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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Doc. No. AMS-NOP-22-0063]

RIN 0581-AE13

National Organic Program; Market Development for Mushrooms and Pet Food

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The United States Department of Agriculture (USDA) Agricultural Marketing Service (AMS) is amending the USDA organic regulations to clarify standards for organic mushrooms and organic pet food. The topics addressed by the rule include mushroom substrate composition and sourcing of mushroom spawn in organic mushroom production, composting requirements for organic mushroom production, composition and labeling requirements for organic pet food, and the use of certain synthetic substances, including taurine, in organic pet food.

DATES:

Effective date: This rule is effective February 21, 2025.

Compliance date: Organic operations must comply with the requirements of this rule by February 22, 2027.

For additional discussion, see section I.C. of this document.

FOR FURTHER INFORMATION CONTACT: Erin Healy, Director, Standards Division, National Organic Program. Telephone: 202-720-3252. Email: Erin.Healy@usda.gov.

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I. General Information

A. Does this final rule apply to me?

You may be affected by this final rule if you are engaged in organic mushroom production, pet food handling, or related activities. Potentially affected entities may include, but are not limited to, the following:

- Organic mushroom producers (including organic spawn producers);
- Organic pet food manufacturers;
- Individuals or business entities that are considering organic certification for pet food or mushroom production (or related activities, such as spawn production);
- USDA-accredited certifying agents (or “certifiers”), inspectors, and certification review personnel.

This list is not exhaustive but identifies key entities that this rule may affect. Other types of entities may also be affected. To determine whether you or your business may be affected by this action, you should carefully examine the regulatory text and discussion below. If you have questions regarding the applicability of this rule to a particular entity, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. Summary of Provisions

Through the amendments in this final rule, AMS is establishing standards for organic mushroom production and pet food handling. The standards are discussed in detail in this document. In summary, the rule:

- Establishes definitions for *mushroom*, *mushroom mycelium*, *mushroom spawn*, *mushroom spawn media*, and *mushroom substrate* for the purposes of the USDA organic regulations.
- Clarifies that mushrooms are a type of crop and updates the definition of *crops* to include mushrooms.
- Creates a new section of the organic regulations titled “Mushroom Production Practice Standard,” to describe standards related to the production of mushrooms, mushroom spawn, and products of mushroom production.
- Specifies allowed substances in organic mushroom spawn media and organic mushroom substrate.
- Requires that uncomposted plant materials used in mushroom substrate be organic when commercially available; requires that operations describe in their organic system plan the procedures and criteria used to search for organic materials and the recordkeeping system used to track purchases of nonorganic plant materials.
- Allows nonorganic wood materials in mushroom substrate and spawn media.
- Requires that operations use organic mushroom spawn when commercially available.
- Describes minimum requirements for compost used in mushroom substrate. (The requirements for compost used in other types of crop production (*i.e.*, plants) are unchanged.)
- Establishes definitions for *pet* and *pet food* for the purposes of the USDA organic regulations and clarifies that pet food is distinct from livestock feed under these regulations.
- Clarifies the requirements for composition and labeling of organic pet food using the existing regulatory framework for processed organic products.
- Allows use of synthetic taurine (an amino acid) in organic pet food, as well as other vitamins and minerals that are approved by the Food and Drug Administration.

C. Implementation and Compliance Dates

As described in the **DATES** section of this rule, this rule becomes effective on February 21, 2025. However, AMS is allowing an additional two (2) years for organic operations to comply with the requirements of the final rule. Organic

operations must comply with the final rule by February 22, 2027.

The compliance date establishes the date by which organic operations must comply with the requirements. However, organic operations may choose to comply with the final rule prior to the compliance date. For example, pet food operations may use taurine in organic pet food starting on the effective date of the final rule.

For a discussion of the public comments related to the rule's implementation and compliance dates, see "Responses to Public Comments on Implementation Timeline" sections below in III.C. for mushrooms and IV.C. for pet food.

II. Background

A. Purpose and Need for the Rule

This final rule amends the USDA organic regulations to establish specific standards for organic mushroom production and organic pet food handling. The purpose of these amendments is to resolve uncertainty and inconsistency in how the organic regulations apply to these two products. Inconsistent certification and enforcement practices for organic mushrooms and pet food fail to meet one of the purposes of the Organic Foods Production Act (OFPA): to assure consumers that organically produced products meet a consistent standard (7 U.S.C. 6501(2)). Based on market penetration data and feedback from stakeholders, AMS believes that creating more consistency in the market and ensuring regulatory certainty will create conditions for growth in these two markets and other latent markets that support them, such as the markets for mushroom substrate and organic slaughter by-products.

Certifiers have been using the organic crop production standards to certify organic mushrooms; however, AMS believes new standards are necessary to adequately address unique aspects of mushroom production that differ significantly from plant production. Certifiers' attempts to interpret the existing crop standards for mushroom production are currently inconsistent, which may lead to producers inconsistently applying the standards to substrate, spawn, and compost for mushroom production.

Similarly, the current organic regulations do not specifically address pet food. Producers and certifiers have

been applying a combination of the handling standards for processed products and the organic livestock feed standards to certify organic pet food, but their practices were not uniform. Neither the handling standards nor the livestock standards are sufficient to address the range of ingredients and nutrients that are necessary for pets. For example, the livestock feed standards include allowances for many of the nutrients that are necessary for pets but prohibit common pet food ingredients, such as slaughter by-products (e.g., animal and poultry by-product meal, animal liver).

This rule also addresses feedback from the organic industry, which has asked USDA to implement outstanding NOSB recommendations, including standards for these two product categories. Stakeholders encouraged AMS to prioritize rulemaking for additional practice standards, including standards for organic pet food and mushrooms, at the March 2022 virtual listening session hosted by AMS. The changes in this rule are based on NOSB recommendations for mushroom production and pet food handling in response to the organic industry's interest in further developing the organic standards for these markets.

Market penetration data supports the idea that the organic mushroom and organic pet food markets have a reasonable expectation of growth if uncertainty and inconsistency are removed as barriers. Both markets currently lag behind their most-comparable organic sectors. In 2023, sales of organic produce accounted for a 15.2 percent share of all produce sales in the United States,¹ but mushrooms sold as organic only accounted for 9.6 percent of all mushroom sales during the 2023–2024 marketing year.² Considering that the consumer experience of purchasing mushrooms is typically similar to purchasing fruits and vegetables (they are packaged similarly and found in the same section of the grocery store), it is reasonable to conclude that some external barrier is inhibiting the organic mushroom market. Similarly, organic pet food accounts for only 0.32 percent of all pet food sales. The closest organic category of comparison for organic pet food is

organic non-food products, which includes other products humans do not eat (e.g., linen/clothing, supplements, and personal care products). All other non-food product types tracked by the Organic Trade Association have at least twice the market share of organic pet food, with the organic products accounting for between 0.76 percent to 3.3 percent of their total market sales.³

In conclusion, AMS believes that clear and consistent standards for organic mushrooms and pet food may create the conditions necessary for organic markets to develop. Regulatory certainty encourages investment in nascent markets; investment increases production capacity; and production enables market growth. Clear standards will promote growth in the development of these markets by increasing consistency in certification and enforcement and removing uncertainty as a regulatory barrier to production and certification. Additionally, growth in these markets is likely to ensure consistent demand for organic inputs in underdeveloped markets like organic meat and organic slaughter by-products. Ensuring consistent standards across the organic industry also protects the integrity of the organic seal by building consumer trust in the label.

AMS provides additional discussion of the need for organic mushroom and pet food standards in the respective sections below (see "III.B. Need for Organic Mushroom Standards" and "IV.B. Need for Organic Pet Food Standards").

B. National Organic Standards Board (NOSB) Recommendations on Mushrooms and Pet Food

The NOSB is a Federal advisory committee established by OFPA (7 U.S.C. 6518) to provide recommendations to USDA on the development of organic standards and regulations. NOSB recommendations are developed through a rigorous process involving technical information, stakeholder input through public comment, open meetings, and a decisive two-thirds majority vote of the Board. Although the Board cannot direct or bind USDA through its recommendations, USDA uses the NOSB recommendations to inform rulemaking, including this rulemaking.

¹ Organic Trade Association. (2024). Organic Industry Survey. p. 41.

² USDA, National Agricultural Statistics Service. (August 21, 2024). "Mushrooms."

³ Organic Trade Association. (2024). Organic Industry Survey. p. 69.

Several times in its history, the NOSB has recognized the unique production needs of organic mushrooms and pet food and recommended standards specific to each market. The Board recommended organic mushroom standards in April 1995⁴ and again in October 2001.⁵ Subsequently, the NOSB made a recommendation on organic pet food standards in November 2008,⁶ and in April 2013, the NOSB recommended amending the National List of Allowed and Prohibited Substances (or “National List”) to include taurine for use in pet food.⁷ This final rule is AMS’s first rulemaking action related to these recommendations. The NOSB recommendations are discussed below.

NOSB Recommendations on Mushroom Production

In 2001, the NOSB recommended standards to:

- Prevent contact between organically produced mushrooms or mushroom growth substrates and prohibited substances;
- Require the use of organic spawn when commercially available;
- Require organically produced agricultural materials in mushroom substrate; and
- Allow nonorganic wood materials (e.g., sawdust) in mushroom substrate if trees have not been treated with prohibited substances for three years prior to harvest and have not been treated with prohibited substances after harvest.

NOSB Recommendations on Pet Food

In November 2008, the NOSB recommended that organic claims on pet food should be regulated under a combination of organic livestock feed standards and organic processed products labeling requirements.⁸ The NOSB recommended standards to:

- Clarify which animals the pet food requirements would apply to by defining “pets” in the regulations;
- Label organic pet food using a framework consistent with labeling for organic human food, allowing the “organic” claim that requires a minimum of 95 percent organic ingredients and the “made with organic (specified ingredients or food group(s))” claim that requires a minimum of 70 percent organic ingredients;
- Clarify that organic slaughter by-products can be a component of organic pet food; and
- Allow taurine for use in pet food by adding it to the National List of allowed synthetic substances.⁹

AMS used the NOSB recommendations to inform this rulemaking.

C. Community and Stakeholder Feedback

When developing this Market Development rule, AMS considered industry and stakeholder requests for specific mushroom and pet food standards, in addition to the NOSB recommendations. In March 2022, the National Organic Program (NOP) hosted a public listening session to give stakeholders the opportunity to comment on NOP’s rulemaking priorities.¹⁰ During the listening session, many stakeholders provided written and oral comment to ask AMS to prioritize rulemaking for products, including mushrooms and pet food, that are currently being certified without standards specific to their unique production categories. Several stakeholders specifically suggested developing mushroom standards and noted that existing crop standards, including compost requirements, were not suited for mushroom production. Similarly, some commenters discussed the importance of establishing consistent pet food standards, naming it as another product that is currently certified without specific standards.

[default/files/media/NOP%20Final%20Rec%20Pet%20Food.pdf](https://www.ams.usda.gov/sites/default/files/media/NOP%20Final%20Rec%20Pet%20Food.pdf).

⁹ The 2008 recommendation listed taurine and other additives as “materials for possible petition to the National List for use in Pet Food.” In 2013, the NOSB passed a motion to specifically recommend listing taurine “as a feed additive for use in pet food, only.” See NOSB. (April 11, 2013). “Formal Recommendation from NOSB to NOP: Petition to add Required Synthetic Amino Acids for Pet Food.” <https://www.ams.usda.gov/sites/default/files/media/NOP%20Livestock%20Final%20Rec%20Pet%20Food%20Amino%20Acid%20amended.pdf>.

¹⁰ USDA, NOP. (March 21, 2022). “National Organic Program priorities listening session.” <https://www.ams.usda.gov/event/national-organic-program-priorities-listening-session>.

AMS also engaged directly with mushroom experts, producers, and trade associations about organic mushroom production in developing the proposed rule. These discussions affirmed that, without specific standards, certifiers are not consistent in how they apply organic standards to mushroom production. Comments received during the public comment period for the proposed rule confirmed that certifiers interpret the existing standards in different ways. Through industry feedback and comments during the public comment period—submitted by a range of industry parties—AMS learned what aspects of mushroom production need specific standards to ensure consistent application across certifiers and producers. This includes requirements for compost, origin and composition of substrate materials used for growing mushrooms, and origin and composition of spawn.

Discussions with experts in the pet food industry, conducted prior to publishing the proposed rule, revealed that the key challenge with labeling pet food as organic is uncertainty around the allowance of specific ingredients. For example, under the current organic regulation, it is unclear if pet food manufacturers may use meat (*i.e.*, the edible part of animal muscle and organs) or slaughter by-products (*i.e.*, the parts of an animal not typically consumed by humans, such as poultry by-product meal or animal liver) in organic pet food. It is also unclear whether some necessary synthetic ingredients in pet food, such as taurine, are allowed (for additional discussion, see “§ 205.605 National List—Description of Final Policy” in section IV.C).

Additionally, stakeholders have noted that allowing organic slaughter by-products in organic pet food will allow livestock producers and slaughter facilities to earn organic premiums for these organic slaughter by-products, which would otherwise be sold without a premium for use in nonorganic products. AMS estimates that this rule could ensure consistent demand for over 6 million pounds of organic slaughter by-products annually, which is likely to grow over time.¹¹

Overall, this rulemaking addresses a need identified by the NOSB, industry

¹¹ Data from the Institute for Feed Education & Research indicates that approximately 23 percent of the ingredient weight in conventional pet food is animal by-product and meal. This estimate is then applied to the estimate for pounds of organic pet food as reported by the Organic Trade Association and current market prices. Institute for Feed Education & Research. (March 2020). “Pet food production and ingredient analysis.” Organic Trade Association. (2022). Organic Industry Survey. p. 56.

⁴ NOSB. (April 24–28, 1995). “Final minutes of the National Organic Standards Board full board meeting.” <http://www.dairyprogramhearing.com/getfile32e532e5.pdf?dDocName=STELPRDC5057442>.

⁵ NOSB. (2001). “NOSB Final Recommendation on Mushroom Practice Standards.” <https://www.ams.usda.gov/sites/default/files/media/Recommended%20Mushroom%20Standards.pdf>.

⁶ NOSB. (November 19, 2008). “Formal Recommendation from NOSB to NOP: Organic Pet Food Standards.” <https://www.ams.usda.gov/sites/default/files/media/NOP%20Final%20Rec%20Pet%20Food.pdf>.

⁷ NOSB. (April 11, 2013). “Formal Recommendation from NOSB to NOP: Petition to add Required Synthetic Amino Acids for Pet Food.” <https://www.ams.usda.gov/sites/default/files/media/NOP%20Livestock%20Final%20Rec%20Pet%20Food%20Amino%20Acid%20amended.pdf>.

⁸ NOSB. (November 19, 2008). “Formal Recommendation from NOSB to NOP: Organic Pet Food Standards.” <https://www.ams.usda.gov/sites/>

stakeholders, and public comments on the proposed rule. AMS expects that the specific standards in this final rule will support the development of organic markets for organic mushrooms and pet food by reducing uncertainty among certifiers, consumers, producers, and manufacturers. A full discussion of public comments received on the proposed rule, and AMS's responses to comments, can be found in later sections.

D. Authority

OFPA¹² authorizes the USDA to promulgate regulations to establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods (7 U.S.C. 6503(a)). This rule establishes new production and certification standards for two categories of products that are currently certified but lack specific organic standards. In establishing these standards, this rule supports the three purposes of OFPA: “(1) to establish national standards governing . . . organically produced products; (2) to assure consumers that organically produced products meet a consistent standard; and (3) to facilitate interstate commerce in . . . food that is organically produced” (7 U.S.C. 6501).

This rule clarifies how producers and certifiers should apply organic

regulations to mushroom and pet food production, which will assure consumers that the organic label on these products meets a consistent standard. The rule will also assure producers that they operate in a fair and competitive environment with clear rules that all must follow.

USDA administers organic standards through the Agricultural Marketing Service (AMS) National Organic Program (NOP). Final regulations establishing the NOP and the USDA organic regulations were published on December 21, 2000 (65 FR 80548)¹³ and were first implemented on October 21, 2002.¹⁴ Through these regulations, AMS oversees national standards for the production, handling, labeling, and sale of organically produced agricultural products.

III. Organic Mushroom Standard

A. Mushroom Background

Mushroom Biology and Production

Mushrooms are the fleshy, spore-bearing, fruiting body of some species of fungus. Mushrooms are just a portion of the fungal organism, which is mostly composed of mycelium, a root-like network of fungal structures (hyphae).

Commercially grown mushrooms are typically produced in a stepwise process that propagates (increases) mycelium to ultimately produce mushrooms.

In commercial mushroom production, mycelium is added to media (“spawn media”), such as grains, wood materials, or minerals, that supports its initial development. The mycelium draws nutrients and energy from this media to support its growth. The mycelium-colonized media is called “spawn.” Spawn is then inoculated into larger volumes of substrate—a base composed of materials such as grains, wood materials, composted materials, and/or other agricultural materials—where the mycelium develops further, growing throughout the substrate. Depending on the mushroom species, this stage of production may occur in open beds (common for *Agaricus bisporus*) or in blocks (common for specialty mushrooms), though other methods are also used. Producers can trigger fruiting (*i.e.*, the formation of mushrooms) of the inoculated substrate by establishing the right environmental conditions for that variety—*e.g.*, humidity, temperature, air, and light. Depending on the variety and production system, the inoculated substrate may continue to fruit after the first harvest, and producers may harvest multiple crops of mushrooms from one batch of inoculated substrate in a given production cycle. Once the production cycle is complete and all mushrooms are harvested, a new batch of spawn inoculated into a new batch of substrate is generally needed to produce more mushrooms.

¹² The Organic Foods Production Act of 1990, 7 U.S.C. 6501–6524, is the statute from which the Agricultural Marketing Service derives authority to administer the NOP, and authority to amend the regulations as described in this final rule. The text of the codified statute is available at: <https://uscode.house.gov/view.xhtml?path=/prelim@title7/chapter94&edition=prelim>.

¹³ USDA, AMS. (December 21, 2000). “National Organic Program.” Final Rule. 65 FR 80548 (codified at 7 CFR part 205). <https://www.federalregister.gov/documents/2000/12/21/00-32257/national-organic-program>.

¹⁴ USDA, AMS. (March 20, 2001). “National Organic Program; Correction of the effective date under Congressional Review Act (CRA).” Final Rule. 66 FR 15619. <https://www.federalregister.gov/documents/2001/03/20/01-6836/national-organic-program-correction-of-the-effective-date-under-congressional-review-act-cra>.

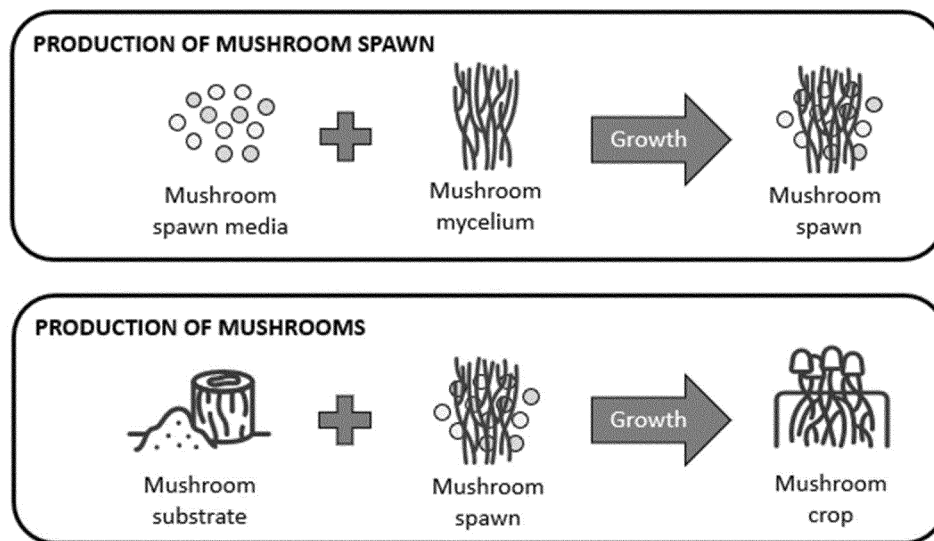


Figure 1. Production of mushroom spawn and mushrooms.

Commercial mushroom production mostly occurs in controlled indoor environments where temperature and humidity can be controlled. However, mushroom production can also occur outdoors, either in managed conditions or by harvesting wild mushrooms. This final rule establishes new production standards for managed mushroom production, whether it occurs indoors or outdoors. It revises the definition of *wild crop* to include mushrooms, but it does not establish separate production standards for wild mushrooms. Producers who harvest wild mushrooms should continue to follow the wild crop harvesting practice standard at § 205.207.

In some cases, a producer may propagate mycelium but not harvest mushrooms. For example, some producers may only produce and sell spawn (colonized media) that other producers will use to inoculate substrate and produce mushrooms. In other cases, a producer may never aim to produce mushrooms (*i.e.*, the fruiting bodies) but will instead produce mycelium biomass that is used in processed products for direct human consumption.

This final rule specifies the production requirements for mushrooms, spawn, and mushroom products sold as organic. It does not alter the requirements related to processed fungi products. The final rule describes the existing crop production requirements that apply to mushroom producers, but, primarily, it specifies requirements for the spawn media, spawn, and substrate used in mushroom production. AMS is aware that some in the mushroom industry use the terms

“media” and “substrate” interchangeably. As defined in this final rule, *mushroom spawn media* is the initial base material that is colonized by mycelium to produce spawn, and *mushroom substrate* is the mid-stage base material that is used in larger volumes, inoculated by spawn, and on which mushroom fruiting occurs.

The term “mushroom production” is used throughout the rule to collectively refer to the production of mushrooms, spawn, and other mushroom products, even if a producer is not harvesting or selling the fruiting bodies (mushrooms). For example, an organic spawn producer may not harvest mushrooms, but this final rule still applies to organic spawn producers.

The U.S. Mushroom Market

In the 2023–2024 growing season (July 2023 to June 2024), the U.S. mushroom crop volume was 659 million pounds with sales of \$1.09 billion.¹⁵ The *Agaricus bisporus* species of mushrooms accounted for approximately 98 percent of the total sales volume and approximately 92 percent of the total value.¹⁶ *Agaricus* includes white mushrooms (including common, button, and champignon varieties, among others) and brown mushrooms (including crimini/cremini,

Swiss, Roman, Italian, and Portobello/Portabella varieties, among others). Outside of the *Agaricus* varieties, there are a multitude of cultivated “specialty” mushrooms, including shiitake, oyster, enoki, maitake, pom-pom, lion’s mane, Reishi, and others. Specialty mushrooms include foraged (wild) mushrooms (*e.g.*, chanterelles, morels) and mushrooms that are intentionally cultivated outdoors.

Organic mushrooms lag behind the overall organic produce market in terms of market share. In 2023–2024, 9.6 percent of all mushrooms produced were sold as organic.¹⁷ The Organic Trade Association reports that organic produce they tracked had a higher market share, with 15.2 percent of all produce being sold as organic in 2023.¹⁸ *Agaricus* mushrooms accounted for approximately 83 percent of the total production volume of organic mushrooms; the remainder were specialty mushrooms.¹⁹

B. Need for Organic Mushroom Standards

This final rule creates specific standards for organic mushroom

¹⁷ USDA, National Agricultural Statistics Service, Agricultural Statistics Board. (August 21, 2024). “Mushrooms.” <https://downloads.usda.library.cornell.edu/usda-esmis/files/r781wg03d/9593wm52z/9306vq05c/mush0824.pdf>.

¹⁸ Organic Trade Association. 2024 Organic Industry Survey. p. 41. <https://ota.com/market-analysis/organic-industry-survey/organic-industry-survey>.

¹⁹ USDA, National Agricultural Statistics Service, Agricultural Statistics Board. (August 21, 2024). “Mushrooms.” <https://downloads.usda.library.cornell.edu/usda-esmis/files/r781wg03d/9593wm52z/9306vq05c/mush0824.pdf>.

¹⁵ USDA, National Agricultural Statistics Service, Agricultural Statistics Board. (August 21, 2024). “Mushrooms.” <https://downloads.usda.library.cornell.edu/usda-esmis/files/r781wg03d/9593wm52z/9306vq05c/mush0824.pdf>.

¹⁶ USDA, National Agricultural Statistics Service, Agricultural Statistics Board. (August 21, 2024). “Mushrooms.” <https://downloads.usda.library.cornell.edu/usda-esmis/files/r781wg03d/9593wm52z/9306vq05c/mush0824.pdf>.

production to promote consistency, fair competition, and market growth. As of August 2024, at least 42 certifying agents certify 288 organic mushroom operations.²⁰ The lack of mushroom-specific standards means there is significant variation in how these operations are certified. Some certifying agents require mushroom substrate components to be organic while others do not. Likewise, some certifying agents require spawn to be organic while others do not.

This mushroom-specific rule is necessary because mushrooms and mushroom products involve unique production practices and inputs that are not addressed in the current organic standards. There are notable biological differences between mushrooms (which are fungi) and plants. Unlike plants, mushrooms do not photosynthesize to convert energy from light to process

nutrients drawn from soil. Instead, they draw on the nutrition and energy found in the substrates on which they grow. The absence of mushroom-specific standards, their unique biological differences, and the resulting inconsistent enforcement, creates an uneven playing field for certified operations. For example, some operations may be required to source organic inputs, incurring additional expenses, whereas others are not. Unfair competition caused by different interpretations of the organic mushroom standards, as well as the possibility of future regulatory changes, may have reduced the willingness of businesses to invest in this sector.

This rule aims to address these problems by developing one clear standard for organic mushroom production, ensuring consistency as directed by OFPA. Certifying agents will

have clear rules to follow, and competition among operations will be more fair. This will give businesses greater confidence in the stability of the industry and encourage them to invest in organic mushroom growing operations and organic mushroom inputs.

C. Overview of Final Rule Policy and Responses to Comments

This rule amends the USDA organic regulations (7 CFR part 205) to add new provisions for producing mushrooms, spawn, and other mushroom products (collectively “mushroom production”) that are sold, labeled, or represented as organic. This action prescribes consistent standards for organic mushroom production, as detailed below.

TABLE 1—OVERVIEW OF REGULATORY CHANGES TO ESTABLISH ORGANIC MUSHROOM PRODUCTION STANDARDS

Section title	Type of action	Rulemaking action
205.2	Adds new terms	Adds <i>Mushroom</i> ; <i>Mushroom mycelium</i> ; <i>Mushroom spawn</i> ; <i>Mushroom spawn media</i> ; <i>Mushroom substrate</i> .
205.2	Revises existing terms	Modifies <i>Compost</i> ; <i>Crop</i> ; <i>Wild crop</i> .
205.210	Adds new section	Adds mushroom production standards to Subpart C.
205.601	Revises language at (i)–(j)	Replaces the term “plant” with the term “crop”.

§ 205.2 (Terms Defined)

Description of Final Policy

The final rule amends § 205.2 by adding five new terms: *mushroom*, *mushroom mycelium*, *mushroom spawn*, *mushroom spawn media*, and *mushroom substrate*. The rule also revises three existing terms: *compost*, *crop*, and *wild crop*. The additions and revisions are discussed below.

1. Compost

The final rule revises the definition of *compost* to recognize that compost for mushroom production may be different than compost for plant production. The prior definition of “compost” included production requirements (e.g., time, temperature, and carbon-to-nitrogen ratio requirements) that are more applicable to plant production; however, compost for mushroom production is typically produced under different conditions. The final rule removes from the definition those specific compost production requirements, which duplicated the practice standards for other crop production already included in the

organic regulations at § 205.203(c)(2). The resulting definition of *compost* is more general, to encompass the production of compost for either plants or mushrooms. The amended definition also notes that compost may be used in mushroom production as a component of mushroom substrate.

These revisions to the definition of the term *compost* are in no way meant to change existing requirements, policies, or guidance about the use of compost in organic plant production. Likewise, the revision is not intended to expand the definition of *compost* to include all agricultural inputs transformed by microorganisms, such as anaerobic digestate or manure. Terms for the various soil amendments and fertilizers used in organic production are well established by AMS and material review organizations and are not affected by this rule. AMS’s intent is to remove the requirements embedded in the definition to account for the fact that compost for mushroom production is not necessarily produced in the same way that compost for plant production is produced.

As noted above, the specific compost production requirements that AMS removed from the definition remain in the regulations at § 205.203(c)(2)—Soil fertility and crop nutrient management practice standard. This final rule does not change those requirements. Organic producers of crops other than mushrooms that use compost must comply with the requirements at § 205.203(c)(2). Separately, this final rule adds mushroom-specific requirements for compost used in mushroom substrate at § 205.210(c)(1), as described below in the section titled “Mushroom production practice standard”.

AMS is aware of ongoing discussions by the NOSB that may result in a recommendation to update the definition of compost. The changes in this final rule do not prevent or supersede future recommendations on this topic from the NOSB.

2. Crop and Wild Crop

This final rule revises the terms *crop* and *wild crop* to include mushrooms. AMS includes mushrooms in these definitions to clarify that operations

²⁰ USDA, Organic Integrity Database. <https://organic.ams.usda.gov/Integrity/Home>. Advanced search features can be accessed at <https://organic.ams.usda.gov/Integrity/Search>. Certified

mushroom producers may be found by narrowing a certified product search for “mushrooms” to operations with a certification status of “certified” and limiting results to the “Crops” scope. Output

was manually cleaned to remove unrelated entries. Accessed August 27, 2024.

may use certain crop and wild crop practice standards in subpart C of 7 CFR part 205 to produce mushrooms.

3. Mushroom

The final rule defines *mushroom* as the fleshy, spore-bearing fruiting body of a fungus, although the term “mushroom production” in this rule refers to production of mushrooms, spawn, and other mushroom products. The word “mushroom” is also used to qualify other terms (below) related to mushroom production.

4. Mushroom Mycelium

AMS defines *mushroom mycelium* as a mass of branching, thread-like hyphae (fungal structures). Mushroom mycelium is the main, root-like, mass of a fungus, which can support formation of fruiting bodies (mushrooms).

5. Mushroom Spawn

AMS defines *mushroom spawn* as mushroom spawn media that has been colonized by mycelium. Mushroom spawn can be used to inoculate mushroom substrate.

6. Mushroom Spawn Media

AMS defines *mushroom spawn media* as the base material, such as grain, sawdust, other wood materials, vermiculite, or other minerals, used to make mushroom spawn. Mushroom spawn media, once colonized with mycelium, is defined separately as *mushroom spawn* by these regulations.

7. Mushroom Substrate

AMS defines *mushroom substrate* as the base material (such as grain, wood materials, composted materials, and/or other agricultural materials) on which mushroom production occurs. Components of mushroom substrate can vary depending on the species to be cultivated. After mushroom spawn inoculates mushroom substrate, the mushroom substrate provides the energy and nutrients required for mycelium to flourish and produce mushrooms (although the definition of mushroom substrate does not depend on whether mushrooms are produced or not).

AMS separately defines two types of “base materials” used in mushroom production: *mushroom spawn media* and *mushroom substrate*. For the purposes of organic regulation, the essential difference between them is that mushroom spawn media is the base material used to create mushroom spawn, while mushroom substrate is the base material that is inoculated by mushroom spawn to produce mushrooms. They are defined separately because the rule includes different

requirements for mushroom spawn media and mushroom substrate. The composition requirements for mushroom spawn media and mushroom substrate are described at §§ 205.210(d) and (c), respectively.

