* 182 FERC ¶ 61,033 at P 53 (''MISO [Transmission Owners] do not have an obligation to continue to compensate an independent generator for reactive power within the standard power factor range when its own or affiliated generators are no longer being compensated.''); *Id.* (citing *PNM,* 178 FERC ¶ 61,088 at P 29; *Nev. Power Co.,* 179 FERC ¶ 61,103, P 20 (2022); *BPA,* 120 FERC ¶ 61,211 at P 20; *E.ON U.S. LLC,* 119 FERC ¶ 61,340 at P 15; *Entergy Servs., Inc.,* 113 FERC ¶ 61,040 at P 38) (''Commission's precedent allows transmission providers to eliminate compensation for reactive power within the standard power factor range for all generators, regardless of whether the generator is owned by or otherwise affiliated with a transmission owner or is independent.'')).

[331] New England Consumer Advocates Initial Comments at 4–6. *See also id.* at 5 (''To the extent . . . benefits are achieved by compliance with a generating facility's interconnection agreement and/or as 'good utility practice,' [New England Consumer Advocates] agree[] with the Commission that ratepayers should not be paying separately for the costs to produce a joint reactive power product.'').

[332] Ohio FEA Initial Comments at 5.

[333] Ameren Initial Comments at 3; Joint Customers Initial Comments at 12–13; TAPS Initial Comments at 4–5; MISO Transmission Owners Reply Comments at 11–12; MISO Transmission Owners Initial Comments at 5; PGE Initial Comments at 3–4.

[334] Joint Customers Initial Comments at 12–13; Ameren Initial Comments at 3; TAPS Initial Comments at 4–5; MISO Transmission Owners Reply Comments at 11–13. *See also* Joint Customers Initial Comments at 5–6 (''The Commission's policy of looking strictly to capability for determining cost recovery for Reactive Service incentivized overbuilding of capability beyond what was required based on interconnection requirements. This policy of not considering need or requiring a demonstration of need by the transmission owner has resulted in compensation for reactive capability without an actual demonstrated benefit to transmission system customers. This disconnect between capability and any actual demonstrated benefit highlights serious concerns that charges to customers are not related to any benefits received.'' (citations omitted)).

[335] Joint Customers Initial Comments at 12–13; Ameren Initial Comments at 3; TAPS Initial Comments at 4–5; MISO Transmission Owners Reply Comments at 11–13. *See also* MISO Transmission Owners Initial Comments at 15 (''Moreover, transmission providers have mechanisms for maintaining system reliability in the face of premature retirements. When generators advise MISO of a planned retirement via Attachment Y of the MISO Tariff, MISO completes a review to determine whether any Transmission System reliability concerns are caused by the retirement. If voltage concerns arise in the Attachment Y study, options to address the voltage concerns are reviewed and ultimately a permanent solution is identified. If the permanent solution cannot be implemented before the planned retirement date, then the MISO Tariff has a designation for ''system support resources,'' under which generators are eligible to receive cost-based compensation to support their continued operation until an alternative solution to the reliability problem posed by the resources' retirement is developed.'' (citations omitted)).

[336] MISO Transmission Owners Reply Comments at 11.

[337] *Id.* at 12 (citing *K N Energy, Inc.* v. *FERC,* 968 F.2d 1295, 1300 (D.C. Cir. 1992) (''[A]ll approved rates [must] reflect to some degree the costs actually caused by the customer who must pay them.''); *Entergy Ark., LLC* v. *FERC,* 40 F.4th 689, 692 (D.C.

Continued

Transmission Owners argue that commenters' claims that the NOPR's proposed changes violate cost causation principles is a collateral attack on principles first promulgated in Order No. 2003 and its progeny because that series of orders required generators to provide reactive power within the standard power factor range without compensation, with few exceptions.[338] MISO Transmission Owners argue that the NOPR's proposed changes do not change generating facilities' obligation to provide reactive power within the deadband, but rather they remove the unnecessary costs associated with payments to generating facilities.[339]

117. Ohio FEA and New England Consumer Advocates state that they support the Commission's efforts to mitigate escalating transmission costs for customers, particularly when those costs provide no incremental benefit to the customers who pay them.[340]

118. Joint Customers acknowledge that the Commission generally allows for flexibility to account for regional differences. However, Joint Customers argue that such regional variations do not undermine the general rule against compensation for meeting interconnection requirements related to the standard power factor range.[341] Joint Customers contend that ''[t]here is a sufficient record for a determination that compensation for meeting interconnection requirements related to the standard power factor range should be prohibited as a general matter, with the understanding that generators directed to operate outside that range will continue to be compensated.'' [342] Joint Customers witness Dr. Bresmer argues that a generating facility providing reactive power within the standard power factor range is simply meeting its interconnection obligations and not providing an ancillary service.[343]

119. Several commenters [344] argue that there is not sufficient evidence to support the conclusion that energy markets or capacity markets could or should be used to recover the costs of providing reactive power. Glenvale [345] and Indicated Reactive Power Suppliers [346] each state that reactive power and capacity are two distinct types of services and should not be combined. Glenvale argues that energy markets do not necessarily provide revenue opportunities due to competition and long-term contracts that do not allow certain generators access to these energy markets for several years. Indicated Trade Associations note that certain types of resources may not even participate in the capacity market.[347] For example, Glenvale argues that some generators that provide reactive power but choose not to participate in the capacity market will not be able to recover lost reactive revenues.

120. Some commenters argue that generating facilities will be unable to recover reactive power costs in their PPAs.[348] Indicated Trade Associations argue that generators may have relied on existing reactive power compensation policies when they structured their PPAs, bilateral arrangements, and behind the meter arrangements.[349] Indicated Trade Associations [350] and Generation Developers [351] each claim that the notion that PPA counterparties will be willing to renegotiate their contracts to allow them to charge a higher rate to recover the costs of a different service belies a basic understanding of wholesale markets.

121. Some commentators [352] point to RTO/ISO market rules as potential barriers to recouping reactive power costs. Indicated Trade Associations assert that the Commission has required RTOs and ISOs to implement energy offer caps based on generators' verifiable marginal costs.[353] Generation Developers argue that the Commission should require RTOs/ISOs to revise their tariffs to eliminate existing barriers to the recovery of reactive power costs and permit generating facilities to accurately reflect their investments in reactive power capability in their capacity offers.[354]

122. Generation Developers argue that energy markets allow resources to sell energy on a day-ahead and real-time basis, with prices generally reflecting variable costs that are insufficient to allow resources to recover their fixed costs.[355] Generation Developers state that RTO/ISO market mitigation rules generally prohibit generating facilities from reflecting fixed costs in their mitigated energy offer costs, often referred to as the ''missing money problem,'' and eliminating reactive power compensation would exacerbate this issue.[356] Generation Developers argue that relying on capacity markets for reactive power compensation would result in arbitrary differences in the ability of resources to recover their costs because they would be required to provide reactive power regardless of whether they clear the capacity market.[357] Generation Developers also

Cir. 2022) (''In assessing whether a rate is 'just and reasonable,' FERC and the courts determine, among other things, whether the rate comports with the 'cost-causation principle' which requires that the rates charged for electricity reflect the costs of providing it.'' (citing *Old Dominion Elec. Coop.* v. *FERC,* 898 F.3d 1254, 1255 (D.C. Cir. 2018))).

[338] *Id.* at 11–13. *See also* MISO Transmission Owners Initial Comments at 16 (''As the Commission explains, compensation for providing reactive power within the deadband is unnecessary, as resources are otherwise able to recover their costs. The Commission is correct in finding that there are many other mechanisms through which generators may recover the costs of reactive power service, if they need to. This is consistent with Commission precedent that has repeatedly highlighted how generators have the opportunity to recover any legitimate costs through other means. The Commission has found generators may recover such costs through power purchase agreements or capacity and energy market offers. As the Commission found when accepting the elimination of reactive power compensation in MISO, generators can still include the costs of reactive service in energy offers or capacity offers, even if subject to market power mitigation.'' (citations omitted)).

[339] MISO Transmission Owners Reply Comments at 12–13.

[340] Ohio FEA Initial Comments at 4; New England Consumer Advocates Initial Comments at 3–4.

[341] Joint Customers Reply Comments at 14–15.

[342] *Id.* at 15.

[343] *See, e.g.,* Joint Customers Initial Comments, Affidavit of Dr. Albert W. Bremser at 6:3–7 (''When a generating facility is operating within the standard power factor range, the generating facility is meeting its responsibility to maintain appropriate operational voltage levels for real power moving onto the transmission system. It is only when a generating facility is called upon to operate outside the standard power factor range that it is providing an ancillary service.'' (citations omitted)).

[344] *See, e.g.,* Clean Energy Associations Initial Comments at 8–9; EDPR Initial Comments at 4–5; Elevate Initial Comments at 8–9; Generation Developers Initial Comments at 18–19; Glenvale Initial Comments at 5–6, 8–9; Indicated Reactive Power Suppliers Initial Comments at 14; Indicated Trade Associations Initial Comments at 3, 15; ISO–NE Initial Comments at 1–2; NAGF Initial Comments at 1; NEI Initial Comments at 12–13; NEPGA Reply Comments at 1, 4–6; NHA Initial Comments at 6–7; PSEG Initial Comments at 2–3, 6, 14–15; Reactive Service Providers Initial Comments at 56–62, 77.

[345] Glenvale Initial Comments at 6.

[346] Indicated Reactive Power Suppliers Initial Comments at 11–12.

[347] Indicated Trade Associations Initial Comments at 15 (citing PJM OATT, Attachment DD, § 6.6A(c) (0.0.0) (providing a categorical exception from the capacity must-offer obligation for certain types of resources)).

[348] EDPR Initial Comments at 4–5; Generation Developers Initial Comments at 19; Indicated Trade Associations Initial Comments at 18; Reactive Service Providers Initial Comments at 59–62.

[349] Indicated Trade Associations Initial Comments at 17–18.

[350] *Id.*

[351] Generation Developers Initial Comments at 19.

[352] *Id.* at 18–19, 34–35; Glenvale Initial Comments at 6; Indicated Trade Associations Initial Comments at 12–15; Reactive Service Providers Initial Comments at 77.

[353] Indicated Trade Associations Initial Comments at 12–13 (citing *Offer Caps in Mkts. Operated by Reg'l Transmission Orgs. and Indep. Sys. Operators,* Order No. 831, 81 FR 87770 (Dec. 5, 2016), 157 FERC ¶ 61,115, at PP 5, 7 (2016), *on reh'g,* Order No. 831–A, 82 FR 53403 (Nov. 16, 2017), 161 FERC ¶ 61,156 (2017)).

[354] Generation Developers Initial Comments at 34–35.

[355] *Id.* at 18.

[356] *Id.*

[357] *Id.* at 19.

assert that there is no nexus between the capacity value assigned to a generating facility and its reactive power capability.[358] In addition, Generation Developers state that ''[t]he Commission has a statutory obligation to ensure that [Commission]-jurisdictional rates are just, reasonable, and not unduly discriminatory or preferential'' and assert that this requirement ''prohibits the Commission from denying utilities the opportunity to recover their costs, plus a reasonable rate of return.'' [359]

123. Indicated Trade Associations argue that including reactive power costs in energy offers would increase a generator's risk of not clearing in the energy market. Indicated Trade Associations further contend that capacity markets do not provide for recovery of reactive power costs because capacity offers from existing resources are limited to avoidable or going forward costs and do not allow for inclusion of costs that have already been incurred to provide reactive power.[360]

124. Some commenters [361] argue that the NOPR violates the cost causation and beneficiary pays principles because customers benefit from reactive power, including reactive power provided within the standard power factor range, and thus generating facilities should be compensated for this service.[362] Generation Developers argue that while the cost causation principle does not require ''exact precision,'' it does require that Commission-approved rates ''be based on the costs of providing the service to the utility's customers, plus a just and fair return on equity.'' [363] Generation Developers and Reactive Service Providers assert that the NOPR's proposal would insulate transmission providers and customers from any responsibility to pay for costs associated with the services they are receiving, which is ''precisely the type of free ridership that the [FPA] and the cost causation principle are intended to prevent.'' [364] Generation Developers argue that the Commission is essentially directing generating facilities to recover the costs of reactive power from customers purchasing energy and capacity, rather than the transmission customers that benefit from the reactive service.[365]

125. Several commenters [366] who oppose the NOPR assert that removing compensation within the standard power factor range would result in discriminatory treatment between generating facilities and transmission owners. These commenters argue that, under the NOPR, generating facilities would be prohibited from recovering their costs to provide reactive power under Schedule 2, yet transmission owners that install reactive power equipment and assets as part of their transmission system would be able to recover the costs of those assets through transmission rates charged to transmission service customers. They contend that transmission owners would have guaranteed cost recovery for the very same service that generating facilities would be prohibited from collecting under this NOPR.[367] ACORE asserts that reactive power provides the same benefit to the system, regardless of who owns the capacitor banks.[368]

126. NEI and PSEG both argue that the 2005 Staff Report recognized this discriminatory concern and contend that the Commission therefore recommended that all providers of reactive power should be paid on a nondiscriminatory basis.[369] Reactive Service Providers add that unless and until the Commission proposes to also eliminate the opportunity for transmission providers to collect costs associated with providing reactive service, the NOPR's proposal is *per se* discriminatory and preferential, in violation of the FPA.[370] Indicated Trade Associations suggest that by disincentivizing generators from competing to provide reactive power service, the NOPR creates a preference for higher-cost transmission solutions installed by transmission owners, which will harm consumers.[371]

127. Relatedly, Reactive Service Providers and Indicated Trade Associations assert that the NOPR raises competition concerns.[372] Reactive Service Providers argue that even if the transmission provider elects to no longer pay generating facilities for reactive power service, the transmission provider will still be able to collect the costs of generation-based reactive power service through retail rates.[373] Reactive Service Providers assert that this ''is a sweet deal that allows the Transmission Provider to lean on the IPP to provide the service for free under the [Commission]'s jurisdiction, with the utility simply shifting to another forum to recover the same generation-based costs.'' [374] Reactive Service Providers argue that the NOPR undermines the competition that the Commission sought to facilitate in Order No. 2003, and while IPPs are disadvantaged by losing a revenue stream, utility-generation is able to make that revenue stream up through retail rates, thereby putting utility generation in a stronger position to compete.[375] To the extent that reactive power service costs are recoverable by transmission owners through state retail rates, NEI recognizes that such rates are outside the Commission's jurisdiction.[376] NEI asserts, however, that this does not excuse the Commission from considering transmission owners' ability to recover their reactive power costs at the state level when the Commission is setting its own jurisdictional wholesale rates.[377]

[358] *Id.*

[359] *Id.* at 6.

[360] Indicated Trade Associations Initial Comments at 14.

[361] Indicated Reactive Power Suppliers Initial Comments at 9; Generation Developers Initial Comments at 4, 9–12; Reactive Service Providers Initial Comments at 62–63.

[362] Indicated Reactive Power Suppliers Initial Comments at 9; Generation Developers Initial Comments at 4, 9–12; Reactive Service Providers Initial Comments at 62–63.

[363] Generation Developers Initial Comments at 9–10 (citing *Sithe/Indep. Power Partners, L.P.* v. *FERC,* 285 F.3d 1, 5 (D.C. Cir. 2002)).

[364] *Id.* at 10; Reactive Service Providers Initial Comments at 62–63.

[365] Generation Developers Initial Comments at 10–13.

[366] ACORE Initial Comments at 3; Generation Developers Initial Comments at 8–9; Indicated Trade Associations Initial Comments at 27; NEI Initial Comments at 2, 16; PSEG Initial Comments at 1–3, 17; Reactive Service Providers Initial Comments at 63–64.

[367] Indicated Trade Associations Initial Comments at 25–27; Reactive Service Providers Initial Comments at 64; PSEG Initial Comments at 17; ACORE Initial Comments at 3.

[368] ACORE Initial Comments at 3.

[369] NEI Initial Comments at 16 (citing 2005 Staff Report at 4); PSEG Initial Comments at 17 (citing same).

[370] Reactive Service Providers Initial Comments at 64.

[371] Indicated Trade Associations Initial Comments at 24–26; Indicated Trade Associations Reply Comments at 16; NEI Initial Comments at 17.

[372] Indicated Trade Associations Initial Comments at 14; Reactive Service Providers Initial Comments at 45–46

[373] Reactive Service Providers Initial Comments at 45–46.; Indicated Trade Associations Initial Comments at 14 (arguing that including reactive power costs in energy offers would increase a generating facility's risk of not clearing in the energy market, and that this risk is ''particularly acute in jurisdictions where independent power producers compete with vertically integrated utilities whose generators recover costs through state-jurisdictional retail rates.'' (citations omitted)).

[374] Reactive Service Providers Initial Comments at 46.

[375] *Id.*

[376] NEI Initial Comments at 16.

[377] *Id.* at 16–17 & n.47. NEI asserts that the ''Commission still has an obligation to consider whether wholesale rates (or as here, proposed rates) are unduly discriminatory when considered in relation to retail rates, even though the latter is not subject to Commission jurisdiction.'' *Id.* (citing *Fed. Power Comm'n* v. *Conway Corp.,* 426 U.S. 271 (1976); *Commonwealth Edison Co.,* 8 FERC ¶ 61,277, at 61,848 (1979); *Sunoco, Inc. (R&M)* v. *Transcontinental Gas Pipe Line Corp.,* 114 FERC ¶ 61,180 at P 28 & n.20 (2006)).