Changes From Proposed to Final Rule

AMS made the following revisions to the proposed definitions in this final rule to clarify intent and meaning:

- AMS made minor changes to each definition related to mushroom production to clarify intent and meaning. AMS added the word “mushroom” at the beginning of several terms so that the terms related to mushroom production appear together in § 205.2.
- AMS removed the word “edible” from the definition of *mushroom*, as edibility is not unique to the mushroom’s fruiting body (*i.e.*, various parts of mushroom varieties may be edible), and edibility is not necessarily an attribute of all mushrooms. The word “edible” is not required to describe the term *mushroom*.

Responses to Public Comment

Public comments related to definitions for the mushroom standards and AMS’s responses are discussed below.

Media/Substrate

(*Comment*) Some commenters from the mushroom industry argued that some mushroom producers use the terms “substrate” and “media” interchangeably and that defining the terms separately is unnecessary and potentially confusing.

(*Response*) AMS recognizes that these two terms can be used synonymously to refer to the “base materials” on which fungus grows. However, for the purposes of the organic regulations, AMS believes distinct definitions for *mushroom spawn media* and *mushroom substrate* are necessary to address requirements for distinct stages of organic mushroom production. The separate definitions allow AMS to regulate the inputs and management of mushroom spawn media and mushroom substrate differently in § 205.210(c) and § 205.210(d), respectively. To clarify the distinction in the regulations, AMS revised the definition of *mushroom spawn media* to more closely mirror the definition of *mushroom substrate* and more clearly highlight the essential difference between the terms as they are used in the final rule.

Compost

(*Comment*) Some comments stated that removing the composting process

from the definition of *compost* at § 205.2 would make the definition too broad and incorporate other forms of microbial decomposition other than composting. Commenters noted that products such as sauerkraut, yogurt, beer, and manure digester products such as digestate and biogas could fall under the shortened definition.

(*Response*) The revision of the term *compost* in the final rule is not intended to broaden the meaning of the term beyond the commonly accepted interpretation of the term. Outside this rule’s allowance for compost in mushroom production, compost is currently allowed in organic crop production only as provided in § 205.203(c)(2), which includes specific requirements that limit the types of processes that may be used. AMS chose not to leave the specific requirements in the definition for the term because of differences in requirements, formulation, and production of compost for mushroom production at § 205.210(c) and the requirements for other uses at § 205.203.

(*Comment*) Some comments requested that AMS amend the definition of *compost* to acknowledge that compost may be made with allowed synthetic compost feedstocks on the National List (§ 205.601). Other comments suggested that the definition be revised to allow compostable plastic materials, which is a subject currently on the NOSB work agenda.²¹ Several comments suggested that AMS adopt the definition of compost used by the American Association of Plant Food Control Officials (AAPFCO).

(*Response*) AMS has not revised the compost definition to reference the synthetic compost feedstocks on the National List, adopt AAPFCO’s definition, or include compostable plastics (bioplastics) as compost feedstocks. This final rule amended the definition of compost only as needed to accommodate the new mushroom production practice standards. The compost feedstocks that currently appear on the National List (*e.g.*, newspaper) continue to be allowed under the regulations. AMS recognizes that the NOSB is currently working on recommendations related to the definition of compost and the requirements for compost in organic crop production in § 205.203(c) (which are not changed by this rule). AMS has not received final recommendations from NOSB and is not making any

²¹ USDA, NOP. (October 11, 2023). “Work Agenda Request: Compost Production for Organic Agriculture.” <https://www.ams.usda.gov/sites/default/files/media/NOSBMemoCompostWorkAgenda23.pdf>.

additional changes related to those topics in this rule at this time. This final rule does not conflict with or preclude future recommendations or rulemaking related to the current NOSB work agenda topics related to compost. If AMS seeks to revise the definition of compost or the compost requirements in the future, AMS will solicit public comments.

Mushroom

(*Comment*) Some comments stated that the proposed definition of *mushroom* was too restrictive by referring only to the fruiting body. Comments noted that the term could be revised to include all parts of the organism to clarify that the regulations in the rule apply to the production of any part of the organism, such as mycelium, spores, and primordia (pinheads).

(*Response*) AMS agrees that the standards at § 205.210 can apply to production of other parts of the organism. However, we have not revised the definition of mushroom to include other parts of the organism in the final rule. The term mushroom refers specifically to the fruiting body, and this definition is similar to how the term is understood and interpreted broadly. The term “mushroom production” in this rule, however, can refer to production of mushrooms, spawn, and other mushroom products. Also see AMS’s response to comments about requirements for mycelium biomass used as a direct ingredient for human consumption below in “§ 205.210 (Mushroom production practice standards)”, “Responses to Public Comment”, “Mycelial Biomass Ingredients.”

(*Comment*) Some comments suggested broadening the definitions and applicability of this rulemaking to include a broader spectrum of species in the Fungi Kingdom (e.g., yeast). Comments suggested that AMS describe the rule as a fungi production practice standard by revising “mushroom” to “fungi”. Comments from organic advocacy groups also argued that fungi should have its own scope of certification separate from crops, with fungi-specific production standards and specific sections of the National List for materials used in fungi production.

(*Response*) AMS has not expanded the standards to apply to all fungi. Fungi is an extremely large and diverse taxonomic kingdom, of which mushrooms are only a small subset. Expanding the standards to other fungal products, such as yeasts, is beyond the scope of the rule. Developing new regulations for fungi other than

mushrooms would require more input and assessment of impacts, as this was not included in the proposed rule.

AMS also has not created a new scope of certification for mushrooms or fungi. “Scope” is a term typically used to describe one of the four *areas of operation* that a certifying agent may be accredited to certify. As defined in § 205.2, the four *areas of operation* are crop, livestock, handling, and wild crop, or any combination thereof. These four scopes align with the types of Organic Plans listed in OFPA (7 U.S.C. 6513) and inform a range of other requirements and procedures, such as the determination of inspector qualifications and the issuance of certificates from the Organic Integrity Database. Creating a new scope of certification would require a range of regulatory amendments, as well as administrative and technological changes related to certification, accreditation, inspector qualifications, and certificates of organic operation. Furthermore, as with including fungi in the applicability of this rulemaking, the impacts of establishing a new scope of certification for fungi would require more input and assessment.

AMS does not find that a new scope is necessary to accomplish the goals of this rule to provide consistent and clear standards for organic mushroom production that reflect the unique biology of mushrooms. AMS finds it appropriate to include mushrooms in the definition of crop and within the crops scope of certification. OFPA does not define or limit “crops” to include only organisms in the plant kingdom, and currently certified mushrooms are certified under the crop scope of the USDA organic regulations. Additionally, the organic regulations list mushroom inputs in the “crops” section of the National List of Allowed and Prohibited Substances (see 7 CFR 205.601(o)). Across USDA programs, mushrooms are commonly considered a type of agricultural crop similar to other produce, vegetables, and specialty crops. Crops are a highly diverse group of agricultural products that are produced using similarly diverse production systems. The final rule acknowledges this diversity and clarifies how the organic regulations apply to the unique production requirements for mushrooms. The organic regulations continue to ensure certifying agents and inspectors have qualifications and expertise relevant to the scope and complexity of the operations (§ 205.501(a)(4)).

Wild Crop

(*Comment*) One comment argued the lack of a definition for *wild mushrooms* could cause confusion since mushrooms are grown and/or harvested with a wide spectrum of production practices. Another comment requested that NOP develop standards for wild-grown mushrooms.

(*Response*) The final rule amends the definition of *wild crop* to include mushrooms, thereby clarifying that wild mushrooms can be certified organic under the wild crop standards at § 205.207. Amendments to the wild crop standards were not included in the proposed rule and are beyond the scope of this rulemaking.

§ 205.210 (Mushroom Production Practice Standard)

Description of Final Policy

The final rule adds a new section (§ 205.210) to the USDA organic regulations to add provisions for producing mushrooms, spawn, and other mushroom products (collectively “mushroom production”) that are sold, labeled, or represented as organic.

Many of the existing production requirements in subpart C of the USDA organic regulations (7 CFR part 205) can be applied to mushroom production. However, mushroom production also relies on practices that are different from plant production practices. The final rule clarifies which of the existing crop production requirements apply to mushroom production and also adds requirements specific to mushroom production, as described below.

Applicability of Crop Standards in Subpart C—§ 205.210(a)

AMS requires in § 205.210(a) that organic mushroom operations follow most of the existing regulations governing crop production, including §§ 205.200, 205.201, 205.202 as applicable, 205.203(e), 205.206(a)(2)–(3), and 205.206(b)–(f). These sections cover general production requirements (§ 205.200); organic production and handling system plans (§ 205.201); land requirements (§ 205.202); nutrient management prohibitions (§ 205.203(e)); and crop pest, weed, and disease management (§ 205.206). In addition, organic mushroom operations may follow the nutrient management practices in § 205.203(d).

Organic mushroom operations, like all other organic operations, must have an organic system plan that describes how the operation complies with applicable parts of the USDA organic regulations. However, because the methods used to produce mushrooms are different than

those to produce plants, the final rule clarifies that not all existing crop production requirements apply to organic mushroom production. Mushroom operations do not need to follow all the requirements in the soil fertility and crop nutrient management practice standard at § 205.203, the seeds and planting stock practice standard at § 205.204, or the crop rotation practice standard at § 205.205. The final rule clarifies that mushroom producers are subject to the same nutrient management prohibitions as plant producers described in § 205.203(e) and may optionally follow the nutrient management practices in § 205.203(d). Conversely, mushroom production does not involve seeds or planting stock, and mushrooms are not grown in rotations for fertility or disease suppression, so the final rule does not require producers to comply with §§ 205.204–205.205.

Management of Mushroom Substrate and Mushroom Spawn Media—§ 205.210(b)

Paragraph 205.210(b) requires operations to manage mushroom substrate and mushroom spawn media in a way that avoids environmental contamination. The rule requires that mushroom substrate, mushroom spawn media, spent mushroom substrate, and spent mushroom spawn media be managed to avoid the contamination of any crops, mushroom spawn, mushroom substrate, soil, or water by pathogenic organisms, heavy metals, or residues of prohibited substances. This provision is similar to the requirement in § 205.203(c) for other organic crop operations to prevent environmental contamination from materials applied to soil. Likewise, this requirement relates to and supports the requirement in § 205.200 to maintain or improve the natural resources of the operation, including soil and water quality. Paragraph 205.210(b) requires operations to manage materials in a way that avoids contamination throughout the entire mushroom production process, from mushroom spawn creation, to growing mushrooms, to disposal of spent substrate.

Operations that only produce organic mushroom spawn and do not produce organic mushrooms are also subject to the provisions in paragraph (b). Mushroom spawn media is usually incorporated into mushroom substrate. In cases where a mushroom spawn producer disposes of spawn, the operation needs to dispose of spent mushroom spawn media in a manner that avoids contamination of crops, mushroom spawn, mushroom substrate, soil or water by pathogenic organisms,

heavy metals, or residues of prohibited substances (§ 205.210(b)).

Composition of Mushroom Substrate—§ 205.210(c)

Paragraph 205.210(c) describes the materials allowed in mushroom substrate. The paragraph addresses the acceptable use of five types of materials in mushroom substrate: composted plant and animal materials, uncomposted plant materials, wood materials, nonsynthetic substances, and synthetic substances.

Paragraph 205.210(c)(1) describes requirements for composted plant and animal materials in mushroom substrate. This section details time, temperature, and composition requirements for composting plant and animal materials for use in mushroom production. The final rule requires that compost feedstock reach at least 131 °F for at least three days during the composting process. AMS does not include a maximum temperature for mushroom compost production. The minimum temperature and duration requirements allow mushroom producers the flexibility to compost feedstocks at higher temperatures and/or for longer periods, if warranted. The compost must not be treated with any prohibited substances per the existing requirements at § 205.203(e)(1).

AMS specifies in § 205.210(c)(2) that uncomposted plant materials used in mushroom substrate must be organically produced when commercially available. The term *commercially available* is defined at § 205.2. This requirement does not apply to plant materials that are used as compost feedstocks; it applies to plant materials added to mushroom substrate that do not undergo a composting step. Plant materials that are pasteurized or sterilized only, but not composted, are subject to the requirements of this paragraph, meaning they must be organic when commercially available. The requirement for organic plant materials also does not apply to wood materials (see § 205.210(c)(3)).

Paragraph 205.210(c)(2) allows for nonorganically produced, uncomposted plant materials in mushroom substrate when a “functionally equivalent” organically produced input is not commercially available. Functional equivalence references a material’s ability to fulfill an essential function in a system of organic production, as described in the definition of *commercially available* at § 205.2. For the purposes of this exception, an “essential function” is a function of the same nature (e.g., the nutritional or structural characteristics the material

provides in the mushroom substrate). When a functionally equivalent organic material is not commercially available, nonorganic plant materials may be used in substrate, except that prohibited substances must not be applied to any nonorganic plant material after harvest of the plant material.

Paragraphs 205.210(c)(2)(i) through (iii) include specific requirements for operations that use nonorganically produced, uncomposted plant materials in mushroom substrate. Those operations must include additional elements in their organic system plan (OSP) as described below. The additional information is intended to provide certifiers with the information they require to determine whether functionally equivalent organically produced materials are commercially available for purposes of § 205.210(c)(2).

Paragraph 205.210(c)(2)(i) requires operations to describe in their OSP the procedures used to search for organic materials, as well as the records kept to document searches for organic materials. Procedures should demonstrate that operations contacted a sufficient number of sources to ascertain the commercial availability of organically produced plant materials. A producer must make a reasonable effort to search for organic materials from reasonable sources (i.e., those known to sell organic products). Procedures may include details about how an operation identifies potential sources (or suppliers) of organic materials and how the operation contacts those sources. The operation must also describe the types of records that are kept to document searches. This should include a description of the types of records kept and a description of the recordkeeping system, such as how the operation stores these records. Records may include, but are not limited to letters, email correspondence, phone logs, catalogs, searches of organic databases, receipts, receiving documents, invoices, and inventory control documents.

Paragraph 205.210(c)(2)(ii) requires operations to describe in their OSP the criteria they use to evaluate if functionally equivalent organic materials are commercially available. Operations should describe how they determine the essential function (a function of the same nature, like the nutritional or structural characteristics) that they are not able to meet with organic plant materials, how they identify “functionally equivalent” organic plant materials to search for, and how they verify that “functionally equivalent” organic plant materials are

not commercially available to fulfill that essential function.

Operations must establish an essential function to accurately verify if organic plant materials are commercially available. An operation may outline how they identify the essential function needed for a substrate material in their OSP. Additionally, an operation may identify essential functions they need in certain types of production in their OSP to ensure consistent searches.

Operations should have criteria for identifying organic materials that would fulfill the essential function needed in their mushroom substrate in their OSP. This may include resources for determining functionally equivalent organic materials, methods for determining characteristics of materials, or testing procedures. In most cases, the direct organic analog(s) to the nonorganic plant material used should be included in the commercial availability search as a functionally equivalent material. Additionally, organic varieties of different plant materials may need to be considered in the search (e.g., organic soybean hulls may be reviewed as an alternative for conventional cotton seed hulls).

An operation's OSP should include a description of how they evaluate if organic alternatives reviewed are not commercially available in the appropriate form, quality, or quantity to fulfill the essential function of the nonorganic plant material. Form considerations may include, but are not limited to method of harvest, processing, and preparation. Quality considerations may include, but are not limited to, the presence of residues, bacteria, fungus, or other microorganisms, shelf life, and stability. Quantity considerations may include evidence that quantities are not available in sufficiently large or small amounts, given the scale of the operation. Price cannot be a consideration for the determination of commercial availability.

Certifiers should verify that an operation has considered a sufficient number of plant materials in its search to fulfill an essential function in the mushroom substrate. Certifiers must use the definition of *commercially available* (see § 205.2) and the requirements at § 205.210(c)(2) to verify an operation's claim that organically produced plant materials necessary for mushroom production are not commercially available and should verify that a sufficient number of sources have been contacted.

Paragraph 205.210(c)(2)(iii) requires that operations describe in their OSP the recordkeeping system used to document

purchases of nonorganic plant materials (not including wood materials allowed under § 205.210(c)(3)). The OSP must describe how the recordkeeping system can be used to summarize, by type, the amount of nonorganic plant materials purchased. Operations are obligated, generally, to maintain records and make them available for inspection (see § 205.103), but the additional information and summarization, in this case, will allow both certifiers and AMS to verify compliance. Summarized information will allow certifiers to assess the extent to which operations are utilizing nonorganic plant materials. Additionally, it will allow certifiers to compare an operation's use of nonorganic plant material year-to-year to identify trends or patterns. AMS could also request summarized information (via certifiers or from operations directly) to understand the practices around use of nonorganic plant materials in the industry, to target enforcement efforts, and/or inform future rulemaking priorities.

Paragraph 205.210(c)(3) allows mushroom operations to use nonorganic wood materials (wood chips, sawdust, logs, or other materials derived from wood) in mushroom substrate. These materials must not be treated with prohibited substances after harvest of the tree or wood source. An operation does not need to search for organic forms of these wood materials (or document any search for organic forms), but it does need to verify that the wood materials were not treated with prohibited substances after harvest. The operation must keep records documenting the verification process.

Paragraphs 205.210(c)(4) and (5), together with the amendment to the definition of *crop* in § 205.2 to include mushrooms, specifically allow mushroom operations to use natural (nonsynthetic) substances and/or certain synthetic substances in mushroom substrate, in accordance with the National List of Allowed and Prohibited Substances ("National List") for organic crop production. These provisions align with the requirements related to allowed and prohibited substances described at § 205.105(a)–(b). Paragraph 205.210(c)(4) allows the use of natural (nonsynthetic) substances in mushroom substrate. Examples include mined gypsum, chalk, and clay. However, operations must not use nonsynthetic substances prohibited for use in organic crop production in § 205.602 of the National List.

Paragraph 205.210(c)(5) permits mushroom producers to use certain synthetic substances that are included in the National List at § 205.601 as

"allowed" for organic crop production. For example, microcrystalline cheesewax listed at § 205.601(o)(1) may be used as a production aid in log-grown mushrooms. Again, § 205.210(c)(5), together with the revision to the definition of *crop* in § 205.2 to include mushrooms, clarifies that mushrooms are a type of crop and that the synthetic substances included on the National List at § 205.601 are allowed in organic mushroom production. (For additional discussion, see the section below titled "§ 205.601 National List—Crop"). Any use of these allowed, synthetic substances in mushroom production must follow all applicable substance-specific restrictions from the National List, as well as Federal and State laws and regulations.

Requirements for Mushroom Spawn—§ 205.210(d)

Paragraph 205.210(d) establishes requirements for spawn used in organic mushroom production. Producers must use organic spawn when commercially available, as defined at § 205.2. When an equivalent organic spawn is not commercially available, a producer may use nonorganic spawn. An equivalent spawn could be a spawn of the same mushroom variety but on a different spawn media. For example, if millet-based spawn is equivalent to sorghum-based spawn and one is commercially available as organic, then the operation must use the organic spawn. Operations that use nonorganic spawn must keep records that demonstrate organic spawn was not commercially available. These records are necessary to comply with the recordkeeping requirements at § 205.103. Records should demonstrate that the operation made an appropriate search for organic spawn and demonstrate that equivalent spawn was not available in the appropriate form, quality, or quantity.

Paragraph 205.210(d)(1) describes the requirements for organic mushroom spawn. Agricultural materials in spawn media must be organic, except for wood materials, such as sawdust (§ 205.210(d)(1)(i)). If the mushroom spawn media contains wood materials, those materials must not be treated with prohibited substances after harvest, in accordance with § 205.210(c)(3). The requirements do not allow for any nonorganic agricultural materials in organic mushroom spawn, except for wood materials.

In addition to any agricultural materials, § 205.210(d)(1)(ii) allows for organic spawn to contain natural (nonsynthetic) and synthetic substances that are allowed in organic production

as described in § 205.210(c)(4) and (c)(5). Allowed natural substances are any nonsynthetic substances that do not appear on the National List of prohibited nonsynthetic substances (§ 205.602). Allowed synthetic substances are substances that appear on the National List of allowed synthetic substances (§ 205.601). Any use of these allowed synthetic substances in mushroom production must follow all applicable substance-specific restrictions included in the National List, as well as Federal and State laws and regulations. If a substance on the National List of allowed synthetic substances (§ 205.601) is restricted to a specific use(s) outside of mushroom production, it is not allowed in mushroom production. Additionally, § 205.210(d)(1)(ii) clarifies that compost as described in § 205.210(c)(1) is an allowed component of spawn media. Finally, § 205.210(d)(1)(iii) specifies that organic spawn must be under continuous organic management after the application of mycelium to mushroom spawn media.

Paragraph 205.210(d)(2) includes requirements for operations that make their own spawn for their own mushroom production. In these cases, if a producer is unable to produce organic spawn that meets all the requirements at § 205.210(d)(1), including (d)(1)(i) through (iii), they are still subject to a requirement to use organic agricultural materials when commercially available (except for wood materials, which do not need to be organic) in spawn media. Operations that use nonorganic materials must keep records that demonstrate organic materials were not commercially available. These records are necessary to comply with the recordkeeping requirements at § 205.103. Records should demonstrate that the operation adequately searched for organic materials but could not find functionally equivalent materials in the required form, quality, or quantity.

If a producer is not producing organic spawn that meets the requirements at § 205.210(d)(1) but organic spawn of the same mushroom species/variety is commercially available, certifiers should place particular attention on evaluating an operation's claim that a suitable organic spawn cannot be made in compliance with § 205.210(d)(1). This paragraph does not allow for the sale of organic spawn that does not meet all requirements at § 205.210(d)(1). In the case of an operation that produces organic spawn for sale as organic, all agricultural materials (except wood materials) in spawn media must be organic (§ 205.210(d)(1)(i)).

Changes From Proposed to Final Rule

AMS made several changes to the regulatory text of the proposed rule when writing this final rule. Changes to the final rule are discussed below and are followed by specific topics and themes from public comment.

- Mushroom spawn and mushroom spawn media requirements (§ 205.210(d)) are now described in a paragraph separate from the mushroom substrate requirements (§ 205.210(c)).
- Wood materials are specifically noted as an allowed nonorganic agricultural material for mushroom substrate (§ 205.210(c)(3)) and mushroom spawn media (§ 205.210(d)(1)(i)).
- Requirements are added for operations to describe in the organic system plan how they search for organic materials for mushroom substrate, evaluate available organic alternatives, and keep records of nonorganic materials used in mushroom substrate (§ 205.210(c)(2)(i)–(iii)).
- Spawn production requirements are clarified for mushroom producers that make spawn on-site for their own organic mushroom production (§ 205.210(d)(2)).

Responses to Public Comment

Below is a summary of comments received regarding organic mushroom production requirements and AMS's responses.

Commercial Availability for Mushroom Substrate

(*Comment*) Some mushroom producers and trade groups asserted that it is essential to allow nonorganic materials for mushroom substrate when organic materials are not commercially available (also referred to as the “commercial availability exception” in this document). They said it would be impossible to source enough organic materials for substrate. Producers highlighted that substitution or variation of substrate materials can lead to detrimental yield drops and that organic materials are not consistently available year-round. It is unclear if some comments recognized that organic materials would not be required when composted, as some comments provided examples of inputs that are typically composted. A few certifiers and producers voiced support for a commercial availability exception but did not express broader concerns about sourcing.

In contrast, many commenters voiced the desire to remove the proposed commercial availability exception to require only organic materials for

uncomposted portions of substrate. These commenters included some smaller mushroom operations, certifiers, advocacy groups, and trade associations. Some argued that a commercial availability exception would inhibit growth of the market for organic inputs and result in minimal difference between organic and conventional mushrooms. Some commenters requested that organic inputs be required because mushrooms consume the substrate. Some of these commenters also argued that the commercial availability exception would create a cost disadvantage for small producers, who could not claim that organic inputs are unavailable in sufficient quantity as often as large producers. Comments noted that substrate composition is a key difference between organic and nonorganic mushrooms and argued that there should be substantive differences in production methods to justify any organic cost premium.

(*Response*) AMS appreciates commenters' requests for the use of only organic substrate by all mushroom operations. We also recognize that the commercial availability exception for uncomposted plant inputs is a necessity in organic mushroom production for many organic mushroom operations. We remain uncertain if the industry could implement this rule and produce organic mushrooms using only organic inputs without loss of existing production. Therefore, AMS is maintaining commercial availability exceptions in the final rule, as proposed. However, we are adding requirements in the final rule for operations that use nonorganic uncomposted plant materials for mushroom substrate. To use these nonorganic materials for mushroom substrate, operations must describe, in their OSP, the methods and procedures used to search for organic materials; the criteria they use to evaluate if organic materials are commercially available, including comparable substrate materials; and the recordkeeping system used to document purchases of nonorganic materials.

AMS is aware of commenters' concerns that large producers could be able to use the commercial availability exception more often compared to small producers. AMS understands that operations may need to utilize commercial availability exceptions differently based on a number of factors including geographic location, size, and type of mushroom grown. However, AMS believes this is a function of the flexibility of the commercial availability exception, and the additional requirements in the final rule will

increase fairness and consistency of implementation for both small and large producers.

(Comment) Some commenters stated that commercial availability criteria should be strengthened, and that AMS should include specific requirements related to how operations must search for organic materials.

(Response) In the final rule, AMS is requiring operations that use nonorganic uncomposted plant materials in mushroom substrate to describe in their organic system plan (OSP) how they searched for organic materials, evaluated if organic materials were commercially available, and documented these searches. The final rule requires that an operation must look at functionally similar organic alternatives (*i.e.*, at materials that are comparable but not identical) to ensure that various organic alternatives are considered. The OSP requirements will, in turn, better equip certifiers to verify that producers are making sufficient and appropriate efforts to search for organic materials and only using nonorganic materials when organic options are not commercially available. Certifiers will be able to verify compliance by reviewing a producer's OSP and the associated records that document their searches and purchases.

Requirements for Wood Materials

(Comment) The proposed rule stated that uncomposted plant materials (which could include wood products) must be organically produced when commercially available. Additionally, the proposed rule stated that any nonorganic plant materials must not be treated with prohibited substances after harvest. Some comments noted that it was not clear if AMS considered wood and wood-based materials (*e.g.*, sawdust, wood chips) to be a type of "plant material" that is subject to the requirements for other plant materials. Comments requested that AMS clarify how wood materials are classified under the organic regulations; specifically, commenters asked if they should be considered a plant material (that must be organic unless not commercially available), or a nonsynthetic material that is not otherwise prohibited at § 205.602 of the National List.

(Response) The final rule clarifies the requirements for wood materials used in mushroom production. AMS revised the final rule to clearly and specifically allow for the use of nonorganic wood materials. Producers do not need to document that organic forms are not commercially available to use wood materials. Nonorganic wood materials

must not be treated with prohibited materials after harvest.

(Comment) In regard to the requirement that uncomposted plant materials be organic unless commercially unavailable, most commenters stated it would be almost impossible to source organic wood materials for mushroom substrate and mushroom spawn media and that there would need to be different requirements for wood inputs. A few commenters advocated for wood materials to be free from prohibited substances for 3 years before harvest, rather than just free of prohibited treatments post-harvest, as proposed under the requirement for all uncomposted plant materials. In contrast, a few other comments noted that sawmills do not and could not track information on the three years of forest/timber management prior to tree harvest. Overall, comments noted that organic wood-based products are not available and that requiring organic wood in mushroom products would pose an impossible barrier to organic production.

(Response) AMS revised the final rule to clarify that wood materials used in mushroom substrate and mushroom spawn media do not need to be organic, but prohibited substances must not be applied after harvest. AMS considered comments that requested three years of management before harvest without the use of prohibited substances but has not adopted this requirement in the final rule. While a few operations and certifiers currently verify this condition, it does not seem to be a universal practice in the industry. Requiring documentation that wood materials have been free of prohibited materials for three years before harvest could be costly and require new documentation for entities outside the organic industry. Additionally, this requirement may limit the amount of sawdust, a key mushroom substrate input, that could be available for organic production, as wood from sawmills can be aggregated from many sources. This would require mushroom producers to gather information from many sources to confirm that trees were not treated with prohibited materials for the 3 years prior to harvest. In many cases, this information would not be available, as a sawmill would not likely be able to provide the necessary information. However, sawmills should have information about any treatments made after harvest and should be able to readily provide this information to mushroom producers.

Requirements for Compost

(Comment) Some commenters expressed concern that altering the time, temperature, and turning requirements in mushroom compost could lead to food safety risks.

(Response) AMS established composting requirements for mushrooms (§ 205.210(c)(1)) that accommodate special processes used to prepare substrate for mushroom production. These processes are presently used to produce mushrooms and include the minimum composting time and temperatures required for compost in other organic crop production. Compost must still meet other regulatory requirements for food safety, as applicable, like those related to the Food Safety Modernization Act, including the Product Safety Rule and the Pre-Harvest Agricultural Water Final Rule.

(Comment) Some commenters requested that AMS clarify if sterilization of substrate is considered equivalent to composting. Some commenters requested that AMS allow the use of nonorganic sterilized materials in organic mushroom production.

(Response) The final rule allows nonorganic plant materials as compost feedstocks, but the sterilization process is different from composting. The composting process transforms starting materials (feedstocks) through biological processes; sterilization eradicates microbes and other life but does not transform starting material(s). Plant materials that are sterilized but never composted to meet the minimum requirements of § 205.210(c)(1) may be used in accordance with § 205.210(c)(2). This means they must be organic unless they are not commercially available, in which case nonorganic plant materials may be used. Wood-based components, such as sawdust, may be used in sterilized products without first seeking an organic form, in accordance with § 205.210(c)(3).

(Comment) Some commenters stated that the proposed requirements for compost in mushroom production, specifically the requirement that compost reach a temperature of at least 131 °F for a minimum of three days, did not accurately reflect the entirety of the composting process used by mushroom producers (especially for *Agaricus* mushrooms). Specifically, these producers often use a two-phase composting process. Temperatures in the first phase typically go well above 131 °F. In the second phase, temperatures are also brought higher but than 131 °F in a pasteurization step but

do not persist. Comments noted that composting practices are varied and diverse, especially between *Agaricus* and specialty mushroom producers, and questioned if the minimum requirements accommodate the variety of composting methods that mushroom producers may use to prepare compost. Relatedly, some comments requested clarification about how guidance documents related to heat-treated manure (NOP 5006) and alternative composting methods (NOP 5021) relate to this rule.

(Response) The final rule maintains that composted plant and animal materials prepared for mushroom substrate must meet minimum requirements of maintaining a temperature of at least 131 °F for at least three days. AMS recognizes that mushroom producers use a wide variety of processes to prepare substrate for mushroom production but is not aware of composting processes for mushrooms that do not achieve the minimum standard of 131 °F for three days. Additionally, the final rule does not require producers to use compost. If a producer uses a process that does not meet the minimum temperature and time requirements of the final rule for compost, the agricultural materials must be organic, unless the material is not commercially available in organic form under § 205.210(c)(2) or the input is a wood material meeting the requirements of § 205.210(c)(3). Producers may continue to use a variety of processes, provided that the producer complies with the organic regulations and the minimum requirements for composted nonorganic plant and animal materials used in mushroom substrate.

Spawn

(Comment) Several comments stated that spawn and spawn media requirements were not clearly distinguished from requirements for mushroom substrate or that the proposed rule included contradictory requirements for spawn. For example, comments questioned whether nonagricultural products or synthetic substances on the National List are allowed in organic spawn media.

(Response) The final rule separates spawn and spawn media requirements from the requirements related to the mushroom substrate (substrate inoculated by spawn). This revision is intended to clearly distinguish the requirements for mushroom spawn media from the requirements for mushroom substrate. Paragraph 205.210(d) indicates that allowed synthetic substances and nonorganic wood materials may be added to spawn

media and clarifies other composition requirements for organic spawn.

(Comment) Some comments argued the rule should always require organic spawn media, without exception. Commenters argued that organic materials are available in sufficient quantity for organic spawn.

Other commenters stated that there are not enough organic inputs to support organic spawn production. Specifically, a comment argued that there are not enough organic products to supply organic spawn at even a fraction of the total need. The comment noted that 750 to 850 million pounds of *Agaricus* mushrooms are produced annually in the United States, requiring hundreds of thousands of acres of straw and hay.

(Response) AMS finds that there is likely sufficient organic spawn media to produce organic spawn in most cases. While 750 to 850 million pounds of *Agaricus* mushrooms are produced in the United States, less than 110 million pounds are produced organically.²² These organic mushrooms will use hundreds of millions of pounds of agricultural materials, mostly in their growing substrate (where composting and commercial availability provide flexibility for organic producers). Spawn materials make up less than five percent of the total need for agricultural materials in *Agaricus* production.²³ The United States produced nearly 2.4 billion pounds of organic hay and straw in 2021, so AMS believes that there should be sufficient organic hay and straw for organic spawn production that requires these inputs.²⁴

However, AMS understands there may be limited circumstances when needed organic materials may not always be commercially available in all regions at all times of the year. Additionally, AMS understands that sawdust is often used as a spawn media and there are little to no organic wood products available. Because of this, the final rule maintains the proposed requirement that spawn must be organic when commercially available but provides limited exceptions for using nonorganic wood in organic spawn

media and nonorganic spawn media when organic spawn and spawn media are not commercially available. This flexibility of the final rule will ensure that mushroom producers can consistently produce spawn to meet the needs of organic mushroom production.

(Comment) A comment noted that spawn requirements did not clearly differentiate between the requirements for mushroom producers that only source spawn (from outside their operation) and producers that make their own spawn. Commenters questioned how commercial availability requirements (for sourcing spawn) apply to producers that make their own spawn on-site.

(Response) AMS agrees that the rule should more fully consider those operations that not only source spawn but produce their own spawn for their mushroom production. The final rule more clearly describes spawn requirements for producers that make their own spawn (see § 205.210(d)(2)). The final rule clarifies that producers who produce their own spawn for their own mushroom production must use organic inputs for their spawn media, when commercially available. This revision will allow producers that make their own spawn to continue to do so but also clarifies that the same standard for organic agricultural uncomposted materials that applies to mushroom substrate also applies to spawn media. In the case that organic inputs are not used by a producer for spawn media when organic spawn is commercially available in the market, certifiers should pay close attention to claims that the spawn cannot be made to comply with organic spawn requirements.

(Comment) Several comments from certifiers asked for clarification about how to review the ingredients in mycelium cultures used to inoculate spawn media (e.g., ingredients in agar plates) and whether those ingredients are subject to the same requirements as spawn and/or spawn media.

(Response) The rule does not specify requirements for mycelium culture materials (e.g., ingredients in agar plates, liquid cultures, or slants). Organic mushroom spawn must be under continuous organic management after the mycelium is applied to the mushroom spawn media (§ 205.210(d)(1)(iii)). Other requirements for spawn and spawn media are described in § 205.210(d).

Commercial Availability for Mushroom Spawn

(Comment) A mushroom trade association stated the “variety” of spawn media was not relevant to

²² USDA, National Agricultural Statistics Service, Agricultural Statistics Board. (August 21, 2024). “Mushrooms.” <https://downloads.usda.library.cornell.edu/usda-esmis/files/r781wg03d/9593wm52z/9306vq05c/mush0824.pdf>.

²³ PennState Extension. (March 6, 2023). “Seeding Substrate and Management of Growing *Agaricus Bisporus*.” <https://extension.psu.edu/seeding-substrate-and-management-of-growing-agaricus-bisporus>.

²⁴ USDA, National Agricultural Statistics Service. (December 2022). “Certified Organic Survey 2021 Summary.” <https://www.nass.usda.gov/Publications/AgCensus/2022/index.php>.

commercial availability searches, as proposed. The commenter states that the availability of specific spawn media may be impacted by factors even within a media variety (e.g., organic grain in one location may have different contaminants than the same grain grown in another location). Other commenters asked that the term “variety” be removed from the proposed regulatory text related to commercial availability as it is inconsistent with the existing regulatory definition of commercially available.

(Response) AMS agrees that the emphasis on variety creates confusion with the commercial availability criteria. In this final rule, AMS has removed the proposed reference to “variety” in favor of functional equivalence for both spawn media and substrate. This change more clearly aligns with the definition of *commercially available*. This requirement may mean operations need to check the organic variety of a nonorganic input in many cases. Commercial availability allows for determinations based on quality of the product, which may include contaminants.

(Comment) Some comments argued the rule should always require organic spawn, without exception. Comments argued that requiring organic spawn would support organic spawn producers. Some comments noted that removing any allowance for nonorganic spawn could also help assure consumers that organic mushrooms meet a consistent standard. Other comments acknowledged the need for a commercial availability exception for organic spawn. A mushroom trade association stated that many mushroom strains are proprietary, and if a given strain is not produced in organic form, it likely cannot be obtained or produced by any other source.

(Response) A key goal of the final rule is to establish consistent standards for mushroom production, which includes the production of spawn and other related products. However, AMS disagrees with comments that argue organic spawn is available for all spawn production and should be required without any exceptions. AMS recognizes that organic spawn, especially for certain proprietary strains, may not be available. The final rule allows for use of nonorganic spawn when organic spawn is not commercially available. Producers will be able to continue using these strains if equivalent organic spawn is not commercially available.

“Ready-to-Use” Products

(Comment) Comments asked for clarification about how the standards apply to “ready-to-use” or “ready-to-fruit” mushroom logs, blocks, or kits, and whether a 2019 NOP memo to certifiers on the topic remains in effect. Comments noted that these products commonly contain nonorganic wood products (e.g., sawdust) as substrate, and questioned whether this would continue to be allowed under the final rule.

(Response) This final rule replaces the 2019 memo from NOP to certifiers and continues to allow the use of nonorganic wood materials as mushroom substrate (§ 205.210(c)(3)). These products (collectively referred to here as “RTU products” or “RTUs”) are sometimes marketed as “ready-to-use spawn” or “spawn kits,” but they can be generally described as mushroom substrate that has been inoculated with spawn and is readily able to produce harvestable mushrooms *in situ* with proper humidity and temperature control. In contrast, spawn does not contain substrate necessary to readily grow mushrooms and needs to be combined with substrate to produce a crop. As such, RTU products do not fall under the definition and description of “spawn” in this final rule.

Because RTU products contain both substrate and spawn, both must be produced and managed according to the applicable requirements of this final rule in order to produce organic mushrooms. Organic RTU mushroom production products must be produced by a certified organic operation in accordance with § 205.210. The spawn used to inoculate the substrate must comply with § 205.210(d). The substrate must comply with § 205.210(c), which includes an allowance for nonorganic wood materials. This final rule ensures that RTU products must follow the same regulations as other inoculated mushroom substrate under § 205.210 for organic mushroom production.

Mycelial Biomass Ingredients

(Comment) Comments asked AMS to change the standards or clarify how the standards apply to edible “mycelial biomass” used as an ingredient in food, beverages, supplements, and other processed products for direct human consumption. Comments also referred to these ingredients by other terms, such as “mycelium biomass,” “mycomass,” “full spectrum mycoproduct material,” “mycofermented mycelium,” “mycofermented grain,” or “myceliated grain.” Comments generally described these ingredients as being produced

similarly to spawn, but with a longer growth time after the mycelium is applied to substrate. In general, a substrate material (e.g., grain, such as millet or rice) is inoculated with a culture and grown (or fermented) until nearly all the substrate is consumed by the mycelium and bio-converted into fungal tissue. The entire mycelial mass, including any un-converted substrate, may be dried or otherwise processed and used as an ingredient.

(Response) AMS appreciates the detailed technical comments submitted about these ingredients (collectively referred to as “mycelial biomass” in this response). AMS agrees with comments recognizing the differences between mycelial biomass used as an ingredient for direct human consumption, versus spawn used as a crop input to produce fruiting bodies which are then harvested for direct human consumption. AMS also recognizes that organic spawn meeting the requirements at § 205.210(d)(1) for use as a crop input to produce organic mushrooms may not comply with the requirements for use as an ingredient in an organic processed product.

AMS has not developed standards that are specific to mycelial biomass ingredients. However, this rule does not preclude or prevent the ongoing organic certification of mycelial biomass ingredients used in processed products. Ingredients used in organic processed products must follow the handling requirements in § 205.270 and ingredient composition requirements in § 205.301. Given that the substrate used to produce the mycelial biomass is included as part of the mycelial biomass ingredient in a processed product, the substrate must comply with the requirements at § 205.301 for agricultural substances to be organic. Additionally, any non-agricultural or nonorganic ingredients must comply with applicable provisions of the National List of substances allowed in processed products (§§ 205.605 and 205.606). AMS understands, based on comments received on the proposed rule, that this reflects the current practice of certifiers that currently certify edible mycelial biomass ingredients for direct human consumption and other processed products that may contain these ingredients.

Exemptions

(Comment) Some comments expressed a concern that exempting mushroom producers from certain crop production requirements could lead to other types of crop production systems

being allowed to avoid applicable regulations.

(*Response*) This rule does not create or change the requirements for crop production other than mushrooms. Section 205.210 specifically recognizes the provisions of the organic crop standards that apply to organic mushroom production and establishes specific requirements that allow for the different production practices used to grow mushrooms. Establishing practice standards for other specialized crop production systems is outside the scope of this rule. This rule does not preclude future rulemaking regarding other types of specialized crop production systems.

(*Comment*) A comment argued that mushroom producers should not be exempt from crop rotation requirements that apply to plant producers. They noted that rotation could support broad organic requirements to improve natural resources, support nutrient cycling, promote ecological balance, and conserve biodiversity.

(*Response*) The rule does not require that mushroom producers rotate crops, or species of mushrooms, on their operations. Due to the nature of mushroom production, it is not clear how a mushroom producer would conduct crop rotations. Mushroom operations, however, must meet requirements at § 205.200 to maintain or improve the natural resources of the operation, including soil and water quality. For these reasons, the final rule does not require mushroom operations to follow crop rotation standards at § 205.205.

§ 205.601 (National List—Crop)

Description of Final Policy

Section 205.105 of the organic regulations describes the allowed and prohibited substances in organic production and handling. That section states that synthetic substances may be used in organic production only if they are specifically included on the National List of allowed synthetic substances (§ 205.601).

The final rule revises the definition of *crop* (§ 205.2) to clarify that mushrooms are a type of crop. This means that the National List for crop production is applicable to mushroom production.

The final rule also updates the paragraph headings at § 205.601(i) and (j) to replace the term “plant” with “crop” in the phrases “As plant disease control” and “As plant or soil amendments.” These paragraphs describe the types of synthetic substances, grouped by function, that may be used in organic crop production. The revisions are intended to clarify

that subsections 205.601(i) and (j) of the National List, along with other substances for crop production listed throughout § 205.601, are relevant for mushroom production.

Substances used in mushroom production must also be used in accordance with any restrictions or annotations noted on the National List and only if permitted under applicable Federal and State laws and regulations. For example, the U.S. Environmental Protection Agency reviews pesticide product labels as part of the licensing/registration process and must approve the label language before a pesticide can be sold or distributed in the United States. It is a violation of Federal law to use a pesticide in a manner inconsistent with its labeling.

Changes From Proposed to Final Rule

Following analysis of public comments, AMS has not made any changes to the proposed National List modifications in this final rule.

Responses to Public Comment

Below is a summary of comments received regarding these changes to the National List (§ 205.601) and AMS’s responses.

(*Comment*) Some of the comments that argued for a new scope of certification for fungi (described earlier) also argued that AMS should create a new section of the National List for fungi inputs that is separate from the list for crop production in § 205.601. Comments argued that substances on the National List for crop production do not apply to mushroom production, and those substances should be specifically petitioned for addition to the new section of the National List.

(*Response*) AMS is not creating a separate section of the National List for fungi inputs, as requested, nor is AMS requiring inputs currently on the National List for use in crop production to be reviewed again for use in mushroom production. The crops section of the National List (§§ 205.601 and 602) is already an established location for identifying mushroom production inputs, like the listing of microcrystalline cheesewax at § 205.601(o)(2) for use in log grown mushroom production.

Use of the crops section of the National List is also consistent with current practices of certifiers that certify mushrooms as a crop. These certifiers refer to the regulations and § 205.105 and the crops section of the National List (§§ 205.601 and 205.602) to determine allowed and prohibited materials for organic mushroom production. Furthermore, materials on

the National List are subject to specific restrictions and annotation and may not be allowed for mushrooms. For these reasons, AMS does not view this as an expansion of allowable inputs, but rather, maintaining current practice. Stakeholders may refer to the National List Petition Guidelines for information on amending the National List.²⁵

Responses to Public Comment on Implementation Timeline

In the proposed rule, AMS specifically requested feedback about whether a one-year implementation period would be appropriate for the rule and what an appropriate implementation timeframe would be if one year was not appropriate. Comments on this topic as it related to the mushroom standards, and AMS’s responses to comments, are discussed below.

(*Comment*) Some comments argued that an extended implementation period would be needed if the final rule were to include specific changes they requested. For example, comments that requested AMS create a separate standard and scope of certification for all fungi also suggested that five years would be necessary for changes so sweeping. Others argued that a five-year implementation period would be adequate if the rule were to require that all mushroom substrate inputs be organic without exception.

(*Response*) As previously discussed, AMS has declined to expand the standards to apply to all fungi or create a separate scope of certification for all fungal products, and AMS has retained an exception in the final rule for mushroom operations to use nonorganic inputs under specific conditions (see “Responses to Public Comment” in the above subsections labeled “§ 205.2 (Terms defined)” and “§ 205.210 (Mushroom production practice standards)”). As these changes were not adopted, a five-year implementation period is not necessary.

(*Comment*) Some mushroom producers and a mushroom industry association stated that a one-year implementation period would be inadequate because there is not enough supply of organic agricultural or forestry byproduct to meet the demand.

(*Response*) In response to these and other comments, the final rule allows nonorganic wood materials (*i.e.*, sawdust, chips, logs, or other wood materials). Furthermore, it allows for nonorganic plant materials in

²⁵ USDA, NOP. “How to File a Petition.” <https://www.ams.usda.gov/rules-regulations/organic/national-list/filing-petition#NLPetitionGuidelines>.

mushroom substrate when organic is not commercially available. For these reasons, AMS does not agree with the comment that the rule requires a long implementation period.

However, in recognition of the changes in the final rule, AMS is providing a two-year implementation period to allow operations to update organic system plans, procedures, and recordkeeping systems to comply with the final rule.

(*Comment*) Some commenters argued that a one-year implementation period would be too brief. Certifiers noted that one year does not allow enough time to notify operations of changes, collect updated organic system plan forms, and conduct inspections to the new requirements. Additionally, some certifiers said the recent Strengthening Organic Enforcement final rule is demanding certifier resources. These commenters requested a longer (e.g., two- to three-year) implementation period for the rule.

(*Response*) AMS is selecting an implementation approach for the final rule that recognizes time is required for certifiers and operations to understand the rule and then update forms, procedures, and recordkeeping systems. AMS believes that a two-year implementation period, for both the mushroom standards and the pet food standards, provides the regulatory certainty that the rule seeks to establish and will minimize business disruptions for organic operations and certifying agents.

IV. Organic Pet Food Standard

A. Pet Food Background

This final rule regulates organic claims on pet food by amending the existing regulatory framework for processed organic products (§ 205.270, Organic handling requirements) to clarify the composition and labeling requirements for organic pet food. These amendments allow organic pet food to be labeled and sold as “100% organic,” “organic,” or “made with organic (specified ingredients or food group(s)).” The changes clarify that pet food is distinct from livestock feed, which has its own composition and labeling requirements (see §§ 205.237 and 205.301(e)). This rule defines *pet* as “Any domestic animal not used for the production and sale of food, fiber, or other agricultural-based consumer products.” The rule defines *pet food* as “Any commercial feed prepared and distributed for pet consumption.” Throughout this rule, the term *pet food* is used to refer to all pet foods, including food for pets other than dogs

and cats, unless otherwise noted. Feed for zoo animals falls outside the scope of this rule, as zoo animals are not domestic animals and do not fit the definition of *pet*.

This rule regulates what organic pet food can contain and how organic claims may be used on pet food. Other aspects of the manufacturing, marketing, and sale of pet food—including its healthfulness and safety, nutritional value, and suitability for pets—fall under the authority of the Food and Drug Administration (FDA) and State regulatory bodies. All pet food manufacturers, organic or otherwise, must comply with relevant Federal and State laws and regulations pertaining to pet food safety.

General Overview of U.S. Pet Food Regulations

Pet food labels are regulated at the Federal and State levels. At the Federal level, FDA is responsible for overseeing and enacting the requirements of the Federal Food, Drug, and Cosmetic Act, which requires pet food to be safe, properly manufactured, and adequately labeled.²⁶ FDA requires certain information on pet food labels: Proper identification of the product, a net quantity statement, the name and place of the manufacturer or distributor, and a proper listing of all ingredients.²⁷ Some States enforce their own labeling regulations in addition to those administered by FDA. Most of these States follow versions of the Model Bill recommendations of the Association of American Feed Control Officials (AAFCO), an independent non-profit organization.²⁸

Pet food is often formulated as a complete nutrition product—i.e., the sole source of nourishment for pets. It typically contains ingredients from agricultural sources, minerals, vitamins or other nutrients, flavorings, preservatives, and processing aids to meet the nutrient requirements of the animal and the processing needs for the pet food.²⁹ Many ingredients from agricultural sources such as meat, poultry, and grains are considered safe and do not require FDA’s pre-market approval. Other substances (including

supplemental nutrients) do not require FDA’s pre-market approval if they are on an FDA-maintained list of ingredients Generally Recognized as Safe (GRAS), otherwise they must have approval as food additives.³⁰ The National Academy of Sciences’ National Research Council (NRC) and AAFCO provide information on the nutrient requirements of dogs and cats at each stage of life (e.g., growth, reproduction, adult maintenance) to guide the formulation of nutritionally adequate pet foods. NRC has listed and described essential nutrients in its 2006 publication “Nutrient Requirements of Dogs and Cats.”³¹ On its website, AAFCO maintains more recently updated Nutrient Profiles for the various stages of life. The minimum nutrient levels specified in the AAFCO Nutrient Profiles are generally consistent with NRC Nutrient Requirement tables and are updated periodically as NRC recommendations change.

This rule does not supersede the requirements of FDA or State regulatory bodies. Instead, this rule is intended to work jointly with those requirements and more narrowly regulate what manufacturers must do to label their pet food “100% organic,” “organic,” or “made with organic (specified ingredients or food group(s)).” Additionally, by including organic pet food in the organic regulations, the rule clarifies the process for adding substances to the National List specifically for use in organic pet food. Future amendments to the National List could be made, as necessary, in accordance with the process, requirements, and criteria described in OFPA (see 7 U.S.C. 6517 and 6518).

Organic Pet Food Industry and Market

Pet food is a large and growing market in the United States. According to recent data from the American Pet Products Association (APPA), roughly 82 million homes own a pet.³² Pet ownership increased during the COVID-19 pandemic when many people chose to adopt pets while working from home. According to an American Society for the Prevention of Cruelty to Animals

²⁶ FDA. (February 17, 2022). “FDA’s regulation of pet food.” <https://www.fda.gov/animal-veterinary/animal-health-literacy/fdas-regulation-pet-food>.

²⁷ FDA. (February 3, 2023). “Pet food.” <https://www.fda.gov/animal-veterinary/animal-food-feeds/pet-food>. FDA’s animal food labeling regulations are located at 21 CFR part 501.

²⁸ AAFCO. “Labeling & labeling requirements.” <https://www.aafco.org/resources/startups/labeling-labeling-requirements/>. Accessed May 1, 2023.

²⁹ FDA. (February 15, 2024). “Pet Food.” <https://www.fda.gov/animal-veterinary/animal-food-feeds/pet-food>.

³⁰ FDA. (August 4, 2023). “Current animal GRAS notices inventory.” <https://www.fda.gov/animal-veterinary/generally-recognized-safe-gras-notification-program/current-animal-food-gras-notices-inventory>.

³¹ National Research Council. (2006). “Nutrient requirements of dogs and cats.” <https://nap.nationalacademies.org/catalog/10668/nutrient-requirements-of-dogs-and-cats>.

³² American Pet Products Association. “Pet industry market size, trends & ownership statistics.” Retrieved September 3, 2024. <https://americanpetproducts.org/industry-trends-and-stats>. Accessed September 3, 2024.

(ASPCA) survey, around 23 million homes (nearly one in five homes in the United States) adopted a cat or dog during the pandemic.³³

In 2023, the pet food/treat market in the United States was valued at \$64.4 billion and was projected to increase to \$66.9 billion in 2024.³⁴ However, the organic pet food market remains small in comparison: as of 2021, the organic pet food market was less than one percent of the total pet food market.³⁵ In 2023, sales of organic pet food dropped to \$120 million, a decline of 7.4 percent from the previous year.³⁶ The organic pet food market is relatively new, with few organic brands having been able to penetrate the market. AMS expects that as the number of organic options for pets increases, an untapped market of consumers may seek to purchase organic pet food for the same reasons that they purchase other organic foods.

B. Need for Organic Pet Food Standards

The lack of specific standards for organic pet food has created inconsistency and uncertainty around labeling and composition requirements for organic pet food. Certifiers have used various combinations of the standards for livestock feed and processed products, neither of which are entirely sufficient. The handling standards are appropriate for verifying the processing, handling, product composition, and labeling requirements for multi-ingredient processed agricultural products, but they lack specific allowances for nutrients that are necessary for pets. Conversely, the livestock feed standards include allowances for many of the nutrients that are necessary for pets, but they prohibit common pet food ingredients, such as slaughter by-products.

These regulatory gaps have increased the risk for businesses in the organic pet food market, hindered production innovation, and limited the market for organic slaughter by-products. This rule addresses these inconsistencies and creates clearer regulatory standards specifically for slaughter by-products and nutrients in organic pet food.

³³ ASPCA. "New ASPCA survey: Vast majority of dogs and cats acquired during pandemic still in their homes." <https://www.aspcapro.org/resource/new-aspcasurvey-vast-majority-dogs-and-cats-acquired-during-pandemic-still-their-homes>. Accessed September 3, 2024.

³⁴ American Pet Products Association. "Pet industry market size, trends & ownership statistics." <https://americanpetproducts.org/industry-trends-and-stats>. Accessed September 3, 2024.

³⁵ Organic Trade Association. (2022). Organic Industry Survey. p. 108.

³⁶ Organic Trade Association. (2024). Organic Industry Survey. p. 74.

Organic Slaughter By-Products

The term "organic slaughter by-products" refers to the parts of an organic animal, managed and slaughtered according to the organic regulations, that humans do not typically eat, such as offal, gristle, and bone. These by-products come from organically managed animals, but livestock producers do not often receive organic premiums for them due to an insufficient market for organically produced slaughter by-products.

Section 205.237(b)(5) prohibits feeding slaughter by-products to mammals or poultry. This is a necessary precaution for livestock raised as food for human consumption; however, slaughter by-products are a commonly used protein source in pet food. In the past, some certifying agents have used the composition requirements for organic livestock feed (§ 205.301(e)) to certify pet food as organic, but livestock feed produced under the organic standards may not sufficiently address the nutritional needs of pets. Some certifying agents have allowed organic slaughter by-products in pet food, while other certifiers have not. These contradictions create uncertainty for businesses that currently produce organic pet food and are a barrier to businesses that would like to start producing organic pet food or selling slaughter by-products to the organic pet food market.

Slaughter by-products make up approximately 23 percent of the composition of conventional pet food, in part to meet protein levels required by Federal and State regulations.³⁷ AMS estimates that there are currently over 12 million pounds of organic meat and organic slaughter by-products used in pet food annually. Prior to the publication of this final rule, it was unclear if pet food manufacturers could use meat or slaughter by-products in organic pet food. This uncertainty has likely limited the growth of the organic pet food market. By clarifying that these products can be used in organic pet food, this rule could broaden the market and increase demand for those organic livestock products. Based on feedback from stakeholders, AMS finds it likely that organic meat and slaughter by-product demand will grow over time beyond this estimate after implementation of this rule.

Vitamins, Minerals, and Amino Acids

Most dry and wet pet foods are multi-ingredient products, as multiple

ingredients are needed to meet the nutritional needs of a pet. The product that forms the largest share of the pet food market is kibble,³⁸ or dry "complete and balanced"³⁹ pet food, which is intended to supply a pet's daily nutritional needs of essential vitamins, minerals, and amino acids.

Prior to the publication of this rule, there has been uncertainty about which nutrients are allowed in organic pet food. Some certifying agents have used the composition requirements for organic livestock feed (§ 205.301(e)) to identify allowable nutrients in organic pet food. Those standards allow the use of FDA-approved vitamins and minerals that appear on the National List of allowed substances for livestock production (§ 205.603(d)(2) and (3)), many of which are commonly used in pet foods. Other certifiers have used the handling standards in § 205.270, which allow nutrient vitamins and minerals that appear on the National List of allowed substances for processing/handling at §§ 205.605 and 205.606. However, these standards do not explicitly allow the vitamin and mineral ingredients that appear on the National List for livestock production at § 205.603(d), which may also be important for pet food. Neither the livestock production nor the processing/handling lists of allowed synthetic nutrient vitamins and minerals is sufficient to address the range of essential nutrients for pet food.

Furthermore, neither section of the National List allows for certain synthetic amino acids, such as taurine, that are commonly used in pet food. Taurine is a synthetic amino sulfonic acid that is a necessary part of a healthy diet for many pets (all cats and some dog breeds). For that reason, AAFCO's cat nutrient profiles require taurine, and it is a common synthetic additive in pet foods for other pets. Taurine is essential for pet health and adequate taurine levels cannot always be achieved using organic agricultural ingredients alone. The natural form of taurine is present in raw meat but not in processed pet food in its final form, as taurine is destroyed by heat, which is applied during pet food processing to comply with pet food

³⁸ Kibble accounted for 62.8 percent of all pet food sales in 2020. Pet Food Processing. (December 1, 2020). "State of the US pet food and treat industry, 2020." <https://www.petfoodprocessing.net/articles/14294-state-of-the-us-pet-food-and-treat-industry-2020>.

³⁹ FDA. (February 28, 2020). "Complete and Balanced Pet Food." <https://www.fda.gov/animal-veterinary/animal-health-literacy/complete-and-balanced-pet-food>.

³⁷ Institute for Feed Education & Research. (March 2020). "Pet food production and ingredient analysis."

safety standards.⁴⁰ To compensate for this loss, pet food manufacturers often add synthetic forms of taurine to certain pet foods. As synthetic taurine was previously not approved for organic pet food, some certifiers limited the types of pet food that could be certified as organic to single-ingredient treats. This limited the growth of the overall organic pet food market.

Final Rule Response

This final rule resolves these problems by, first, establishing that organic pet food is regulated as a processed product rather than as livestock feed. This allows organic pet food to include slaughter by-products from certified organic animals, which remain under continuous organic management through the slaughter process. This clarification creates consistency between certifying agents, removes uncertainty for pet food manufacturers, and expands the market for organic livestock producers who sell slaughter by-products. Allowing slaughter by-products in organic pet food will likely increase demand for certified organic slaughter by-products and create additional income streams for organic livestock producers and meat processors. AMS expects that the changes brought about by this final rule will encourage additional growth in the small organic pet food market and other latent organic markets that support it, such as the market(s) for organic slaughter by-products.

Second, this final rule clarifies the vitamins, minerals, and amino acids that are allowed as ingredients in organic pet food to ensure that pet food manufactures can formulate pet foods

that meet the daily nutritional needs of pets. It permits the use of the vitamin and mineral feed additives referenced in §§ 205.603(d)(2) and (3) in pet food, and it adds taurine to the National List at § 205.605(b) as an allowed nonorganic ingredient in organic pet food. Revising the organic regulations to clearly allow the essential nutrients required in pet food will allow companies to produce multi-ingredient dry and wet pet food products that are certified organic and meet the complete nutritional needs of pets.

Third, this rule regulates pet food under the existing composition and labeling requirements for processed products referenced in § 205.270 rather than under the requirements for livestock feed. This allows producers to make the organic labeling claims: “100 percent organic,” “organic,” or “made with organic (specified ingredient or food group(s)).” These labeling claims are regulated under the USDA organic regulations (§§ 205.301, 205.303, and 205.304) and are used extensively by certified organic handlers. “100 percent organic” is used to label any product with 100 percent organic ingredients, “organic” products must contain at least 95 percent organic ingredients, and “made with organic” products must contain at least 70 percent organic ingredients. The regulations established in this final rule also permit the identification of organically produced ingredients in the ingredient statement of certain products (§§ 205.301(d) and 205.305). In the first three cases, any nonorganic ingredient(s) must also meet specific criteria.⁴¹

By clarifying that pet food can be labeled with the various organic claims

described above, the rule provides pet food manufacturers with the flexibility to make and market a range of products that contain organic ingredients. In turn, AMS expects the rule could increase the availability of organic products for consumers and bolster markets for organic ingredients by increasing demand.

In conclusion, this rule addresses inconsistencies in how certifying agents are applying the current organic regulations to pet food. It also resolves regulatory uncertainties that artificially increase risk in the organic pet food market. Addressing these inconsistencies and uncertainties should create the conditions necessary for organic pet food and related markets to grow.

C. Overview of Final Rule Policy and Responses to Comments

This final rule amends the USDA organic regulations (7 CFR part 205) by defining “pet” and “pet food” in the regulations and adding a new paragraph for pet food in § 205.270, organic handling requirements. This action integrates organic pet food standards into existing USDA organic labeling categories for agricultural products (subpart D of part 205) and specifies the ingredients that can be included in pet food labeled “100 percent organic,” “organic,” “made with organic (specified ingredients or food group(s)),” or in products with less than 70 percent organic ingredients (ingredient list claims only). Table 2 summarizes the amendments to the USDA organic regulations that add pet food composition and labeling standards.

TABLE 2—OVERVIEW OF REGULATORY CHANGES TO ESTABLISH PET FOOD STANDARDS

Section title	Type of action	Rulemaking action
205.2	Adds new terms	Defines terms <i>pet</i> and <i>pet food</i> .
205.270	Adds new paragraph	Adds composition and labeling requirements specific to pet food.
205.605(b)	Adds substance to the National List	Adds taurine to the National List as an allowed ingredient in pet food.

§ 205.2 (Terms Defined)

Description of Final Policy

The final rule amends § 205.2 by adding two new terms, *pet* and *pet food*.

1. Pet

The rule defines *pet* as “any domestic animal not used for the production and sale of food, fiber, or other agricultural-based consumer products.” This term

establishes a distinction between animals raised as pets and animals raised for food or fiber (*i.e.*, “livestock,” as defined at § 205.2). Animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products are “livestock” under the USDA organic regulations (§ 205.2) and must be produced under all applicable organic livestock requirements. Feed requirements for

organic livestock are described at § 205.237 and do not apply to organic pet food, and vice versa.

2. Pet Food

The rule defines *pet food* as “any commercial feed prepared and distributed for pet consumption.” The definition for *pet food* distinguishes organic pet food products from organic livestock feed products. This action is

⁴⁰ Spitze, A.R., Wong, D.L., Rogers, Q.R., & Fascetti, A.J. (2003). “Taurine concentrations in animal feed ingredients; cooking influences taurine

content.” *Journal of Animal Physiology and Animal Nutrition*, 87(7–8), 251–262. <https://pubmed.ncbi.nlm.nih.gov/12864905/>.