128. NEI contends that the proposed replacement rate would result in undue discrimination against nuclear generators by imposing disproportionate burdens on them without fair compensation.[378] NEI states that the Commission has an obligation to consider whether the proposed rates are unduly discriminatory, meaning that the Commission must consider transmission owners' ability to recover their reactive power costs at the state level.[379] Elevate argues that the NOPR is inconsistent with the spirit of Order No. 841, which required that energy storage resources ''be eligible to provide services that the RTOs/ISOs do not procure through an organized market mechanism (such as blackstart service, primary frequency response service, and reactive power service) if they are technically capable of providing those services.'' [380] Elevate argues that the unique physical and operational characteristics of energy storage resources correspond with the unique revenue profile of energy storage resources.

129. Indicated Trade Associations argue that the Commission must ensure that it adopts comprehensive transition plans that account for the specific market design and rules of each RTO/ISO and direct each RTO/ISO to make filings identifying modifications to be made to existing market rules to implement the NOPR.[381] Indicated Trade Associations contend that the Commission must clarify how generating facilities will be compensated for reactive power dispatch outside the standard power factor range and note that Consolidated Edison Company of New York, Inc. requires newly connecting generating facilities to be able to provide reactive power 0.85 lagging to 0.95 leading.[382] The NHA further argues that the Commission should allow individual RTOs/ISOs to retain their reactive power compensation frameworks, as they are better suited to address regional reliability needs, and to develop compensation mechanisms to reflect locational needs.[383] Reactive Service Providers contend that there is no evidence that generating facilities are being sited without respect to whether there is a geographic need for reactive power, or that costs are no longer commensurate with benefits.[384]

130. Several commenters also submitted RTO/ISO-specific comments addressing cost recovery. As discussed above, ISO–NE, NESCOE, NEPGA, and NEPOOL argue that ISO–NE's Schedule 2 VAR compensation program should not be disturbed.[385] ISO–NE notes that the Commission denied Maine Public Utilities Commission's complaint to only allow reactive power compensation *outside* the power factor range, as VAR payments were a ''negotiated value and is not equal to, nor is it intended to recover, the cost of service of any particular generating Resource.'' [386]

131. NEPOOL explains that three factors specific to Schedule 2 contribute to the reliability benefits of reactive service in New England: (1) the generator must be dispatchable and ready to respond to the ISO's instruction to produce or absorb reactive power; (2) to be designated as a Qualified Reactive Resource,[387] a generator must have automatic voltage regulation equipment and telemetry in place to enable the ISO to determine that it is providing ''measurable dynamic reactive power voltage support to the New England Transmission System''; and (3) Schedule 2 requires reactive power testing of Qualified Reactive Resources in accordance with the applicable ISO–NE Operating Procedures.[388] NEPOOL argues that these three factors show that any final determination should allow flexibility for transmission providers, such as ISO–NE, to maintain compensation mechanisms that pay for reactive power across the full power factor range when payment is contingent on the reactive power resource meeting enhanced reliability-related requirements.

132. NEPGA states that ISO–NE's wholesale energy and capacity markets do not compensate for reactive power capability or costs, but rather transmission rates compensate for reactive power capability through ISO–NE's Schedule 2 rate design.[389] NEPGA argues that the Tariff provisions governing capacity market offers in ISO–NE do not allow a generator to include the costs for providing reactive power in its offer prices nor does the capacity market value reactive power capability. Further, NEPGA states that ISO–NE's energy market offer-price rules (both day-ahead and in real-time) likewise limit costs to those necessary to produce real power versus reactive power. Therefore, NEPGA contends that ISO–NE's wholesale markets do not, as the Commission suggests, provide an opportunity to recover the costs of the capability to provide reactive power and the actual costs to deliver reactive power.

133. NYISO states that it supports the NOPR's objective to avoid administratively burdensome processes and procedures to determine individualized cost-of-service reactive power rates for generation facilities.[390] As discussed above, NYISO and IPPNY argue that NYISO's existing reactive power and VSS compensation structure, which uses a flat dollars per MVAr-year structure, is just and reasonable.[391] NYISO and IPPNY each assert that NYISO's flat rate compensation structure for VSS has been effective for over 20 years, ensuring adequate reactive power capability and system reliability in the New York Control Area at a reasonable cost to consumers.[392] NYISO explains that the structure, accepted by the Commission since 1999, was developed with stakeholder input and Commission approval, with significant revisions in 2016 to include leading and lagging reactive power capabilities.[393] NYISO maintains that this structure aligns costs directly with services provided, ensuring reliability benefits commensurate with expenses.[394]

134. NYISO states that its flat rate compensation provides market-like incentives, encouraging resources to offer reactive power cost-effectively by rewarding increased capability and maintaining necessary equipment.[395] NYISO explains that this approach reduces the need for complex, individualized cost-based payments and integrates reactive power support efficiently into the broader market framework, promoting economic efficiency and reliability.[396]

135. NYISO contends that as the current system ensures direct

[378] *Id.* at 2.

[379] *Id.* at 16–17.

[380] Elevate Initial Comments at 12–13 (citing *Elec. Storage Participation in Mkts. Operated by Reg'l Transmission Orgs. & Indep. Sys. Operators,* Order No. 841, 83 FR 9580 (Mar. 6, 2018), 162 FERC ¶ 61,127, at P 79 (2018), order on reh'g, Order No. 841–A, 167 FERC ¶ 61,154 (2019)).

[381] Indicated Trade Associations Initial Comments at 30.

[382] *Id.* at 31–32.

[383] NHA Initial Comments at 5–7.

[384] Reactive Service Providers Initial Comments at 31–34.

[385] ISO–NE Initial Comments at 1–2; NESCOE Reply Comments at 2; NEPGA Reply Comments at 6–7; NEPOOL Reply Comments at 6–7.

[386] ISO–NE Initial Comments at 9–10 (citing *Me. Pub. Util. Comm'n* v. *ISO New England Inc.,* 126 FERC ¶ 61,090 (2009)).

[387] In ISO–NE, a generating facility may submit a request, including documentation, to ISO–NE to receive additional compensation based on their verified leading and lagging reactive capability. *See* ISO–NE Schedule 2, § 3.1 (10.0.0).

[388] NEPOOL Reply Comments at 9–11.

[389] NEPGA Reply Comments at 4–6.

[390] NYISO Initial Comments at 1.

[391] *Id.* at 2; IPPNY Reply Comments at 1–2.

[392] NYISO Initial Comments at 2; IPPNY Reply Comments at 1–2.

[393] NYISO Initial Comments at 2–5.

[394] *Id.*

[395] *Id.* at 7–8.

[396] *Id.*

compensation for reactive power that is critical for maintaining system reliability, altering the compensation mechanism could lead to increased costs and complicate market operations, undermining the efficiency and effectiveness of its existing framework.[397]

136. NYISO emphasizes that as the resource mix evolves with more asynchronous and renewable resources, its flexible compensation structure is crucial for maintaining and enhancing reactive power support.[398] NYISO argues that this adaptability will ensure ongoing system reliability amidst changing resource dynamics.

137. Lastly, NYISO and IPPNY each highlight the need for continued flexibility in adjusting compensation rules to incentivize maximum reactive power capability and minimize out-of-market commitments.[399] NYISO contends that a uniform implementation approach is not suitable given the varying regional needs and existing effective compensation frameworks.[400]

138. PJM states that the NOPR would largely eliminate a number of problems that PJM and its stakeholder processes have identified. PJM explains that given that PJM stakeholders have been unable to reach consensus on a new rate paradigm after two years of work, PJM supports the proposed reforms identified in the NOPR and encourages the Commission to adopt them as proposed.[401] As discussed further below, PJM also proposes that RTOs/ISOs be allowed to implement any needed conforming changes to their market rules as part of the compliance process.[402]

139. The PJM IMM states that the NOPR would extend a just and reasonable, pro competition policy to all jurisdictional markets and public utilities while protecting PJM customers from unjust and unreasonable charges for reactive capability that generation owners are already required to provide.[403] The PJM IMM also argues that power suppliers, not customers, are responsible for the regulatory risk related to their PPAs.[404]

140. The PJM IMM adds that generating facilities in PJM incur other obligations, such as primary frequency response, as a condition of interconnection without separate compensation for such obligations.[405] The PJM IMM maintains that:

> There is no evidence that units are built as a result of reactive [power] revenue. There is no evidence that sources of revenue are not fungible and that a decrease in reactive [power] revenues could be not replaced with other sources of revenue. There is no basis for adding new resources to the already very crowded interconnection queue solely based on out of market subsidies from reactive revenues.[406]

2. Commission Determination

141. Based on the record here, we adopt the NOPR's preliminary findings and conclude that separate compensation for providing reactive power within the standard power factor range is not necessary for generating facilities to have the opportunity to recover their costs. As explained above, for both synchronous and non-synchronous generating facilities, real and reactive power are joint products, with joint costs and there are no identifiable fixed costs incurred by generating facilities to provide reactive power within the standard power factor range beyond the investments in equipment already necessary to generate and supply real power to the transmission system. Further, the record demonstrates that there are at most *de minimis* variable costs, such as fuel and maintenance costs, associated with providing reactive power within the standard power factor range. Given that the primary function of a generating facility is to produce real power, and that the provision of reactive power within the standard power factor range is necessary to the provision of real power, we find that a generating facility's fixed and variable costs are appropriately recovered through payments for real power, such as energy and/or capacity sales, whether in organized or bilateral markets.[407] Accordingly, we find that this final determination does not prevent a generating facility from seeking to recover its costs because resource owners have the opportunity to recover any of their appropriate fixed and variable costs through other revenue streams, including the opportunity to make up for lost revenues, if any, from the cessation of reactive power compensation.[408] We find that such an

[397] *Id.* at 8–11.

[398] *Id.* at 11–13.

[399] *Id.* at 13–14; IPPNY Reply Comments at 2.

[400] NYISO Initial Comments at 14.

[401] PJM Initial Comments at 3–4.

[402] *Id.* at 6–7.

[403] PJM IMM Initial Comments at 1–2. *See also id.*at 4 (''[T]here is no reason that part of those capital costs should be paid directly in a nonmarket, guaranteed, riskless revenue stream rather than in the market.''); *id.* at 6 (''Elimination of the reactive revenue requirement and the reactive revenue offset would increase prices in the capacity market. The VRR curve, or demand curve, would shift to the right, the maximum VRR price would increase and offer caps in the capacity market would increase.'').

[404] PJM IMM Reply Comments at 5 (''When buyers and sellers enter into power purchase agreements, the contracting parties define and assign regulatory risk. Customers are not responsible to manage or pay for suppliers' risks.'').

[405] PJM IMM Initial Comments at 8 (''Reactive power is not the only design obligation that generation interconnection customers assume. Generators are also obligated to provide primary frequency response capability ''by installing, maintaining, and operating a functioning governor or equivalent controls . . .'' Primary frequency response capability is required for the reliable operation of the system. The PJM OATT does not, however, provide for an out of market payment for such capability. The provision of primary frequency capability is treated as an obligation assumed by generation interconnection customers for receiving interconnection service.'') (citations omitted)); *Id.* at 9 (''The PJM OATT includes a number of other obligations on generation interconnection customers, many of which are important and impose costs, but does so without including any special provisions for out of market compensation.''); PJM IMM Reply Comments at 6 (''The fundamental logic of the obligation to provide reactive service, frequency control service and other essential elements of interconnecting to the power grid is that the grid is a network. All generators who connect to the grid benefit from that network effect. All generators who connect to the grid have corresponding obligations to the grid that permit the grid to function as an effective and reliable network. It has always been the case that there are standards for interconnecting to the network. Meeting those standards is part of being a resource on the network. The actual costs of interconnecting to the grid can be significant for resources but those costs are part of the cost of building a resource and part of the investment decision for resource owners and not a reason for a separate guaranteed payment.'').

[406] PJM IMM Initial Comments at 12–13.

[407] We emphasize that our findings in this final determination do not affect any party's filing rights under section 205 of the FPA, including the right of generating facilities to seek cost recovery for the provision of reactive power outside the standard power factor range. *See supra* II.A.2.

[408] *See, e.g.,* PJM IMM Initial Comments at 1–2, 4, 6, 9, 12–13; PJM IMM Reply Comments at 2–5; Joint Customers Initial Comments at 16; MISO Transmission Owners Initial Comments at 16–17; Ohio FEA Initial Comments at 3, 5; Joint Consumer Advocates Initial Comments at 7–8; TAPS Initial Comments at 7–8; *see also* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 42 (''On rehearing, we conclude that Vistra has still not adequately explained why generators cannot include the costs attributable to Reactive Service in energy offers or capacity offers, even if subject to market power mitigation, ... As to capacity offers, among the ''going forward'' costs that can be recovered are ''mandatory capital expenditures necessary to comply with federal . . . reliability requirements,'' which would appear to include any (hypothetical) capital investments and expenditures associated with Reactive Service capability. As to energy offers, Vistra does not explain the basis for its assertion that the Tariff bars including any incremental costs associated with Reactive Service capability (*e.g.,* fuel costs, short-term variable operations and maintenance) in such offers. Moreover, while Vistra claims that ''a generation resource that attempts to recover its fixed costs of reactive power through its energy or capacity offers runs the risk that it will trigger application of MISO's market power mitigation rules,'' even assuming this were correct, this would not preclude generators from recovering such costs in the capacity market, but rather would require that they verify the costs with the independent market monitor. The cases Vistra cites also do not establish that where Schedule 2 compensation for Reactive Service is not available, seeking compensation

Continued

outcome is not only appropriate given the nature of the costs but also more efficient because competition between generating facilities may incentivize efficiency.[409]

142. We recognize, however, the current interplay between existing reactive power revenue compensation mechanisms and energy and capacity market rules in ISO–NE, NYISO, and PJM,[410] and, as a result, the RTOs/ISOs may request, by setting forth the specific bases and reasoning therefore for the Commission's consideration an effective date for their compliance filings that allows them to develop and propose changes to their markets that are necessary in order to accommodate this final determination's elimination of compensation for the provision of reactive power within the standard power factor range. As recognized in the NOPR and affirmed in the comments, the existing capacity market rules in PJM, ISO–NE and NYISO reflect the existence of generator payments under Schedule 2 through a revenue offset and reduce capacity market revenues accordingly. For example, as PJM and the PJM IMM explain, the PJM capacity market rules currently reflect a reactive power revenue offset in both the market seller offer caps and the Net Cost of New Entry (CONE) for the reference resource, which affects the shape of PJM's capacity market demand curve. Therefore, both PJM and the PJM IMM argue that the market rules will have to be revised to reflect the impacts of this final determination.[411] Similarly, NYISO and ISO–NE may need to propose changes to market rules to reflect the elimination of reactive power revenues resulting from this final determination. Therefore, as discussed below, we recognize that ISO–NE, NYISO, and PJM may need to develop and propose changes to their markets that may be necessary to accommodate this final determination's elimination of compensation for the provision of reactive power within the standard power factor range.[412] For the reasons explained above, we also disagree with those commenters who argue that there is not sufficient evidence to support the conclusion that energy markets or capacity markets could or should be used to seek to recover the costs currently recovered through payments for reactive power, as well as those commenters that argue that because capacity and reactive power service are separate products, their costs should likewise be recovered separately under Schedule 2. Given the same equipment is used for real and reactive power and the incremental variable costs of reactive power service within the deadband are minimal, as explained in the section above, we disagree with commenters' claims that costs, if any, currently recovered through reactive power payments cannot be recovered through other markets, especially given the transition period provided in this final determination, which addresses concerns about existing market rules that may impact cost recovery from those markets.[413] Furthermore, our finding here is supported both by experience in CAISO, SPP, MISO and certain non-RTO regions where generating facilities do not receive compensation for the provision of reactive power within the standard power factor range, and the evidence in the record to date.[414] Specifically, experience and evidence demonstrate that: (1) eliminating compensation has not led to an insufficient supply of reactive power in those regions; and (2) generating facilities in these regions have been able to recover their fixed and variable costs through other means.[415] For example, CAISO ''has seen no evidence to this point that resources cannot comply with reactive power dispatch instructions because they have insufficient funds for the equipment to meet the reactive power dispatch.'' [416] Rather, ''the lack of separate reactive power compensation in CAISO or SPP means that all costs have to be recovered through the applicable PPA, which also means that those PPA prices are higher, all other variables being equal, than they would otherwise be.'' [417]

143. We also find it of no consequence that a generating facility participates in only the energy market, as no commenter has demonstrated why these joint costs could not be recovered via energy sales, as these costs are necessary for the production and delivery of real power. However, as discussed herein, to the extent that current RTO/ISO market rules require generating facilities to subtract their separate revenue streams for reactive power from the avoidable costs they are permitted to reflect in their capacity market offers, we encourage RTOs/ISOs to propose any necessary conforming changes to their market rules in section 205 filings accompanying their compliance filings to this final determination.[418]

144. The NHA asserts that capacity markets are unequipped to situate reactive power where it is most needed because capacity markets do not allow for granular clearing prices based on specific geographic locations. In turn, the NHA argues that RTOs/ISOs should instead develop reactive power compensation rules to reflect locational requirements.[419] However, we find that generating facilities are required to provide reactive power within the standard power factor range as a matter of good utility practice and to meet the obligations under their interconnection agreements under Order No. 2003,

through other mechanisms is impermissible.'' (citations omitted)).

[409] PJM IMM Initial Comments at 1–6, 9, 12–13; PJM IMM Reply Comments at 2–5.

[410] *See, e.g.,* PJM IMM Initial Comments at 6.

[411] *See* PJM IMM Initial Comments at 6 (''Elimination of the reactive revenue requirement and the reactive revenue offset would increase prices in the capacity market. The VRR curve, or demand curve, would shift to the right, the maximum VRR price would increase and offer caps in the capacity market would increase.'').

[412] *See infra* III.B.2.

[413] *See* III.B.2; *see, e.g.,* MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 40–42; *BPA,* 120 FERC ¶ 61,211 at P 21 (finding that the argument that it is not feasible for IPPs to recover their costs through higher power sales rates ''lacks plausibility'' ''since the incremental cost of reactive power service within the deadband is minimal,'' and ''[t]he purpose for which generation assets are built (including reactive power capability to maintain voltage levels for generation entering the grid) is to make sales of real power''). *See also* Joint Customers Initial Comments at 15 (''Generators have other means of covering costs incurred to meet interconnection design requirements.''); MISO Transmission Owners Initial Comments at 16 (''As the Commission explains, compensation for providing reactive power within the deadband is unnecessary, as resources are otherwise able to recover their costs. The Commission is correct in finding that there are many other mechanisms through which generators may recover the costs of reactive power service, if they need to. This is consistent with Commission precedent that has repeatedly highlighted how generators have the opportunity to recover any legitimate costs through other means. The Commission has found generators may recover such costs through power purchase agreements or capacity and energy market offers. As the Commission found when accepting the elimination of reactive power compensation in MISO, generators can still include the costs of reactive service in energy offers or capacity offers, even if subject to market power mitigation.'' (citations omitted)).

[414] *See, e.g.,* PJM IMM Initial Comments at 4 (''[T]here is no reason that part of those capital costs should be paid directly in a nonmarket, guaranteed, riskless revenue stream rather than in the market.''); Joint Customers Initial Comments at 15 (''Generators have other means of covering costs incurred to meet interconnection design requirements.'').

[415] AEP Initial Comments at 4–6; Joint Consumer Advocates Initial Comments at 7–8; Joint Customers Initial Comments at 15–18; Ohio FEA Initial Comments at 5 (''Through the PJM markets, generators have an opportunity to recover all costs, including reactive power costs.''). *See* also MISO Transmission Owners Initial Comments at 15–17 (''The Commission is correct in finding that there are many other mechanisms through which generators may recover the costs of reactive power service, if they need to.'').

[416] NOPR, 186 FERC ¶ 61,203 at P 48 (citing CAISO Initial Comments to NOI at 5–6).

[417] *Id.* (citing LRE/UCS Initial Comments to NOI at 16).

[418] *See* PJM Initial Comments at 6–7; *infra* III.B.2.

[419] NHA Initial Comments at 5–7.

regardless of location.[420] For that reason, Order No. 2003 does not contain a location-specific component for the provisions of reactive power within the standard power factor range. Any additional reactive power capability required to satisfy specific local reliability needs, as well as the compensation for costs incurred to provide that capability (*e.g.,* capacitors, synchronous condensers), are for the transmission provider to determine and are beyond the scope of this final determination.[421]

145. In response to commenters [422] who argue that generating facilities will be unable to recover through their existing PPAs costs that are currently recovered through separate reactive power payments, the record lacks any concrete evidence showing whether, and to what extent, generating facilities factored reactive power revenues into their PPAs. Even if a generator were able to demonstrate that eliminating compensation under our rule might impact some generating facility's profitability, we do not believe that potential disrupted expectations weigh in favor of a different outcome in this situation. As a general matter, the risk of regulatory change is inherent in any long-term PPA.[423] Moreover, as explained above, because no generating facility could have reasonably relied on an inherent right to separate compensation for reactive power capability within the standard power factor range since Order Nos. 2003 and 2003–A (*i.e.,* because such compensation is required only to ensure ''comparability''), there has always been some risk in relying on compensation, because market rules can change.[424] Indeed, developers and generating facilities have been on notice since at least 2003 that the Commission regards reactive power compensation within the standard power factor range as non-compensable (other than where the comparability standard applies) —a conclusion that was patent in those orders, and reinforced repeatedly in subsequent Commission orders accepting transmission owner filings under section 205 that eliminated reactive power compensation within the standard power factor range.[425] Additionally, the Commission rejected reliance arguments in the MISO Rehearing Order [426] and *PNM.*[427] We similarly find unsupported Generation Developers'[428] concerns about energy markets being insufficient to recover fixed costs and Indicated Trade Associations' [429] concerns about not clearing the energy market when including reactive power costs in energy market bids. The record demonstrates that, in regions such as MISO, where separate compensation for the provision of reactive power within the standard power factor range has been eliminated, generating facilities continue to be developed, indicating that such developers believe there to be sufficient opportunity to recover their costs, including any costs associated with the provision of reactive power within the standard power factor range.[430] In light of this evidence, Indicated Trade Associations' and Generation Developers' arguments that organized markets do not provide sufficient opportunities for generating facilities to recover their costs fall flat.

146. We agree with Generation Developers that ''[t]he Commission has a statutory obligation to ensure that [Commission]-jurisdictional rates are just, reasonable, and not unduly discriminatory or preferential.'' [431] Indeed, our actions here do nothing to deny generating facilities their ''opportunity to recover their costs, plus a reasonable rate of return.'' [432] As noted above, generating facilities have an opportunity to recover appropriately recoverable fixed and variable costs through other markets, including the opportunity to potentially make up for lost revenue from the cessation of reactive power compensation within the standard power factor range.[433] And if market rules in RTOs/ISOs currently inhibit such recovery, as discussed herein, we are permitting the RTOs/ISOs to request additional time to update those market rules, as may be appropriate and consistent with this final determination.

147. Regarding ISO–NE's [434] reliance on the Commission's denial of the Maine Public Utilities Commission's complaint to support its assertion that ISO–NE's reactive power scheme was, and continues to be, just and reasonable, we acknowledge that our findings in this final determination represent a change in policy from prior Commission findings on compensation for the provision of reactive power within the standard power factor range. However, as discussed above, we find that the record in this proceeding demonstrates that such a change is appropriate.

[420] *See supra* II.A.2; MISO Transmission Owners Reply Comments at 12–13 (''That series of orders required, among other things, that interconnecting generators be able to provide reactive power within the deadband without compensation.'').

[421] *See* MISO Transmission Owners Initial Comments at 15 (''Moreover, transmission providers have mechanisms for maintaining system reliability in the face of premature retirements. When generators advise MISO of a planned retirement via Attachment Y of the MISO Tariff, MISO completes a review to determine whether any Transmission System reliability concerns are caused by the retirement. If voltage concerns arise in the Attachment Y study, options to address the voltage concerns are reviewed and ultimately a permanent solution is identified. If the permanent solution cannot be implemented before the planned retirement date, then the MISO Tariff has a designation for 'system support resources,' under which generators are eligible to receive cost-based compensation to support their continued operation until an alternative solution to the reliability problem posed by the resources' retirement is developed.'' (citations omitted)).

[422] EDPR Initial Comments at 4–5; Generation Developers Initial Comments at 19; Indicated Trade Associations Initial Comments at 18; Reactive Service Providers Initial Comments at 59–62.

[423] *See, e.g.,* PJM IMM Reply Comments at 5 (''When buyers and sellers enter into power purchase agreements, the contracting parties define and assign regulatory risk. Customers are not responsible to manage or pay for suppliers' risks.'').

[424] *See* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 33 (''Sophisticated parties, like independent power producers, have the ability to manage risks of this sort in entering long-term arrangements rather than assuming that this compensation will be available in perpetuity.'').

[425] *See, e.g., Nev Power Co.,* 179 FERC ¶ 61,103; *PNM,* 178 FERC ¶ 61,088 at PP 26–36; *SPP,* 119 FERC ¶ 61,199 at PP 20, 30–33.

[426] *See* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 33 (''[W]e find that generators' assumption that such compensation will continue to be available does not give rise to reliance interests that justify requiring that such compensation continue to be provided.'').

[427] *PNM,* 178 FERC ¶ 61,088 at P 33 (''[B]y designing its generating facility to have the capability to provide reactive support, Aragonne Wind is only meeting the conditions of interconnection required of all generators and is not entitled to compensation unless the transmission provider pays its own or affiliated generators for reactive power within the established range.'').

[428] Generation Developers Initial Comments at 18.

[429] Indicated Trade Associations Initial Comments at 14.

[430] *See* MISO Transmission Owners Initial Comments at 14 (''Moreover, all charges under Schedule 2 of the MISO Tariff for the provision of reactive power within the standard power factor range were eliminated in the MISO region effective December 1, 2022. MISO has since experienced no reliability issues as a result and generator interconnection applications, the first step of a process that ends with execution of an interconnection agreement that obligates the generator to provide reactive power within the deadband, remain high.'' (citations omitted)).

[431] Generation Developers Initial Comments at 6.

[432] *Id.*

[433] *See, e.g., N. Am. Elec. Reliability Corp.,* 183 FERC ¶ 61,222 (2023) (explaining that the FPA requires only that Commission-jurisdictional rates provide an opportunity for the recovery of prudently incurred costs necessary to comply with reliability standards—not that all entities have identical outcomes) (citing *ISO New England Inc.,* 132 FERC ¶ 61,044, at P 28 (2010) (''[R]esources are provided only an opportunity to recover their costs, not a guarantee that they will recover those costs.''); *Bridgeport Energy, LLC,* 113 FERC ¶ 61,311, at P 29 (2005) (''[T]he Commission has no obligation in a competitive marketplace to guarantee Bridgeport its full traditional cost-of-service. Rather, in a competitive market, the Commission is responsible only for assuring that Bridgeport is provided the *opportunity* to recover its costs.'') (emphasis in original).

[434] ISO–NE Initial Comments at 10.

148. We disagree with commenters'[435] contention that eliminating compensation for reactive power within the standard power factor range would violate the cost causation principle. As discussed above, real and reactive power are provided as joint products, with joint costs, and are produced using the same equipment; therefore, a separate cost compensation mechanism for the provision of reactive power within the standard power factor range is not necessary.[436] We are not persuaded that eliminating compensation for reactive power within the standard power factor range violates cost causation.

149. Additionally, we disagree with claims that transmission customers are the sole beneficiaries and cost-causers, as well as assertions[437] that eliminating compensation for reactive power within the standard power factor range would insulate transmission providers and customers from paying for any costs associated with the services they are receiving—essentially requiring generating facilities to recover the costs of reactive power from energy and capacity market customers, rather than the transmission customers that benefit from the reactive power service. These arguments fail because they are inconsistent with Commission precedent that explains that providing reactive power within the standard power factor range enables generating facilities to reliably deliver real power to the transmission system (*i.e.,* make real power sales).[438] In effect, these costs are ''caused'' by the operating requirements of the generating facilities to deliver real power, not by the separate needs of the transmission customers.

150. We similarly disagree with commenters'[439] assertions that eliminating compensation for reactive power within the standard power factor range would result in undue discrimination between generating facilities and transmission assets, where owners of the latter would still have guaranteed recovery of their costs of reactive power assets through transmission rates. The Commission has long held that reactive power supply from transmission facilities is distinct from reactive power supply from generating facilities, with the former constituting a basic part of transmission service.[440] This is because generating facilities must produce reactive power within the standard power factor range to allow the generating facilities' real power to reliably flow onto the transmission system, while transmission provider investment in capacitor banks is to control transmission system voltage levels to provide reliable transmission service.[441] These findings also address similar arguments raised by NEI and PSEG.[442]

151. Similarly, we find without merit Reactive Service Providers' and Indicated Trade Associations' argument that transmission owners that own generation will have a competitive advantage over IPPs by virtue of their ability to recover their costs through retail rates. Putting aside that commenters provide no support for their contention that transmission owners that own generation will be able to recover their reactive power costs through retail rates,[443] the Commission has rejected similar arguments on multiple occasions. In *SPP* and *BPA,* the Commission explained ''that merchant generators are free to negotiate rates that they charge their customers for real power that are sufficient to compensate them for any costs that they may incur in producing reactive power within their deadbands, just as affiliated generators may seek to negotiate rates that they charge their customers that are sufficient to compensate them for the costs of any reactive power that they provide within their deadbands.''[444] The Commission also observed that ''[i]n this regard, all that the protestors have done is to note that an incumbent utility's generators may be able to make up the revenue that they previously might have earned through a separate charge for reactive power within the deadband in other ways—such as through higher power sales rates. But merchant generators are no differently situated and their ability to recover such costs has not been compromised. They, equally, may be able to recover the costs for reactive power within the deadband in other ways—such as through higher power sales rates of their own.''[445] As in those other cases, we believe that our action here ''maintains a level playing field for all generators subject to Commission jurisdiction, such that compensation for reactive power support is separately paid when reactive power outside the deadband is dispatched to the point on the transmission system where it is needed, and in the magnitude required to ensure a stable grid.''[446]

152. Regarding Elevate's assertion that Commission precedent, including Order No. 841, requires compensation for any service that a generating facility is technically capable of providing, we note that many regions do not provide separate compensation for each obligation of interconnection. For example, as the PJM IMM notes, generating facilities in PJM are required to provide primary frequency response and other essential transmission system services as a condition of interconnection without a separate, dedicated revenue stream.[447] Furthermore, as explained above,

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[435] ACORE Initial Comments at 3; Generation Developers Initial Comments at 4, 9–12; Indicated Trade Associations Initial Comments at 27; NEI Initial Comments at 2, 16; PSEG Initial Comments at 1–3, 17; Reactive Service Providers Initial Comments at 62–64; Indicated Reactive Power Suppliers Initial Comments at 9.

[436] *See* II.B.2.

[437] Indicated Trade Associations Initial Comments at 24–26; Indicated Trade Associations Reply Comments at 16; NEI Initial Comments at 17.

[438] *See* SPP Rehearing Order, 121 FERC ¶ 61,196 at P 15 (''As we have previously explained, reactive power i*s required for an interconnecting generator to deliver its power* and reactive power produced within the [standard power factor range] and is, therefore, generally not compensable.'' (emphasis added)); BPA Rehearing Order, 120 FERC ¶ 61,211 at P 21 (''The purpose for which generation assets are built (including reactive power capability to maintain voltage levels for generation entering the grid) is to make sales of real power.''); *see supra* II.A.2.

[439] Indicated Trade Associations Initial Comments at 24–27; Reactive Service Providers Initial Comments at 64; PSEG Initial Comments at 17; ACORE Initial Comments at 3; NEI Initial Comments at 2, 16.

[440] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,706 (''We accept NERC's identification of two ways of supplying reactive power and controlling voltage. One is to install facilities, usually capacitors, as part of the transmission system. We will consider the cost of these facilities as part of the cost of basic transmission service. Providing reactive power and voltage control in this way is not a separate ancillary service. The second is to use generating facilities to supply reactive power and voltage control. This use is the service named here, which must be unbundled from basic transmission service.'').

[441] *Id.* (''NERC further distinguishes reactive supply services based on the source of the need for the service: (1) reactive supply needed to support the voltage of the transmission system; and (2) reactive supply needed to correct for the reactive portion of the customer's load at the delivery point.''); *see also supra* n.439.

[442] NEI Initial Comments at 16 (citing 2005 Staff Report at 4); PSEG Initial Comments at 17 (citing same).

[443] *SPP Order on Rehearing,* 121 FERC ¶ 61,196 at P18 (''[T]ransmission owners' generators are not entitled to charge retail customers retail rates that guarantee full recovery of their costs; rather, they must first justify their rates to state authorities'').

[444] *BPA,* 120 FERC ¶ 61,211 at P 21 (citing *SPP,* 119 FERC ¶ 61,199 at P 39).

[445] *Id.*

[446] *SPP,* 119 FERC ¶ 61,199 at P 38. *See N. Am. Elec. Reliability Corp.,* 183 FERC ¶ 61,222 (rejecting claims that reliability standard gives vertically integrated utilities a competitive advantage; explaining that, while the approval of the new standard may have different implications for different entities depending on their existing compensation mechanisms, the FPA requires only that Commission-jurisdictional rates provide an opportunity for the recovery of prudently incurred costs necessary to comply with reliability standards—not that all entities have identical outcomes).

[447] *Supra* n.415.

generating facilities have an opportunity to recover their appropriate fixed and variable costs through other markets, including the opportunity to make up for lost revenue from the cessation of reactive power compensation within the standard power factor range.