⁴¹ USDA, AMS. (April 2018). “Organic Labels Explained.” <https://www.ams.usda.gov/sites/default/files/media/OrganicLabelsExplained.png>.

consistent with the NOSB's recommendation.⁴² It also addresses concerns from pet food manufacturers that applying livestock feed composition requirements to pet food could limit product formulation and participation in the organic market due to the lack of available organic protein sources, especially rendered products like poultry meal. Unless otherwise noted, the term *pet food* refers to all pet foods, including food for pets other than dogs and cats. Feed for zoo animals is not included in the definition, as zoo animals are not domestic animals and therefore fall outside the definition of *pets*.

Changes From Proposed to Final Rule

Following analysis of public comments, AMS has not made any changes to the proposed definitions of *pet* and *pet food* in this final rule. See the following section for a more detailed discussion of public comments on these definitions and AMS's response to those comments.

Responses to Public Comment

Below is a summary of comments received regarding organic pet food definitions and AMS's responses.

(*Comment*) Some commenters, including AAFCO, requested that AMS align its definitions with the AAFCO Model Bill and State feed laws. AAFCO suggested that the proposed definition of *pet* should be changed to align with the Model Bill which defines a *pet* as a dog or a cat only. AAFCO also suggested that AMS consider additional definitions for *specialty pet* ("any animal normally maintained in a household, such as, but not limited to, rodents, ornamental birds, ornamental fish, reptiles, amphibians, ferrets, hedgehogs, marsupials, and rabbits not raised for food or fur" and *specialty pet food* ("any commercial feed prepared and distributed for consumption by specialty pets"). In contrast, other commenters, including a feed industry association and several organic certifying agencies, supported AMS's definitions for *pet* and *pet food*, stating that the definitions are clear and would work well within the existing regulatory frameworks for pet food.

(*Response*) AMS acknowledges and appreciates AAFCO's work developing industry standards. However, AMS has chosen not to modify or add to the

proposed definitions of *pet* or *pet food* in this final rule. AMS acknowledges that the definition of *pet* in this rule is broader than AAFCO's definition, but this rule regulates organic food for all types of pets equally and does not present unique requirements for different categories of pets or specialty pets. Without any differences in labeling or composition requirements for different types of pets in this rule, AMS does not find it necessary to distinguish between types of pets and prefers to use a single and inclusive term (*pet*) for all types of pets. Importantly, this rule does not change a manufacturer's obligations to comply with Federal or State requirements that may have different requirements for pet food and specialty pet food. AMS's decision to use a broad and inclusive definition of *pet* in this rule ensures that the organic regulations are flexible to accommodate any other detailed Federal and State requirements for pet food and specific types of pets.

(*Comment*) Some comments questioned AMS's definition of *pet food* as a type of "commercial feed . . . for pet consumption." These comments stated that standards for "food" products and ingredients are higher than standards for "feed" products and ingredients, with differences in quality and safety standards. They argued that defining *pet food* as a type of feed would confuse consumers about whether organic pet food was human grade.

(*Response*) The final rule does not revise the definition of *pet food*, as we do not believe that the market expects the term *pet food* to mean a product meets human grade food standards. Therefore, we do not expect that the term will mislead consumers. For the purposes of the organic regulations, AMS finds that the broad and common term *pet food* is most appropriate. See additional discussion of comments related to human grade standards for pet food in section "§ 205.270 (Organic handling requirements)" below.

§ 205.270 (Organic Handling Requirements)

Description of Final Policy

This final rule adds a new paragraph (d) to § 205.270—organic handling requirements—to describe requirements for the composition, processing, and labeling of organic pet food. New paragraph (d) specifies the types of processing aids and ingredients that are allowed in organic pet food. By including pet food as part of the organic handling requirements in § 205.270, and therefore clearly separating pet food standards from the livestock feed

composition and labeling standards, the rule ensures that pet food is not subject to the prohibition on the use of slaughter by-products that exists for livestock feed. The rule allows slaughter by-products in pet food under the same composition and labeling requirements for other multi-ingredient products described at § 205.301(a) through (d) and (f). The term *organic slaughter by-products* refers to the parts of organic animals that humans do not typically eat, such as offal, gristle, and bone. It does not refer to substandard animal products from diseased animals, uninspected animals, condemned animals, or animals deemed unfit for human consumption.

The final rule (§ 205.270(d)) permits organic pet food, like other processed organic products regulated under § 205.270, to contain nonorganic substances allowed by the National List in § 205.605 (such as taurine, as finalized by this rule) and § 205.606. These ingredients may be used in processed pet food products labeled as "organic" or "made with organic (specified ingredients or food group(s))," in accordance with § 205.301(b) and (c), respectively. Additionally, the rule allows the feed additive vitamins and minerals in § 205.603(d)(2) and (3) to also be used for enrichment or fortification of pet food.

Paragraph 205.270(d) also clarifies that pet food with organic claims must be labeled pursuant to subpart D of the organic regulations. For instance, organic pet food must be labeled according to the product composition requirements at § 205.301(a) through (d) and (f). In addition, pet food may use the following labeling categories: (a) "100 percent organic;" (b) "organic," (c) "made with organic (specified ingredients or food group(s))," or (d) products containing less than 70 percent organic ingredients (organic ingredients identified on the ingredient statement only). This action, in combination with the new definition for *pet food*, as distinct from livestock feed, allows the labeling of organic pet food using the same framework as multi-ingredient processed food products (rather than the requirements for livestock feed). The requirements for livestock feed composition (§ 205.301(e)) and livestock feed labeling (§ 205.306) do not apply to pet food.

The changes to § 205.270 do not replace or modify requirements pertaining to pet food that are applicable under other Federal or State laws or regulations. This rule regulates only the organic claims on pet food. All other aspects of pet food formulation,

⁴² NOSB. (November 19, 2008). "Formal recommendation by the National Organic Standards Board (NOSB) to the National Organic Program (NOP): Organic pet food standards recommendation." <https://www.ams.usda.gov/sites/default/files/media/NOP%20Final%20Rec%20Pet%20Food.pdf>.

production, labeling, and sale must follow the relevant Federal and State laws and regulations.

Changes From Proposed to Final Rule

Following analysis of public comments, AMS has not made any substantive changes to the proposed organic handling requirements in this final rule. The final rule adds pet food requirements at § 205.270(d) rather than § 205.270(c), as proposed, to minimize impacts related to documents and policies that currently reference the requirements at § 205.270(c). The final rule also removes references to “the applicable portions of” Subpart D, as proposed, in favor of a clear and direct reference to Subpart D. AMS expects all operations, including pet food manufacturers, to comply with the applicable portions of Subpart D that are relevant to the product types and claims of the certified product. This rule clarifies that livestock feed composition and labeling are not applicable to pet food.

Responses to Public Comment

Below is a summary of comments received regarding organic pet food handling requirements and AMS’s responses.

(Comment) Several thousand commenters, responding to a mass comment campaign initiated by an organic advocacy group, requested that AMS ensure that organic pet food, including any livestock products used as ingredients in pet food, meet “human grade” food standards.

(Response) This final rule does not require the use of “human grade” standards for organic pet food or its ingredients. All organic livestock products are subject to the organic regulations, as well as other State and Federal regulations that may apply. AMS understands that other organizations, including AAFCO, have defined “human grade” and/or have recommended detailed guidelines for use of the “human grade” claim on pet food. For example, under the “human grade” guidelines recommended by AAFCO, each ingredient must be stored, handled, processed, and transported under human food laws and regulations, and facilities must be registered with the FDA as a human food and animal food facility, among other requirements. Adopting such standards in the final rule would go well beyond the scope of the proposed requirements. However, nothing in this rule prevents organic pet food operations from additionally making truthful “human grade” claims on organic pet food products.

(Comment) The mass comment campaign noted above also requested that no fallen or condemned animals (or portions of animals) or animals that die by means other than slaughter be allowed in organic pet food. Some other individual commenters echoed these requests, requesting that AMS require USDA inspection of slaughtered animals or facilities slaughtering animals to ensure no condemned animals are used in pet food.

(Response) AMS agrees with the commenters that organic pet food must not contain condemned, diseased, or otherwise unsanitary animal products, and the final rule should in no way be misconstrued to permit them. AMS has not revised the final rule to address these topics because AMS did not propose specific language on this topic and because other laws and regulations, including organic regulations, exist that address these issues. Under the current regulations, organic slaughter facilities must be certified organic and are subject to annual on-site inspections from their certifier. The organic regulations specifically prohibit seriously crippled and non-ambulatory animals from being sold or slaughtered as organic (§ 205.242(a)(2)).

Additionally, organic regulations require that organic livestock be slaughtered in compliance with USDA Food Safety Inspection Service (FSIS) regulations, FSIS Directives, and other laws (§ 205.242(b) and (c)). The FSIS regulations (*e.g.*, 9 CFR part 309 and part 314) include specific regulations related to handling condemned (*e.g.*, diseased) animals/or animal parts. They also include regulations related to animals that have died other than by slaughter (*i.e.*, dead animals) and diseased, dying, and disabled animals.

Finally, AMS is not including a requirement for USDA inspection of slaughter plants associated with organic slaughter for pet food. Not all animals in the United States are slaughtered at USDA-inspected facilities. For example, some facilities are inspected by States only. Therefore, AMS is not including a requirement that slaughter facilities be USDA-inspected; however, organic facilities, including slaughter facilities, are still subject to annual on-site inspections by their organic certifier.

(Comment) Several commenters asked for clarification about how vitamins and minerals listed in §§ 205.603(d)(2) and (3) should be reviewed for use in organic pet food. Commenters asked about whether AAFCO-approved vitamins and minerals would be allowed, and other questions related to the applicability of NOP Guidance 5030, “Evaluating Allowed Ingredients and

Sources of Vitamins and Minerals for Organic Livestock Feed”.

(Response) The final rule permits the vitamin and mineral feed additives referenced in § 205.603(d)(2) and (3), which include vitamins and minerals that are FDA approved. AMS defers to applicable FDA regulations and guidance in determining which specific substances are FDA approved.⁴³ Section 4.2.3 of NOP Guidance 5030, “Evaluating Allowed Ingredients and Sources of Vitamins and Minerals for Organic Livestock Feed,” contains additional information to help determine whether certain vitamins or minerals are allowed under § 205.603(d)(2) and (3). For the purpose of determining compliance for organic pet food, if the vitamin or mineral is allowed under § 205.603(d)(2) or (3), then it is also allowed for use in organic pet food.

§ 205.605 (National List)

Description of Final Policy

The final rule modifies the National List to allow the use of synthetic taurine in pet food. The rule adds taurine to § 205.605, which describes nonorganic nonagricultural substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).” The amendment for taurine also specifies that taurine can be used only in pet food and not in other organic multi-ingredient products.

This addition implements an NOSB recommendation to add taurine to the National List as an allowed substance for use exclusively in pet foods. AMS agrees with NOSB’s rationale and recommendation. As described above, taurine is essential for pet health and adequate taurine levels cannot always be achieved using organic agricultural ingredients alone.

Changes From Proposed to Final Rule

Following analysis of public comments, AMS has not made any changes to the proposed National List modifications (§ 205.605) in this final rule.

⁴³ FDA has recently announced that it would not renew its MOU with AAFCO and review its procedures for reviewing animal food ingredients. To assist with the transition, FDA has released two draft Guidance for Industry documents:

FDA. (August 2024). “CVM GFI #293—FDA Enforcement Policy for AAFCO-Defined Animal Feed Ingredients.” <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/cvm-gfi-293-fda-enforcement-policy-aafco-defined-animal-feed-ingredients>.

FDA. (August 2024). “CVM GFI #294—Animal Food Ingredient Consultation (AFIC).” <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/cvm-gfi-294-animal-food-ingredient-consultation-afic>.

Responses to Public Comment

Below is a summary of comments received regarding organic pet food National List standards and AMS's responses.

(*Comment*) One commenter, a pet food trade association, argued that the rule should allow for the use of a broader range of amino acids in organic pet food, rather than allowing taurine only. They suggested replacing the proposed rule's addition of taurine to the National List with the statement "Amino acids, used for enrichment or fortification when FDA-approved for use only in pet food."

(*Response*) AMS understands the potential need for other amino acids in pet food production apart from taurine. However, taurine is a common synthetic additive in pet food that is vital nutrition for all cat breeds (and some dog breeds) and cannot be obtained in adequate amounts from pet food that does not include synthetic taurine. This decision follows NOSB's recommendation to add only taurine to the National List. NOSB has not recommended other amino acids for use in organic pet food. Therefore, this rule only includes the addition of taurine to the National List.

Individuals may petition to add other substances to the National List for use in organic pet food, following the National List Petition Guidelines.⁴⁴ Because organic pet food must meet all applicable Federal and State laws and regulations, any person or organization petitioning to add a substance to the National List for use in organic pet food must ensure the use of that substance is consistent with applicable Federal and State laws and rules. Synthetic substances petitioned for use in pet food will be evaluated according to the existing criteria in OFPA (7 U.S.C. 6517 and 6518) and the USDA organic regulations (7 CFR 205.600).

(*Comment*) Some commenters claimed that it is not necessary to include taurine on the National List because it exists naturally in foods such as eggs, red algae, and meats. Additionally, some commenters asked if taurine should be allowed in all pet food or just cat food, because cats need additional taurine in food whereas dogs are able to physiologically synthesize taurine by consuming foods containing the amino acids cysteine and methionine. Other commenters requested that taurine should be included as an allowed substance

specifically for cats and dogs, rather than for pets generally.

(*Response*) In 2013, the NOSB Livestock Subcommittee proposed adding taurine to the National List as an allowed substance for use exclusively in pet foods to meet nutritional requirements for cats. After public comments argued that taurine can also be necessary for dogs' nutrition, NOSB issued its final recommendation for taurine to be allowed in pet food generally. AMS agrees with NOSB's rationale and recommendation on the basis that taurine is essential for pet health and that synthetic taurine must be added to pet food, in certain cases, to reach the levels that are necessary for pet health.

Responses to Public Comment on Implementation Timeline

AMS requested feedback about whether a one-year implementation period would be appropriate for the rule. Comments that are specifically related to the pet food standards implementation, and AMS's responses to comments, are discussed below.

(*Comment*) Some commenters stated that an extended implementation period is not necessary for the pet food portion of the rule, as the rule does not restrict operations compared to current practices. A commenter noted that certifiers already use the framework described in the proposed rule for the certification of pet food. Commenters noted that if the final rule adopted the proposed rule as-is, a one-year implementation timeline would be sufficient.

(*Response*) AMS agrees that pet food operations will not need to make any major changes to comply with the final rule. In fact, by allowing the use of taurine (an amino acid) in organic pet food, the final rule is less restrictive than existing standards. However, AMS is providing a two-year implementation period for the final rule, including the pet food requirements, to allow operations and certifying agents time to understand the rule and update forms and inspection procedures to reflect the final rule.

AMS notes that operations are not restricted from complying with the final rule prior to the compliance date. For example, pet food operations may use taurine in organic pet food starting on the effective date of the final rule.

V. Regulatory Analyses

Executive Orders 12866, 13563, 14094, and the Regulatory Flexibility Act

This rule does not meet the criteria of a "significant regulatory action" under

Executive Order 12866, as supplemented by Executive Order 13563 and updated by Executive Order 14094. Therefore, the Office of Management and Budget (OMB) has not reviewed this rule under those orders.

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on "small entities" and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to the action. Section 605(b) of the RFA allows an agency to certify that a rule will not have a significant economic impact on a substantial number of small entities instead of preparing a regulatory flexibility analysis, provided that the agency sets forth the factual basis for such certification. AMS has concluded and hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities; therefore, an analysis is not included. Below, AMS presents information about the industry and the possible effects of the rule on small entities to support this conclusion.

The Small Business Administration (SBA) sets size criteria for each industry described in the North American Industry Classification System (NAICS) to delineate which operations qualify as small businesses. SBA's size standards are expressed in terms of number of employees or annual receipts and indicate the maximum allowed for an entity to be considered small.⁴⁵

Mushroom Producers. AMS has considered the economic impact of this rulemaking on small mushroom producers. At the time of this analysis, small organic mushroom producers were listed under NAICS code 111411 (Mushroom Production) as grossing equal to or less than \$4,500,000 per year.⁴⁶ AMS estimates that out of 239 domestic operations reporting sales of organic mushrooms, approximately 4 operations exceed that threshold.⁴⁷

⁴⁵ U.S. SBA. (March 17, 2023). Table of size standards. <https://www.sba.gov/document/support-table-size-standards>.

⁴⁶ U.S. SBA. (March 17, 2023). Table of size standards. <https://www.sba.gov/document/support-table-size-standards>.

⁴⁷ The National Agricultural Statistics Service was unable to supply a precise tabulation of large organic operations due to disclosure concerns. AMS estimated the number of large mushroom operations and sales from large mushroom operations using the proportion of conventional mushroom operations by sales from the USDA's 2022 Census of Agriculture, available here: <https://>

⁴⁴ USDA, NOP. How to File a Petition. <https://www.ams.usda.gov/rules-regulations/organic/national-list/filing-petition#NLpetitionGuidelines>.

While most organic mushroom operations that would be affected by this rule are small entities, this rule only has the potential to impose minor costs on them related to paperwork burden (see “Paperwork Reduction Act” section below) and costs associated with sourcing organic spawn and substrate materials, when commercially available. AMS concludes that this rule will not have a significant economic impact on a substantial number of these small entities.

Pet Food Operations. AMS has considered the economic impact of this rulemaking on small organic pet food producers. At the time of this analysis, small organic pet food producers were listed under NAICS code 311111 (Dog and Cat Food Manufacturing) as employing equal to or fewer than 1,250 employees.⁴⁸ AMS estimates that given the small size of the organic pet food market, most of the 29 domestic organic pet food operations are small entities. Pet food operations may incur small one-time paperwork costs (see “Paperwork Reduction Act” section below), but the rule establishes standards for organic pet food handling that align with many existing industry practices. Additionally, the rule allows operations to use additional inputs (e.g., taurine) in organic pet food, which provides pet food operations more production options without additional costs. AMS concludes that this rule will not have a significant economic impact on a substantial number of these small entities.

Certifying agents. This final rule also affects certifying agents that certify organic mushroom or pet food operations. At the time of this analysis, the SBA defined small agricultural service firms, which include certifying agents, as those having annual receipts equal to or less than \$19,500,000 (NAICS code 541990—All Other Professional, Scientific and Technical Services). There are currently 73 USDA-accredited certifying agents, and AMS believes most of these certifying agents are small entities. Certifying agents must already comply with existing regulations and already certify these operations. Certifying agents may incur minor one-time paperwork costs (see “Paperwork Reduction Act” section below). However, this rule reduces the current burden of creating and maintaining certifier-level policies for the certification of organic mushroom

production and organic pet food handling. AMS concludes that this rule will not have a significant economic impact on a substantial number of these small entities.

Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations to avoid unduly burdening the court system. This rule complies with these requirements. This rule cannot be applied retroactively. Additionally, to prevent duplicative regulation, States and local jurisdictions are preempted under OFPA from creating accreditation programs for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in OFPA (7 U.S.C. 6514(b)). States are also preempted under sections 6503 through 6507 of OFPA from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of OFPA.

Pursuant to section 6507(b)(2) of OFPA, a State organic certification program that has been approved by the Secretary may, under certain circumstances, contain additional requirements for the production and handling of agricultural products organically produced in the State and for the certification of organic farm and handling operations located within the State. Such additional requirements must (a) further the purposes of OFPA, (b) not be inconsistent with OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

In addition, pursuant to section 6519(c)(6) of OFPA, this rulemaking does not supersede or alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601–624), the Poultry Products Inspection Act (21 U.S.C. 451–471), or the Egg Products Inspection Act (21 U.S.C. 1031–1056), concerning meat, poultry, and egg products, respectively, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301–399i), nor the authority of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136–136y).

OFPA at 7 U.S.C. 6520 provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under the statute that adversely affects such person or is inconsistent with the organic certification program established under OFPA. OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary’s decision.

Executive Order 13132

Executive Order 13132 mandates that Federal agencies consider how their policymaking and regulatory activities impact the policymaking discretion of States and local officials and how well such efforts conform to the principles of federalism defined in said order. This executive order pertains only to regulations with clear federalism implications.

AMS has determined that this rulemaking conforms with the principles of federalism described in E.O. 13132. The rule does not impose substantial direct costs or effects on States, does not alter the relationship between States and the Federal government, and does not alter the distribution of powers and responsibilities among the various levels of government. States had the opportunity to comment on any potential federalism implications during the proposed rule’s comment period. No States provided public comment on the federalism implications of this rule. Therefore, AMS has concluded that this rulemaking does not have federalism implications.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments, or proposed legislation. Additionally, other policy statements or actions that have substantial direct effects on one or more Indian Tribes, the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes also require consultation. After consultation with the USDA Office of Tribal Relations, AMS determined that a Tribal consultation for this rulemaking was not necessary, as it was unlikely to impact Tribes. If a Tribe requests consultation in the future, AMS will work with the

index.php. The same distribution is assumed to apply to organic mushroom operations.

⁴⁸ U.S. SBA. (March 17, 2023). Table of size standards. <https://www.sba.gov/document/support-table-size-standards>.

Office of Tribal Relations to ensure meaningful consultation is provided.

Civil Rights Impact Analysis

AMS has reviewed this rulemaking in accordance with the Departmental Regulation 4300–4, Civil Rights Impact Analysis, to address any major civil rights impacts the rule might have on minorities, women, and/or persons with disabilities. After a careful review of the rule's intent and provisions, AMS determined there is no evidence that this final rule will have adverse civil rights impacts on organic producers identifying as minorities, women, and/or persons with disabilities. Additionally, this final rule does not impose any requirements related to eligibility for benefits and services on protected classes, nor does the rule have the purpose or effect of treating classes of persons differently.

Protected individuals have the same opportunity to participate in NOP as non-protected individuals. USDA organic regulations prohibit discrimination by certifying agents. Specifically, 7 CFR 205.501(d) of the current regulations for accreditation of certifying agents provides that “No private or governmental entity accredited as a certifying agent under this subpart shall exclude from participation in or deny the benefits of the National Organic Program to any person due to discrimination because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status.” Paragraph 205.501(a)(2) requires certifying agents to “[d]emonstrate the ability to fully comply with the requirements for accreditation set forth in this subpart,” including the prohibition on discrimination. The granting of accreditation to certifying agents under § 205.506 requires the review of information submitted by the certifying agent and an on-site review of the certifying agent's client operation. Further, if certification is denied, § 205.405(d) requires that the certifying agent notify the applicant of their right to file an appeal to the AMS Administrator in accordance with § 205.681.

These regulations provide protections against discrimination, thereby permitting all producers, regardless of

race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status, who voluntarily choose to adhere to the rules and qualify, to be certified as meeting NOP requirements by an accredited certifying agent. This action in no way changes any of these protections against discrimination.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA), AMS is requesting OMB approval for a new information collection totaling 2,371 hours for the reporting and recordkeeping requirements contained in this final rule. OMB previously approved information collection requests (ICR) associated with the NOP and assigned OMB control number 0581–0191. AMS intends to merge this new information collection, upon OMB approval, into the previously approved collection request (OMB control number 0581–0191). Below, AMS describes and estimates the annual burden (*i.e.*, the amount of time and cost of labor) for entities to prepare and maintain information to participate in the voluntary labeling program. OFPA, as amended, provides authority for this action.

Title: National Organic Program: Market Development for Mushrooms and Pet Food.

OMB Control Number: 0581–0347.

Expiration Date of Approval: Three years from OMB date of approval.

Type of Request: New collection.

Abstract

Information collection is necessary to implement the reporting requirements for organic mushroom production and pet food handling under the USDA organic regulations (7 CFR 205.210 and 205.270). This final rule establishes USDA organic requirements in the mushroom and pet food sectors to support consistent interpretation and remove regulatory uncertainty. By doing so, it supports the purposes of OFPA, namely, “to establish national standards” for products marketed as organic and “to assure consumers that organically produced products meet a consistent standard.” (7 U.S.C. 6501). Additional information on the purpose and need for this rule is included in the BACKGROUND section of this rule.

Overview

Information collection and recordkeeping will be required to demonstrate compliance with new provisions in § 205.210 and amendments to § 205.270 of the USDA organic regulations, 7 CFR part 205, that establish standards for mushroom production and pet food handling. These amendments will require one-time additional reporting for already certified pet food and mushroom operations, accredited certifying agents, and inspectors. Existing organic mushroom and pet food operations will need to read the rule and review their organic system plans (OSPs) for compliance. Certifiers will have to read the rule and review the updated plans, and certifiers and inspectors will require training on the new regulation.

Additionally, the final rule adds allowances for nonorganic plant materials to be used in mushroom substrate when functionally equivalent organic materials are not commercially available. This allowance will require additional documentation for organic mushroom operations. AMS is estimating that organic mushroom operations will have annual reporting and recordkeeping paperwork burdens to utilize this exception. The estimates have been updated to reflect this change.

Burden Estimates

This burden estimate accounts for certified organic mushroom operations and certified organic pet food operations updating OSPs, mushroom operations verifying and keeping records of commercial availability exceptions for organic substrate, certifiers reviewing updated OSPs, and certifiers training inspectors to comply with the final rule.

Number of Respondents: 519.

Frequency of Response: One time only and annual (for mushroom operations).

Annual Hour Burden: 2,371 total hours; 1,219 one-time hours; 1,152 annual hours.

The 519 respondents include 322 certified organic operations (288 mushroom operations and 34 pet food operations), 56 certifying agents, and 141 inspectors.

TABLE 3—TOTAL PAPERWORK BURDEN

Total reporting burden	Total number of reporting respondents	Total reporting hours—all	Total recordkeeping hours—all	Total all costs
Summary of Tables 4, 5, & 6	519	1,795	576	\$121,696.63

Certified Organic Operations

AMS estimates that 322 certified organic mushroom and organic pet food operations may need to update their OSPs to comply with the final rule.⁴⁹

AMS estimates that each certified organic mushroom and pet food operation will require one response of two reporting hours to read the rule and update their OSPs. AMS estimates that each respondent will require no additional recordkeeping hours, as these

operations already have and store OSPs. This results in a total one-time hour burden of 644 hours for certified organic mushroom and pet food operations across 322 responses.

Because the rule allows organic mushroom operations to use nonorganic plant inputs in mushroom substrate if an organic input of a similar function is not commercially available, the operation must verify and record if organic inputs of similar function are not commercially available. AMS

estimates that each operation will need to verify and document inputs approximately two times a year. Each verification will require one response of one reporting hour and one recordkeeping hour. This results in a total annual hour burden of 1,152 hours for certified organic mushroom operations across 576 responses. See table 4 below for a summary of these estimates for certified organic operations.

TABLE 4—CERTIFIED ORGANIC OPERATIONS

Respondent categories	Number of respondents	Wage ^{50 51} + benefits ^{52 53}	Total reporting hours	Total recordkeeping hours	Total costs
USDA Certified Mushroom Producers & Pet Food Handlers—Domestic (One-time)	268	\$56.22	536	0	\$30,134
USDA Certified Mushroom Producers & Pet Food Handlers—Foreign (One-time)	54	42.22	108	0	4,560
USDA Certified Mushroom Producers—Domestic (Annual—Commercial Availability)	239	56.22	478	478	53,746
USDA Certified Mushroom Producers—Foreign (Annual—Commercial Availability)	49	42.22	98	98	8,275
USDA Organic Operations—All	322	.....	1,220	576	96,715

Certifying Agents

AMS estimates that 56 certifying agents will need to review 322 OSPs from certified organic mushroom and pet food operations.

AMS estimates that on average, certifying agents will require one response of one reporting hour to review OSPs for each organic mushroom and

pet food operation they certify, resulting in a total of 322 hours over 322 responses. Additionally, AMS estimates each certifying agent will require one response of two hours to read the rule and provide training to staff and inspectors on the new requirements. AMS estimates that these are one-time burdens and each respondent requires no additional reporting/recordkeeping

hours as these operations already review and store OSPs (the burden to review and store these is captured under the existing ICR, OMB control number 0581–0191). This results in a total one-time hour burden of 434 hours for certifying agents across 378 responses. See table 5 below for a summary of the estimates for certifying agents.

⁴⁹ USDA. Organic Integrity Database. <https://organic.ams.usda.gov/IntegrityPlus/Search.aspx>. To obtain the relevant data, search for “mushroom” and “pet, dog, canine, cat, feline” in the “Certified Products” field. Accessed August 27, 2024.

⁵⁰ Domestic hourly wage rates are based on the National Compensation Survey: Occupational Employment and Wages, May 2023, published by the Bureau of Labor Statistics. Bureau of Labor Statistics. “May 2023 National Occupational Employment and Wage Estimates.” https://www.bls.gov/oes/current/oes_nat.htm. Accessed August 27, 2024.

⁵¹ International wage rates are estimated based on the proportional average of World Bank GDP per capita rates for Organization for Economic Co-Operation and Development (OECD) countries compared to the U.S. (72.2%). World Bank. “GDP per capita, PPP (current international \$).” <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>. Accessed August 27, 2024.

⁵² Domestic benefit rates are based on data from Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation. Wages account for 70.3% and Benefits account for 29.7% of total average employer compensation costs.

Bureau of Labor Statistics. (June 18, 2024). “Employer Costs for Employee Compensation Summary.” <https://www.bls.gov/news.release/ecec.nr0.htm>. Accessed August 27, 2024.

⁵³ International benefit rates are based on an average tax wedge of OECD countries (34.9% of wage rates). OECD. “OECD comparative indicators.” <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>. Accessed August 27, 2024.

TABLE 5—CERTIFYING AGENTS

Respondent categories	Number of respondents	Wage ^{54 55} + benefits ^{56 57}	Total reporting hours	Total costs
USDA U.S.-Based Certifiers—Mushrooms	32	\$50.00	303	\$15,150
USDA Foreign-Based Certifiers—Mushrooms	10	37.54	69	2,590
USDA U.S.-Based Certifiers—Pet food	10	50.00	49	2,450
USDA Foreign-Based Certifiers—Pet food	4	37.54	13	488
USDA Certifiers—All	^{58 56}	.....	434	20,678

Inspectors

AMS estimates that 141 organic inspectors will need to receive training on the final rule.⁵⁹

AMS estimates that each organic inspector will require one response of one reporting hour to receive training on the final rule. AMS estimates that each respondent will require no additional recordkeeping hours. This results in a

total annual hour burden of 141 hours for organic inspectors across 141 responses. See table 6 below for a summary of these estimates for inspectors.

TABLE 6—INSPECTORS

Respondent categories	Number of respondents	Wage ^{60 61} + benefits ^{62 63}	Total reporting hours	Total costs
USDA U.S.-based Inspectors	106	\$32.53	106	\$3,448
USDA Foreign based Inspectors	35	\$24.43	35	855
USDA Inspectors—All	141	.....	141	4,303

Comments

AMS published a proposed rule and request for public comment in the **Federal Register** on March 11, 2024 (89 FR 17322). The 60-day notice regarding paperwork impacts is embedded in the proposed rule and provides stakeholders an opportunity to comment on the accuracy of the information collection request. The 60-day comment period ended on May 10, 2024. AMS asked four specific information collection request questions in the proposed rule:

1. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility.

2. The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Ways to enhance the quality, utility, and clarity of the information to be collected.

4. Ways to minimize the burden of the collection of information on those who

are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

During the comment period, AMS received two comments (discussed below) that provided feedback on the initial paperwork burden of the rule.