153. Although ISO–NE and NYISO argue to maintain their existing reactive power compensation schemes, as discussed above, these arguments ignore the findings in this final determination, which apply equally to flat-rate compensation regimes like ISO–NE's and NYISO's, as to the compensation regimes of PJM and certain non-RTO regions. That is, generating facilities incur no incremental fixed costs and at most *de minimis* variable costs incremental to the cost of providing real power, because no additional equipment is required to provide reactive power and variable costs are limited to the fuel costs (in synchronous facilities) or foregone direct current power (in non-synchronous facilities) necessary to provide the reactive power required to safely inject real power into the transmission system and comply with reliability requirements.[448]

154. These commenters argue that transparency, administrative burden, and preventing double recovery problems are reduced or eliminated in either ISO–NE, NYISO, or both. However, all those arguments suppose that compensation is due, and thus that a compensation method is needed. But, if no separate compensation is due, all compensation methodologies will necessarily result in unjust and unreasonable rates.[449] Furthermore, we agree with New England Consumer Advocates,[450] who argue that any payment for reactive power capability within the standard power factor range must yield some roughly commensurate incremental benefit *above and beyond* that which would accrue absent payment.[451] Given those arguments, transmission customers in ISO–NE and NYISO, just like transmission customers in PJM and non-RTO regions, do not receive benefits that are commensurate with the costs of reactive power charges, even if the compensation methods used in these regions are less administratively burdensome than the methods used in other regions.[452]

D. Reliability

155. The NOPR preliminarily found that ''compensation for providing reactive power within the standard power factor range is unnecessary to maintain reliability'' and that ''requiring transmission providers to continue paying for reactive power already required by a generating facility's interconnection agreement is not necessary to ensure that generating facilities provide reactive power when required.'' [453] In addition to noting that multiple RTOs, ISOs, and non-RTO/ISO transmission providers have elected not to compensate generating facilities for the provision of reactive power within the standard power factor range under Schedule 2 of the OATT,[454] the NOPR observed that CAISO has not seen major issues of concern with the level of reactive power in its region despite not providing separate compensation for reactive power within the standard power factor range. The Commission also preliminarily found in the NOPR that requiring transmission providers to continue paying for reactive power already required by a generating facility's interconnection agreement is not necessary to ensure that generating facilities provide reactive power within the standard power factor range.[455]

156. The NOPR sought comment on the reliability impact of prohibiting transmission providers from including in their transmission rates any charges associated with the provision of reactive power within the standard power factor range from a generating facility in regions where generating facilities currently receive such compensation.[456]

1. Comments

157. Many commenters do not expect to see an impact on reliability under the NOPR proposal.[457] For example, ''MISO has not experienced reliability concerns since December 1, 2022 due to the elimination of compensation for reactive power within the standard power factor range.'' [458] Furthermore, several commenters observe that regions like MISO, which implemented similar reforms, and CAISO, which does not compensate for reactive power service, have not experienced related reliability concerns.[459] The PJM IMM argues that ''there is no evidence that expanding the just and reasonable approach to compensation already in place in CAISO, SPP, and MISO to PJM will have any adverse impact on reliability in PJM'' and that ''[t]he salient difference between PJM and CAISO, SPP, and MISO is that PJM customers paid $388,044,837.00 in out of market payments for reactive capability in 2023, and customers in CAISO, SPP and MISO, paid $0.00'' [460] for the same service. Joint Customers agree with the NOPR that the Commission's ''precedent is crystal clear that compensation is not required'' [461] for

[448] *See,* II.B.2.

[449] *See,* II.A.2.

[450] New England Consumer Advocates Initial Comments at 5 (''To the extent . . . benefits are achieved by compliance with a generating facility's interconnection agreement and/or as 'good utility practice,' [New England Consumer Advocates] agree[] with the Commission that ratepayers should not be paying separately for the costs to produce a joint reactive power product.'').

[451] *See, e.g., supra* n.140.

[452] Joint Customers Initial Comments at 5–6 (''The Commission's policy of looking strictly to capability for determining cost recovery for Reactive Service incentivized overbuilding of capability beyond what was required based on interconnection requirements. This policy of not considering need or requiring a demonstration of need by the transmission owner has resulted in compensation for reactive capability without an actual demonstrated benefit to transmission system customers. This disconnect between capability and any actual demonstrated benefit highlights serious concerns that charges to customers are not related to any benefits received.'' (citations omitted)).

[453] NOPR, 186 FERC ¶ 61,203 at P 43 (citing *Essential Reliability Servs. & the Evolving Bulk-Power Sys. Frequency Response,* Order No. 842, 83 FR 9639 (Mar. 6, 2018), 162 FERC ¶ 61,128, at P 121, *order on reh'g and clarification,* 164 FERC ¶ 61,135 (2018) (''While the Commission has approved specific compensation for discrete services that require substantial identifiable costs, such as for frequency regulation and operating reserves, the Commission has not required specific compensation for all reliability-related costs. We agree with those commenters who observe that minimal reliability-related costs such as those incurred to provide primary frequency response, are reasonably considered to be part of the general cost of doing business, and are not specifically compensated.'')).

[454] *Id.* P 15 (citing *MISO,* 182 FERC ¶ 61,033 at PP 52–53; MISO Rehearing Order, 184 FERC ¶ 61,022 at P 26; *PNM,* 178 FERC ¶ 61,088, at PP 29–31; *Nev. Power Co.,* 179 FERC ¶ 61,103 at PP 20–21; *BPA,* 120 FERC ¶ 61,211 at P 20; *E.ON U.S. LLC,* 119 FERC ¶ 61,340 at P 15; *Entergy Servs., Inc.,* 113 FERC ¶ 61,040 at P 38); *see also id.* P 18 (noting that CAISO, SPP, and MISO do not pay separately for reactive power within the standard power factor range).

[455] *Id.*

[456] *Id.* P 44.

[457] *See, e.g.,* Joint Consumer Advocates Initial Comments at 6–8; Joint Customers Reply Comments at 1–2; MISO Initial Comments at 2; MISO Transmission Owners Initial Comments at 12–16; New England Consumer Advocates Initial Comments at 4–5; Ohio FEA Initial Comments at 4; PGE Initial Comments at 2–3; PJM IMM Initial Comments at 11–12.

[458] MISO Initial Comments at 2.

[459] Joint Customers Reply Comments at 2–6; MISO Initial Comments at 2; MISO Transmission Owners Initial Comments at 14–15; TAPS Initial Comments at 5.

[460] PJM IMM Initial Comments at 11–12.

[461] Joint Customers Reply Comments at 2; *see also id.* at 3 (''The Commission is, in fact, in an enviable position where the *pro forma* revisions contemplated in the NOPR have recently been implemented on a large regional scale. For the purposes of establishing record support for the NOPR and addressing transition, discussed below, the *MISO* proceeding essentially point by point addresses the arguments recycled to oppose the NOPR. The same is true with respect to the arguments concerning reliability, which were extensively addressed in the *MISO* order and order on rehearing. But with respect to reliability, *MISO*

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generators meeting interconnection requirements of providing reactive service within the standard power factor range. In addition, MISO Transmission Owners assert that eliminating reactive power compensation will not adversely affect reliability because generators are required to provide reactive power pursuant to their interconnection agreements,[462] NERC requirements,[463] and Order No. 2003.[464] Joint Customers argue that there is a ''lack of concrete evidence of adverse reliability impacts (including in regions where this exact change has been implemented)'' in the record and the commenters' concern that ''if there is not an unjustifiable free revenue stream ostensibly related to reactive service and capability, there will not be sufficient generation for real power and capacity at some unspecified point in the future'' is ''speculative to the point of incoherence.'' [465]

158. MISO Transmission Owners refute the claim that the transmission system will face increased retirements due to the loss of reactive power revenue by arguing that transmission providers have mechanisms for maintaining system reliability in the face of premature retirements.[466] Relatedly, Joint Consumer Advocates, MISO Transmission Owners, and TAPS each point to ample backlogs in generator interconnection queues nationwide as protection against any threat to reliability from eliminating reactive power compensation.[467]

159. MISO Transmission Owners also counter fears [468] of inadequate incentives to make the necessary capital investments to provide reactive power by explaining that generators are incented by their own operating and reliability requirements to install the equipment that is most likely to keep their projects online and delivering real power.[469]

160. Other commenters express general reliability concerns under the NOPR proposal.[470] Commenters also argue that specific types of resources especially benefit from reactive power revenue, including energy storage,[471] hydro,[472] and nuclear.[473] Elevate explains that ''[b]ecause energy storage resources 'have the capability to operate at any power factor, they are exceptionally valuable as reactive power resources.''' [474]

161. Generation Developers argue that, without the reactive power capability of generating facilities, transmission providers will need to further invest in transmission equipment capable of providing reactive support.[475] Indicated Trade Associations assert that eliminating a source of stable, expected reactive power compensation could lead to more retirements.[476] Relatedly, Indicated Trade Associations also state that, while CAISO does not currently compensate reactive power service, it has had to rely on reliability must-run (RMR) agreements to maintain the needed reactive power.[477] NEI emphasizes the importance of reactive power, noting Chairman Wood's statement that proper reactive power management would have ''delayed'' or possibly prevented the 2003 August blackout,[478] and NERC's finding that ''reactive power is critical to the reliable and efficient operation of the power system.'' [479] NEPOOL argues that payment for reactive power broadens the base of resources willing to seek to become Qualified Reactive Resources and support reliability in ISO–NE.[480]

162. Indicated Trade Associations also argue that eliminating compensation for reactive power service within the standard power factor range will hamper generators' ability to provide reactive power service outside the standard power factor range because such events do not happen with enough regularity to warrant the capital costs associated with such capability.[481] Similarly, Indicated Trade Associations argue that the increasing reliance on non-synchronous resources makes it even more important to ensure that generators have incentives to go beyond the bare minimum requirements outlined in their interconnection agreements.[482]

163. NYISO and IPPNY warn that transitioning away from NYISO's current reactive power compensation structure could introduce reliability risks and operational complexities.[483] NYISO asserts that its reactive power compensation supports electric system reliability because it requires resources to undergo annual capability tests and maintain automatic voltage control equipment to ensure consistent reactive power support.[484] NYISO explains that these resources dynamically produce or absorb reactive power, supporting the electric system within and beyond standard power factor ranges without operator intervention. NYISO emphasizes that this automatic and

is dispositive not only for its precedential value, but also in setting up a real-world test of the countervailing predictions regarding the impact of eliminating compensation for reactive service within the standard power factor range.'' (citations omitted)); *id.* at 4 (''MISO's experience validates the Commission's conclusions in approving the MISO Transmission Owners' proposed tariff revisions, as well as the Commission's skepticism regarding speculative warnings of reliability impacts. It similarly validates PJM's support for the NOPR and the conclusions of the PJM Independent Market Monitor that amending Schedule 2 of the PJM Tariff will not lead to reliability concerns.'' (internal citations omitted)).

[462] Joint Customers Reply Comments at 4–6; MISO Transmission Owners Initial Comments at 12–16; MISO Transmission Owners Reply Comments at 3–4; Ohio FEA Initial Comments at 4; PGE Initial Comments at 2–4.

[463] MISO Transmission Owners Initial Comments at 12.

[464] MISO Transmission Owners Reply Comments at 6 (citing Order No. 2003, 104 FERC ¶ 61,103 at P 546; Order No. 2003–A, 106 FERC ¶ 61,220 at PP 410, 416).

[465] Joint Customers Reply Comments at 4–6.

[466] *Supra* n.448.

[467] Joint Consumer Advocates Initial Comments at 7–8; MISO Transmission Owners Initial Comments at 12–16; TAPS Initial Comments at 5.

[468] *See, e.g.,* Indicated Trade Associations Initial Comments at 21.

[469] MISO Transmission Owners Initial Comments at 11 (citing MISO Rehearing Order, 184 FERC ¶ 61,022 at P 35 n.116 (''[G]enerators have incentives to install equipment to ensure that their generation remains online and delivering real power.'')).

[470] *See, e.g.,* Clean Energy Associations Initial Comments at 5; Elevate Initial Comments at 4–9; Elevate Reply Comments at 4–6; Generation Developers Initial Comments at 2–6; Indicated Trade Associations Initial Comments at 18–19; NAGF Initial Comments at 2; NEI Initial Comments at 2; NEPGA Reply Comments at 2–3 (citing ISO–NE Initial Comments at 6–7); NESCOE Reply Comments at 2–3 (citing ISO–NE Initial Comments at 5–8); NHA Initial Comments at 1–2, 4; NYISO Initial Comments at 8–11; PSEG Initial Comments at 4–5, 8, 16–20, 22–24; Reactive Service Providers Initial Comments at 22.

[471] Elevate Initial Comments at 4–9; Elevate Reply Comments at 4–6.

[472] NHA Initial Comments at 2.

[473] *Id.* at 6.

[474] Elevate Initial Comments at 5 (citing Meyersdale Storage, LLC Proposed Revenue Requirement under PJM Interconnection, L.L.C. Open Access Transmission Tariff, Schedule 2, Reactive Supply and Voltage Control From Generation Sources Service, Docket No. ER21–864–000, Exh. No. MEY–0001 at 11:19–22 (filed Jan. 11, 2021)).

[475] Generation Developers Initial Comments at 2–3.

[476] Indicated Trade Associations Initial Comments at 18–19; Indicated Trade Associations Reply Comments at 12.

[477] Indicated Trade Associations Initial Comments at 19–20.

[478] NEI Initial Comments at 3 (citing Letter from FERC Chairman Pat Wood, III, 1 (Feb. 4, 2005), *https://www.ferc.gov/sites/default/files/2020-05/20050310144430-02-04-05-rp-letter-wood.pdf;* 2005 Staff Report at 3 (''Inadequate reactive power has led to voltage collapses and has been a major cause of several recent major power outages worldwide.'')).

[479] NEI Initial Comments at 3–4 citing NERC, *Essential Reliability Services Task Force Measures Framework Report* 16 (Nov. 2015), *https://www.nerc.com/comm/Other/essntlrlbltysrvcstskfrcDL/ERSTF%20Framework%20Report%20-%20Final.pdf.*

[480] NEPOOL Reply Comments at 12.

[481] Indicated Trade Associations Initial Comments at 21.

[482] Indicated Trade Associations Reply Comments at 12.

[483] NYISO Initial Comments at 8–11; IPPNY Reply Comments at 1–2.

[484] NYISO Initial Comments at 5–7.

dynamic support is essential for maintaining system reliability.[485] Reactive Service Providers explains that inverter-based generation can and does provide VAR support even when no MW are sold.[486] Generation Developers and Reactive Service Providers highlight the pivotal role in maintaining reliability that transmission providers with a dynamic source of reactive power supply provide.[487] NYISO is concerned that eliminating compensation for reactive power within the standard power factor range will introduce confusion among existing generators and new generators, and, in the longer term, introduce reliability issues onto the electric system.[488] NYISO also believes that the final determination will result in eliminating the price signals and incentives for the reactive power necessary to maintain system reliability, instead blending those costs and payments into payments made to all capacity suppliers without a direct link to provision of the reactive power necessary to support a reliable electric system.[489]

164. Elevate adds that international electric markets recognize the importance of energy storage resources to maintaining long-term transmission system reliability.[490] For example, Elevate states that in the United Kingdom, the National Grid Electricity System Operator (ESO) has entered into a contract with the largest transmission system connected battery project in Europe to provide reactive power support services to maintain system voltages in the face of growing system variability and the retirement of thermal generation resources. Elevate states that the ESO entered this contract despite already providing compensation to resources for providing or absorbing reactive power as a condition of interconnecting and through regular solicitations to secure resources to provide more reactive power than what is required to interconnect to the transmission system.[491]

[485] *Id.*

[486] Reactive Service Providers Initial Comments at 21–23.

[487] Generation Developers Initial Comments at 25; Reactive Service Providers Initial Comments at 21–23.

[488] NYISO Initial Comments at 7.

[489] *Id.* at 9.

[490] Elevate Reply Comments at 6–7 (citing Energy Storage News, *Europe's largest transmission-connected BESS begins 'world first' reactive power services contract,* (Feb. 13, 2023), https://www.energy-storage.news/europes-largest-transmission-connected-bess-begins-world-first-reactive-power-services-contract/).

[491] *Id.* at 7 (citing ESO, *Obligatory Reactive Power Service, https://www.nationalgrideso.com/industry-information/balancing-services/reactive-power-services/obligatory-reactive-power-service#Document-Library* (last visited June 26, 2024); ESO, *Enhanced Reactive Power Service, https://www.nationalgrideso.com/industry-information/balancing-services/reactive-power-services/enhanced-reactive-power-service-erps#Document-library* (last visited June 26, 2024)).

[492] NOPR, 186 FERC ¶ 61,203 at P 43.

[493] Joint Consumer Advocates Initial Comments at 6–8; Joint Customers Reply Comments at 1–2; MISO Initial Comments at 2; MISO Transmission Owners Initial Comments at 12–16; New England Consumer Advocates Initial Comments at 4–5; Ohio FEA Initial Comments at 4; PGE Initial Comments at 2–3; PJM IMM Initial Comments at 11–12. *See also* Order No. 842, 162 FERC ¶ 61,128 (''[T]here are interconnection requirements for generating facilities in which the recovery of capital costs and operating expenses are not necessarily ensured.'').