(*Comment*) A comment stated that the number of inspectors estimated by AMS in the proposed rule's paperwork burden was too low because the directory of inspectors from the International Organic Inspectors Association does not include non-

⁵⁴ Domestic hourly wage rates are based on the National Compensation Survey: Occupational Employment and Wages, May 2023, published by the Bureau of Labor Statistics. Bureau of Labor Statistics. "May 2023 National Occupational Employment and Wage Estimates." https://www.bls.gov/oes/current/oes_nat.htm. Accessed August 27, 2024.

⁵⁵ International wage rates are estimated based on the proportional average of World Bank GDP per capita rates for Organization for Economic Co-Operation and Development (OECD) countries compared to the U.S. (72.2%). World Bank. "GDP per capita, PPP (current international \$)." <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>. Accessed August 27, 2024.

⁵⁶ Domestic benefit rates are based on data from Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation. Wages account for 70.3% and Benefits account for 29.7% of total average employer compensation costs. Bureau of Labor Statistics. (June 18, 2024). "Employer Costs for Employee Compensation Summary." <https://www.bls.gov/news.release/ecec.nr0.htm>. Accessed August 27, 2024.

⁵⁷ International benefit rates are based on an average tax wedge of OECD countries (34.9% of wage rates). OECD. "OECD comparative indicators." <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>. Accessed August 27, 2024.

⁵⁸ Some certifiers may certify both pet food and mushroom operations but are counted as separate entities in this column.

⁵⁹ This estimate is based on data from the International Organic Inspectors Association (IOIA) Membership Directory, available at <https://www.ioia.net/member-directory>. Based on adjustments due to public comment (see "Comments," below), AMS estimates that half of inspectors are present in the IOIA Membership Directory and adjusts the number of inspectors receiving training proportionally by the percentage of certifiers certifying organic mushroom or pet food operations.

⁶⁰ Domestic hourly wage rates are based on the National Compensation Survey: Occupational Employment and Wages, May 2023, published by the Bureau of Labor Statistics. Bureau of Labor Statistics. "May 2023 National Occupational Employment and Wage Estimates." https://www.bls.gov/oes/current/oes_nat.htm. Accessed August 27, 2024.

www.bls.gov/oes/current/oes_nat.htm. Accessed August 27, 2024.

⁶¹ International wage rates are estimated based on the proportional average of World Bank GDP per capita rates for Organization for Economic Co-Operation and Development (OECD) countries compared to the U.S. (72.2%). World Bank. "GDP per capita, PPP (current international \$)." <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>. Accessed August 27, 2024.

⁶² Domestic benefit rates are based on data from Bureau of Labor Statistics News Release on Employer Costs for Employee Compensation. Wages account for 70.3% and Benefits account for 29.7% of total average employer compensation costs. Bureau of Labor Statistics. (June 18, 2024). "Employer Costs for Employee Compensation Summary." <https://www.bls.gov/news.release/ecec.nr0.htm>. Accessed August 27, 2024.

⁶³ International benefit rates are based on an average tax wedge of OECD countries (34.9% of wage rates). OECD. "OECD comparative indicators." <https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP>. Accessed August 27, 2024.

members or members that do not wish to share their information. Additionally, the comment stated that the estimated wages were too low.

(Response) AMS has adjusted the estimated number of total inspectors based on this comment. Absent specific data, we assume that the IOIA database contains half (50 percent) of all inspectors, changing our total number from 185 inspectors present in the IOIA database as of August 27, 2024, to 370 inspectors. AMS acknowledges that without specific input this estimate may be imprecise. To further account for this adjustment and acknowledge that not all inspectors will inspect the 288 mushroom or pet food facilities, AMS adjusted the percentage of inspectors impacted by the paperwork costs to be proportional to the percentage of certifiers that certify operations for mushroom production or pet food handling.

AMS did not adjust the source for hourly wages in the burden estimates for the final rule. AMS acknowledges that costs may be higher for inspectors in some areas. However, without comprehensive data from another source, AMS believes that the Bureau of Labor Statistics estimates for wages remain the most accurate estimates for wages to use in burden estimates.

(Comment) One comment argues the requirement in § 205.210(b) that mushroom operations manage substrate in such a way to avoid environmental contamination may be duplicative with § 205.203(c), given that both would seem to apply to mushroom operations. On the other hand, another comment states that reiterating the requirement for mushroom operations is critical.

(Response) Paragraph 205.210(b) specifically adds requirements that operations must prevent mushroom substrate and spawn media from contaminating crops, spawn, mushroom substrate, soil, or water. AMS acknowledges that this is similar to § 205.203(c). However, the regulatory text at § 205.210(a) specifies the crop requirements applicable to organic mushroom production and specifically excludes § 205.203(c) to prevent duplicative requirements. AMS is not adjusting these requirements and finds them to be necessary and non-duplicative.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agricultural commodities, Agriculture, Animals, Archives and records, Fees, Imports, Labeling, Livestock, Organically produced products, Plants, Reporting and

recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 205 as follows:

PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6524.

■ 2. Amend § 205.2 by:

■ a. Revising the definitions of “Compost” and “Crop”;

■ b. Adding in alphabetical order definitions for “Mushroom”, “Mushroom Mycelium”, “Mushroom spawn”, “Mushroom spawn media”, “Mushroom substrate”, “Pet”, and “Pet food”; and

■ c. Revising the definition of “Wild crop”.

The revisions and additions read as follows:

§ 205.2 Terms defined.

* * * * *

Compost. The product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil or as a component of mushroom substrate.

* * * * *

Crop. Pastures, cover crops, green manure crops, catch crops, mushrooms, or any plant or part of a plant intended to be marketed as an agricultural product, fed to livestock, or used in the field to manage nutrients and soil fertility.

* * * * *

Mushroom. The fleshy, spore-bearing fruiting body of a fungus.

Mushroom mycelium. A mass of branching, thread-like hyphae (fungal structures).

Mushroom spawn. Mushroom spawn media colonized by mushroom mycelium that can be used to inoculate mushroom substrate.

Mushroom spawn media. The base material, such as grain, wood materials, or minerals, used to make mushroom spawn.

Mushroom substrate. The base material, such as grain, wood materials, composted materials, and/or other agricultural materials, on which mushroom production occurs.

* * * * *

Pet. Any domestic animal not used for the production and sale of food, fiber, or other agricultural-based consumer products.

Pet food. Any commercial feed prepared and distributed for pet consumption.

* * * * *

Wild crop. Any mushroom, plant, or portion of a plant that is collected or harvested from a site that is not maintained under cultivation or other agricultural management.

* * * * *

■ 3. Add § 205.210 to read as follows:

§ 205.210 Mushroom production practice standard.

(a) The producer must manage mushroom production in accordance with the provisions of §§ 205.200, 205.201, 205.202 as applicable, 205.203(e), and 205.206(a)(2) and (3) and (b) through (f). The producer may manage crop nutrients for mushroom production in accordance with the provisions of § 205.203(d).

(b) The producer must manage mushroom substrate and mushroom spawn media, including spent mushroom substrate and mushroom spawn media, in a manner that does not contribute to contamination of crops, mushroom spawn, mushroom substrate, soil, or water by pathogenic organisms, heavy metals, or residues of prohibited substances.

(c) Mushroom substrate may be composed of the following materials in accordance with the conditions specified in this paragraph:

(1) **Composted plant and animal materials.** Compost used in mushroom substrate must be described in the organic system plan. It must be produced through a process that maintains a temperature of at least 131 °F for at least three days;

(2) **Uncomposted plant materials.** Uncomposted plant materials must be organically produced: *Except*, that, nonorganically produced uncomposted plant materials may be used when a functionally equivalent organically produced material is not commercially available. Prohibited substances must not be applied to nonorganically produced uncomposted plant materials after harvest. Operations that use nonorganically produced uncomposted plant materials in mushroom substrate (except for wood materials allowed under paragraph (c)(3) of this section) must describe in the organic system plan:

(i) The procedures used to search for organic materials and the records kept to document searches;

(ii) The criteria used to evaluate if functionally equivalent organic materials are commercially available; and

(iii) The recordkeeping system used to document purchases of nonorganic materials, including a summary of the type(s) and total amount of each nonorganic material used in mushroom substrate.

(3) Wood chips, sawdust, logs, or other materials derived from wood that have not been treated with a prohibited substance after harvest;

(4) Nonsynthetic substances, except those on the National List of nonsynthetic substances prohibited for use in organic crop production (§ 205.602); and

(5) Synthetic substances on the National List of synthetic substances allowed for use in organic crop production (§ 205.601).

(d) Mushroom spawn must be organic: *Except*, that, nonorganic mushroom spawn may be used to produce an organic crop when an equivalent organic mushroom spawn is not commercially available.

(1) Organic mushroom spawn requirements.

(i) Agricultural materials used as mushroom spawn media must be organic: *Except*, that, nonorganic wood materials in compliance with paragraph (c)(3) of this section are allowed.

(ii) Mushroom spawn media may contain materials allowed in mushroom substrate at paragraphs (c)(1), (4), and (5) of this section.

(iii) Organic mushroom spawn must be under continuous organic management after the mycelium is applied to the mushroom spawn media.

(2) Organic mushroom operations that produce their own mushroom spawn for their own organic mushroom production must use organic agricultural materials for mushroom spawn media, unless a functionally equivalent organic agricultural material is not commercially available: *Except* that, wood materials in compliance with paragraph (c)(3) of this section are allowed.

■ 4. Amend § 205.270 by adding paragraph (d) to read as follows:

§ 205.270 Organic handling requirements.

* * * * *

(d) In addition to the substances described in paragraph (b) of this section, substances allowed under § 205.603(d)(2) and (3) may be used in or on pet food intended to be sold, labeled, or represented as “organic” or “made with organic (specified ingredients or food group(s))” pursuant to § 205.301(b) and (c). Pet food must be labeled pursuant to subpart D of this part.

■ 5. Amend § 205.601 by revising paragraphs (i) introductory text and (j) introductory text to read as follows:

§ 205.601 Synthetic substances allowed for use in organic crop production.

* * * * *

(i) As crop disease control.

* * * * *

(j) As crop or soil amendments.

* * * * *

■ 6. Amend § 205.605 by redesignating paragraphs (b)(36) and (37) as paragraphs (b)(37) and (38), respectively and adding new paragraph (b)(36) to read as follows:

§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”

* * * * *

(b) * * *

(36) Taurine—for use only in pet food.

* * * * *

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–30211 Filed 12–20–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 247, 250, 251, 253, and 254

[FNS–2023–0026]

RIN 0584–AE92

Food Distribution Programs: Improving Access and Parity

AGENCY: Food and Nutrition Service (FNS), U.S. Department of Agriculture (USDA).

ACTION: Final rule; correction.

SUMMARY: The Food and Nutrition Service is correcting a final rule that appeared in the **Federal Register** on October 31, 2024. The document makes access and parity improvements in USDA’s food distribution programs to support access for eligible populations and streamline requirements for program operators.

DATES: Effective December 30, 2024.

FOR FURTHER INFORMATION CONTACT: Gregory Walton, Program Analyst, Food Distribution Policy Branch, Supplemental Nutrition and Safety Programs, U.S. Department of Agriculture’s Food and Nutrition Service, 1320 Braddock Place, 3rd Floor, Alexandria, Virginia 22314 at 703–305–2746 or Gregory.Walton@usda.gov.

SUPPLEMENTARY INFORMATION: In FR Doc. 2024–24966 appearing on page 87228 in the **Federal Register** of Thursday, October 31, 2024, the following corrections are made:

■ 1. § 247.5 [Corrected]

On page 87244, in the third column, in amendatory instruction 4, correct paragraphs (b)(15) through (17) to read as follows:

(b) * * *

(15) Ensuring that program participation does not exceed the State agency’s caseload allocation on an average monthly basis;

(16) Making publicly available a list of all CSFP local agencies on a publicly available internet web page. The State agency must post the name, address, and telephone number for each local agency. The list must be updated, at a minimum, on an annual basis; and

(17) Posting the State Plan that is currently in use on a publicly available internet web page.

* * * * *

■ 2. § 247.9 [Corrected]

■ i. On page 87245, in the first and second columns, in amendatory instruction 9 correct paragraphs (b)(1) and (d)(3)(xxiv) to read as follows:

(b) * * *

(1) The State agency may accept as income-eligible for CSFP benefits any applicant that documents that they are certified as fully eligible for the following Federal programs: the Supplemental Nutrition Assistance Program, the Food Distribution Program on Indian Reservations, Supplemental Security Income (SSI), the Low Income Subsidy Program, or the Medicare Savings Programs.

* * * * *

(d) * * *

(3) * * *

(xxix) Payments to the Assiniboine Tribe of the Fort Belknap Indian community and the Assiniboine Tribe of the Fort Peck Indian Reservation (Montana) (Pub. L. 98–124, sec. 5);

* * * * *

■ 3. § 251.4 [Corrected]

On page 87250, in the first column, instruction 26 for § 251.4, correct instruction 26.f. to read as follows:

f. Removing the term “donated commodities” wherever it appears in paragraph (g) and adding in its place the term “USDA Foods”;

■ 4. § 253.2 [Corrected]

On page 87254, in the first and second columns, in amendatory 36, correct the definitions of “Indian Tribal Organization (ITO)” and “State agency” to read as follows:

* * * * *

Indian Tribal Organization (ITO) means:

(1) The recognized governing body of any Indian tribe on a reservation; or

(2) The tribally recognized intertribal organization which the recognized governing bodies of two or more Indian tribes on a reservation authorize to operate SNAP or a Food Distribution Program on their behalf.

* * * * *

State agency means:

(1) The agency of State government, including the local offices thereof, which enters into an agreement with FNS for the distribution of USDA Foods on all or part of an Indian reservation, and

(2) The ITO of any Indian tribe, determined by the Department to be capable of effectively administering a Food Distribution Program, which enters into an agreement with FNS for the distribution of USDA Foods on all or part of an Indian reservation.

(3) State agencies are also referred to as FDPIR administering agencies.

■ 5. § 253.5 [Corrected]

On page 87255, in the first column, in amendment 39, correct the section heading to read as follows:

§ 253.5 State agency requirements.

* * * * *

■ 6. § 253.6 [Corrected]

■ i. On page 87255, in the second column, in amendment 40, correct paragraphs (a)(2), (d)(3)(vii); and (e)(1) to read as follows:

* * * * *

(a) * * *

(2) *Nonhousehold members.* The following individuals residing with a household shall not be considered household members in determining the household's eligibility. Nonhousehold members specified in paragraphs (a)(2) (i) and (iv) who are otherwise eligible may participate in the Program as separate households.

* * * * *

(d) * * *

(3) * * *

(vii) The earned income (as defined in paragraph (d)(2)(i) of this section) of children who are members of the household, who are students at least half time and who have not attained their eighteenth birthday. * * *

* * * * *

(e) *Income deductions*—(1) *Earned income deduction.* Households with earned income, as defined in paragraph (d)(2)(i) of this section, shall be allowed a deduction of twenty percent of their gross earned income. Earned income excluded under paragraph (d)(3) of this section shall not be considered earned

income for the purpose of computing this deduction.

* * * * *

Tameka Owens,

Acting Administrator and Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2024–30575 Filed 12–20–24; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[Doc. No. AMS–SC–24–0020]

Watermelon Research and Promotion Plan; Increased Assessment Rate

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

ACTION: Final rule.

SUMMARY: This final rule implements a recommendation from the National Watermelon Promotion Board to increase the assessment rate from six cents per hundredweight to nine cents per hundredweight. Domestic watermelon producers of 10 acres or more and domestic first handlers of watermelons will each pay four and a half cents per hundredweight, and importers of 150,000 pounds or more annually of watermelons will pay nine cents per hundredweight. This final rule also amends current regulatory language to correct non-substantive and typographical errors.

DATES: This rule is effective January 22, 2025.

FOR FURTHER INFORMATION CONTACT:

William Hodges, Marketing Specialist, Mid-Atlantic Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, STOP 0244, Washington, DC 20250–0244; Telephone: (443) 571–8456; or Email: William.Hodges2@usda.gov.

SUPPLEMENTARY INFORMATION: This final rule affecting the Watermelon Research and Promotion Plan (7 CFR part 1210) (Plan) is authorized under the Watermelon Research and Promotion Act (7 U.S.C. 4901–4916) (Act).

Executive Orders 12866, 13563, and 14094

USDA is issuing this 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 Order 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 rule is not a significant regulatory action within the meaning of Executive Order 12866. Accordingly, this action has not been reviewed by the Office of Management and Budget under sec. 6 of the Executive order.

Executive Order 13175

This action was reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions will have Tribal implications. AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian Tribes, or the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Executive Order 12988

This rule was reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. The Act provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under sec. 1650 of the Act (7 U.S.C. 4909), a person may file a written petition with the Secretary of Agriculture (Secretary) if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not in accordance with the law. In any petition, the person may request a modification of the Plan or an exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's ruling, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of the Secretary. If the petitioner disagrees with the Secretary's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District

Court for the district where the petitioner resides or conducts business.

Background

Under the Plan, the National Watermelon Promotion Board (Board) administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the position of watermelons in the marketplace, and to establish, maintain, and expand markets for watermelons. To administer the program, §§ 1210.328 and 1210.341 of the Plan authorize the Board, with the approval of AMS, to formulate an annual budget of expenses and collect assessments on domestic producers growing 10 acres or more of watermelons, domestic first handlers of watermelons, and importers of 150,000 or more pounds of watermelons per year. The Board is familiar with both the program's needs and the rising costs of research and promotion initiatives and is able to formulate an appropriate budget and assessment rate.

This final rule increases the assessment rate from six to nine cents per hundredweight of watermelons. Domestic watermelon producers of 10 acres or more and domestic first handlers of watermelons will each pay four and a half cents per hundredweight, and importers of 150,000 pounds or more annually of watermelons will pay nine cents per hundredweight. The Plan specifies that handlers are responsible for collecting and submitting both the producer and handler assessments to the Board, reporting their handling of watermelons, and maintaining records necessary to verify their reporting(s). Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through the U.S. Customs Service and Border Protection.

Adjustment to the Assessment Rate

This final rule amends § 1210.515 of the Plan by increasing the assessment rate from six cents per hundredweight to nine cents per hundredweight. The assessment on domestic watermelon producers of 10 acres or more and domestic first handlers of watermelons increases from three cents per hundredweight to four and a half cents per hundredweight, and the assessment on importers of 150,000 pounds or more annually of watermelons increases from six cents per hundredweight to nine cents per hundredweight. The Board recommended increasing the assessment rate to address inflation's impact on buying power while maintaining competitiveness in the marketplace.

The Board discussed this recommendation over several months at various State and regional watermelon association meetings in addition to presenting at a public town hall meeting on February 23, 2024, at the National Watermelon Association's (NWA) annual convention. The Board sent out postcards to all industry contacts in their database to invite them to the NWA town hall meeting and provide information on the potential assessment increase. The Board met on February 24, 2024, and voted unanimously to propose the assessment increase. Board members present for the vote represented domestic producers, first handlers, and importers.

Since the Board's inception in 1989, the Board only raised the assessment rate one other time, in 2008. From 2008 to 2023, according to the Board, the United States experienced inflation of 43.7%, which equates to 2.3% when compounded annually. This dollar devaluation translates to a loss in buying power of roughly 30% since the previous assessment increase was instituted. The erosion of buying power and continued inflationary pressure on funds limits the Board's research and promotion activities. The raised assessment rate further supports the Board's goal of a balanced budget beginning in 2025, while still allowing for increased research and promotion of watermelon across the Board's communication, marketing, foodservice, and research committees.

Section 1210.341 of the Plan states, in part, that in the case of an importer, the assessment shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer at the time of entry of the watermelons into the United States. Accordingly, with the increased assessment rate of nine cents per hundredweight, domestic watermelon producers of 10 acres or more and domestic first handlers of watermelons will each pay four and a half cents per hundredweight, and importers of 150,000 pounds or more annually of watermelons will pay nine cents per hundredweight. This assessment increase is consistent with sec. 1647(f) of the Act (7 U.S.C. 4906(f)), that permits changes in the assessment rate through notice and comment procedures. Section 1210.341(b) of the Plan states that assessment rates shall be fixed by the Secretary in accordance with sec. 1647(f) of the Act (7 U.S.C. 4906(f)). Further, not more than one assessment on a producer, handler, or importer may be collected on any lot of watermelons. Accordingly, the final rule revises § 1210.515(a) of the Plan to

reflect the recommendation of the Board as it relates to assessments.

Amending Regulatory Language

The final rule also includes changes to § 1210.515(b) of the Plan to amend language and make non-substantive corrections to the text. These edits are administrative changes and will have no impact on the assessment rate. This final rule amends the misspelling of "scheudle" to "schedule"; amends "U.S. Customs Service (USCS)" to "U.S. Customs Service and Border Protection (Customs)"; amends "USCS" to "Customs", and amends "of any other" to "or any other". The final rule also adds clarifying language and amends "may submit the Board" to "may submit to the Board".

Final Regulatory Flexibility Act and Paperwork Reduction Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], AMS has considered the economic impact of this action on the small producers, handlers, and importers that will be affected by this final rule. The purpose of the RFA is to fit regulatory action to scale on businesses subject to such action so that small businesses will not be disproportionately burdened.

Domestic producers of less than 10 acres of watermelons are exempt from this program. Importers of less than 150,000 pounds of watermelons per year are also exempt. According to the Board, there are approximately 429 producers, 121 first handlers, and 183 importers who are subject to the provisions of the Plan.

The Small Business Administration (SBA) defines, in 13 CFR part 121, small agricultural producers of watermelons as those having annual receipts equal to or less than \$3.75 million [NAICS code 111219—Other Vegetable (except Potato) and Melon Farming] and small agricultural service firms (handlers and importers) as those having annual receipts equal to or less than \$34.0 million [NAICS code—111514—Postharvest Crop Activities (except Cotton Ginning)]. Under these definitions, the majority of the producers, handlers, and importers that will be affected by this final rule will be considered small entities. This conclusion is based on the following computations and data, using the Board's assessment rate of six cents per hundredweight.

For 2023, National Agricultural Statistics Service (NASS) reported a season average producer price per pound of \$0.214. The Board estimated the Freight on Board (FOB) price to be

\$0.284 for both importers and handlers in 2023. The Board reported that 2023 assessments received from domestic entities totaled \$2.247 million, with equal proportions of \$1.1235 million coming from producers and handlers. Dividing \$1.1235 million by half of the assessment rate of \$0.06 per hundredweight, as producers and handlers evenly split the assessment, yields an estimate of total producer pounds assessed of 3,745.0 million (\$1.1235 million divided by \$0.0003 per pound). Dividing the total pounds assessed quantity by 429 producers yields an average assessed pounds per producer estimate of 8.73 million. Multiplying the annual assessed pounds per producer estimate of 8.73 million pounds by the 2023 NASS season average producer price per pound of \$0.214 yields an average annual watermelon sales receipts per producer estimate of \$1.87 million. This is well below the SBA small producer size threshold of \$3.75 million.

With an equal proportion of annual domestic assessments coming from handlers, the total handler pounds assessed is also 3,745.0 million. Dividing total handler pounds assessed by 121 handlers yields an average assessed pounds per handler estimate of 30.95 million pounds. Multiplying this estimate of annual assessed pounds per handler of 30.95 million pounds by the season average handler price per pound of \$0.284, provided by the Board, yields an estimate of average annual watermelon sales receipts per handler of \$8.79 million. This is well below the SBA small handler size threshold of \$34.0 million.

The Board reported that assessments received from importers totaled \$1.196 million in 2023. Dividing \$1.196 million by the assessment rate of \$0.06 per hundredweight (\$0.0006 per pound) yields an estimate of total importer pounds assessed of 1,993.3 million. Dividing the total pounds assessed by the number of importers, 183, yields an average assessed pounds per importer estimate of 10.89 million. Multiplying this estimate of annual assessed pounds per importer of 10.89 million pounds by the season average importer price per pound of \$0.284 yields an estimate of average annual watermelon sales receipts per importer of \$3.09 million. This is well below the SBA small importer size threshold of \$34.0 million. Assuming normal distributions, the majority of producers, handlers, and importers will be classified as small businesses according to SBA size standards.

This final rule amends § 1210.341 of the Plan to mandate that domestic

watermelon producers of 10 acres or more and domestic first handlers of watermelon each pay an assessment rate of four and a half cents per hundredweight, and importers of more than 150,000 pounds or more annually of watermelons pay an assessment of nine cents per hundredweight. Assessments under the program are used by the Board to finance promotion, research, and educational programs designed to increase consumer demand for watermelons in the United States and international markets. This action is the first time the Board has raised the assessment rate since 2008, and the second time the rate has been raised since the program's inception in 1989. The Plan is administered by the Board under the USDA supervision.

According to the Board, the increased assessment rate allows the Board to sustain and expand the promotional, research, and communications programs. The Board approved proposing the assessment rate increase at its February 24, 2024, meeting. This assessment increase is consistent with sec. 1647(f) of the Act (7 U.S.C. 4906(f)) that permits changes in the assessment rate through notice and comment procedures, as the proposed rule was open for a 30-day comment period. Section 1210.341(b) of the Plan states that assessment rates shall be fixed by the Secretary in accordance with sec. 1647(f) of the Act (7 U.S.C. 4906(f)). Currently, § 1210.515(a) of the Plan states that an assessment of three cents per hundredweight shall be levied on all watermelons produced, and on all watermelons first handled for consumption as human food. It also states that an assessment of six cents per hundredweight shall be levied on watermelons imported into the United States for consumption as human food. Further, not more than one assessment on a producer, handler, or importer may be collected on any lot of watermelons. Under this final rule, § 1210.515(a) of the Plan is revised to increase the assessment rate from six cents to nine cents per hundredweight. The final rule increases the assessment rate of three cents per hundredweight to four and a half cents per hundredweight to be levied on all watermelons produced and on all watermelons first handled for consumption as human food in the United States, and increases the assessment rate from six cents to nine cents per hundredweight to be levied on all watermelons imported into the United States for ultimate consumption as human food.

The Board contracted with an independent industry analyst to conduct an inflation impact analysis

using the Consumer Price Index (CPI) published by the U.S. Bureau of Labor Statistics. The base year for the analysis was 2008, the year of the previous assessment rate increase, and the analysis extended through April 2023. The CPI was 211.080 in January 2008 and 303.363 in April 2023. Dividing 303.363 by 211.080 yields a ratio of 1.437, or an increase of 43.7 percent. This inflation rate equates to 2.3% when compounded annually. Dividing the Board's average annual revenue throughout this period of \$3,024,721 by the CPI change ratio of 1.437 yields a figure of \$2,104,601. This decline of \$920,120 shows the budget's reduced buying power of roughly 30 percent since the previous assessment increase. This reduction in buying power due to inflation has a significant impact on the industry's ability to compete for market share. The cost of media services, research programs, promotional opportunities, as well as general administrative costs and fees paid to USDA have continually risen. USDA's AMS oversight costs were budgeted at \$105,000 in 2008, compared to \$147,000 for 2023. It is AMS policy that all research and promotion programs be charged in a fair and equitable manner. Assessments collected have not kept pace with these increasing costs across this time. Movement and sales of watermelon continue to grow, however, that growth has not outpaced the negative effects of inflation.

Armada Corporate Intelligence conducted a five-year return on investment (ROI) study for the Board from 2017–2021, to determine the impact of Board activities on the demand for watermelons. The resultant ROI for the Board's promotional endeavors is approximately 19:1, which displays that the activities of the Board have a significant positive impact on the watermelon industry. For further details, the study is located at <https://www.watermelon.org/press-releases/watermelon-board-announces-significant-positive-impact-for-watermelon-industry-with-191-roi/>. Armada Corporate Intelligence's 2021 econometric analysis is aligned with prior economic studies developed for the Board, including Dr. Harry Kaiser of Cornell University's 2017 analysis.¹

With the increased assessment, the financial commitment of the US watermelon industry for research and promotion activity will increase approximately 50% in current dollars. For example, if we apply the assessment increase to 2023, in which collections

¹ <https://www.watermelon.org/wp-content/uploads/2020/01/Econometric-Evaluation.pdf>.

totalled \$3,442,105, the increase in assessments collected would have been approximately \$1,721,053. The Board will use the additional funds to expand promotion and research activities, maintain operating reserves, and address inflation's impact on buying power.

The Board estimates the adjusted assessment rate of nine cents per hundredweight will increase the cost to watermelon producers and handlers from \$12 per truckload of watermelons to \$18 per truckload of watermelons. Similarly, the adjusted assessment rate will increase the cost to watermelon importers from \$24 a truckload to \$36 a truckload. This is based on a 40,000-pound net weight of watermelons per truckload.

Regarding alternatives, first, the Board considered maintaining the current assessment rate of six cents per hundredweight. However, with no increase to the assessment rate, the Board determined many research and promotion programs would be reduced or eliminated to balance the budget. Consequently, the alternative of maintaining the current assessment rate was rejected.

The second alternative considered by the Board was a two-cent increase to the assessment rate, raising the assessment rate from six cents per hundredweight to eight cents per hundredweight. This would allow the Board to operate with a balanced budget beginning in 2025, in addition to increasing investment in Board promotions. However, the Board decided against supporting a two-cent increase as inflationary pressure may further limit operations of the Board in coming years.

The third alternative considered by the Board was a tiered increase of the assessment rate with a two-cent increase effective on January 1, 2025, for a rate of eight cents per hundredweight, and an additional one-cent increase effective on January 1, 2026, for a rate of nine cents per hundredweight. This option to spread the assessment increase over a prolonged period was considered, but the Board ultimately decided against this alternative to avoid confusion with concurrent annual assessment adjustments.

This final rule also includes administrative changes to § 1210.515(b) of the Plan to correct non-substantive and typographical errors. These administrative changes have no impact on the assessment rate.

This rule will not impose additional recordkeeping requirements on first handlers, producers, or importers of watermelons. Producers of fewer than 10 acres of watermelon and importers of

less than 150,000 pounds of watermelon annually are exempt. There are no Federal rules that duplicate, overlap, or conflict with this rule. In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. chapter 35], the information collection and recordkeeping requirements that are imposed by the Plan have been approved previously under OMB control number 0581-0093. This rule will not result in a change to the information collection and recordkeeping requirements previously approved.

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 or citizen access to Government information and services, and for other purposes.

USDA determined this rule is consistent with the Act and would effectuate its purposes.

A proposed rule concerning this action was published in the **Federal Register** on July 9, 2024 (89 FR 56234). The proposed rule was featured on the Board's website, in addition to being distributed to all industry stakeholders via the Board's Watermelon Update monthly newsletter. A copy of the proposed rule was also made available through the internet by AMS via <https://www.regulations.gov>. A 30-day comment period ending on August 8, 2024, was provided for interested parties to respond to the proposal.

Comment Analysis

During the proposed rule's 30-day comment period, AMS received 33 comments, which may be viewed on <https://www.regulations.gov>. Twenty-four comments received were in support of the changes, seven were opposed, and two were unrelated to the assessment increase or the amendment to regulatory language.

Of the comments supporting the changes, 17 commenters stated the assessment increase would help strengthen research and promotion activities, with 12 of the supportive commenters additionally stating that the increased assessment rate would in turn benefit growers, handlers, and importers across the industry by raising the demand for watermelons through expanded marketing initiatives. Four of these commenters further acknowledged that the Board has a track record of delivering a positive ROI for the industry that allows the Board to maintain competitiveness in the marketplace. Four commenters provided

generic support for the assessment increase.