[494] *See, e.g, MISO,* 182 FERC ¶ 61,033 (accepting MISO transmission owners' proposal to eliminate compensation for the provision of reactive power within the standard power factor range); *Cal. Indep. Sys. Operator Corp.,* 160 FERC ¶ 61,035 at P 19 (''[A] separate payment for the provision of reactive power capability inside the standard power factor range is not required, and we see no reason to require a separate cost recovery mechanism for reactive power capability based on the record here.''); *PNM,* 178 FERC ¶ 61,088 at P 29 (''Consistent with Commission precedent, a transmission provider may decide to eliminate compensation for having the capability of providing reactive service within the standard power factor range.'').

2. Commission Determination

165. Based on our review of the record, and consistent with the preliminary finding in the NOPR,[492] we conclude that prohibiting transmission providers from including in their transmission rates any charges associated with the provision of reactive power from a generating facility within the standard power factor range and thereby eliminating compensation to generating facilities for reactive power within the standard power factor range, would not negatively impact reliability. The record in this proceeding affirms our preliminary finding in the NOPR that requiring transmission customers to continue paying for reactive power already required by a generating facility's interconnection agreement is not necessary to ensure that generating facilities provide reactive power when required, as new and existing generating facilities are, and will continue to be, required to provide reactive power within the standard power factor range as a condition of obtaining and maintaining interconnection.[493] As commenters note, these findings are supported by the fact that generating facilities in CAISO, SPP, MISO, and certain non-RTO regions (*e.g.,* BPA, Arizona Public Service Company, Southern Companies) do not receive compensation for reactive power capability within the standard power factor range,[494] and there is no evidence in the record that the lack of reactive power compensation anywhere has led to an insufficient supply of reactive power in those regions.

166. For these same reasons, we also find speculative and without merit claims that elimination of compensation for reactive power within the standard power factor range will mute investment in real and reactive power capability, hasten generating facility retirements and/or RMR agreements and as a result, negatively impact reliability and require increased transmission provider investment in transmission equipment capable of providing reactive support.[495] We see no record evidence supporting these concerns, and substantial record evidence to the contrary. For example, CAISO stated that its current approach to not compensate for reactive power provided within the standard power factor range has not resulted in major issues of concern with respect to the level of reactive power,[496] and TAPS points out that reliability has not suffered in regions in which reactive power in the standard power factor range is not compensated, as confirmed by years of experience in regions in which the absence of such compensation is a long-standing practice.[497] Reliability has not been weakened in those regions because the Commission's 20 year old requirement that interconnection customers have equipment to provide such reactive power ensures that generating facilities can interconnect reliably.[498]

[495] Clean Energy Associations Initial Comments at 5; Indicated Trade Associations Initial Comments at 18–19; Indicated Trade Associations Reply Comments at 12; NEPOOL Reply Comments at 12; Elevate Initial Comments at 4–9; Elevate Reply Comments at 4–6; NEI Initial Comments at 6, 15; NHA Initial Comments at 2, 4.

[496] CAISO Initial Comments to the NOI at 5–6 (explaining that despite the fact that it does not compensate for reactive power within the standard power factor range, CAISO ''has seen no evidence to this point that resources cannot comply with reactive power dispatch instructions because they have insufficient funds for the equipment to meet the reactive power dispatch''); MISO Transmission Owners Initial Comments at 15 (''The claim that generators may have to retire units in the absence of compensation for reactive power service within the deadband is pure speculation. Prior to the elimination of compensation for reactive power within the deadband in MISO, a number of generators in MISO operated without compensation for reactive power within the deadband as they did not file their revenue requirements for reactive power when their projects came on-line.'').

[497] TAPS Initial Comments at 5.

[498] *See, e.g.,* Joint Customers Reply Comments at 6 (arguing that there is a ''lack of concrete evidence of adverse reliability impacts (including in regions where this exact change has been implemented)'' in the record and that commenters' concern that ''if there is not an unjustifiable free revenue stream ostensibly related to reactive service and capability, there will not be sufficient generation for real power and capacity at some unspecified point in the

Continued

167. In response to the reliability concerns raised by ISO–NE and NYISO, we find that their stated concerns are not specific to the proposal being adopted in this final determination—that is, their arguments are not limited to the provision of reactive power within the standard power factor range—and as a result, we find their concerns unpersuasive. ISO–NE and NYISO allude generally to reliability benefits from reactive power compensation over the full range of a generating facility's capability to provide reactive power. As such, ISO–NE's and NYISO's comments appear to address the reliability implications of eliminating reactive power compensation entirely—that is, eliminating compensation both within and outside of the standard power factor range—rather than the narrower focus of this final determination, which addresses only the provision of reactive power within the standard power factor range. However, as explained herein, the long-existing obligation of generating facilities to provide reactive power within the standard power range in order to reliably interconnect to the transmission system remains unchanged, as do the rules regarding the provision of reactive power outside the standard power factor range, which is considered a compensable ancillary service for transmitting power across the transmission system to serve load.[499] We also reject arguments about the provision of reactive power service beyond the requirements of generating facilities' interconnection agreements,[500] outside of the standard power factor range,[501] and Elevate's claims about the ESO's decision to double-compensate reactive power service in the United Kingdom for similar reasons.

168. We agree with NYISO's [502] and others' [503] statements about the importance of reactive power to reliability, including statements of dynamic reactive power sources,[504] but we note that such statements are equally true with or without reactive power compensation within the standard power factor range. Once again, requiring transmission customers to continue paying for reactive power within the standard power factor range already required by a generating facility's interconnection agreement is not necessary to ensure that generating facilities provide reactive power when required, as new and existing generating facilities are, and will continue to be, required to provide reactive power within the standard power factor range as a condition of obtaining and maintaining interconnection.[505]

169. In response to NEI's statements about the importance of reactive power in the 2005 Staff Report,[506] and NERC's Essential Reliability Services Task Force Measures Framework report,[507] we note that the 2005 Staff Report also explains that ''[i]nvestment that results in reactive power capability by generation facilities is driven by interconnection requirements, historical inertia and potential cost recovery for capacity. There is little interaction between the actual system need or value of reactive power capability and its supply by independent generation resources.'' [508] Additionally, to support our finding here, we are relying on more recent evidence, which indicates that RTOs/ISOs and non-RTO regions that have eliminated compensation for reactive power capability within the standard power factor range are not experiencing any adverse reliability impacts due to absence of reactive power compensation within the standard power factor range.[509]

E. Investment

170. The NOPR sought comment on whether, and if so how, eliminating separate reactive power compensation within the standard power factor range may affect investment decisions to build, or finish building, generating facilities, and whether, and if so, how the elimination could otherwise affect generating facilities' business decisions in those markets.[510] The NOPR also noted that in *MISO,* the Commission rejected any reliance arguments, reasoning in part that the provision of reactive power within the standard power factor range required little or no incremental investment.[511]

1. Comments

171. PGE argues that the NOPR proposal would not have a measurable impact on investment decisions.[512] MISO Transmission Owners also reject the claim that the proposed rule will disincentivize investment in new generating and storage resources.[513]

172. However, several commenters claim that ending compensation for reactive power service in the standard power factor range would have a negative impact on investment. Many commenters claim that such an action would be disruptive to generators and/or their investors, who include forecasts of such compensation as the basis for financing arrangements.[514]

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future'' is ''speculative to the point of incoherence''); TAPS Initial Comments at 5; MISO Initial Comments at 2 (explaining that it would not expect to see any effect on reliability through eliminating compensation for reactive power within the standard power factor range and in fact, MISO has not experienced reliability concerns since December 1, 2022 due to the elimination of compensation for reactive power within the standard power factor range). *See also* Order No. 842, 162 FERC ¶ 61,128 at P 121 (''While the Commission has approved specific compensation for discrete services that require substantial identifiable costs, such as for frequency regulation and operating reserves, the Commission has not required specific compensation for all reliability-related costs. We agree with those commenters who observe that minimal reliability-related costs such as those incurred to provide primary frequency response, are reasonably considered to be part of the general cost of doing business, and are not specifically compensated.'').

[499] *See, e.g.,* MISO Rehearing Order, 184 FERC ¶ 61,022 at P 23 (citing METC Rehearing Order, 97 FERC at 61,852–53).

[500] Indicated Trade Associations Reply Comments at 12.

[501] Indicated Trade Associations Initial Comments at 21.

[502] NYISO Initial Comments at 5–7.

[503] *See, e.g.,* Joint Consumer Advocates Initial Comments at 6–8; Joint Customers Reply Comments at 1–2; MISO Transmission Owners Initial Comments at 12–16.

[504] Generation Developers Initial Comments at 25; Reactive Service Providers Initial Comments at 21–23.

[505] *See supra* II.B.2.

[506] *Supra* n.508.

[507] *Supra* n.509.

[508] *See* 2005 Staff Report at 69; *see also APS,* 94 FERC at 61,080 (''We note that operating a generating unit within the proposed [standard power factor range] does not affect the generation output of a unit.'').

[509] MISO Transmission Owners Initial Comments at 13–14 (''When the MISO Transmission Owners proposed to eliminate compensation for producing reactive power within the deadband, the most common protest from generators was that it would impact the reliability of the grid. However, such claims are not supported by evidence and distract from the underlying fact that generators are obligated to provide reactive power within the deadband whether or not they are compensated for it . . . MISO has since experienced no reliability issues as a result and generator interconnection applications, the first step of a process that ends with execution of an interconnection agreement that obligates the generator to provide reactive power within the deadband, remain high.'' (citations omitted)); PJM IMM Reply Comments at 5 (''There is no evidence from any of the markets where this policy already exists that it has created a reliability issue.'').

[510] NOPR, 186 FERC ¶ 61,203 at P 49.

[511] *Id.* P 16 (citing MISO Rehearing Order, 184 FERC ¶ 61,022 at P 29); MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 29–31 (finding that providing reactive service requires ''little or no incremental investment'' by both synchronous and non-synchronous resources); *PJM Interconnection, L.L.C.,* 151 FERC ¶ 61,097 at PP 7, 28 (finding that non-synchronous generating facilities are comparable to traditional synchronous generating facilities, in that there are for both types of generating facilities very little if any incremental costs incurred to provide reactive power).

[512] PGE Initial Comments at 5.

[513] MISO Transmission Owners Reply Comments at 3–7.

[514] ACORE Initial Comments at 3–4; Calpine Initial Comments at 2; Clean Energy Associations Initial Comments at 4–5; Generation Developers Initial Comments at 33; EDPR Initial Comments at 1, 3–4; Elevate Initial Comments at 6; Indicated Reactive Power Suppliers Initial Comments at 13–

173. The PJM IMM maintains that:

> There is no evidence that units are built as a result of reactive [power] revenue. There is no evidence that sources of revenue are not fungible and that a decrease in reactive [power] revenues could be not replaced with other sources of revenue. There is no basis for adding new resources to the already very crowded interconnection queue solely based on out of market subsidies from reactive revenues.[515]

174. Similarly, PGE notes that transmission providers that have eliminated reactive power compensation have not observed a decrease in proposed investment.[516] MISO Transmission Owners assert that Indicated Trade Associations' claim that reactive power revenue streams can make the difference in overall profitability is unsupported by evidence.[517] Moreover, MISO Transmission Owners argue that investors could not reasonably have relied on reactive power compensation within the standard power factor range in perpetuity and should have considered the risk of its elimination when making investment decisions.[518] Similarly, Joint Customers explain that to the extent that generators voluntarily and unilaterally installed greater reactive capability than that required by their respective interconnection agreements, they did so at their own risk and for their own strategies, none of which mean that they should continue to be compensated for costs that they did not have to incur and which do not benefit transmission customers.[519]

175. NEI, Calpine, Indicated Reactive Power Suppliers, and Generation Developers argue that they relied on the Commission's longstanding precedent and policy of allowing compensation for reactive power within the standard power factor range in making their investment decisions and suggest that the final determination would be highly disruptive to market participants.[520] PSEG asserts that the final determination represents a significant departure from existing Commission policy without an adequate explanation.[521]

176. ACORE and Indicated Reactive Power Suppliers highlight the costs and potential challenges of generators with PPAs who may be unable to renegotiate those agreements to include costs related to reactive power service.[522] ACORE and Calpine argue that the NOPR proposal would impede project development during a period of greater need for generation resources.[523] Indicated Reactive Power Suppliers states that the loss of reactive power compensation could lead to generators not developing other projects because the revenue loss impacts these projects' ability to leverage finite capital based on this cash flow reduction.[524] Middle River Power also claims that the NOPR proposal may prompt investors to question the reliability and stability of other Commission-approved rates and markets.[525] Indicated Trade Associations argue that, given the narrow margins for competitive generators, small reactive power revenue streams can make the difference between whether a generator will be profitable over its life or not.[526]

177. Clean Energy Associations argue that the proposal is also disruptive to a host of interconnection customers with operating or near-completed projects and extant PPAs.[527] Clean Energy Associations also argues that the NOPR fails to consider IPP projects located in PJM with reactive power rates that are the result of Commission-approved settlements. Clean Energy Associations also argues that the Commission has not adequately considered the fundamental differences between IPP projects and projects that are utility-owned.

2. Commission Determination

178. Based on the record, we find that there is substantial evidence to support the conclusion that prohibiting the inclusion in transmission rates of reactive power rates within the standard power factor range will not have a significant impact on investment in new generating facilities.[528]

179. First, as stated above, generating facilities in CAISO, SPP, MISO, and certain non-RTO regions do not receive compensation for the provision of reactive power within the standard power factor range,[529] and, as MISO Transmission Owners explain,[530] there is no evidence in the record that: (1) these policies have led to an insufficient supply of reactive power in those regions, or (2) generating facilities in these regions have been unable to recover any costs associated with the provision of such reactive power. Because new and existing generating facilities are required to provide reactive service within the standard power factor range as a condition of interconnection, eliminating compensation for providing that service would not negatively impact investment.[531]

180. Second, we also agree with the MISO Transmission Owners, who note that because compensation for the provision of reactive power within the standard power factor range has always been based on comparability rather than compensability, ''[r]eactive power compensation is not a given'' and that ''[t]he Commission has consistently followed these principles, allowing transmission providers across the nation to eliminate compensation for reactive power service within the deadband.'' [532]

14; Indicated Trade Associations Initial Comments at 16; Middle River Power Initial Comments at 6; NEI Initial Comments at 2, 5–6, 8; NHA Initial Comments at 4–5.

[515] PJM IMM Initial Comments at 12–13.

[516] MISO Transmission Owners Reply Comments at 4–6.

[517] *Id.* at 3.

[518] *Id.* at 7.

[519] Joint Customers Initial Comments at 20.

[520] NEI Initial Comments at 8; Calpine Initial Comments at 2; Indicated Reactive Power Suppliers Initial Comments at 13; Generation Developers Initial Comments at 33–34.

[521] PSEG Initial Comments at 4, 20–22 (citing *PJM Providers Grp.* v. *FERC,* 88 F.4th at 271–72 (quoting *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. at 515); *Ass'n of Oil Pipe Lines* v. *FERC,* 876 F.3d 336, 342 (D.C. Cir. 2017)).

[522] ACORE Initial Comments at 3–4; Indicated Reactive Power Suppliers Initial Comments at 14.

[523] ACORE Initial Comments at 3–4; Calpine Initial Comments at 2.

[524] Indicated Reactive Power Suppliers Initial Comments at 13–14.

[525] Middle River Power Initial Comments at 6.

[526] Indicated Trade Associations Initial Comments at 16.

[527] Clean Energy Associations Initial Comments at 4–5.

[528] *See, e.g.,* MISO Transmission Owners Reply Comments at 3–4, 5–7; PGE Initial Comments at 5; PJM IMM Initial Comments at 12–13.

[529] *See Cal. Indep. Sys. Operator Corp.,* 160 FERC ¶ 61,035 at P 19 (''[A] separate payment for the provision of reactive power capability inside the standard power factor range is not required, and we see no reason to require a separate cost recovery mechanism for reactive power capability based on the record here.''). *See also PNM,* 178 FERC ¶ 61,088 at P 29 (''Consistent with Commission precedent, a transmission provider may decide to eliminate compensation for having the capability of providing reactive service within the standard power factor range.''); Order No. 842, 162 FERC ¶ 61,128 (''[T]here are interconnection requirements for generating facilities in which the recovery of capital costs and operating expenses are not necessarily ensured.'').

[530] MISO Transmission Owners Reply Comments at 3–4.

[531] *See, e.g., MISO,* 182 FERC ¶ 61,033 at P 55; MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 35–36; *see also* MISO Transmission Owners Initial Comments at 9–10 (''At the same time MISO was experiencing a dramatic increase in the amounts transmission customers paid for reactive power service prior to its elimination of compensation for reactive power service within the deadband, SEIA highlighted that MISO was one of the two 'most lucrative' regions for reactive power compensation, where generators received millions of dollars in compensation for having the capability to produce reactive power within the deadband, a capability that was already a condition of obtaining interconnection.'' (citations omitted)).

[532] MISO Transmission Owners Initial Comments at 19. *See also* Joint Customers Reply Comments at

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As previously noted, developers have been on notice since at least Order No. 2003 and Order No. 2003–A that reactive power is not compensable within the standard power factor range (other than for comparability reasons), and so could not have relied, reasonably or otherwise, on the permanence of such compensation for investment purposes.[533]

181. Third, to the extent that generating facilities may have incurred costs by increasing their generating facilities' reactive power capabilities beyond the requirements of their interconnection agreements, we find that it is unreasonable to charge transmission customers for these costs as they were not required for interconnection and do not fit within the least justifiable cost to customers.[534] Further, as noted herein, this final determination does not address compensation for reactive power provided outside of the standard power factor range, which will continue to be compensable.

182. Fourth and finally, as discussed herein and further below, generating facilities have other opportunities to recover any *de minimis* variable costs of providing reactive power within the standard power factor range, and this final determination establishes a transition mechanism to give RTOs/ISOs time to adjust their market rules to ensure that generating facilities continue to have such other opportunities after this final determination.

183. Some commenters expressed general concerns about generating facilities and investors relying on reactive power revenues for planning purposes,[535] including concerns of interconnection customers with near-completed or operating projects, and extant PPAs,[536] as well as with IPP projects located in PJM with reactive power rates that are the result of Commission-approved settlements.[537] However, we reiterate that in this final determination [538] we have rejected any reliance arguments, reasoning in part that the provision of reactive power within the standard power factor range requires no incremental investment or fixed costs and at most *de minimis* incremental variable costs.

184. Relatedly, Indicated Trade Associations [539] argue that narrow profit margins mean that the loss of reactive power revenues could tip generating facilities out of profitability. We reiterate our finding above that the variable and incremental costs of providing reactive power within the standard power factor range requires no or at most a *de minimis* increase in variable costs beyond the cost of providing real power [540] and that generating facilities can recover any *de minimis* variable costs through other means. Additionally, no commenter provided any evidence that the loss of reactive power compensation would make a project that was otherwise profitable, unprofitable.

185. Further, we disagree with PSEG's assertions that the NOPR represents a significant departure from existing Commission policy without an adequate explanation and refer PSEG to the evidence and reasoning presented herein that we are relying upon in this final determination.[541] Consequently, we are revising the *pro forma* Schedule 2, *pro forma* LGIA, and *pro forma* SGIA to prohibit the inclusion in transmission rates of unjust and unreasonable charges related to the provision of reactive power within the standard power factor range by generating facilities. As courts of appeals have articulated on several occasions, ''[t]he APA does not require 'regulatory agencies [to] establish rules of conduct to last forever,' '' but rather, ''agencies may 'adapt their rules and policies to the demands of changing circumstances.' '' [542]

186. Similarly, in response to Middle River Power's [543] claims about the reliability and stability of other Commission-approved rates and markets, we note when the Commission finds that a rate is unjust and unreasonable, as we do here, the Commission has not only the right but the obligation under section 206 of the FPA to modify that rate in order to ensure it is just and reasonable.[544] As the PJM IMM,[545] Joint Consumer Advocates,[546] and Dr. Bremser,[547] note the Commission has previously changed compensation policies when it has determined that existing practices were resulting in unjust and unreasonable rates.[548]

F. Additional Comments

1. Comments

187. Ameren asserts that it was the right decision to eliminate compensation for reactive power

6–7 (''Additionally, claims that investors made decisions relying on the revenue stream associated with the capability to provide reactive power within the deadband fail to contend with the many instances in which the Commission accepted transmission providers' elimination of compensation for reactive power within the deadband. Sophisticated investors could not reasonably have relied on compensation for providing reactive power within the deadband in perpetuity, but rather should have considered the risk of elimination of this revenue stream when making investment decisions.'' (citations omitted)).

[533] *See* BPA Rehearing Order, 125 FERC ¶ 61,273, at P 15 & n.24 (''[N]either affiliated nor non-affiliated generators have an inherent right to any compensation for reactive power inside the deadband.'').

[534] *See* Joint Customers Initial Comments at 20 (''To the extent that generators voluntarily and unilaterally installed greater reactive capability than that required by their respective interconnection agreements, they did so at their own risk and for their own strategies, none of which mean that they should continue to be compensated for costs that they did not have to incur and which do not benefit transmission customers.'').

[535] *See, e.g.,* ACORE Initial Comments at 3–4; Calpine Initial Comments at 2; Clean Energy Associations Initial Comments at 4–5; EDPR Initial Comments at 1, 3–4; Elevate Initial Comments at 6; Generation Developers Initial Comments at 33; Indicated Reactive Power Suppliers Initial Comments at 14; Indicated Trade Associations Initial Comments at 16; Middle River Power Initial Comments at 6; NHA Initial Comments at 4–5.

[536] *See* Clean Energy Associations Initial Comments at 5.

[537] *Id.*

[538] *See supra* II.C.2.

[539] Indicated Trade Associations Initial Comments at 16.

[540] *See supra* II.B.2.

[541] *See supra* II.A.2, II.B.2, II.C.2.

[542] *Solar Energy Indus. Ass'n* v. *FERC,* 80 F.4th 956, 979 (9th Cir. 2023) (citing *Motor Vehicle Mfrs. Ass'n of U.S., Inc.* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. at 43).

[543] Middle River Power Initial Comments at 6.

[544] 16 U.S.C. 824e(a) (''Whenever the Commission, after a hearing held upon its own motion or upon complaint, shall find that any rate, charge, or classification, demanded, observed, charged, or collected by any public utility for any transmission or sale subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order.'').

[545] PJM IMM Reply Comments at 6 (''Such attacks on the rules and standards can be disregarded because they are collateral attacks on final rules and standards that are not within the scope of this proceeding. Reactive Service Providers arguments challenging longstanding Commission policy and multiple Commission orders are also beside the point.'').

[546] Joint Consumer Advocates Initial Comments at 8 (''[S]ection 206 of the FPA requires that the Commission act to eliminate unjust and unreasonable rates where and when it finds them. There is no statutory authorization to allow an unjust and unreasonable rate to continue.'')

[547] Joint Customers Reply Comments, Reply Affidavit of Dr. Albert W. Bremser at 4:1–3 (''My second conclusion is that permanent reliance on [Commission]-jurisdictional practices as never changing is not consistent with the typical experience of [Commission]-jurisdictional entities and ratepayers.''; *id.* at 10:2–6 (''In terms of reliance on Commission past practices or what the Commission has allowed, it is my experience that the Commission can and does change its practices and what it allows. This can impact the rates charged to ratepayers and the rates collected by companies.'').

[548] *See, e.g., Indep. Mkt. Monitor for PJM* v. *PJM Interconnection, L.L.C.,* 176 FERC ¶ 61,137 (2021); *order on reh'g,* 178 FERC ¶ 61,121 (2022).

capability in MISO, as evident by the numerous reactive power cases in which Ameren intervened from 2018–2022 that were set for hearing and settlement judge procedures, with resulting revenue requirements reduced substantially from what the filing generator proposed, and in some cases by over 50%.[549]

188. The NHA asserts that individual RTOs/ISOs should develop and/or improve upon reactive power capability compensation market rules to reflect locational requirements.[550]

189. Indicated Trade Associations request that the Commission clarify that the NOPR will not be applied in determining refunds in cases where the Commission has established settlement and hearing judge proceedings for reactive rates.[551]

190. Indicated Trade Associations argue that the Commission should not implement the NOPR proposal.[552] Indicated Trade Associations assert that the NOPR is not supported by the NOI record, which they argue was focused on *changes* and *improvements* to the methodology used to determine appropriate reactive power compensation, rather than the NOPR's proposal to *eliminate* reactive power compensation within the standard power factor range altogether.[553]

191. Glenvale avows that some generators provide reactive power within the power factor range but outside of the requirements of their interconnection agreements, such as solar generators that are not synchronized to the transmission system but still provide reactive power service.[554]

192. Clean Energy Associations also proposes their own reactive power compensation format in which the Commission would develop a new, objective, cost-based, technology-neutral rate for reactive power to encourage the proliferation of reactive power resources in a non-discriminatory way.[555]

193. Reactive Service Providers also argue that a ± 0.95 standard power factor range is arbitrary. As support, they claim that it is not NERC-mandated, that many generating facilities are not actually satisfying it, and that ''it is in essence a mandate to create headroom if and when it is needed by the Transmission Provider.'' [556] Reactive Service Providers argue that there is no difference operationally between operating within and outside the standard power factor range because that distinction does not reflect the operational realities of an integrated transmission system, where the transmission provider is ''balancing all resources instantaneously such that all load everywhere benefits.'' [557]

194. Clean Energy Associations asks that, should the Commission proceed with its proposal, that the Commission should clarify that interconnection agreements cannot adopt a standard power factor range other than 0.95 leading and lagging and specify that compensation must be provided for reactive power provided outside of the range.[558]

195. ACORE recommends that instead of removing all compensation within the standard power factor range, a cost-based, technology-neutral rate be established for reactive power, with a focus on reducing the administrative burdens of the AEP Methodology.[559]

196. Joint Customers highlight the burdens associated with the individualized review of reactive rate filings arguing that it leads to higher costs for customers without corresponding benefits and that the case-by-case approach using the AEP Methodology is resource-intensive and results in inconsistent outcomes.[560]

197. Liberty states that it believes the current methodology has resulted in ambiguity on cost formation and could lead to unjust rates for customers.[561] Liberty explains that it would generally support a cost recovery methodology change that results in reasonable rates for customers that are not duplicative in nature, in line with industry standards, and sufficiently compensates reactive power capability services.

198. Middle River Power argues that the AEP Methodology has consistently produced just and reasonable rates for Middle River Power-affiliated generation and others and that if administrative burden were a problem that must be remedied, the solution would be to reform the administrative process by which just and reasonable rates are determined.[562]

199. NEI suggests that the Commission should continue to support the AEP Methodology.[563] NEI notes that while there are implementation challenges to the AEP Methodology, as highlighted by NEI previously, such process-related concerns do not render it unjust and unreasonable.[564]

200. TAPS argues that the AEP Methodology that many generators use in their reactive power compensation filings, and which was derived many years ago for synchronous generators, is not well-suited for non-synchronous generators to which the methodology is now being applied.[565] For example, TAPS explains that TAPS members have found it very difficult to verify the inputs to the AEP Methodology for a specific generator based on publicly available data, because many generators seeking compensation do not submit a FERC Form No. 1.

2. Commission Determination

201. We appreciate the concerns raised by numerous commenters requesting that we undertake various initiatives, as set forth above. However, we find that the requested initiatives go beyond the scope of this rulemaking, which addresses only compensation for reactive power service within the standard power factor range. Accordingly, we will not address those concerns here.

III. Compliance Procedures

A. Revisions To Eliminate Compensation for Reactive Power Supply Within the Standard Power Factor Range

202. To effectuate the changes discussed herein, we are taking the following four actions.

1. Revise Schedule 2 of the Commission's Pro Forma OATT

203. We revise Schedule 2 of the Commission's *pro forma* OATT to include the following sentence at the end of Schedule 2: ''However, such rates shall not include any charges associated with the compensation to a generating facility for the supply of reactive power within the power factor range specified in its interconnection agreement.'' This revision prohibits separate compensation for the provision of reactive power within the standard power factor range specified in an interconnection agreement.

[549] Ameren Initial Comments at 5 (citing Docket Nos. ER21–1046, ER21–2329, ER21–2695, ER21–2892, ER22–526, ER22–616, ER22–615, ER22–1554, ER22–1610, ER22–1815).

[550] NHA Initial Comments at 6–7.

[551] Indicated Trade Associations Initial Comments at 32.

[552] *Id.* at 1, 7.

[553] *Id.* at 5–6.

[554] Glenvale Initial Comments at 8.

[555] Clean Energy Associations Initial Comments at 9–10.

[556] Reactive Service Providers Initial Comments at 24–29.

[557] *Id.* at 35–36.

[558] Clean Energy Associations Initial Comments at 2–3.

[559] ACORE Initial Comments at 4.

[560] Joint Customers Initial Comments at 7–11.

[561] Liberty Initial Comments at 1.

[562] Middle River Power Initial Comments at 5.

[563] NEI Initial Comments at 5.

[564] *Id.* at 11.

[565] TAPS Initial Comments at 4.

2. Revise Section 9.6.3 of the Pro Forma Large Generator Interconnection Agreement

204. We revise section 9.6.3 of the *pro forma* LGIA to remove the proviso: ''provided that if Transmission Provider pays its own or affiliated generators for reactive power service within the specified range, it must also pay Interconnection Customer.'' Accordingly, under our proposal here, section 9.6.3 of the *pro forma* LGIA would read as follows: ''Payment for Reactive Power. Transmission Provider is required to pay Interconnection Customer for reactive power that Interconnection Customer provides or absorbs from the Large Generating Facility when Transmission Provider requests Interconnection Customer to operate its Large Generating Facility outside the range specified in Article 9.6.1. Payments shall be pursuant to Article 11.6 or such other agreement to which the Parties have otherwise agreed.'' Along with the other proposed revisions, this proposed revision prohibits a transmission provider from including in its transmission rates any charges associated with the supply of reactive power within the specified power factor range from a generating facility. Accordingly, transmission providers would be required to pay an interconnection customer for reactive power only when the transmission provider requests the interconnection customer to operate its facility outside the power factor range set forth in its interconnection agreement.

3. Revise Section 1.8.2 of the Pro Forma Small Generator Interconnection Agreement

205. We similarly are revising section 1.8.2 of the *pro forma* SGIA to remove the following sentence: ''In addition, if the Transmission Provider pays its own or affiliated generators for reactive power service within the specified range, it must also pay the Interconnection Customer.'' Accordingly, under our proposal here, section 1.8.2 of the *pro forma* SGIA would read as follows: ''The Transmission Provider is required to pay the Interconnection Customer for reactive power that the Interconnection Customer provides or absorbs from the Small Generating Facility when the Transmission Provider requests the Interconnection Customer to operate its Small Generating Facility outside the range specified in article 1.8.1.''

4. Compliance Procedures

206. To effectuate these changes, we require each transmission provider to submit a compliance filing as discussed below to make changes to their Schedule 2s or other OATT provisions relating to charges and payments for reactive power, as well as to their *pro forma* LGIAs and *pro forma* SGIAs in their OATTs. To the extent that any transmission provider believes that it already complies with the reforms adopted in this final determination, the transmission provider is required to demonstrate how it complies in the compliance filing required 60 days after the effective date of the final determination. In reviewing compliance filings proposed by non-RTO/ISO transmission providers, the Commission will apply the ''consistent with or superior to'' standard to deviations from the adopted *pro forma* Schedule 2 [566] and to deviations from the *pro forma* LGIA and *pro forma* SGIA.[567] In evaluating compliance filings made by RTOs/ISOs, the Commission will apply the ''consistent with or superior to'' standard to deviations from the adopted *pro forma* Schedule 2 and the ''independent entity variation standard'' to deviations from the *pro forma* LGIA and *pro forma* SGIA.[568]

B. Transition Period

207. In the NOPR, the Commission proposed to require each transmission provider to submit a compliance filing within 60 days of the effective date of the final determination. The Commission further proposed to allow 90 days from the date of the compliance filing for implementation of the proposed reforms to become effective.[569] The NOPR sought comment on whether a transition period beyond the 90-day implementation period proposed was necessary and for what duration any transition period should last.[570] Specifically, the NOPR asked if any factors, such as potential business or investment impacts, should be considered in determining whether any transition period is appropriate and what transition mechanisms other than delaying the implementation date of the final determination would minimize such disruptions.

208. The NOPR also sought comment on whether existing generating facilities that have previously received compensation for reactive power capability should be allowed to continue to receive compensation for a limited period, as an interim rate during a transition period, while prohibiting new generating facilities from receiving reactive power capability compensation.[571] The NOPR asks how it should determine eligibility for continued compensation.

209. In addition, for regions that have an established capacity market, the NOPR sought comment on whether transmission providers should be allowed to make the implementation of their compliance filing align with the region's capacity market timelines to allow costs associated with reactive power production, if any, to be incorporated into capacity market bids.[572] For regions without a capacity market, the NOPR sought comment on whether a different transition mechanism, if any, would be necessary and whether it would be unduly discriminatory or preferential to set different implementation dates for the final determination in different markets and regions.

1. Comments

210. Several commenters who support the NOPR assert that no transition beyond the 90-day transition period in the NOPR is necessary.[573] MISO Transmission Owners urge the Commission to neither provide a transition period nor compensate generators that previously received reactive power compensation for a limited period.[574] MISO Transmission Owners urge the Commission to adopt the NOPR's proposed rule to be effective immediately.[575] While Joint Customers oppose a transition period, citing Commission policy and precedent,[576] they state that only a brief transition period, if any, is necessary for the implementation of the NOPR reforms.[577]

211. PGE states that it does not believe the decision to implement these provisions in the 90-day implementation period will have a measurable impact on business or investment decisions.[578]

212. Joint Customers and MISO Transmission Owners suggest that

[566] *See* Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,760–63.

[567] *See* Order No. 2003, 104 FERC ¶ 61,103 at PP 822–27; Order No. 2006, 111 FERC ¶ 61,220 at PP 546–50).

[568] *See* Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,760–63; Order No. 2003, 104 FERC ¶ 61,103 at PP 822–27; Order No. 2006, 111 FERC ¶ 61,220 at PP 546–50).

[569] NOPR, 186 FERC ¶ 61,203 at P 54.

[570] *Id.* P 56.

[571] *Id.*

[572] *Id.*

[573] *See* PGE Initial Comments at 5; TAPS Initial Comments at 8; PGE Initial Comments at 5.

[574] MISO Transmission Owners Initial Comments at 17–19.