Of the seven comments that opposed the increase, four commenters voiced concern that the industry already faces enough cost increases across operations due to inflation with two commenters additionally requesting for the Board lower costs rather than raise them. The Board feels they have exhausted all cost-saving measures including scaling back programs and liquidating reserve funds. Before proposing this assessment increase, the Board identified a loss in buying power of roughly 30 percent since the last assessment increase in 2008, which impacts the amount and quality of the research and promotion initiatives the Board can implement. Therefore, a lower assessment rate would further reduce the activities the Board can afford, possibly reducing their ROI.

One comment did not support the assessment increase and expressed concern of being unsure how the additional funds would be utilized. The Plan strictly dictates how the funds can be expended. The Board will fund additional promotional and research initiatives across the communication, marketing, foodservice, and research committees the Board aims to support with an increased budget. These specifically include activities like campus pop-up events to promote watermelon to Gen Z, expanding in-store advertising experiences, conducting recipe contests to reach foodservice operators, and investing further into consumer research. These activities are outlined in the potential budget examples distributed by the Board on their website, which was also provided to the industry through an email in February 2024: <https://www.watermelon.org/wp-content/uploads/2023/12/The-Case-for-the-2025-NWPB-Assessment-Increase-12-11.pdf>.

One opposing comment from an international grower indicates that costs are too high, and that their Federal and State governments do not support them in mitigating against rising farming costs. The same commenter also indicates demand for watermelons has been low for years and that importers will be unfairly affected by the increase since a majority of the crop is imported for United States consumption. AMS acknowledges this comment. However, it is not in the Board's purview to attempt to influence inflation's effect on farming costs, as the Board is prohibited from utilizing funds to influence governmental policy or action as stated in sec. 1647(g)(3) of the Act (7 U.S.C. 4906(g)(3)). As mentioned in the

proposed rule, inflation has affected farming and marketing costs across the industry which requires the Board to raise the assessment rate to fund promotional activities that maintain and expand the market for watermelons. According to the Board's FOB and movement data, (which is available on their website: <https://www.watermelon.org/audiences/industry/assessment/>), the demand for watermelons has increased significantly since the last assessment increase from 4.3 billion pounds in 2008 to 5.5 billion pounds in 2023. The assessment increase is structured so importers pay nine cents per hundredweight, and handlers and producers split the cost each remitting four and a half cents per hundredweight. This is modeled by the current assessment structure of the Plan where importers pay six cents per hundredweight and handlers and procedures each remit three cents per hundredweight. The assessment rate structure borne on the industry is reflective of the production of the commodity. Additionally, four importers of watermelons left supportive comments for the assessment increase during the comment period, with one stating that the Board's efforts increase demand for watermelons in the United States which is evident as the number of watermelons imported from Mexico continue to grow.

Another commenter who stated opposition to the changes presented in the proposed rule voiced concern that importers of watermelons may not have equitable opportunities to address questions or concerns regarding the increase or other Board funded activities. The commenter asked if government officials of exporter countries were notified of the proposed assessment increase. AMS acknowledges this comment and notes that the proposed rule was published in the **Federal Register** to provide notice to all interested parties, including government officials of exporting countries, of the proposed modifications. The comment period provided an opportunity for industry members and the public alike to voice any concerns they may have with the proposed changes to the Plan. As with other interested parties, government officials had notice and opportunity to comment on the proposed assessment increase. No government officials commented on the proposed rule. Additionally, prior to the publication of the proposed rule, the Board conducted outreach to industry stakeholders, including those representing imported watermelons. For example, the Board

presented potential budgetary examples with the assessment increase to inform stakeholders, including importers, of the proposed assessment increase and activities that could be funded by the Board prior to the publication of the proposed rule. The Board presented at various state and regional association meetings, including the National Watermelon Association, which was attended by importers of watermelons, providing all growers equal opportunity to raise questions. In addition, the Board currently has nine importers members who represent the industry and help oversee the Board's policies and budget. AMS and the Board agree that transparency and communication to all stakeholders is critical, and accordingly, the Board notified the industry of the potential assessment increase through a variety of channels including industry-wide newsletters, regional and national conventions, and email correspondence.

AMS received two non-substantive comments. One of the unrelated comments was focused on pest control, and another voiced support for an athlete sponsored by the Board.

Accordingly, no changes were made to the rule as proposed, based on the comments received.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board, the comments received, and other available information, it is hereby found that this rule, as hereinafter set forth, is consistent with and will effectuate the purposes of the Act.

List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Agricultural research, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelons.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends part 1210, chapter XI of title 7 of the Code of Federal Regulations as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

■ 1. The authority citation for part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916 and 7 U.S.C. 7401.

■ 2. Amend § 1210.515 by revising paragraphs (a) and (b) to read as follows:

§ 1210.515 Levy of assessments.

(a) An assessment of four and a half cents per hundredweight shall be levied on all watermelons produced for

ultimate consumption as human food, and an assessment of four and a half cents per hundredweight shall be levied on all watermelons first handled for ultimate consumption as human food. An assessment of nine cents per hundredweight shall be levied on all watermelons imported into the United States for ultimate consumption as human food at the time of entry in the United States.

(b) The import assessment shall be uniformly applied to imported watermelons that are identified by the numbers 0807.11.30 and 0807.11.40 in the Harmonized Tariff Schedule of the United States or any other number used to identify fresh watermelons for consumption as human food. The U.S. Customs Service and Border Protection (Customs) will collect assessments on such watermelons at the time of entry and will forward such assessment as per the agreement between Customs and USDA. Any importer or agent who is exempt from payment of assessments may submit to the Board adequate proof of the volume handled by such importer for the exemption to be granted.

* * * * *

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–30268 Filed 12–20–24; 8:45 am]

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CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1026

Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold

AGENCY: Consumer Financial Protection Bureau.

ACTION: Final rule; official interpretation.

SUMMARY: The Consumer Financial Protection Bureau (CFPB) is amending the official commentary to its Regulation Z in order to make annual adjustments to the asset-size thresholds exempting certain creditors from the requirement to establish an escrow account for a higher-priced mortgage loan (HPML). The exemption threshold for creditors and their affiliates that regularly extended covered transactions secured by first liens is adjusted to \$2.717 billion and the exemption threshold for certain insured depository institutions and insured credit unions with assets of \$10 billion or less is adjusted to \$12.179 billion.

DATES: This rule is effective on January 1, 2025.

FOR FURTHER INFORMATION CONTACT:

George Karithanom, Regulatory Implementation & Guidance Program Analyst, Office of Regulations, at (202) 435-7700 or at: <https://reginquiries.consumerfinance.gov>. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 129D of the Truth in Lending Act (TILA) generally requires creditors to establish escrow accounts for certain first-lien higher-priced mortgage loan transactions. However, TILA section 129D also permits the CFPB to exempt creditors from this higher-priced mortgage loan escrow requirement if they meet certain requirements, including any asset-size threshold that the CFPB may establish.

In the 2013 Escrows Final Rule,¹ the CFPB established an asset-size threshold of \$2 billion, which would adjust automatically each year, based on the year-to-year change in the average of the CPI-W for each 12-month period ending in November, with rounding to the nearest million dollars.² In 2015, the CFPB revised the asset-size threshold for small creditors and how it applies. The CFPB included in the calculation of the asset-size threshold the assets of the creditor's affiliates that regularly extended covered transactions secured by first liens during the applicable period and added a grace period to allow an otherwise eligible creditor that exceeded the asset limit in the preceding calendar year (but not in the calendar year before the preceding year) to continue to operate as a small creditor with respect to transactions with applications received before April 1 of the current calendar year.³ For 2024, the threshold was \$2.640 billion.

During the 12-month period ending in November 2024, the average of the CPI-W increased by 2.9 percent. As a result, the exemption threshold is increased to

\$2.717 billion for 2025.⁴ Thus, if the creditor's assets together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2024 are less than \$2.717 billion on December 31, 2024, and it meets the other requirements of § 1026.35(b)(2)(iii), the creditor will be exempt from the escrow-accounts requirement for higher-priced mortgage loans in 2025 and will also be exempt from the escrow-accounts requirement for higher-priced mortgage loans for purposes of any loan consummated in 2026 with applications received before April 1, 2026. The adjustment to the escrows asset-size exemption threshold also will increase the threshold for small-creditor portfolio and balloon-payment qualified mortgages under Regulation Z. The requirements for small-creditor portfolio qualified mortgages at § 1026.43(e)(5)(i)(D) reference the asset threshold in § 1026.35(b)(2)(iii)(C). Likewise, the requirements for balloon-payment qualified mortgages at § 1026.43(f)(1)(vi) reference the asset threshold in § 1026.35(b)(2)(iii)(C). Under § 1026.32(d)(1)(ii)(C), balloon-payment qualified mortgages that satisfy all applicable criteria in § 1026.43(f)(1)(i) through (vi) and (f)(2), including being made by creditors that have (together with certain affiliates) total assets below the threshold in § 1026.35(b)(2)(iii)(C), are also excepted from the prohibition on balloon payments for high-cost mortgages.

In the 2018 Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA),⁵ Congress directed the CFPB to issue regulations to add a new exemption from TILA's escrow requirement that exempts transactions by certain insured depository institutions and insured credit unions.⁶ In 2021, the CFPB issued a final rule implementing this exemption in § 1026.35(b)(2)(vi) (2021 Escrows Rule).⁷ The final rule exempted from the Regulation Z HPML escrow requirement any loan made by an insured depository institution or insured credit union and secured by a first lien on the principal dwelling of a consumer if: (1) the institution has assets of \$10 billion or less; (2) the

institution and its affiliates originated 1,000 or fewer loans secured by a first lien on a principal dwelling during the preceding calendar year; and (3) certain of the existing HPML escrow exemption criteria are met. In the 2021 Escrows Rule, the CFPB established an asset-size threshold of \$10 billion or less in § 1026.35(b)(2)(vi)(A), which will adjust automatically each year, based on the year-to-year change in the average of the CPI-W, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million dollars. Unlike the asset threshold in § 1026.35(b)(2)(iii) and the other thresholds in § 1026.35(b)(2)(vi), affiliates are not considered in calculating compliance with this asset threshold. For calendar year 2024, the asset threshold was \$11.835 billion.

During the 12-month period ending in November 2024, the average of the CPI-W increased by 2.9 percent. As a result, the exemption threshold is increased to \$12.179 billion for 2025. Thus, a creditor that is an insured depository institution or insured credit union that during calendar year 2024 had assets of \$12.179 billion or less on December 31, 2024, satisfies this criterion for purposes of any loan consummated in 2025 and for purposes of any loan secured by a first lien on a principal dwelling of a consumer consummated in 2026 for which the application was received before April 1, 2026.

II. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the CFPB finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Pursuant to this final rule, comment 35(b)(2)(iii)-1 in Regulation Z is amended to update the exemption threshold in § 1026.35(b)(2)(iii), and comment 35(b)(2)(vi)(A)-1 in Regulation Z is amended to update the exemption threshold in § 1026.35(b)(2)(vi). The amendments in this final rule are technical and merely apply the formulae previously established in Regulation Z for determining any adjustments to the exemption thresholds. For these reasons, the CFPB has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendments are adopted in final form.

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective

¹ 78 FR 4726 (Jan. 22, 2013).

² See 12 CFR 1026.35(b)(2)(iii)(C).

³ See 80 FR 59943, 59951 (Oct. 2, 2015). The CFPB also issued an interim final rule in March 2016 to revise certain provisions in Regulation Z to effectuate the Helping Expand Lending Practices in Rural Communities Act's amendments to TILA (Pub. L. 114-94, sec. 89003, 129 Stat. 1312, 1800-01 (2015)). The rule broadened the cohort of creditors that may be eligible under TILA for the special provisions allowing origination of balloon-payment qualified mortgages and balloon-payment high-cost mortgages, as well as for the escrow exemption. See 81 FR 16074 (Mar. 25, 2016).

⁴ Adjusted dollar amounts throughout this final rule are calculated by applying the relevant consumer price index to the previous year's unrounded dollar amount before rounding to the nearest million dollars. Accordingly, applying the rounded consumer price index figures to the previous year's rounded dollar amounts may not add up to the total dollar amount shown.

⁵ Public Law 115-174, 132 Stat. 1296 (2018).

⁶ EGRRCPA sec. 108, 132 Stat. 1304-05; 15 U.S.C. 1639d(c)(2).

⁷ 86 FR 9840 (Feb. 17, 2021).

date, except (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d). At a minimum, the CFPB has determined the amendments fall under the third exception to section 553(d). The CFPB finds that there is good cause to make the amendments effective on January 1, 2025. The amendments in this final rule are technical and non-discretionary, and they merely apply the method previously established in the agency's regulations for automatic adjustments to the threshold.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.⁸ As noted previously, the CFPB has determined that it is unnecessary to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirement relating to an initial and final regulatory flexibility analysis does not apply.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,⁹ the CFPB reviewed this final rule. The CFPB has determined that this rule does not create any new information collections or substantially revise any existing collections.

D. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the CFPB will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule taking effect. The Office of Information and Regulatory Affairs (OIRA) has designated this rule as not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1026

Advertising, Banks, banking, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth-in-lending.

Authority and Issuance

For the reasons set forth above, the CFPB amends Regulation Z, 12 CFR part 1026, as set forth below:

PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for Part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 3353, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

■ 2. In supplement I to part 1026, under § 1026.35—Requirements for Higher-Priced Mortgage Loans, revise Paragraph 35(b)(2)(iii) and Paragraph 35(b)(2)(vi)(A) to read as follows:

Supplement I to Part 1026—Official Interpretations

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

* * * * *

Section 1026.35—Requirements for Higher-Priced Mortgage Loans

* * * * *

35(b)(2) Exemptions.

* * * * *

Paragraph 35(b)(2)(iii).

1. *Requirements for exemption.* Under § 1026.35(b)(2)(iii), except as provided in § 1026.35(b)(2)(v), a creditor need not establish an escrow account for taxes and insurance for a higher-priced mortgage loan, provided the following four conditions are satisfied when the higher-priced mortgage loan is consummated:

i. During the preceding calendar year, or during either of the two preceding calendar years if the application for the loan was received before April 1 of the current calendar year, a creditor extended a first-lien covered transaction, as defined in § 1026.43(b)(1), secured by a property located in an area that is either "rural" or "underserved," as set forth in § 1026.35(b)(2)(iv).

A. In general, whether the rural-or-underserved test is satisfied depends on the creditor's activity during the preceding calendar year. However, if the application for the loan in question was received before April 1 of the current calendar year, the creditor may instead meet the rural-or-underserved test based on its activity during the next-to-last calendar year. This provides creditors with a grace period if their activity meets the rural-or-underserved test (in § 1026.35(b)(2)(iii)(A)) in one calendar year but fails to meet it in the next calendar year.

B. A creditor meets the rural-or-underserved test for any higher-priced mortgage loan consummated during a calendar year if it extended a first-lien covered transaction in the preceding calendar year secured by a property located in a rural-or-underserved area. If the creditor does not meet the rural-or-underserved test in the preceding calendar year, the creditor meets

this condition for a higher-priced mortgage loan consummated during the current calendar year only if the application for the loan was received before April 1 of the current calendar year and the creditor extended a first-lien covered transaction during the next-to-last calendar year that is secured by a property located in a rural or underserved area. The following examples are illustrative:

1. Assume that a creditor extended during 2016 a first-lien covered transaction that is secured by a property located in a rural or underserved area. Because the creditor extended a first-lien covered transaction during 2016 that is secured by a property located in a rural or underserved area, the creditor can meet this condition for exemption for any higher-priced mortgage loan consummated during 2017.

2. Assume that a creditor did not extend during 2016 a first-lien covered transaction secured by a property that is located in a rural or underserved area. Assume further that the same creditor extended during 2015 a first-lien covered transaction that is located in a rural or underserved area. Assume further that the creditor consummates a higher-priced mortgage loan in 2017 for which the application was received in November 2017. Because the creditor did not extend during 2016 a first-lien covered transaction secured by a property that is located in a rural or underserved area, and the application was received on or after April 1, 2017, the creditor does not meet this condition for exemption. However, assume instead that the creditor consummates a higher-priced mortgage loan in 2017 based on an application received in February 2017. The creditor meets this condition for exemption for this loan because the application was received before April 1, 2017, and the creditor extended during 2015 a first-lien covered transaction that is located in a rural or underserved area.

ii. The creditor and its affiliates together extended no more than 2,000 covered transactions, as defined in § 1026.43(b)(1), secured by first liens, that were sold, assigned, or otherwise transferred by the creditor or its affiliates to another person, or that were subject at the time of consummation to a commitment to be acquired by another person, during the preceding calendar year or during either of the two preceding calendar years if the application for the loan was received before April 1 of the current calendar year. For purposes of § 1026.35(b)(2)(iii)(B), a transfer of a first-lien covered transaction to "another person" includes a transfer by a creditor to its affiliate.

A. In general, whether this condition is satisfied depends on the creditor's activity during the preceding calendar year. However, if the application for the loan in question is received before April 1 of the current calendar year, the creditor may instead meet this condition based on activity during the next-to-last calendar year. This provides creditors with a grace period if their activity falls at or below the threshold in one calendar year but exceeds it in the next calendar year.

B. For example, assume that in 2015 a creditor and its affiliates together extended

⁸ 5 U.S.C. 603(a), 604(a).

⁹ 44 U.S.C. 3506; 5 CFR part 1320.

1,500 loans that were sold, assigned, or otherwise transferred by the creditor or its affiliates to another person, or that were subject at the time of consummation to a commitment to be acquired by another person, and 2,500 such loans in 2016. Because the 2016 transaction activity exceeds the threshold but the 2015 transaction activity does not, the creditor satisfies this condition for exemption for a higher-priced mortgage loan consummated during 2017 if the creditor received the application for the loan before April 1, 2017, but does not satisfy this condition for a higher-priced mortgage loan consummated during 2017 if the application for the loan was received on or after April 1, 2017.

C. For purposes of § 1026.35(b)(2)(iii)(B), extensions of first-lien covered transactions, during the applicable time period, by all of a creditor's affiliates, as "affiliate" is defined in § 1026.32(b)(5), are counted toward the threshold in this section. "Affiliate" is defined in § 1026.32(b)(5) as "any company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*)" Under the Bank Holding Company Act, a company has control over a bank or another company if it directly or indirectly or acting through one or more persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the bank or company; it controls in any manner the election of a majority of the directors or trustees of the bank or company; or the Federal Reserve Board determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the bank or company. 12 U.S.C. 1841(a)(2).

iii. As of the end of the preceding calendar year, or as of the end of either of the two preceding calendar years if the application for the loan was received before April 1 of the current calendar year, the creditor and its affiliates that regularly extended covered transactions secured by first liens, together, had total assets that are less than the applicable annual asset threshold.

A. For purposes of § 1026.35(b)(2)(iii)(C), in addition to the creditor's assets, only the assets of a creditor's "affiliate" (as defined by § 1026.32(b)(5)) that regularly extended covered transactions (as defined by § 1026.43(b)(1)) secured by first liens, are counted toward the applicable annual asset threshold. *See* comment 35(b)(2)(iii)–1.ii.C for discussion of definition of "affiliate."

B. Only the assets of a creditor's affiliate that regularly extended first-lien covered transactions during the applicable period are included in calculating the creditor's assets. The meaning of "regularly extended" is based on the number of times a person extends consumer credit for purposes of the definition of "creditor" in § 1026.2(a)(17). Because covered transactions are "transactions secured by a dwelling," consistent with § 1026.2(a)(17)(v), an affiliate regularly extended covered transactions if it extended more than five covered transactions in a calendar year. Also consistent with § 1026.2(a)(17)(v), because a covered transaction may be a high-cost mortgage

subject to § 1026.32, an affiliate regularly extends covered transactions if, in any 12-month period, it extends more than one covered transaction that is subject to the requirements of § 1026.32 or one or more such transactions through a mortgage broker. Thus, if a creditor's affiliate regularly extended first-lien covered transactions during the preceding calendar year, the creditor's assets as of the end of the preceding calendar year, for purposes of the asset limit, take into account the assets of that affiliate. If the creditor, together with its affiliates that regularly extended first-lien covered transactions, exceeded the asset limit in the preceding calendar year—to be eligible to operate as a small creditor for transactions with applications received before April 1 of the current calendar year—the assets of the creditor's affiliates that regularly extended covered transactions in the year before the preceding calendar year are included in calculating the creditor's assets.

C. If multiple creditors share ownership of a company that regularly extended first-lien covered transactions, the assets of the company count toward the asset limit for a co-owner creditor if the company is an "affiliate," as defined in § 1026.32(b)(5), of the co-owner creditor. Assuming the company is not an affiliate of the co-owner creditor by virtue of any other aspect of the definition (such as by the company and co-owner creditor being under common control), the company's assets are included toward the asset limit of the co-owner creditor only if the company is controlled by the co-owner creditor, "as set forth in the Bank Holding Company Act." If the co-owner creditor and the company are affiliates (by virtue of any aspect of the definition), the co-owner creditor counts all of the company's assets toward the asset limit, regardless of the co-owner creditor's ownership share. Further, because the co-owner and the company are mutual affiliates the company also would count all of the co-owner's assets towards its own asset limit. *See* comment 35(b)(2)(iii)–1.ii.C for discussion of the definition of "affiliate."

D. A creditor satisfies the criterion in § 1026.35(b)(2)(iii)(C) for purposes of any higher-priced mortgage loan consummated during 2016, for example, if the creditor (together with its affiliates that regularly extended first-lien covered transactions) had total assets of less than the applicable asset threshold on December 31, 2015. A creditor that (together with its affiliates that regularly extended first-lien covered transactions) did not meet the applicable asset threshold on December 31, 2015, satisfies this criterion for a higher-priced mortgage loan consummated during 2016 if the application for the loan was received before April 1, 2016, and the creditor (together with its affiliates that regularly extended first-lien covered transactions) had total assets of less than the applicable asset threshold on December 31, 2014.

E. Under § 1026.35(b)(2)(iii)(C), the \$2,000,000,000 asset threshold adjusts automatically each year based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for

each 12-month period ending in November, with rounding to the nearest million dollars. The CFPB will publish notice of the asset threshold each year by amending this comment. For calendar year 2025, the asset threshold is \$2,717,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2024 has total assets of less than \$2,717,000,000 on December 31, 2024, satisfies this criterion for purposes of any loan consummated in 2025 and for purposes of any loan consummated in 2026 for which the application was received before April 1, 2026. For historical purposes:

1. For calendar year 2013, the asset threshold was \$2,000,000,000. Creditors that had total assets of less than \$2,000,000,000 on December 31, 2012, satisfied this criterion for purposes of the exemption during 2013.

2. For calendar year 2014, the asset threshold was \$2,028,000,000. Creditors that had total assets of less than \$2,028,000,000 on December 31, 2013, satisfied this criterion for purposes of the exemption during 2014.

3. For calendar year 2015, the asset threshold was \$2,060,000,000. Creditors that had total assets of less than \$2,060,000,000 on December 31, 2014, satisfied this criterion for purposes of any loan consummated in 2015 and, if the creditor's assets together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2014 were less than that amount, for purposes of any loan consummated in 2016 for which the application was received before April 1, 2016.

4. For calendar year 2016, the asset threshold was \$2,052,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2015 had total assets of less than \$2,052,000,000 on December 31, 2015, satisfied this criterion for purposes of any loan consummated in 2016 and for purposes of any loan consummated in 2017 for which the application was received before April 1, 2017.

5. For calendar year 2017, the asset threshold was \$2,069,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2016 had total assets of less than \$2,069,000,000 on December 31, 2016, satisfied this criterion for purposes of any loan consummated in 2017 and for purposes of any loan consummated in 2018 for which the application was received before April 1, 2018.

6. For calendar year 2018, the asset threshold was \$2,112,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2017 had total assets of less than \$2,112,000,000 on December 31, 2017, satisfied this criterion for purposes of any loan consummated in 2018 and for purposes of any loan consummated in 2019 for which the application was received before April 1, 2019.

7. For calendar year 2019, the asset threshold was \$2,167,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered

transactions during calendar year 2018 had total assets of less than \$2,167,000,000 on December 31, 2018, satisfied this criterion for purposes of any loan consummated in 2019 and for purposes of any loan consummated in 2020 for which the application was received before April 1, 2020.

8. For calendar year 2020, the asset threshold was \$2,202,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2019 had total assets of less than \$2,202,000,000 on December 31, 2019, satisfied this criterion for purposes of any loan consummated in 2020 and for purposes of any loan consummated in 2021 for which the application was received before April 1, 2021.

9. For calendar year 2021, the asset threshold was \$2,230,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2020 had total assets of less than \$2,230,000,000 on December 31, 2020, satisfied this criterion for purposes of any loan consummated in 2021 and for purposes of any loan consummated in 2022 for which the application was received before April 1, 2022.

10. For calendar year 2022, the asset threshold was \$2,336,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2021 had total assets of less than \$2,336,000,000 on December 31, 2021, satisfied this criterion for purposes of any loan consummated in 2022 and for purposes of any loan consummated in 2023 for which the application was received before April 1, 2023.

11. For calendar year 2023, the asset threshold was \$2,537,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2022 had total assets of less than \$2,537,000,000 on December 31, 2022, satisfied this criterion for purposes of any loan consummated in 2023 and for purposes of any loan consummated in 2024 for which the application was received before April 1, 2024.

12. For calendar year 2024, the asset threshold was \$2,640,000,000. A creditor that together with the assets of its affiliates that regularly extended first-lien covered transactions during calendar year 2023 had total assets of less than \$2,640,000,000 on December 31, 2023, satisfied this criterion for purposes of any loan consummated in 2024 and for purposes of any loan consummated in 2025 for which the application was received before April 1, 2025.

iv. The creditor and its affiliates do not maintain an escrow account for any mortgage transaction being serviced by the creditor or its affiliate at the time the transaction is consummated, except as provided in § 1026.35(b)(2)(iii)(D)(1) and (2). Thus, the exemption applies, provided the other conditions of § 1026.35(b)(2)(iii) (or, if applicable, the conditions for the exemption in § 1026.35(b)(2)(vi)) are satisfied, even if the creditor previously maintained escrow accounts for mortgage loans, provided it no longer maintains any such accounts except as provided in § 1026.35(b)(2)(iii)(D)(1) and (2).

Once a creditor or its affiliate begins escrowing for loans currently serviced other than those addressed in § 1026.35(b)(2)(iii)(D)(1) and (2), however, the creditor and its affiliate become ineligible for the exemption in § 1026.35(b)(2)(iii) and (vi) on higher-priced mortgage loans they make while such escrowing continues. Thus, as long as a creditor (or its affiliate) services and maintains escrow accounts for any mortgage loans, other than as provided in § 1026.35(b)(2)(iii)(D)(1) and (2), the creditor will not be eligible for the exemption for any higher-priced mortgage loan it may make. For purposes of § 1026.35(b)(2)(iii) and (vi), a creditor or its affiliate “maintains” an escrow account only if it services a mortgage loan for which an escrow account has been established at least through the due date of the second periodic payment under the terms of the legal obligation.

* * * * *

Paragraph 35(b)(2)(vi)(A).

1. The asset threshold in § 1026.35(b)(2)(vi)(A) will adjust automatically each year, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million dollars. Unlike the asset threshold in § 1026.35(b)(2)(iii) and the other thresholds in § 1026.35(b)(2)(vi), affiliates are not considered in calculating compliance with this threshold. The CFPB will publish notice of the asset threshold each year by amending this comment. For calendar year 2025, the asset threshold is \$12,179,000,000. A creditor that is an insured depository institution or insured credit union that during calendar year 2024 had assets of \$12,179,000,000 or less on December 31, 2024, satisfies this criterion for purposes of any loan consummated in 2025 and for purposes of any loan secured by a first lien on a principal dwelling of a consumer consummated in 2026 for which the application was received before April 1, 2026. For historical purposes:

1. For calendar year 2021, the asset threshold was \$10,000,000,000. Creditors that had total assets of 10,000,000,000 or less on December 31, 2020, satisfied this criterion for purposes of any loan consummated in 2021 and for purposes of any loan secured by a first lien on a principal dwelling of a consumer consummated in 2022 for which the application was received before April 1, 2022.

2. For calendar year 2022, the asset threshold was \$10,473,000,000. Creditors that had total assets of \$10,473,000,000 or less on December 31, 2021, satisfied this criterion for purposes of any loan consummated in 2022 and for purposes of any loan secured by a first lien on a principal dwelling of a consumer consummated in 2023 for which the application was received before April 1, 2023.

3. For calendar year 2023, the asset threshold was \$11,374,000,000. A creditor that is an insured depository institution or insured credit union that during calendar year 2022 had assets of \$11,374,000,000 or less on December 31, 2022, satisfied this criterion for purposes of any loan

consummated in 2023 and for purposes of any loan secured by a first lien on a principal dwelling of a consumer consummated in 2024 for which the application was received before April 1, 2024.

4. For calendar year 2024, the asset threshold is \$11,835,000,000. A creditor that is an insured depository institution or insured credit union that during calendar year 2023 had assets of \$11,835,000,000 or less on December 31, 2023, satisfied this criterion for purposes of any loan consummated in 2024 and for purposes of any loan secured by a first lien on a principal dwelling of a consumer consummated in 2025 for which the application was received before April 1, 2025.

* * * * *

Brian Shearer,

Assistant Director, Office of Policy Planning and Strategy, Consumer Financial Protection Bureau.

[FR Doc. 2024–30653 Filed 12–20–24; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–2104; Airspace Docket No. 23–ANM–38]

RIN 2120–AA66

Establishment of Class E Airspace; Austin Airport, Austin, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Austin Airport, Austin, NV. The airport is transitioning from visual flight rules (VFR) to instrument flight rules (IFR), and these actions support the safety and management of IFR operations at the airport.

DATES: Effective date 0901 UTC, February 20, 2025. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11], Airspace Designations and Reporting Points, and

subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT:

Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231-3460.

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 establishes Class E airspace to support IFR operations at Austin Airport, Austin, NV.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2024-2104 in the **Federal Register** (89 FR 75510; September 16, 2024), proposing to establish Class E airspace at Austin Airport, Austin, NV. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two identical comments were received in favor of the proposal.

Incorporation by Reference

Class E5 airspace areas are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. FAA Order JO 7400.11J is publicly available as listed in the ADDRESSES section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Austin Airport, Austin, NV.

The Class E airspace includes that airspace within a 3.5-mile radius of the Austin Airport Reference Point as well as three extensions due to rising terrain to the north and southwest of the airport. The two northern expansions contain departing IFR operations until reaching 1,200 feet above the surface and arriving IFR operations below 1,500 feet above the surface. The southwest extension contains departing IFR operations until reaching 1,200 feet above the surface.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR part 71.1 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 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM NV E5 Austin, NV [New]

Austin Airport, NV

(Lat. 39°28'05" N, long. 117°11'51" W)

That airspace extending upwards from 700 feet above the surface within a 3.5-mile radius of the airport, within 1.1 miles west and 1.6 miles east of the airport's 021° bearing extending to 8.2 miles north of the airport, within 2.2 miles on either side of the airport's 203° bearing extending to 7.9 miles southwest of the airport, and within the airport's 317° bearing clockwise to the 012° bearing extending from the airport's 3.5-mile radius to its 6.3-mile radius.

* * * * *

Issued in Des Moines, Washington, on December 17, 2024.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2024-30515 Filed 12-20-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2024-1856; Airspace Docket No. 24-ANM-70]

RIN 2120-AA66

Modification of Class D and Class E Airspace; Camp Guernsey Airport, Guernsey, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class D airspace, Class E airspace area designated as a surface area (Class E2 surface area), and Class E airspace area extending upward from 700 feet or more

above the surface of the earth (Class E5 airspace area) at Camp Guernsey Airport, Guernsey, WY. This modification supports the containment of instrument flight rules (IFR) operations at the airport. Additionally, this action updates the administrative caption of the airport's legal descriptions.

DATES: Effective date 0901 UTC, February 20, 2025. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11J, 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, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Keith T. Adams, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone: (206) 231-2428.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Class D airspace, Class E2 surface area, and Class E5 airspace area to support IFR operations at Camp Guernsey Airport, Guernsey, WY.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2024-1856 in the **Federal Register** (89 FR 71189; September 03, 2024), proposing to modify Class D airspace, Class E2 surface area, and Class E5 airspace area to support IFR operations at Camp Guernsey Airport, Guernsey, WY.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class D, Class E2 and Class E5 airspace areas are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. FAA Order JO 7400.11J is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by modifying the Class E5 airspace area at Camp Guernsey Airport, Guernsey, WY.

The Class E5 airspace area is modified to within a 6.7-mile radius of the airport and within 6.7 miles each side of the airport's 143° bearing extending from the 6.7-mile radius to 18 miles southeast of the airport, excluding that airspace within R-7001A and R-7002B when active. This modification accommodates IFR arrival operations descending through 1,500 feet above the surface and departing IFR operations until reaching 1,200 feet above the surface.

Additionally, administrative amendments have changed Camp Guernsey Airport's legal descriptions. The city location is amended to Guernsey, WY. The airport's Class D airspace and Class E2 surface area legal descriptions have the updated part-time airspace text. Lastly, exclusionary text referencing special use airspace has been added to all airspace legal descriptions associated with Camp Guernsey Airport, WY.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANM WY D Guernsey, WY [Amended]

Camp Guernsey Airport, WY
(Lat. 42°15'35" N, long. 104°43'42" W)

That airspace extending upward from the surface up to and including 6,900 feet MSL

within a 5-mile radius of the airport and within 1.5 miles each side of the 340° bearing from the airport, extending from the 5-mile radius to 6.5 miles north of the airport, excluding that airspace within R-7001A and R-7002B when active. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

ANM WY E2 Guernsey, WY [Amended]

Camp Guernsey Airport, WY
(Lat. 42°15'35" N, long. 104°43'42" W)

That airspace extending upward from the surface up to and including 6,900 feet MSL within a 5-mile radius of the airport and within 1.5 miles each side of the 340° bearing from the airport, extending from the 5-mile radius to 6.5 miles north of the airport, excluding that airspace within R-7001A and R-7002B when active. This Class E surface area is effective during specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

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

* * * * *

ANM WY E5 Guernsey, WY [Amended]

Camp Guernsey Airport, WY
(Lat. 42°15'35" N, long. 104°43'42" W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the airport and within 6.7 miles each side of the 143° bearing from the airport, extending from the 6.7-mile radius to 18 miles southeast of the airport, excluding that airspace within R-7001A and R-7002B when active.

* * * * *

Issued in Des Moines, Washington, on December 17, 2024.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2024-30511 Filed 12-20-24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2024-1857; Airspace Docket No. 19-ANM-99]

RIN 2120-AA66

Modification of Class D and Class E Airspace; Revocation of Class E Airspace; Buckley Space Force Base, Aurora, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class D airspace and Class E airspace designated as a surface area and revokes the Class E airspace designated as an extension to the Class D or Class E surface area at Buckley Space Force Base, Aurora, CO. Additionally, this action modifies the administrative portions of the airport's legal descriptions to match the FAA's database. These actions will support the safety and management of instrument flight rules (IFR) and visual flight rules (VFR) operations at the airport.

DATES: Effective date 0901 UTC, February 20, 2025. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11J, 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, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Keith T. Adams, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone: (206) 231-2428.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies Class D airspace and Class E airspace designated as a surface area and revokes Class E airspace designated as an extension to the Class D or Class E surface area to support IFR and VFR operations at Buckley Space Force Base, Aurora, CO.

History

The FAA published an NPRM for Docket No. FAA-2024-1857 in the **Federal Register** (89 FR 73022; September 09, 2024), proposing to amend the Class D airspace and Class E airspace designated as a surface area and revoke the Class E airspace designated as an extension to the Class D or Class E surface area Buckley Space Force Base, Aurora, CO. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments were received in favor of the proposal.

Incorporation by Reference

Class D, E2, and E4 airspace designations are published in paragraphs 5000, 6002, and 6004, respectively, of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. FAA Order JO 7400.11J is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by modifying the Class D airspace and Class E airspace designated as a surface area and revoking the Class E airspace

designated as an extension to the Class D or Class E surface area at Buckley Space Force Base, CO.

The lateral boundaries of the airport's Class D and Class E surface areas are insufficiently sized and expanded to the southeast to better contain IFR arrivals when less than 1,000 feet above the surface and departing IFR aircraft until reaching the next adjacent airspace. Additionally, an approximately 0.30 nautical mile gap between Class E and Class G airspaces is closed by merging the Buckley Space Force Base and Centennial Airport surface areas. As such, the Buckley Space Force Base Class D and Class E surface areas are modified to be within a 4.4-mile radius of the airport, within 2 miles northeast and 4 miles southwest of the airport's 151° bearing extending to 7.1 miles southeast, and within 4 miles south and 4.4 miles north of the airport's 270° bearing extending to 4.7 miles west, excluding that airspace within the Denver International Airport Class B and Centennial Airport Class D airspace areas.

Buckley Space Force Base's Class E airspace designated as an extension to the Class D or Class E surface area is revoked. The Class E extension is no longer required due to the expansion of the airport's surface area airspace.

Finally, the administrative portions of the airport's legal descriptions are modified to match the FAA's database. The airport's name on line two of both legal descriptions is changed to read "Buckley Space Force Base, CO." Additionally, line four of both surface area legal descriptions now include "Denver International Airport, CO" and "Centennial Airport, CO" as references, as they are used to define the airport's surface areas.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

Authority: 49 U.S.C. 106(f), 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 5000 Class D Airspace.

* * * * *

ANM CO D Aurora, CO [Amended]

Buckley Space Force Base, CO
(Lat. 39°42'06" N, long. 104°45'07" W)
Denver International Airport, CO
(Lat. 39°51'42" N, long. 104°40'23" W)
Centennial Airport, CO
(Lat. 39°34'12" N, long. 104°50'57" W)

That airspace extending upward from the surface to but not including 7,500 feet MSL within a 4.4-mile radius of the airport, within 2 miles northeast and 4 miles southwest of the airport's 151° bearing extending to 7.1 miles southeast, and within 4 miles south and 4.4 miles north of the airport's 270° bearing extending to 4.7 miles west, excluding that airspace within the Denver International Airport Class B and Centennial Airport Class D airspace areas. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

ANM CO E2 Aurora, CO [Amended]

Buckley Space Force Base, CO
(Lat. 39°42'06" N, long. 104°45'07" W)
Denver International Airport, CO
(Lat. 39°51'42" N, long. 104°40'23" W)
Centennial Airport, CO
(Lat. 39°34'12" N, long. 104°50'57" W)

That airspace extending upward from the surface to but not including 7,500 feet MSL within a 4.4-mile radius of the airport, within 2 miles northeast and 4 miles southwest of the airport's 151° bearing extending to 7.1 miles southeast, and within 4 miles south and 4.4 miles north of the airport's 270° bearing extending to 4.7 miles west, excluding that airspace within the Denver International Airport Class B and Centennial Airport Class D airspace areas. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ANM CO E4 Aurora, CO [Removed]

Aurora, Buckley ANG Base, CO
(Lat. 39°42'06" N, long. 104°45'07" W)
* * * * *

Issued in Des Moines, Washington,
December 17, 2024.

B.G. Chew,

*Group Manager, Operations Support Group,
Western Service Center.*

[FR Doc. 2024–30531 Filed 12–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

**[Docket No. FAA–2023–1477; Airspace
Docket No. 19–ANM–27]**

RIN 2120–AA66

**Modification of Class D Airspace;
Revocation of Class E Airspace;
Centennial Airport, Denver, CO**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace and revokes Class E airspace designated as an extension to a Class D or Class E surface area at Centennial Airport (APA), Denver, CO. Additionally, this action amends the text associated with Centennial

Airport's legal description. This action supports instrument flight rules (IFR) and visual flight rules (VFR) operations at the airport.

DATES: Effective date 0901 UTC, February 20, 2025. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11J, 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, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Keith T. Adams, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231-2428.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies Class D airspace and revokes Class E airspace designated as an extension to a Class D or Class E surface area in support of IFR and VFR operations at Centennial Airport, Denver, CO.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2023-1477 in the **Federal Register** (89 FR 73020; September 09, 2024), proposing to modify Class D airspace

and revoke Class E airspace designated as an extension to Class D or Class E surface area at Centennial Airport, Denver, CO. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Four comments were received in favor of the proposal.

Incorporation by Reference

Class D and Class E4 are published in paragraph 5000 and 6004, respectively, of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. FAA Order JO 7400.11J is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by modifying the Class D airspace and revoking the Class E airspace designated as an extension to a Class D or Class E surface area at Centennial Airport, Denver, CO, in support of IFR and VFR operations at the airport.

The airport's Class D airspace lateral boundary has been modified to extend 3.9 nautical miles (NM) northwest and 4.6 NM southeast from the airport's 038° bearing extending 4.6 NM northeast. This expansion—along with the modification to Buckley Space Force Base Airport's (BKF) Class D airspace—has merged both airport's surface areas, which will require transiting VFR aircraft to utilize 500 feet of Class E airspace area between the top of BKF Class D airspace and the floor of the Denver Class B airspace. Additionally, APA's Class D airspace is expanded from a 4.4-mile radius to a 6.4-mile radius between the airport's 083° bearing clockwise to the 201° bearing. Due to rising terrain, this modification will better contain instrument departures until reaching 700 feet above the surface of the earth. APA's Class D airspace has also been extended from a 4.4-mile radius to a 4.9-mile radius between the airport's 201° bearing clockwise to the 347° bearing to better contain aircraft conducting a circling maneuver at the airport.

The Class E airspace designated as an extension to a Class D or Class E surface area is revoked. This airspace is

unnecessary given the airport's newly defined Class D airspace lateral dimensions provide suitable containment of applicable instrument flight procedures.

Lastly, this action amends the administrative text to the airport's legal description. The city's name is amended from Englewood to Denver. The airport's geographic coordinates are amended to 39°34'12" N, long 104°50'57" W. The part-time language has been removed as the facility operates 24 hours daily.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

Authority: 49 U.S.C. 106(f), 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 7400.11], Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANM CO D Denver, CO [Amended]

Centennial Airport, CO

(Lat. 39°34'12" N, long. 104°50'57" W)

That airspace extending upward from the surface to but not including 8,000 feet MSL within 3.9 miles northwest and 4.6 miles southeast of the airport's 038° bearing extending to 4.6 miles northeast, within a 6.4-mile radius from the airport's 083° bearing clockwise to the 201° bearing, and within a 4.9-mile radius from the airport's 201° bearing clockwise to the 347° bearing.

* * * * *

Paragraph 6004 Class E Airspace

Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ANM CO E4 Englewood, CO [Removed]

* * * * *

Issued in Des Moines, Washington, on December 17, 2024.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2024–30530 Filed 12–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742 and 774

[Docket No. 241212–0324]

RIN 0694–AJ83

Implementation of Certain Australia Group Decisions

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) to implement changes agreed to by Australia Group (AG) member countries at recent meetings. These include controlling: instruments for the automated chemical synthesis of peptides (automated peptide synthesizers), dipropylamine, and

neosaxitoxin; and revising the controls for botulinum toxins, toxic gas monitors, and centrifugal separators. This rule also makes minor conforming changes for the new controls and revisions to existing controls.

DATES: This rule is effective December 23, 2024.

FOR FURTHER INFORMATION CONTACT:

For questions on pathogens and toxins discussed in this rule, contact Dr. Lauren Reynolds, Chemical and Biological Controls Division, Office of Nonproliferation and Foreign Policy Controls, Bureau of Industry and Security, Telephone: (202) 482–2794, Email: Lauren.Reynolds@bis.doc.gov.

For all other questions pertaining to this rule, contact Logan Norton, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482–1762, Email: RPD2@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

The Australia Group

BIS is amending the Export Administration Regulations (EAR) (15 CFR parts 730–774) to reflect the decisions made at the 2023 Intersessional Meeting in Rome, Italy, the 2023 Plenary Meeting in Paris, France, the 2024 Intersessional Meeting in Berlin, Germany and the 2024 Plenary Meeting in Paris, France. The Australia Group (AG) is a multilateral forum consisting of 42 participating countries and the European Union. These participants maintain export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program. The AG periodically reviews items on its control list to enhance the effectiveness of participating governments' national controls and to achieve greater harmonization among these controls.

Regulatory Changes

As stated above, this rule implements changes agreed upon at the 2023 and 2024 Intersessional and Plenary Meetings of the AG. The changes made at each meeting are described below in chronological order.

2023 Intersessional

The AG meeting of the 2023 Intersessional determined that not all AG members assess gas detection systems with the same criteria. Prior to this rule, the control text only referred to the ability to detect chemical warfare agents or AG controlled precursors at a concentration of less than 0.3 mg/m³.

This made it unclear if a gas detection system with a noise level near 0.3 mg/m³ was controlled, without taking into account the instrument detection limit. As a result, the AG agreed to a uniform way of applying the control language on toxic gas monitors and monitoring systems. To clarify the text, the AG agreed to the new term called 'minimum detection limit' and a corresponding definition, both detailed below, to the control text.

The AG agreed to two changes to ECCN 2B351. First, in item paragraph .a, "at concentrations of less than" is replaced with "'minimum detection limit' of", which is still followed by the 0.3 mg/m³ concentration measurement. Second, it adds a technical note defining 'minimum detection limit' as the lowest detectable concentration of the analyte required to produce a signal greater than three times the standard deviation of the toxic gas monitor's or monitoring system's signal when measuring a blank sample; alternatively, in the case of toxic gas monitors or monitoring systems having a deadband or programmed zero suppression, the 'minimum detection limit' is the lowest detectable concentration required to produce a reading.

2023 Plenary

In the 2023 Plenary Meeting, the AG reached consensus on three primary revisions, mostly impacting ECCNs 1C350.d and 1C351.d.

ECCN 1C350.d had multiple changes. In February 2020 the AG added a number of precursors to the chemical weapons precursors control list. However, dipropylamine, which is also useful for the synthesis of the corresponding AG-controlled precursors, was not yet controlled. The AG determined that it was important to address this issue by controlling dipropylamine. Under ECCN 1C350, (C.A.S. #142–84–7) Dipropylamine was added as .d.11. The items that had been listed in item paragraphs .d.11 through .d.49 remain, with their item paragraphs shifting up by a factor of one.

Botulinum toxins can be neurotoxins or non-neurotoxins. Previously, the AG had not specifically stated if only botulinum neurotoxins should be captured by ECCN 1C351.d.3 or if all botulinum toxins are included. The AG agreed to update the language to "botulinum neurotoxins" noting the greater risk of their use in chemical and biological weapons activities relative to other botulinum toxins. Under ECCN 1C351, item paragraph .d.3 was revised to read as "botulinum neurotoxins" as opposed to previously reading "botulinum toxins." Conforming

changes were made in ECCN 1C991.c.1, .c.2, .d.1, and .d.3.

Neosaxitoxin is a potent neurotoxin causing similar symptoms to saxitoxin and gonyautoxins, both of which were controlled at the 2022 Plenary Meeting, in humans and animals. The AG found that the high toxicity of neosaxitoxin has been demonstrated in scientific models, as well as its resistance to heat; these factors make this toxin a potential threat as it could be used as a biological weapon like saxitoxin. Therefore, the AG agreed to control neosaxitoxin under the “List of Human and Animal Pathogens and Toxins for Export Control.” BIS details the toxins on this list under ECCN 1C351.d. To facilitate this addition, item paragraph .d.12 was redesignated to control neosaxitoxin (NEO), which shifted what had been in item paragraphs .d.12 through .d.21 up by a factor of one. Given this new control, license requirement note 2 to ECCN 1C351, which discussed neosaxitoxin, is removed, shifting notes 3 through 5 down by a factor of one. Additionally, multiple references to the item paragraphs for ricin and saxitoxin (now item paragraphs .d.15 and .d.16, respectively), had to be updated; these conforming changes occurred in: § 742.2(a)(1)(i), (a)(2)(ii), and (a)(2)(vi)(B); § 742.18(a)(1), (b)(1)(i), (b)(1)(ii), and (b)(1)(iii); ECCNs 1C351, 1C353, 1C991, 1E001, and 1E351.

2024 Intersessional

Prior to the publication of this rule, centrifugal separators were already controlled under ECCN 2B352.c. Since these controls were put into place, the technology and characteristics of newly available single-use centrifugal separators shows a potential for abuse comparable to that of the listed centrifugal separators. Single-use centrifugal separators are new to market and are increasingly used in the biopharmaceutical industry. Single-use centrifugal separators are mainly designed for the separation of protein expressing cell cultures. Available single-use centrifugal separators create new ways of processing cell culture-based fermentations with a yield of 98% or more. Most single-use centrifugal separators systems are flexible in usage and simple for scaling. Therefore, the AG felt it necessary to revise the control text for these items, accounting for single-use centrifugal separators.

To best facilitate these revisions, structural changes were made to the existing ECCN 2B352.c. Prior to this rule, item paragraph .c comprised of c.1 through c.4, controlling multiple-use centrifugal separators. These parameters are now combined into a single .c.1,

with new item paragraphs .c.1.a through .c; one parameter, what was .c.2 (a flow rate greater than 100 liters per hour), has been shifted up into the introductory text of .c, such that it applies to both single-use and multiple-use centrifugal separators. Now, item paragraph .c.2 will detail control text for single-use centrifugal separators, in which all components that come in direct contact with the substances being processed are disposable or single-use. As a conforming change, the technical note to item paragraph .c is revised to include single-use centrifugal separators.

2024 Plenary

At the 2024 Plenary Meeting, the AG reached consensus on controlling instruments for automated peptide synthesizers. Recent advances in peptide synthesis technology and instrumentation have increased both the speed of peptide synthesis and the length of peptide products, including peptides and proteins greater than 100 amino acids in length.¹ Most protein toxins that are controlled under ECCN 1C351 are over 100 amino acids in length and have an average length of 300 amino acids (with the notable exception of conotoxins, which range between 10–100 amino acids in length). Consequently, absent the imposition of additional controls on the export, reexport or transfer (in-country) of certain peptide synthesis technology and instrumentation (e.g., automated peptide synthesizers), there would be an increased risk that such technology and instrumentation could be used to produce controlled toxins for biological weapons purposes.

Automated peptide synthesizers are controlled under new item paragraph .k in ECCN 2B352. Item paragraph .k, contains two subparagraphs, .k.1 and .k.2. Item paragraph .k controls peptide synthesizers that are both: partly or entirely automated (.k.1) and capable of generating peptides at a ‘system synthesis scale’ of 1 mmol or greater (.k.2). Item paragraph .k includes a technical note, providing a definition of a ‘system synthesis scale’ as follows: denotes the maximum amount of peptide (mmol) that can be produced by the instrument using the largest compatible reaction vessels (L). For multiple peptides produced in parallel, this is the sum of the largest compatible reaction vessels (L). The new controls also include a nota bene referring

readers to ECCN 2B350 for other chemical reaction vessels or reactors.

RIN History

On April 20, 2023, BIS published *Section 1758 Technology Export Controls on Instruments for the Automated Chemical Synthesis of Peptides* (88 FR 24341) (Peptide Synthesizers Proposed Rule), seeking comments on proposed additional controls of peptide synthesizers. That rule, published under RIN 0694–AI84, which is its U.S. Government regulatory identification number, proposed identifying automated peptide synthesizers as emerging and foundational technologies consistent with Section 1758 of the Export Control Reform Act of 2018 (ECRA), 50 U.S.C. 4801–4852. Section 1758 provides that BIS identify emerging and foundational technologies that are essential to U.S. national security and are not critical technologies, as that term is defined in the Defense Production Act of 1950, as amended. This final rule finalizes those proposed changes; however, this rule includes additional changes outside of the scope of the Peptide Synthesizers Proposed Rule and includes items that are not Section 1758 technologies. Those changes are consistent with the authorities described in Section 1753 of ECRA (50 U.S.C. 4812) to regulate the export, reexport, and transfer (in-country) of items subject to U.S. jurisdiction as well as the mandate to seek multilateral controls. Pursuant to Section 1762(a) of ECRA (50 U.S.C. 4821(a)), these changes can be imposed in a final rule without prior notice and comment. To avoid public confusion, BIS created a new RIN for this rule, RIN 0694–AJ83, to encompass the finalized version of the proposed Section 1758 technologies and the additional changes.

Public Comments in Response to Peptide Synthesizers Proposed Rule

BIS published two actions, an Advanced Notice of Proposed Rulemaking (87 FR 55930 (Sept. 13, 2022)) and the Peptide Synthesizers Proposed Rule to better inform the AG process through public comments. BIS received five comments from the public on the 2022 advanced notice of proposed rulemaking, to which BIS responded in the Peptide Synthesizers Proposed Rule, but received no comments on the Peptide Synthesizers Proposed Rule itself.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for

¹ Sameer S. Kulkarni et al., *Rapid and Efficient Protein Synthesis Through Expansion of the Native Chemical Ligation Concept*, *Nature Revs. Chemistry*, Mar. 29, 2018, page 1.

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, and as noted elsewhere, 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 as well as the mandate to “seek to secure the cooperation of other governments and multilateral organizations to impose control systems that are consistent, to the extent possible, with the controls imposed under” the EAR. Further, ECRA notes that the “national security and foreign policy of the United States require that the export, reexport, and in-country transfer of items . . . be controlled . . . [t]o carry out obligations and commitments under international agreements and arrangements, including multilateral export control regimes.” 50 U.S.C. 4811(2)(E). Further, Section 1754(a)(1) through (16) of ECRA (50 U.S.C. 4813(a)(1) through (16)) authorizes, *inter alia*: (1) the establishment of a list of controlled items; (2) the prohibition of unauthorized exports, reexports, and transfers (in-country); (3) the requirement of licenses or other authorizations for exports, reexports, and transfers (in-country) of controlled items; (4) the apprising of the public of changes in policy, regulations, and procedures; and (5) 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 can be imposed in a final rule without prior notice and comment.

Rulemaking Requirements

1. This rule has been determined to be a significant regulatory action for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and commodity classifications, and carries a burden

estimate of 29.4 minutes for a manual or electronic submission for a total burden estimate of 35,739 hours. BIS estimates an increase of 40 new licenses each year, which would be an increase of 25 burden hours. This minimal burden hour increase is within existing estimates for this collection. 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 stated in the preamble of this final rule, the amendments contained in this rule reflect decisions made by the AG. Therefore, pursuant to Section 1762 of ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation and delay in effective date. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this final rule by the APA or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (5 U.S.C. 601 *et seq.*), are not applicable. However, specifically on the changes related to the Peptide Synthesizers Proposed Rule, the following applies: Consistent with the emerging and foundational technologies notice and comment requirements in Section 1758(a)(2)(C) of ECRA (50 U.S.C. 4817(a)(2)(C)), BIS published Peptide Synthesizers Proposed Rule to provide the public with notice and the opportunity to comment on its proposal to amend ECCN 2B352 as detailed above, the synthesis and collection of which BIS had identified for evaluation according to the criteria in Section 1758 of ECRA pertaining to emerging and foundational technologies. No public comments were made on the proposed rule.

Consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (5 U.S.C. 601 *et seq.*), BIS has prepared the following final regulatory flexibility analysis (FRFA) of the impact that this final rule will have on small businesses. This only applies to the portions of the rule that finalize changes to Peptide Synthesizers Proposed Rule; the other changes in this

rule are exempt under ECRA from this requirement.

Description of the Reasons Why Action Is Being Considered

The policy reasons for issuing this final rule are discussed in the background section of the preamble of this document and, consequently, are not repeated here.

Statement of the Objectives of, and Legal Basis for, the Proposed Rule; Identification of All Relevant Federal Rules Which May Duplicate, Overlap or Conflict With the Final Rule

The objective of the Section 1758 portions of this final rule, and all other Section 1758 technology proposed rules published by BIS, is to control emerging and foundational technologies identified by BIS and its interagency partners as being essential to U.S. national security.

Other than the discussions above about the regulatory history of these items, no other Federal rules duplicate, overlap, or conflict with this final rule.

Number and Description of Small Entities Regulated by the Final Action

This final rule will apply to all persons engaged in the export, reexport or transfer (in-country) of the automated peptide synthesizers proposed for control under ECCN 2B352 and the related “technology” subject to the EAR. Presently, these instruments and related “technology” are used in research and development activities in the biotechnology field (e.g., U.S. university, military and industrial laboratories). Therefore, BIS anticipates that the final controls will result in ‘deemed’ export license applications (for the release of “technology” to foreign nationals located within the United States) to allow access to this “technology” by foreign students and faculty at U.S. universities, as well as by non-U.S. employees of U.S. biochemical firms. There will most likely also be ‘deemed’ reexport license applications for the release of this “technology” to third-country foreign nationals located in foreign countries who are engaged in research and development activities involving this “technology.”

BIS does not collect or maintain the data necessary to determine how many of the affected persons are small entities as that term is used by the Small Business Administration. However, in the Peptide Synthesizers Proposed Rule, BIS was able to estimate the number of license applications that the agency anticipates receiving as a result of this proposed rule and is using that estimate as a means of assessing the impact on

small businesses. Using the North American Industry Classification System Codes (NAICS) 541714 (Research and Technology in Biotechnology (except Nanobiotechnology)), BIS determined that the standard small business size in this industry is 1,000 employees. Using Table 1a of the Census Bureau's 2019 Exports by Company Type and Employment Size and extrapolating to 1,000 employees, BIS then estimated that approximately 40% of all identified companies that export in this industry are small businesses. BIS also estimates that it will receive 40 license applications per year for the items described in this proposed rule (see the PRA estimates described in Rulemaking Requirements #2, above). Based on that information, BIS estimates that the agency will receive approximately 16 license applications per year from small businesses, or roughly 40% of the 40 estimated license applications.

The amendments finalized in this rule also trigger a small information collection burden under the U.S. Census Bureau's Foreign Trade Regulations (FTR) (15 CFR part 30), which contain the Electronic Export Information (EEI) filing requirements under the Automated Export System (AES). This FTR-related information collection has been approved by OMB under control number 0607-0152 (Automated Export System (AES) Program) and carries a burden hour estimate of 3 minutes per electronic submission. This collection, together with the aforementioned EAR-related information collections, would result in a total estimated cost increase to small businesses of just under \$94 (*i.e.*, 3 hours and 7 minutes $\times$ \$30 per hour) per year. Note that, for purposes of consistency, the \$30 per hour cost estimate used for the EAR-related information collections described above is also applied to this FTR-related information collection (which also would involve work performed by export compliance specialists).

Based on the analysis provided above, this rule will not impose a significant economic impact on a substantial number of small businesses.

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

The changes in this rule and the corresponding reporting, recordkeeping, and other compliance requirements are discussed in the background section of the preamble of this document and, consequently, are not repeated here. To the extent that compliance with the changes in this rule would impose a burden on persons, including small

businesses, BIS believes the burden will be minimal.

Significant Alternatives and Underlying Analysis

As noted above, BIS does not believe that this rule will have a significant economic impact on small businesses. Nevertheless, consistent with 5 U.S.C. 603(c), BIS considered significant alternatives as outlined in the Peptide Synthesizers Proposed Rule. However, those options would have had a greater impact not only on small businesses, but also on research and development laboratories (both academic and corporate), which are involved in advancing these technologies. BIS has determined that finalizing focused controls on the items detailed above is the least disruptive alternative for implementing export controls in a manner consistent with controlling technology that has been determined, through the Section 1758 technology interagency process authorized under ECRA, to be essential to U.S. national security.

BIS is not allowing different compliance or reporting requirements for small businesses. If a small business is subject to a compliance requirement for the export, reexport or transfer (in-country) of this equipment and related "technology," then it would submit a license application using the same process as any other company (*i.e.*, electronically via SNAP-R). The license application process is free of charge to all entities, including small businesses. In addition, as noted above, the resources and other compliance tools made available by BIS typically serve to lessen the impact of any EAR license requirements on small businesses.

Lastly, consistent with 5 U.S.C. 603(c), BIS assessed the use of performance standards rather than design standards and also considered whether an exemption for small businesses was practical under the circumstances (*i.e.*, within the context of the changes finalized by this rule).

This final rule does not contain an exemption for small businesses from this license requirement because BIS and its interagency partners had to assess whether these controls are essential to U.S. national security. Specifically, items controlled could be used for nefarious purposes and, as such, controlling these items on the CCL may be determined to be essential to U.S. national security pursuant to the interagency process for identifying emerging and foundational technologies that is described in Section 1758(a) of ECRA (50 U.S.C. 4817(a)). An exemption for small businesses would

undermine the effectiveness of these controls.

Conclusion

The FRFA prepared by BIS requested comments on the analyses and conclusions contained therein, including the overall conclusion that the amendments in the Peptide Synthesizers Proposed Rule would not have a significant economic impact on a substantial number of small entities. BIS did not receive any comments in response to the analyses and conclusions contained in the IRFA for the Peptide Synthesizers Proposed Rule.

List of Subjects

15 CFR Part 742

Exports and Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements, Terrorism.

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

PART 742—CONTROL POLICY—CCL BASED CONTROLS

■ 1. The authority citation for part 742 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 1, 2023, 88 FR 75475 (November 3, 2023).

■ 2. Amend § 742.2 by revising paragraphs (a)(1)(i), (a)(2)(ii), and (a)(2)(vi) to read as follows:

§ 742.2 Proliferation of chemical and biological weapons.

(a) * * *

(1) * * *

(i) Toxins identified in ECCNs 1C351.d.15 and .16;

* * * * *

(2) * * *

(ii) Human pathogens, zoonoses, toxins, animal pathogens, genetically modified microorganisms and plant pathogens identified in ECCNs 1C351 (except .d.15 and .16), 1C353 (except genetic elements of toxins in ECCN 1C351.d.15 and .16), and 1C354; and

* * * * *

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

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

(B) Production and/or disposal of microbiological commodities described in paragraph (a)(2)(ii) of this section (except toxins and genetic elements of those toxins in ECCN 1C351.d.15 and .16). * * *

* * * * *

■ 3. Amend § 742.18 by revising paragraphs (a)(1), (b)(1)(i) introductory text, (b)(1)(ii), and (b)(1)(iii) to read as follows:

§ 742.18 Chemical Weapons Convention (CWC or Convention).

* * * * *

(a) *License requirements*—(1) *Schedule 1 chemicals and mixtures controlled under ECCN 1C351.* A license is required for CW reasons to export or reexport Schedule 1 chemicals controlled under ECCN 1C351.d.15 or .d.16 to all destinations including Australia, Canada, and the United Kingdom. CW applies to 1C351.d.15 for ricin in the form of Ricinus Communis AgglutininII (RCA_{II}), which is also known as ricin D or Ricinus Communis LectinIII (RCL_{III}), and Ricinus Communis LectinIV (RCL_{IV}), which is also known as ricin E. CW applies to 1C351.d.16 for saxitoxin identified by C.A.S. #35523–89–8. (Note that the advance notification procedures and annual reporting requirements described in § 745.1 of the EAR also apply to exports of Schedule 1 chemicals.)