[575] *Id.* at 2.

[576] Joint Customers Reply Comments at 7–8 (citing *PNM,* 178 FERC ¶ 61,088 at P 32; *MISO,* 182 FERC ¶ 61,033 at P 67; MISO Rehearing Order, 184 FERC ¶ 61,022 at PP 32–33.)

[577] Joint Customers Initial Comments at 18–21.

[578] PGE Initial Comments at 5.

generators should have made business or investment decisions in anticipation of the potential elimination of reactive power within the standard power factor range.[579] Joint Customers explain that the move towards these reforms has been ongoing for years, providing ample time for market participants to adjust their investment strategies.[580] Similarly, MISO Transmission Owners assert that generators have been on notice of the prospect of the elimination of reactive power since Order No. 2003 and reminded of it routinely since then.[581]

213. MISO Transmission Owners and TAPS both oppose a transition period so that reduced rate relief can be provided to customers.[582] MISO Transmission Owners emphasize that the Commission found that by eliminating compensation for reactive power within the standard power factor range MISO would ''reduce charges to MISO's transmission customers.'' [583] MISO Transmission Owners further state that the Commission should not compensate generators that previously received reactive power compensation for a limited period for such reasons.[584] MISO Transmission Owners add that, under the current compensation scheme, generating facilities are able to ''gold-plate their reactive capabilities to the detriment of ratepayers,'' so the Commission ''should refrain from imposing any transition period or vintaging carve-outs that allow capability-based compensation to continue.'' [585] TAPS claims that customers, including TAPS members, have been harmed by excessive reactive power compensation thus far and accompanying inefficient, administratively burdensome, case-by-case determinations.[586] Therefore, TAPS argues against a transition period because generators should no longer benefit from currently unjust and unreasonable rates.[587] Likewise, Joint Customers noted the Commission has previously rejected the continuation of compensation beyond the tariff effective date.[588]

214. Calpine and Indicated Trade Associations oppose the NOPR proposal and request that if the Commission were to move forward, the Commission exempt existing resources, applying the proposed reforms only to new resources. Calpine reasons that the Commission exempted existing resources from new requirements in Order Nos. 827 and 842 and that exemptions would support market stability and investments needed for reliability.[589] Indicated Trade Associations further assert that in addition to existing resources, the exemption should also be allowed for resources in advanced stages of development.[590] Indicated Reactive Power Suppliers state that Commission-approved cost-based tariffs should last the remaining life, transfer of ownership, or expiration of PPAs for existing resources.[591] Middle River Power requests that the Commission consider implementing a legacy rate provision for generators that have existing reactive rate tariffs to mitigate adverse impacts on its current investments and contends that the Commission has a history of adopting similar measures under similar circumstances.[592] Reactive Service Providers state that the Commission should consider grandfathering the agreements of existing or near-completion generating facilities.[593] Generation Developers argue that the Commission should not eliminate reactive power compensation for resources receiving compensation pursuant to a rate schedule or tariff in effect prior to the effective date of any final determination in this proceeding.[594] EDPR also proposes that facilities which have already concluded long-term PPAs but do not yet have an established rate be allowed to prove that the long-term PPA for a facility seeking reactive power compensation was executed prior to the issuance of the NOPR.[595]

215. In absence of an exemption for existing resources, or grandfathering of existing rates and generator agreements, commenters who oppose the proposal advocate for a transition period to comply with the final determination. Eagle Creek [596] recommends a transition period of at least three to five years, Reactive Service Providers [597] a period of five years, and Indicated Reactive Power Suppliers [598] a period of seven to ten years respectively. Other commenters who ask for a transition period include AEP, requesting at least 120 days,[599] and ACORE, requesting a five to ten-year transition period.[600] Calpine [601] and AEP [602] both expressed concerns of affected generators' ability to recover their costs as justification for a transition period and cite times that the Commission has approved of a transition period in the past.

216. EDPR proposes a 10-year transition period for existing rates and PPAs. EDPR explains that it will under collect its revenues under PPAs that include an offset for reactive power compensation.[603] Therefore, EDPR proposes that facilities with an established reactive rate schedule should be allowed to keep that established rate on file during a 10-year transition period. Similarly, Reactive Service Providers argue that the

[579] Joint Customers Reply Comments at 9–10; MISO Transmission Owners Initial Comments at 18–19 (noting that generating facilities have been on notice of the prospect of the elimination of reactive power compensation since Order No. 2003 and reminded of it routinely since then).

[580] Joint Customers Initial Comments at 21.

[581] MISO Transmission Owners Initial Comments at 18–19.

[582] *Id.;* TAPS Initial Comments at 8.

[583] MISO Transmission Owners Initial Comments at 18 (citing *MISO,* 182 FERC ¶ 61,033 at P 67; MISO Rehearing Order, 184 FERC ¶ 61,022 at P 55 n.186 (rejecting an argument that the Commission should have declined to waive the 60-day notice requirement)).

[584] *Id.*at 17–18.

[585] *Id.* at 19.

[586] TAPS Initial Comments at 8.

[587] *Id.*

[588] Joint Customers Reply Comments at 8.

[589] Calpine Initial Comments at 2–3.

[590] Indicated Trade Associations Initial Comments at 29–30.

[591] Indicated Reactive Power Suppliers Initial Comments at 2; Glenvale Initial Comments at 6–7.

[592] Middle River Power Initial Comments at 6–7 (citing Indicated Energy Trade Associations Initial Comments at 24; *PJM Interconnection, L.L.C.,* 110 FERC ¶ 61,053, at P 61, *order on reh'g,* 112 FERC ¶ 61,031 (2005) (finding it appropriate to grandfather units for which construction commenced in reliance on a prior rule), *order on reh'g,* 114 FERC ¶ 61,302 (2006); *Tenn. Gas Pipeline Co.,* 62 FERC ¶ 61,062 (1993) (explaining that, the Commission had decided to ''grandfather'' prior storage arrangements ''in light of the fact that . . . historical customers have already made their conversion elections in reliance on access to this storage'')).

[593] Reactive Service Providers Initial Comments at 67–76.

[594] Generation Developers Initial Comments at 33–34.

[595] EDPR Initial Comments at 5.

[596] Eagle Creek Initial Comments at 5.

[597] Reactive Service Providers Initial Comments at 75–76.

[598] Indicated Reactive Power Suppliers Initial Comments at 2–3.

[599] AEP Initial Comments at 7–8.

[600] ACORE Initial Comments at 4.

[601] Calpine Initial Comments at 4.

[602] AEP Initial Comments at 7–8 (citing *PJM Interconnection, L.L.C.,* 117 FERC ¶ 61,331, at P 73 (2006) (''The adoption of a transition period must strike a reasonable balance between the need to implement RPM to generate relevant prices, and the provision of some period to enable parties to understand and make adjustments to the new market.''), *order on reh'g,* 119 FERC ¶ 61,318 (2007); *Midcontinent Independent System Operator,* 180 FERC ¶ 61,141, at PP 248–249 (2022) (''The transition period appropriately balances the need to implement the SAC methodology with the recognition that resource owners and LSEs may need to adjust their operations—including outage timing—and their contractual arrangements to maximize their potential SAC values.''); *PJM Interconnection, L.L.C.,* 155 FERC ¶ 61,157, at PP 150–151 (2016) (accepting a phase-in of PJM's capacity performance requirements as just and reasonable because the benefits of providing relevant entities adequate time to adjust Fixed Resource Requirement plans based on the new rules were weighed in conjunction with the interest in applying the requirements in an even-handed manner)).

[603] EDPR Initial Comments at 3–4.

Commission should allow PPAs to be reevaluated.[604]

217. Glenvale requests that if cost recovery is not possible for certain projects, the run-off for legacy projects be extended to 10 years. Glenvale explains that eligible projects would be those which are unable to access revenue in the substitute market designated by the Commission, and reasonably rely on the current tariff.[605] Glenvale claims that an extension would motivate these generators to build technologies that both support the transmission system and are a low cost to consumers.[606]

218. Several commenters argue that a transition period is necessary for RTOs/ISOs to implement the NOPR. The NHA explains that a transition period would allow RTOs/ISOs to adjust their tariffs and market designs accordingly.[607] Generation Developers assert that the Commission should direct RTOs/ISOs to propose a transition period that accounts for discrepancies between implementation of any market rule changes and when resources will be able to benefit from these changes.[608] Similarly, NAGF states that a transition period specific to each market based on their design and rules allows generators to evaluate lost revenue, cost recovery options, and the possibility of retiring, all while also providing time for planners to contemplate other generation options.[609] Clean Energy Associations ask that the Commission, should it proceed with its proposal, implement a transition period that takes into consideration regional and market differences.[610] Additionally, Indicated Trade Associations state that PJM, ISO–NE, and NYISO each currently subtract expected energy and ancillary services revenues, including reactive power revenues, from the Net CONE value used to develop demand curves for capacity market auctions.[611] Relatedly, Reactive Service Providers explain that PJM, ISO–NE, and NYISO have completed capacity auctions and assigned capacity obligations for years from now and that the Commission cannot reopen those auctions to make up for lost revenue.[612]

219. NYISO notes that shifting to event-specific reactive power compensation only when a resource is instructed to operate outside its standard power factor range would require complex market design rules—including developing market rules, incorporating reactive power into the NYISO's co-optimization of real power (*i.e.,* energy to meet load), operating reserves, and regulation service which would require extensive software changes that would take years to develop and implement based on current obligations and initiatives.[613] PJM requests that as part of their compliance filings implementing the new rate paradigm, RTOs/ISOs be permitted to propose rules around testing, monitoring, and penalties. PJM argues that this is to ensure that generators provide the reactive power capability that they are required to provide under their Commission-jurisdictional interconnection agreements when called upon, as correctly identified in the NOPR.[614]

220. NAGF[615] and PJM[616] both propose allowing transmission providers the flexibility to propose effective dates on compliance that will align with regional capacity market timelines. PJM further notes that compliance dates should align with billing and settlements timelines as well.[617] In a similar manner, Calpine suggests that in PJM, any new reactive service compensation policy should take effect no sooner than the first delivery year of the first PJM capacity auction administered under comprehensively updated new rules.[618] NAGF explains that alignment with capacity market timelines would allow costs associated with reactive power production to be incorporated into capacity market bids if the capacity market reforms permit recovery and to allow generators to better evaluate their cost recovery process and probability.[619] Likewise, PJM argues that such timeline alignments will permit generators currently receiving reactive power revenues to continue to do so until the related offsets are removed from the capacity market auction parameters.[620]

221. The PJM IMM recommends a transition period as short as possible, emphasizing that a faster transition will speed up benefits to customers and reduced revenues to generation owners.[621] The PJM IMM recommends reducing current approved rates under Schedule 2 that exceed the E&AS Offset to the level of the E&AS Offset that was applicable to the auctions for each RPM Delivery Year. The PJM IMM also suggests that pending reactive filings submitted prior to the NOPR proposal should not be approved exceeding the same aforementioned level of the E&AS Offset. The PJM IMM proposes that the E&AS Offset be reduced to zero dollars and removed from the rules immediately. As for Schedule 2 to the PJM OATT, the PJM IMM believes it should be revised to immediately remove the ability to file for new reactive capability rates and then eliminated in its entirety effective at the start of the first Delivery Year where the E&AS Offset included in the capacity market base residual auctions for such Delivery Year is zero dollars.[622]

222. The PJM IMM makes similar recommendations if PJM eliminates the E&AS Offset as a component of the market seller offer caps in the capacity market prior to the end of the proposed transition period: (1) that the E&AS Offset be reduced to zero dollars and removed from the rules immediately; (2) that Schedule 2 be eliminated from the OATT.[623]

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[604] Indicated Reactive Power Suppliers Initial Comments at 2.

[605] Glenvale Initial Comments at 5.

[606] *Id.*

[607] NHA Initial Comments at 9–10.

[608] Generation Developers Initial Comments at 35.

[609] NAGF Initial Comments at 2.

[610] Clean Energy Associations Initial Comments at 2–3, 9–10.

[611] Indicated Trade Associations Initial Comments at 14–15.

[612] Reactive Service Providers Initial Comments at 57.

[613] NYISO Initial Comments at 9–10.

[614] PJM Initial Comments at 6.

[615] NAGF Initial Comments at 3.

[616] PJM Initial Comments at 4–6.

[617] *Id.* (requesting that ''transmission providers in regions with centralized capacity markets such as PJM be permitted flexibility to propose effective dates on compliance that will align with applicable capacity market and billing and settlements timelines'' to ''allow costs associated with reactive power production to be incorporated into capacity market bids, and also ensure alignment with applicable billing and settlements dates.'')

[618] Calpine Initial Comments at 4 & n.7 (noting that the Commission has recently approved a transition period associated with PJM's implementation of generator interconnection reforms (citing *PJM Interconnection, L.L.C.,* 181 FERC ¶ 61,162, at PP 8, 60 (2022))); PJM Initial Comments at 4–6 (explaining that a transition period could be ''to permit generators who are currently receiving reactive power revenues under Tariff, Schedule 2 to continue to do so until the Delivery Year of the first Base Residual Auction (''BRA'') where the removal of these reactive revenues from the Energy and Ancillary Services (''E&AS'') offset can be reflected in the auction parameters. This concept would be based on the idea that these generators submitted their bids in prior auctions without the knowledge that Tariff, Schedule 2 revenues would no longer exist, which may have impacted the bids they ultimately submitted.'').

[619] NAGF Initial Comments at 3.

[620] PJM Initial Comments at 4–6.

[621] PJM IMM Initial Comments at 14.

[622] PJM IMM Initial Comments at 15 (''Given the schedule for upcoming capacity market auctions in PJM, the timing for the transition will be a direct result of the effective date of a final determination. Given this schedule, there will be a significant lag before the Offset can be removed for an identified delivery year. For example, if the effective date of the final determination were March 1, 2025, the Offset could be eliminated and payments under Schedule 2 eliminated effective June 1, 2027, the start of the delivery year for the base residual auction scheduled to be run in June 2025.'').

[623] *Id.*

223. PJM states that it would like flexibility to implement an interim rate during the transition period.[624] PJM notes that it contemplates a number of different scenarios, including disallowing any units without existing reactive power rate schedules to collect reactive power revenue or an interim flat rate per MVAr of capability.

2. Commission Determination

224. For all transmission providers in an RTO/ISO or non-RTO/ISO region, we direct a compliance filing within 60 days of the effective date of the final determination, including a proposed effective date within 90 days from the date of the compliance filing, as proposed by the NOPR.[625] We find that the NOPR's proposal to only allow 90 days from the date of the compliance filing for implementation of the proposed reforms to become effective is appropriate. However, in recognition of the concerns raised by commenters with respect to the interplay between existing reactive power revenue compensation mechanisms and energy and capacity market rules in ISO–NE, NYISO, and PJM, we will permit those RTOs/ISOs to each request a later effective date,[626] for the Commission's consideration, in order to allow them to develop and propose any changes to their market rules that may be necessary in order to accommodate this final determination's elimination of compensation for the provision of reactive power within the standard power factor range. With any such request, the RTO/ISO must affirmatively demonstrate why such a requested effective date is necessary, given, for example, its existing market rules, and what market rule changes the RTO/ISO believes may be needed to accommodate this final determination. We find that this approach reasonably balances concerns about expediently addressing unjust and unreasonable transmission rates for reactive power with concerns raised by commenters about existing cost recovery rules in the organized markets and will ensure that the ability of generating facilities to seek any appropriate cost recovery will not be impeded.

225. This flexibility would accommodate the potential section 205 filings that some RTOs/ISOs mentioned may accompany any final determination compliance filings, such as PJM's adjustments to market rules to remove the offset in auction parameters as well as ''propose rules around testing, monitoring, and penalties, to ensure that generators actually provide the reactive power capability that they are required to provide under their Commission-jurisdictional interconnection agreements when called upon.'' [627] The Commission welcomes these and similar section 205 filings to adapt markets to accommodate the final determination as well as to clarify each RTO's/ISO's compensation scheme for reactive power service *outside* of the standard power factor range, if necessary.[628]

226. We decline to adopt a transition period in non-RTO/ISO regions beyond the 90-day implementation period proposed in the NOPR. Some generating facilities in non-RTO/ISO regions contend that the compliance period should extend until the termination of existing PPAs or request that we require all PPAs to be reevaluated to cover the foregone revenue. As explained above, the record lacks any concrete evidence showing whether, and to what extent, generating facilities factored reactive power revenues into their PPAs. And even if a generating facility were able to demonstrate that eliminating compensation under our rule might impact some generating facility's profitability, which they have not, we do not believe that potential disrupted expectations weigh in favor of a different outcome in this situation. As a general matter, the risk of regulatory change is inherent in any long-term PPA.[629] Moreover, as explained above, we are skeptical of any purported reliance interests given that generating facilities have not had an inherent right to separate compensation for reactive power capability within the standard power factor range since Order Nos. 2003 and 2003–A (*i.e.,* because such compensation is required only to ensure ''comparability''). Finally, developers and generating facilities have been on notice since at least 2003 that the Commission regards reactive power compensation within the standard power factor range as non-compensable (other than where the comparability standard applies)—a conclusion that was patent in those orders, and reinforced repeatedly in subsequent Commission orders accepting transmission owner filings under section 205 that eliminated reactive power compensation within the standard power factor range.[630]

227. We disagree with commenters who request that generating facilities with reactive rates on file prior to the effective date of the final determination be provided legacy treatment.[631] Given that the Commission finds above that allowing transmission providers to compensate generating facilities, affiliated and unaffiliated, for providing reactive power within the standard power factor range has resulted in unjust and unreasonable transmission rates, it would raise undue discrimination concerns to continue to provide payment through Schedule 2 for reactive power supply within the standard power factor range to generating facilities with rates already on file when those rates have been found to be unjust and unreasonable.[632] Although commenters point to other situations where the Commission has provided legacy treatment for existing rates, in those situations the existing rate had not been found to be unjust and unreasonable.[633]

[624] PJM Initial Comments at 4–6.

[625] NOPR, 186 FERC ¶ 61,203 at P 54.

[626] Any RTO/ISO that proposes an effective date longer than 90 days from the date of the compliance filing must include an indeterminate 12/31/9998 effective date in eTariff with their compliance filing and must provide the Commission with an estimate of when the changes will become effective and must make a filing with the Commission if they are unable to meet their estimated effective date. Further, the RTO/ISO must also notify the Commission at least 7 days prior to the effective date of their proposed changes so that Commission staff may make the required changes in eTariff.

[627] PJM Initial Comments at 7.

[628] Generation Developers Initial Comments at 34–35 (''Additionally, as part of any compliance filings submitted in response to a final rule in this proceeding, the Commission should require RTOs and [ISOs] to make revisions to their tariffs eliminating existing barriers to the recovery of reactive power costs through sales of other products. This would include, for instance, requiring RTOs/ISOs with organized capacity markets to revise their tariffs to permit resources to accurately reflect their investment in reactive power in their capacity offers. The Commission also should require RTOs/ISOs to revise their market power mitigation frameworks to permit generation resources to reflect reactive power costs in their cost-based energy curves.'').

[629] *See, e.g.,* PJM IMM Reply Comments at 5 (''When buyers and sellers enter into power purchase agreements, the contracting parties define and assign regulatory risk. Customers are not responsible to manage or pay for suppliers' risks.'').

[630] *See, e.g., Nev Power Co.,* 179 FERC ¶ 61,103; *PNM,* 178 FERC ¶ 61,088 at PP 26–36; *SPP,* 119 FERC ¶ 61,199 at PP 20, 30–33.

[631] Calpine Initial Comments at 2–3; EDPR Initial Comments at 5; Generation Developers Initial Comments at 33–34; Glenvale Initial Comments at 6–7; Indicated Trade Associations Initial Comments at 29–30; Middle River Power Initial Comments at 6–7; Reactive Service Providers Initial Comments at 67–76.

[632] *See Dynegy Midwest Generation, Inc.* v. *FERC,* 633 F.3d 1122.

[633] *See, e.g.,* Reactive Service Providers Initial Comments at 67–76 (citing Order No. 2003, 104 FERC ¶ 61,103; Order No. 661, 111 FERC ¶ 61,353; Order No. 827, 155 FERC ¶ 61,277; Order No. 2023, 184 FERC ¶ 61,054; *Cal. Indep. Sys. Op.,* 124 FERC ¶ 61,031, at PP 12, 13, 20 (2008); *Midcontinent Independent System Operator, Inc.,* 158 FERC ¶ 61,003, at PP 44, 45, 59 (2017); *Sw. Power Pool, Inc.,* 167 FERC ¶ 61,275, at P 19 (2019)) (noting that ''[i]t is common for the Commission to allow grandfathering of existing agreements and rate

Continued

IV. Information Collection Statement

228. The Office of Management and Budget's (OMB) regulations require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

229. This final determination will amend the Commission's regulations pursuant to section 206 of the FPA, to eliminate compensation to generating facilities for the provision of reactive power within the standard power factor range set forth in each generating facility's individual interconnection agreement. To accomplish this, the Commission proposes to require each transmission provider to amend the *pro forma* LGIA, the *pro forma* SGIA, and Schedule 2 in its OATT to implement the reforms proposed in this final determination. Such filings should be made under Part 35 of the Commission's regulations. Subsequently, the final determination would revise the following currently approved information collections: *FERC 516H (OMB control. No. 1902–0303): Pro Forma Open Access Transmission Tariff, FERC 516 (OMB control No. 1902–0096): Electric Tariff Filings, and FERC 516A (OMB control No. 1902–0203): Standardization of Small Generator Interconnection Agreements and Procedures [SGIA and SGIP].*

230. The Commission is submitting these reporting requirements to OMB for its review and approval under section 3507(d) of the Paperwork Reduction Act. Comments are accepted on whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

231. Please send comments concerning the collection of information and the associated burden estimates to: Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Federal Energy Regulatory Commission. Due to security concerns, comments should be sent electronically to the following email address: *oira_submission@omb.eop.gov.* Comments submitted to OMB should refer to OMB Control No. 1902–0303, 1902–0096, or 1902–0203.

232. Please submit a copy of your comments on the information collection to the Commission via the eFiling link on the Commission's website at *https://www.ferc.gov.* If you are not able to file comments electronically, please send a copy of your comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426. Comments on the information collection that are sent to FERC should refer to Docket No. RM22–2–000.

233. *Title:* FERC 516H: *Pro Forma Open Access Transmission Tariff,* FERC 516: *Electric Tariff Filings,* and FERC 516A: *Standardization of Small Generator Interconnection Agreements and Procedures [SGIA and SGIP].*

234. *Action:* Revision of the information collection in accordance with Docket No. RM22–2–000.

235. *OMB Control No.:* 1902–0303, 1902–0096, 1902–0203

236. *Respondents for this Rulemaking:* Public utility transmission providers, including RTOs/ISOs.

237. *Frequency of Information Collection:* One-time compliance filing.

238. *Necessity of Information:* The final determination will require that transmission providers submit to the Commission a one-time compliance filing proposing tariff revisions.

239. *Internal Review:* The Commission has reviewed the changes and has determined that such changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry in support of the Commission's ensuring just and reasonable rates. The Commission has specific, objective support for the burden estimates associated with the information collection requirements.

240. *Public Reporting Burden:* The Commission's estimate consists of our estimated effort related to updating the proposed revisions to the *pro forma* OATT, and subsequent revisions to the *pro forma* LGIA and *pro forma* SGIA, and the effort related to submitting a one-time compliance filing.

241. The Commission estimates burden [634] and cost [635] as follows:

A. Collection	B. Number of respondents	C. Annual number of responses per respondent	D. Total number of responses (Column B × Column C)	E. Average burden Hrs. & cost per response	F. Total annual Hr. burdens & total annual cost (Column D × Column E)	G. Cost per respondent (Column F ÷ Column B)
FERC 516H: Pro Forma Open Access Transmission Tariff						
Transmission Providers (Schedule 2 one-time compliance filing).	40	1	40	4 hrs.; $400	160 hrs.; $16,000	$400
FERC 516: Electric Tariff Filings						
Transmission Providers (pro forma LGIA one-time compliance filing).	43	1	43	4 hrs.; $400	172 hrs.; $17,200	400

schedules when making sweeping industry changes,'' that the Commission ''has long implemented new Tariff rules in view of the economic impact to late-stage projects,'' and ''woven throughout each transition period ordered by the [Commission] is a need to carefully balance interests and preserve the expectations of the parties'')); Indicated Trade Associations Initial Comments at 29–30 (citing *PJM Interconnection, L.L.C.,* 110 FERC ¶ 61,053 at P 61; *Tenn. Gas Pipeline Co.,* 62 FERC at 61,306) (noting that when the Commission eliminated an exemption from market power mitigation, the Commission provided legacy treatment for units that commenced construction in reliance of the rule)).

[634] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the estimated burden, refer to 5 CFR 1320.3.

[635] Commission staff estimates that the respondents' skill set (and wages and benefits) for Docket No. RM22–2–000 are comparable to those of Commission employees. Based on the Commission's Fiscal Year 2024 average cost of $207,786/year (for wages plus benefits, for one full-time employee), $100/hour is used.

A. Collection	B. Number of respondents	C. Annual number of responses per respondent	D. Total number of responses (Column B × Column C)	E. Average burden Hrs. & cost per response	F. Total annual Hr. burdens & total annual cost (Column D × Column E)	G. Cost per respondent (Column F ÷ Column B)
FERC 516A: Standardization of Small Generator Interconnection Agreements and Procedures						
Transmission Providers (pro forma SGIA one-time compliance filing).	43	1	43	4 hrs.; $400	172 hrs.; $17,200	400
Totals	.....	.....	.....	.....	504 hrs.; $50,400	.....

V. Environmental Analysis

242. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[636] We conclude that neither an Environmental Assessment nor an Environmental Impact Statement is required for this final determination under § 380.4(a)(15) of the Commission's regulations, which provides a categorical exemption for approval of actions under sections 205 and 206 of the FPA relating to the filing of schedules containing all rates and charges for the transmission or sale of electric energy subject to the Commission's jurisdiction, plus the classification, practices, contracts, and regulations that affect rates, charges, classification, and services.[637]

VI. Regulatory Flexibility Act

243. The Regulatory Flexibility Act of 1980 (RFA) [638] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) sets the threshold for what constitutes a small business. Under SBA's size standards,[639] transmission providers under the category of Electric Bulk Power Transmission and Control (NAICS code 221121), have a size threshold of 950 employees (including the entity and its associates).[640]

244. We estimate that there are 43 transmission providers that are affected by the reforms proposed in this final determination, based on the NERC Active Compliance Registry Matrix as of January 11, 2024.[641] The Commission used a combination of sources to determine the number of employees within each entity using open-source data and information provided by Dunn & Bradstreet. We estimate that 6 of the 43 transmission providers, approximately 14% (rounded), are small entities.

245. We estimate that one-time costs (in Year 1) associated with the reforms proposed in this final determination for one transmission provider (as shown in the table above) would be $1,200 to submit the compliance filing. Following Year 1, the Commission estimates no ongoing costs associated with this final determination.

246. According to SBA guidance, the determination of significance of impact ''should be seen as relative to the size of the business, the size of the competitor's business, and the impact the regulation has on larger competitors.'' [642] We do not consider the estimated cost of $1,200 to be a significant economic impact for any of the entities that would be impacted by this final determination. As a result, we certify that the reforms proposed in this final determination would not have a significant economic impact on a substantial number of small entities.

VII. Document Availability

247. 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*).

248. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

249. User assistance is available for eLibrary and the Commission'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*.

VIII. Effective Date and Congressional Notification

250. These regulations are effective January 27, 2025. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

By the Commission. Commissioner Chang is not participating.

Issued: October 17, 2024

Debbie-Anne A. Reese,

Secretary.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix A: Abbreviated Names of Commenters

[636] *Reguls. Implementing the Nat'l Env't Pol'y Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[637] 18 CFR 380.4(a)(15).

[638] 5 U.S.C. 601–612.

[639] 13 CFR 121.201.

[640] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act, which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. The Small Business Administrations' regulations at 13 CFR 121.201 define the threshold for a small Electric Bulk Power Transmission and Control entity (NAICS code 221121) to be 500 employees. *See* 5 U.S.C. 601(3) (citing to Section 3 of the Small Business Act, 15 U.S.C. 632).

[641] NERC, *NCR Active Entities List,* (Jan. 12, 2024), NERC_Compliance_Registry_Matrix_Excel.xlsx.

[642] U.S. Small Business Administration, *A Guide for Government Agencies How to Comply with the Regulatory Flexibility Act,* 18 (Aug. 2017), *https://cdn.advocacy.sba.gov/wp-content/uploads/2019/06/21110349/How-to-Comply-with-the-RFA.pdf.*

Abbreviation	Commenter(s)
ACORE	American Council on Renewable Energy.
AEP	American Electric Power Service Corporation.
Ameren	Ameren Service Company.
Calpine	Calpine Corporation.
Clean Energy Associations	Solar Energy Industries Association (SEIA) and American Clean Power Association.
C T Gaunt	Dr. Charles Trevor Gaunt.
Eagle Creek	Eagle Creek Reactive Generators.
EDPR	EDP Renewables North America LLC.
Elevate	Elevate Renewables F7, LLC.
Generation Developers	Vistra Corp. and Dynegy Marketing and Trade, LLC.
Glenvale	Glenvale LLC.
IPPNY	Independent Power Producers of New York, Inc.
Indicated Reactive Power Suppliers	KMC Thermo, LLC, Bitter Ridge Wind Farm, LLC, Guernsey Power Station LLC, Moxie Freedom LLC, Safe Harbor Water Power Corporation, BIF III Holtwood LLC, Brookfield Power Piney & Deep Creek LLC, Erie Boulevard Hydropower, L.P., Carr Street Generating Station, L.P., Bear Swamp Power Company LLC, Brookfield White Pine Hydro LLC, Brookfield Renewable Trading and Marketing LP, and Reworld Waste, LLC f/k/a Covanta.
Indicated Trade Associations	Electric Power Supply Association, The PJM Power Providers Group the New England Power Generators Association, Inc., Independent Power Producers of New York, Inc., the Coalition of Midwest Power Producers.
ISO–NE	ISO New England Inc.
Joint Consumer Advocates	Illinois Attorney General, Illinois Citizens Utility Board, Maryland Office of People's Counsel, the New Jersey Division of Rate Counsel, the North Carolina Utilities Commission Public Staff, the Office of the People's Counsel for the District of Columbia, and the West Virginia Consumer Advocate Division of the Public Service Commission.
Joint Customers	Old Dominion Electric Cooperative, Northern Virginia Electric Cooperative, Inc., and Dominion Energy Services, Inc. on behalf of Virginia Electric and Power Company d/b/a Dominion Energy Virginia.
Liberty	Liberty Utilities.
Middle River Power	Middle River Power LLC.
MISO	Midcontinent Independent System Operator, Inc.
MISO Transmission Owners	Ameren Services Company, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois, and Ameren Transmission Company of Illinois; Arkansas Electric Cooperative Corporation; City Water, Light & Power; Cooperative Energy; Dairyland Power Cooperative; East Texas Electric Cooperative; Entergy Arkansas, LLC; Entergy Louisiana, LLC; Entergy Mississippi, LLC; Entergy Texas, Inc.; Great River Energy; Indianapolis Power & Light Company; Lafayette Utilities System; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power, Inc.; Southern Indiana Gas & Electric Company (d/b/a CenterPoint Energy Indiana South); and Southern Minnesota Municipal Power Agency.
NAGF	North American Generator Forum.
NEPGA	New England Power Generators Association, Inc.
NEPOOL	New England Power Pool.
NESCOE	New England States Committee on Electricity.
New England Consumer Advocates	Office of Massachusetts Attorney General Andrea Joy Campbell, the Connecticut Office of Consumer Counsel, the Maine Office of Public Advocate, the New Hampshire Office of Consumer Advocate, and the Rhode Island Division of Public Utilities and Carriers
NEI	Nuclear Energy Institute.
NYISO	New York Independent System Operator, Inc.
NHA	National Hydropower Association.
Ohio FEA	Ohio Office of the Federal Energy Advocate of the Public Utilities Commission of Ohio.
Onward Energy	Onward Energy Holdings, LLC.
PGE	Portland General Electric Company.
PJM	PJM Interconnection, L.L.C.
PJM IMM	Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor for PJM.
PSEG	Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC, and each wholly-owned, direct or indirect subsidiaries of Public Service Enterprise Group Incorporated.
Reactive Service Providers	CIP, D. E. Shaw Renewable Investments, L.L.C., Invenergy Renewables LLC, Leeward Renewable Energy, LLC, Lightsource Renewable Energy Operations, LLC, NextEra Energy Resources, LLC,1 Ørsted Wind Power North America, LLC, and RWE Clean Energy, LLC.
TAPS	Transmission Access Policy Study Group.

[FR Doc. 2024–24528 Filed 11–25–24; 8:45 am]

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FEDERAL REGISTER

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Part III

The President

Notice of November 22, 2024—Continuation of the National Emergency With Respect to the Situation in Nicaragua

Federal Register
Vol. 89, No. 228
Tuesday, November 26, 2024

Presidential Documents

Title 3—

The President

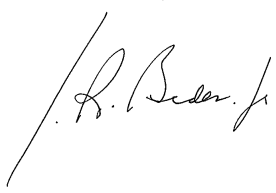
Notice of November 22, 2024

Continuation of the National Emergency With Respect to the Situation in Nicaragua

On November 27, 2018, by Executive Order 13851, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the situation in Nicaragua. On October 24, 2022, I issued Executive Order 14088 to take additional steps with respect to the national emergency declared in Executive Order 13851.

The situation in Nicaragua, including the violent response by the Government of Nicaragua to the protests that began on April 18, 2018, and the Ortega-Murillo regime's continued systematic dismantling and undermining of democratic institutions and the rule of law, its use of indiscriminate violence and repressive tactics against civilians, as well as its corruption leading to the destabilization of Nicaragua's economy, continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on November 27, 2018, must continue in effect beyond November 27, 2024. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13851 with respect to the situation in Nicaragua.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
November 22, 2024.

[FR Doc. 2024–28028
Filed 11–25–24; 11:15 am]
Billing code 3395–F4–P

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