(b) * * *

(1) * * *

(i) *Exports to States Parties to the CWC.* Applications to export Schedule 1 Chemicals controlled under ECCN 1C351.d.15 or .d.16 to States Parties to the CWC (destinations listed in supplement no. 2 to part 745 of the EAR) generally will be denied, unless all of the following conditions are met:

* * * * *

(ii) *Exports to States not party to the CWC.* Applications to export Schedule 1 chemicals controlled under ECCN 1C351.d.15 or .d.16 to States not Party to the CWC (destinations not listed in supplement no. 2 to part 745 of the EAR) generally will be denied, consistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(iii) *Reexports.* Applications to reexport Schedule 1 chemicals controlled under ECCN 1C351.d.15 or .d.16 generally will be denied to all

destinations (including both States Parties to the CWC and States not Party to the CWC).

* * * * *

PART 774—THE COMMERCE CONTROL LIST

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

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

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

■ 5. Supplement no.1 to part 774 is revised as follows:

■ a. In Category 1 revise ECCNs 1C350, 1C351, 1C353, 1C991, 1E001, and 1E351; and

■ b. Under Category 2 revise ECCNs 2B351 and 2B352.

The revisions read as follows:

Category 1—Materials, Chemicals, Microorganisms and Toxins

C. “MATERIALS”

* * * * *

1C350 Chemicals that may be used as precursors for toxic chemical agents (see List of Items Controlled).

License Requirements

Reason for Control: CB, CW, AT

<i>Control(s)</i>	<i>Country chart (see supp. No. 1 to part 738)</i>

CB applies to entire entry CB Column 2.

CW applies to 1C350.b and .c. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required, for CW reasons, to export or reexport Schedule 2 chemicals and mixtures identified in 1C350.b to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR). A license is required, for CW reasons, to export Schedule 3 chemicals and mixtures identified in 1C350.c to States not Party to the CWC, unless an End-Use Certificate issued by the government of the importing country has been obtained by the exporter prior to export. A license is required, for CW reasons, to reexport Schedule 3 chemicals and mixtures identified in 1C350.c from a State not Party to the CWC to any other State not Party to the CWC. (See § 742.18 of the EAR for license requirements and policies for toxic and precursor chemicals controlled for CW reasons. See § 745.2 of the EAR for End-Use Certificate requirements that apply to exports of Schedule 3 chemicals to countries not listed in Supplement No. 2 to part 745 of the EAR.)

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C350. A license is required, for AT reasons, to export or reexport items controlled by 1C350 to a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (See part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, and Syria. See part 746 of the EAR for additional information on sanctions that apply to Iran, North Korea, and Syria.)

License Requirement Notes

1. *SAMPLE SHIPMENTS:* Subject to the following requirements and restrictions, a license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of a single chemical to any one consignee during a calendar year. A consignee that receives a sample shipment under this exclusion may not resell, transfer, or reexport the sample shipment, but may use the sample shipment for any other legal purpose unrelated to chemical weapons.

a. *Chemicals Not Eligible*

A. [Reserved]

B. *CWC Schedule 2 chemicals (States not Party to the CWC).* No CWC Schedule 2 chemical or mixture identified in 1C350.b is eligible for sample shipment to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR) without a license.

b. *Countries Not Eligible:* Countries in Country Group E:1 of Supplement No. 1 to part 740 of the EAR are not eligible to receive sample shipments of any chemicals controlled by this ECCN without a license.

c. *Sample shipments that require an End-Use Certificate for CW reasons:* No CWC Schedule 3 chemical or mixture identified in 1C350.c is eligible for sample shipment to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR) without a license, unless an End-Use Certificate issued by the government of the importing country is obtained by the exporter prior to export (see § 745.2 of the EAR for End-Use Certificate requirements).

d. *Sample shipments that require a license for reasons set forth elsewhere in the EAR:* Sample shipments, as described in this Note 1, may require a license for reasons set forth elsewhere in the EAR. See, in particular, the end-use/end-user restrictions in part 744 of the EAR, and the restrictions that apply to embargoed countries in part 746 of the EAR.

e. *Annual report requirement.* The exporter is required to submit an annual written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled “Report of Sample Shipments of Chemical Precursors” at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee’s name and address, and the date of export for all sample shipments that were made during the previous calendar year. The report must be submitted no later than February 28 of the year following the calendar year in which the sample shipments were made, to: U.S. Department of

Commerce, Bureau of Industry and Security, 14th Street and Pennsylvania Ave. NW, Room 2099B, Washington, DC 20230, Attn: "Report of Sample Shipments of Chemical Precursors."

2. MIXTURES:

a. Mixtures that contain precursor chemicals identified in ECCN 1C350, in concentrations that are below the levels indicated in 1C350.b through .d, are controlled by ECCN 1C395 or 1C995 and are subject to the licensing requirements specified in those ECCNs.

b. A license is not required under this ECCN for a mixture, when the controlled chemical in the mixture is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are designated EAR99. However, a license may be required for reasons set forth elsewhere in the EAR.

Note to Mixtures: Calculation of concentrations of AG-controlled chemicals:

a. *Exclusion.* No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;

b. *Percent Weight Calculation.* When calculating the percentage, by weight, of ingredients in a chemical mixture, include all ingredients of the mixture, including those that act as solvents.

3. **COMPOUNDS.** Compounds created with any chemicals identified in this ECCN 1C350 may be shipped NLR (No License Required), without obtaining an End-Use Certificate, unless those compounds are also identified in this entry or require a license for reasons set forth elsewhere in the EAR.

4. **TESTING KITS:** Certain medical, analytical, diagnostic, and food testing kits containing small quantities of chemicals identified in this ECCN 1C350, are excluded from the scope of this ECCN and are controlled under ECCN 1C395 or 1C995. (Note that replacement reagents for such kits are controlled by this ECCN 1C350 if the reagents contain one or more of the precursor chemicals identified in 1C350 in concentrations equal to or greater than the control levels for mixtures indicated in 1C350.)

Technical Notes:

1. For purposes of this entry, a "mixture" is defined as a solid, liquid or gaseous product made up of two or more ingredients that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (see 1C350.d.14 in the List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

3. Precursor chemicals in ECCN 1C350 are listed by name, Chemical Abstract Service (CAS) number and CWC Schedule (where applicable). Precursor chemicals of the same structural formula (e.g., hydrates, isotopically-labeled forms or all possible stereoisomers) are controlled by ECCN 1C350, regardless of name or CAS number. CAS numbers are shown to assist in identifying whether a particular precursor chemical or mixture is controlled under ECCN 1C350, irrespective of nomenclature. However, CAS numbers cannot be used as unique identifiers in all situations because

some forms of the listed precursor chemical have different CAS numbers, and mixtures containing a precursor chemical listed in ECCN 1C350 may also have different CAS numbers.

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

LVS: N/A

GBS: N/A

List of Items Controlled

Related Controls: See USML Category XIV for related chemical agent binary precursors and key precursors "subject to the ITAR" (see 22 CFR parts 120 through 130).

Related Definitions: See § 770.2(k) of the EAR for synonyms for the chemicals listed in this entry.

Items:

a. [Reserved]

b. Australia Group-controlled precursor chemicals also identified as Schedule 2 chemicals under the CWC, as follows, and mixtures in which at least one of the following chemicals constitutes 30 percent or more of the weight of the mixture:

- b.1. (C.A.S. #7784-34-1) Arsenic trichloride;
- b.2. (C.A.S. #76-93-7) Benzoic acid;
- b.3. (C.A.S. #78-38-6) Diethyl ethylphosphonate;
- b.4. (C.A.S. #683-08-9) Diethyl methylphosphonate;
- b.5. (C.A.S. #15715-41-0) Diethyl methylphosphonite;
- b.6. (C.A.S. #2404-03-7) Diethyl-N,N-dimethylphosphoramide;
- b.7. (C.A.S. #41480-75-5) N,N-Diisopropylaminoethanethiol hydrochloride;
- b.8. (C.A.S. #5842-07-9) N,N-Diisopropyl-beta-aminoethane thiol;
- b.9. (C.A.S. #96-80-0) N,N-Diisopropyl-beta-aminoethanol;
- b.10. (C.A.S. #96-79-7), N,N-Diisopropyl-beta-aminoethyl chloride;
- b.11. (C.A.S. #4261-68-1) N,N-Diisopropyl-beta-aminoethyl chloride hydrochloride;
- b.12. (C.A.S. #6163-75-3) Dimethyl ethylphosphonate;
- b.13. (C.A.S. #756-79-6) Dimethyl methylphosphonate;
- b.14. (C.A.S. #677-43-0) N,N-dimethylamino-phosphoryl dichloride;
- b.15. (C.A.S. #1498-40-4) Ethyl phosphonous dichloride [Ethyl phosphinyl dichloride];
- b.16. (C.A.S. #430-78-4) Ethyl phosphorus difluoride [Ethyl phosphinyl difluoride];
- b.17. (C.A.S. #1066-50-8) Ethyl phosphonyl dichloride;
- b.18. (C.A.S. #993-13-5) Methylphosphonic acid;
- b.19. (C.A.S. #676-98-2) Methylphosphonothioic dichloride.
- b.20. (C.A.S. #464-07-3) Pinacolyl alcohol;
- b.21. (C.A.S. #1619-34-7) 3-Quinuclidinol;
- b.22. (C.A.S. #111-48-8) Thiodiglycol.
- c. Australia Group-controlled precursor chemicals also identified as Schedule 3 chemicals under the CWC, as follows, and mixtures in which at least one of the following chemicals constitutes 30 percent or more of the weight of the mixture:
- c.1. (C.A.S. #762-04-9) Diethyl phosphite;

- c.2. (C.A.S. #868-85-9) Dimethyl phosphite (dimethyl hydrogen phosphite);
- c.3. (C.A.S. #139-87-7) Ethyldiethanolamine;
- c.4. (C.A.S. #10025-87-3) Phosphorus oxychloride;
- c.5. (C.A.S. #10026-13-8) Phosphorus pentachloride;
- c.6. (C.A.S. #7719-12-2) Phosphorus trichloride;
- c.7. (C.A.S. #10545-99-0) Sulfur dichloride;
- c.8. (C.A.S. #10025-67-9) Sulfur monochloride;
- c.9. (C.A.S. #7719-09-7) Thionyl chloride;
- c.10. (C.A.S. #102-71-6) Triethanolamine;
- c.11. (C.A.S. #122-52-1) Triethyl phosphite;
- c.12. (C.A.S. #121-45-9) Trimethyl phosphite.
- d. Other Australia Group-controlled precursor chemicals not also identified as Schedule 1, 2, or 3 chemicals under the CWC, as follows, and mixtures in which at least one of the following chemicals constitutes 30 percent or more of the weight of the mixture:
- d.1. (C.A.S. #1341-49-7) Ammonium hydrogen fluoride;
- d.2. (C.A.S. #107-07-3) 2-Chloroethanol;
- d.3. (C.A.S. #109-89-7) Diethylamine;
- d.4. (C.A.S. #100-37-8) N,N-Diethylaminoethanol;
- d.5. (C.A.S. #589-57-1) Diethyl chlorophosphite;
- d.6. (C.A.S. #298-06-6) O,O-Diethyl phosphorodithioate;
- d.7. (C.A.S. #2465-65-8) O,O-Diethyl phosphorothioate;
- d.8. (C.A.S. #108-18-9) Di-isopropylamine;
- d.9. (C.A.S. #124-40-3) Dimethylamine;
- d.10. (C.A.S. #506-59-2) Dimethylamine hydrochloride;
- d.11. (C.A.S. #142-84-7) Dipropylamine
- d.12. (C.A.S. #762-77-6) Ethyl chlorofluorophosphate;
- d.13. (C.A.S. #1498-51-7) Ethyl dichlorophosphate;
- d.14. (C.A.S. #460-52-6) Ethyl difluorophosphate;
- d.15. (C.A.S. #7664-39-3) Hydrogen fluoride;
- d.16. (C.A.S. #3554-74-3) 3-Hydroxyl-1-methylpiperidine;
- d.17. (C.A.S. #76-89-1) Methyl benzilate;
- d.18. (C.A.S. #754-01-8) Methyl chlorofluorophosphate;
- d.19. (C.A.S. #677-24-7) Methyl dichlorophosphate;
- d.20. (C.A.S. #22382-13-4) Methyl difluorophosphate;
- d.21. (C.A.S. #14277-06-6) N,N-Diethylacetamide;
- d.22. (C.A.S. #53510-30-8) N,N-Diethylbutanamide;
- d.23. (C.A.S. #90324-67-7) N,N-Diethylformamide;
- d.24. (C.A.S. #1342789-47-2) N,N-Diethylisobutanamide;
- d.25. (C.A.S. #84764-73-8) N,N-Diethylpropanamide;
- d.26. (C.A.S. #1315467-17-4) N,N-Diisopropylbutanamide;
- d.27. (C.A.S. #857522-08-8) N,N-Diisopropylformamide;
- d.28. (C.A.S. #2909-14-0) N,N-Dimethylacetamide;

- d.29. (C.A.S. #1340437–35–5) N,N-Dimethylbutanamide;
- d.30. (C.A.S. #44205–42–7) N,N-Dimethylformamide;
- d.31. (C.A.S. #321881–25–8) N,N-Dimethylisobutanamide;
- d.32. (C.A.S. #56776–14–8) N,N-Dimethylpropanamide;
- d.33. (C.A.S. #1339586–99–0) N,N-Dipropylacetamide;
- d.34. C.A.S. #1342422–35–8) N,N-Dipropylbutanamide;
- d.35. (C.A.S. #48044–20–8) N,N-Dipropylformamide;
- d.36. (C.A.S. #1342700–45–1) N,N-Dipropylisobutanamide;
- d.37. (C.A.S. #1341496–89–6) N,N-Dipropylpropanamide;
- d.38. (C.A.S. #1314–80–3) Phosphorus pentasulfide;
- d.39. (C.A.S. #75–97–8) Pinacolone;
- d.40. (C.A.S. #7789–29–9) Potassium bifluoride;
- d.41. (C.A.S. #151–50–8) Potassium cyanide;
- d.42. (C.A.S. #7789–23–3) Potassium fluoride;
- d.43. (C.A.S. #3731–38–2) 3-Quinuclidone;
- d.44. (C.A.S. #1333–83–1) Sodium bifluoride;
- d.45. (C.A.S. #143–33–9) Sodium cyanide;
- d.46. (C.A.S. #7681–49–4) Sodium fluoride;
- d.47. (C.A.S. #16893–85–9) Sodium hexafluorosilicate;
- d.48. (C.A.S. #1313–82–2) Sodium sulfide;
- d.49. (C.A.S. #637–39–8) Triethanolamine hydrochloride;
- d.50. (C.A.S. #116–17–6) Tri-isopropyl phosphite.

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

License Requirements

Reason for Control: CB, CW, AT

Control(s)	Country chart (see Supp. No. 1 to part 738)
CB applies to items controlled by 1C351.d.15 and .16.	CB Column 1.
CB applies to entire entry.	CB Column 2.

CW applies to 1C351.d.15 and .d.16 and a license is required for CW reasons for all destinations, including Australia, Canada, and the United Kingdom, as follows: CW applies to 1C351.d.15 for ricin in the form of (1) Ricinus communis AgglutininII (RCA_{II}), also known as ricin D or Ricinus Communis LectinIII (RCL_{III}) and (2) Ricinus communis LectinIV (RCL_{IV}), also known as ricin E. CW applies to 1C351.d.16 for saxitoxin identified by C.A.S. #35523–89–8. See § 742.18 of the EAR for licensing information pertaining to chemicals subject to restriction pursuant to the Chemical Weapons Convention (CWC). The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons.

Control(s)	Country chart (see Supp. No. 1 to part 738)

AT applies to entire entry Column 1.

License Requirement Notes

1. All vaccines and ‘immunotoxins’ are excluded from the scope of this entry. Certain medical products and diagnostic and food testing kits that contain biological toxins controlled under 1C351.d, with the exception of toxins controlled for CW reasons under 1C351.d.15 or .d.16, are excluded from the scope of this entry. Vaccines, ‘immunotoxins’, certain medical products, and diagnostic and food testing kits excluded from the scope of this entry are controlled under ECCN 1C991.

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

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

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

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) Certain forms of ricin and saxitoxin in 1C351.d.15 and .d.16 are CWC Schedule 1 chemicals (see § 742.18 of the EAR). The U.S. Government must provide advance notification and annual reports to the OPCW of all exports of Schedule 1 chemicals. See § 745.1 of the EAR for notification procedures. See 22 CFR part 121, Category XIV for CWC Schedule 1 chemicals that are “subject to the ITAR.” (2) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN (for APHIS, see 7 CFR 331.3(b), 9 CFR 121.3(b), and 9 CFR 121.4(b); for

CDC, see 42 CFR 73.3(b) and 42 CFR 73.4(b)). (3) See USML Category XIV for modified biological agents and biologically derived substances that are “subject to the ITAR” (see 22 CFR parts 120 through 130). **Related Definitions:** For the purposes of this entry, ‘immunotoxins’ are monoclonal antibodies linked to a toxin with the intention of destroying a specific target cell while leaving adjacent cells intact.

Items:

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

- a.1. African horse sickness virus;
- a.2. African swine fever virus;
- a.3. Andes virus;
- a.4. Avian influenza (AI) viruses identified as having high pathogenicity (HP), as follows:
 - a.4.a. AI viruses that have an intravenous pathogenicity index (IVPI) in 6-week-old chickens greater than 1.2; or
 - a.4.b. AI viruses that cause at least 75% mortality in 4- to 8-week-old chickens infected intravenously.

Note:

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

- a.5. Bluetongue virus;
- a.6. Chapare virus;
- a.7. Chikungunya virus;
- a.8. Choclo virus;
- a.9. Classical swine fever virus (Hog cholera virus);
- a.10. Crimean-Congo hemorrhagic fever virus;
- a.11. Dobrava-Belgrade virus;
- a.12. Eastern equine encephalitis virus;
- a.13. Ebolavirus (includes all members of the Ebolavirus genus);
- a.14. Foot-and-mouth disease virus;
- a.15. Goatpox virus;
- a.16. Guanarito virus;
- a.17. Hantaan virus;
- a.18. Hendra virus (Equine morbillivirus);
- a.19. Japanese encephalitis virus;
- a.20. Junin virus;
- a.21. Kyasanur Forest disease virus;
- a.22. Laguna Negra virus;
- a.23. Lassa virus;
- a.24. Louping ill virus;
- a.25. Lujo virus;
- a.26. Lumpy skin disease virus;
- a.27. Lymphocytic choriomeningitis virus;
- a.28. Machupo virus;
- a.29. Marburgvirus (includes all members of the Marburgvirus genus);
- a.30. Middle East respiratory syndrome-related coronavirus (MERS-related coronavirus);
- a.31. Monkeypox virus;
- a.32. Murray Valley encephalitis virus;
- a.33. Newcastle disease virus;
- a.34. Nipah virus;
- a.35. Omsk hemorrhagic fever virus;

- a.36. Oropouche virus;
- a.37. Peste-des-petits ruminants virus;
- a.38. Porcine Teschovirus;
- a.39. Powassan virus;
- a.40. Rabies virus and all other members of the Lyssavirus genus;

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

- a.42. Rift Valley fever virus;
- a.43. Rinderpest virus;
- a.44. Rocio virus;
- a.45. Sabia virus;
- a.46. Seoul virus;
- a.47. Severe acute respiratory syndrome-related coronavirus (SARS-related coronavirus);
- a.48. Sheepox virus;
- a.49. Sin Nombre virus;
- a.50. St. Louis encephalitis virus;
- a.51. Suid herpesvirus 1 (Pseudorabies virus; Aujeszky's disease);
- a.52. Swine vesicular disease virus;
- a.53. Tick-borne encephalitis virus (Far Eastern subtype, formerly known as Russian Spring-Summer encephalitis virus—see 1C351.b.3 for Siberian subtype);
- a.54. Variola virus;
- a.55. Venezuelan equine encephalitis virus;
- a.56. Vesicular stomatitis virus;
- a.57. Western equine encephalitis virus; or
- a.58. Yellow fever virus.

b. Viruses identified on the APHIS/CDC “select agents” lists (see Related Controls paragraph #2 for this ECCN), but not identified on the Australia Group (AG) “List of Human and Animal Pathogens and Toxins for Export Control,” as follows:

- b.1. [Reserved];
- b.2. [Reserved]; or
- b.3. Tick-borne encephalitis virus (Siberian subtype, formerly West Siberian virus—see 1C351.a.53 for Far Eastern subtype).

c. Bacteria identified on the Australia Group (AG) “List of Human and Animal Pathogens and Toxins for Export Control,” as follows:

- c.1. Bacillus anthracis;
- c.2. Brucella abortus;
- c.3. Brucella melitensis;
- c.4. Brucella suis;
- c.5. Burkholderia mallei (Pseudomonas mallei);
- c.6. Burkholderia pseudomallei (Pseudomonas pseudomallei);
- c.7. Chlamydia psittaci (Chlamydomydia psittaci);
- c.8. Clostridium argentinense (formerly known as Clostridium botulinum Type G), botulinum neurotoxin producing strains;
- c.9. Clostridium baratii, botulinum neurotoxin producing strains;
- c.10. Clostridium botulinum;
- c.11. Clostridium butyricum, botulinum neurotoxin producing strains;
- c.12. Clostridium perfringens, epsilon toxin producing types;
- c.13. Coxiella burnetii;
- c.14. Francisella tularensis;
- c.15. Mycoplasma capricolum subspecies capripneumoniae (“strain F38”);

c.16. Mycoplasma mycoides subspecies mycoides SC (small colony) (a.k.a. contagious bovine pleuropneumonia);

- c.17. Rickettsia prowazekii;
- c.18. Salmonella enterica subspecies enterica serovar Typhi (Salmonella typhi);
- c.19. Shiga toxin producing Escherichia coli (STEC) of serogroups O26, O45, O103, O104, O111, O121, O145, O157, and other shiga toxin producing serogroups;

Note:
 Shiga toxin producing Escherichia coli (STEC) includes, inter alia, enterohaemorrhagic E. coli (EHEC), verotoxin producing E. coli (VTEC) or verocytotoxin producing E. coli (VTEC).

- c.20. Shigella dysenteriae;
 - c.21. Vibrio cholerae; or
 - c.22. Yersinia pestis.
- d. “Toxins” identified on the Australia Group (AG) “List of Human and Animal Pathogens and Toxins for Export Control,” as follows, or their subunits:

- d.1. Abrin;
 - d.2. Aflatoxins;
 - d.3. Botulinum neurotoxins;
 - d.4. Brevetoxins;
 - d.5. Clostridium perfringens alpha, beta 1, beta 2, epsilon and iota toxins;
 - d.6. Conotoxins;
 - d.7. Diacetoxyscirpenol;
 - d.8. Gonyautoxins;
 - d.9. HT-2 toxin;
 - d.10. Microcystins (Cyanginosins);
 - d.11. Modeccin;
 - d.12. Neosaxitoxin (NEO);
 - d.13. Nodularins;
 - d.14. Palytoxin;
 - d.15. Ricin;
 - d.16. Saxitoxin;
 - d.17. Shiga toxins (shiga-like toxins, verotoxins, and verocytotoxins);
 - d.18. Staphylococcus aureus enterotoxins, hemolysin alpha toxin, and toxic shock syndrome toxin (formerly known as Staphylococcus enterotoxin F);
 - d.19. T-2 toxin;
 - d.20. Tetrodotoxin;
 - d.21. Viscumin (Viscum album lectin 1); or
 - d.22. Volkensin.
- e. “Fungi”, as follows:
- e.1. Coccidioides immitis; or
 - e.2. Coccidioides posadasii.

* * * * *

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

License Requirements

Reason for Control: CB, AT

Control(s)	Country chart (see Supp. No. 1 to part 738)
CB applies to genetic elements of items controlled by 1C351.d.15 and .16.	CB Column 1.
CB applies to entire entry.	CB Column 2.
AT applies to entire entry	AT Column 1.

License Requirements Notes:

1. Vaccines that contain genetic elements or genetically modified organisms identified in this ECCN are controlled by ECCN 1C991.
2. Unless specified elsewhere in this ECCN 1C353 (e.g., in License Requirement Note 1),

this ECCN controls genetic elements or genetically modified organisms for all biological agents and “toxins,” regardless of quantity or attenuation, that are identified in the List of Items Controlled for this ECCN, including genetic elements or genetically modified organisms for attenuated strains of select biological agents or “toxins” that are excluded from the lists of select biological agents or “toxins” by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, or the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, in accordance with the APHIS regulations in 7 CFR part 331 and 9 CFR part 121 and the CDC regulations in 42 CFR part 73.

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

LVS: N/A

GBS: N/A

List of Items Controlled

Related Controls: (1) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN, including (but not limited to) certain genetic elements, recombinant nucleic acids, and recombinant organisms associated with the agents or toxins in ECCN 1C351 or 1C354 (for APHIS, see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c); for CDC, see 42 CFR 73.3(c) and 42 CFR 73.4(c)). (2) See USML Category XIV for modified biological agents and biologically derived substances that are “subject to the ITAR” (see 22 CFR parts 120 through 130).

Related Definition: N/A

Items:

a. Any genetically modified organism that contains, or any genetic element that codes for, any of the following:

a.1. Any gene, genes, translated product or translated products specific to any virus controlled by 1C351.a or .b or 1C354.c;

a.2. Any gene or genes specific to any bacterium controlled by 1C351.c or 1C354.a, or any fungus controlled by 1C351.e or 1C354.b, and which;

a.2.a. In itself or through its transcribed or translated products represents a significant hazard to human, animal or plant health; or

a.2.b. Could endow or enhance pathogenicity; or

a.3. Any toxins, or their subunits, controlled by 1C351.d.

b. [Reserved].

Technical Notes:

1. Genetically modified organisms include organisms in which the nucleic acid sequences have been created or altered by deliberate molecular manipulation.

2. “Genetic elements” include, inter alia, chromosomes, genomes, plasmids, transposons, vectors, and inactivated organisms containing recoverable nucleic acid fragments, whether genetically modified or unmodified, or chemically synthesized in whole or in part. For the purposes of this

ECCN 1C353, nucleic acids from an inactivated organism, virus, or sample are considered to be 'recoverable' if the inactivation and preparation of the material is intended or known to facilitate isolation, purification, amplification, detection, or identification of nucleic acids.

3. This ECCN does not control nucleic acid sequences of shiga toxin producing *Escherichia coli* of serogroups O26, O45, O103, O104, O111, O121, O145, O157, and other shiga toxin producing serogroups, other than those genetic elements coding for shiga toxin, or for its subunits.

4. 'Endow or enhance pathogenicity' is defined as when the insertion or integration of the nucleic acid sequence or sequences is/are likely to enable or increase a recipient organism's ability to be used to deliberately cause disease or death. This might include alterations to, *inter alia*: virulence, transmissibility, stability, route of infection, host range, reproducibility, ability to evade or suppress host immunity, resistance to medical countermeasures, or detectability.

* * * * *

1C991 Vaccines, immunotoxins, medical products, diagnostic and food testing kits, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	Country chart (See Supp. No. 1 to part 738)
CB applies to 1C991.c ...	CB Column 3.
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) Medical products containing ricin or saxitoxin, as follows, are controlled for CW reasons under ECCN 1C351:

- (a) Ricinus communis AgglutininII (RCA_{II}), also known as ricin D, or Ricinus Communis LectinIII (RCL_{III});
- (b) Ricinus communis LectinIV (RCL_{IV}), also known as ricin E; or
- (c) Saxitoxin identified by C.A.S. #35523-89-8.

- (2) The export of a "medical product" that is an "Investigational New Drug" (IND), as defined in 21 CFR 312.3, is subject to certain U.S. Food and Drug Administration (FDA) requirements that are independent of the export requirements specified in this ECCN or elsewhere in the EAR. These FDA requirements are described in 21 CFR 312.110 and must be satisfied in addition to any requirements specified in the EAR.
- (3) Also see 21 CFR 314.410 for FDA requirements concerning exports of new drugs and new drug substances.

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

are: (1) Pharmaceutical formulations designed for testing and human (or veterinary) administration in the treatment of medical conditions; (2) prepackaged for distribution as clinical or medical products; and (3) approved by the U.S. Food and Drug Administration either to be marketed as clinical or medical products or for use as an "Investigational New Drug" (IND) (see 21 CFR part 312). For the purpose of this entry, 'diagnostic and food testing kits' are specifically developed, packaged and marketed for diagnostic or public health purposes. Biological toxins in any other configuration, including bulk shipments, or for any other end-uses are controlled by ECCN 1C351. For the purpose of this entry, 'vaccine' is defined as a medicinal (or veterinary) product in a pharmaceutical formulation, approved by the U.S. Food and Drug Administration or the U.S. Department of Agriculture to be marketed as a medical (or veterinary) product or for use in clinical trials, that is intended to stimulate a protective immunological response in humans or animals in order to prevent disease in those to whom or to which it is administered.

Items:

Technical Note: For purposes of the controls described in this ECCN, 'toxins' refers to those toxins, or their subunits, controlled under ECCN 1C351.d.

a. Vaccines containing, or designed for use against, items controlled by ECCN 1C351, 1C353 or 1C354.

b. Immunotoxins containing toxins controlled by 1C351.d;

c. Medical products that contain any of the following:

c.1. Toxins controlled by ECCN 1C351.d (except for botulinum neurotoxins controlled by ECCN 1C351.d.3, conotoxins controlled by ECCN 1C351.d.6, or items controlled for CW reasons under ECCN 1C351.d.15 or .d.16); or

c.2. Genetically modified organisms or genetic elements controlled by ECCN 1C353.a.3 (except for those that contain, or code for, botulinum neurotoxins controlled by ECCN 1C351.d.3 or conotoxins controlled by ECCN 1C351.d.6);

d. Medical products not controlled by 1C991.c that contain any of the following:

d.1. Botulinum neurotoxins controlled by ECCN 1C351.d.3;

d.2. Conotoxins controlled by ECCN 1C351.d.6; or

d.3. Genetically modified organisms or genetic elements controlled by ECCN 1C353.a.3 that contain, or code for, botulinum neurotoxins controlled by ECCN 1C351.d.3 or conotoxins controlled by ECCN 1C351.d.6;

e. Diagnostic and food testing kits containing toxins controlled by ECCN 1C351.d (except for items controlled for CW reasons under ECCN 1C351.d.15 or .d.16).

* * * * *

E. "Technology"

1E001 "Technology" according to the General Technology Note for the "development" or "production" of items controlled by 1A002, 1A003, 1A004, 1A005, 1A006.b, 1A007, 1A008 1A101,

1A231, 1B (except 1B608, 1B613 or 1B999), or 1C (except 1C355, 1C608, 1C980 to 1C984, 1C988, 1C990, 1C991, 1C995 to 1C999).

License Requirements

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

Control(s)	Country chart (see Supp. No. 1 to part 738)
NS applies to "technology" for items controlled by 1A002, 1A003, 1A005, 1A006.b, 1A007, 1B001 to 1B003, 1B018, 1C001 to 1C011, or 1C018.	NS Column 1.
NS applies to "technology" for items controlled by 1A004.	NS Column 2.
MT applies to "technology" for items controlled by 1A101, 1B001, 1B101, 1B102, 1B115 to 1B119, 1C001, 1C007, 1C011, 1C101, 1C102, 1C107, 1C111, 1C116, 1C117, or 1C118 for MT reasons.	MT Column 1.
NP applies to "technology" for items controlled by 1A002, 1A007, 1A231, 1B001, 1B101, 1B201, 1B225, 1B226, 1B228 to 1B234, 1C002, 1C010, 1C111, 1C116, 1C202, 1C210, 1C216, 1C225 to 1C237, or 1C239 to 1C241 for NP reasons.	NP Column 1.
CB applies to "technology" for items controlled by 1C351.d.15 and .16 and the 1C353 genetic elements of toxins in ECCN 1C351.d.15 and .16.	CB Column 1.
CB applies to "technology" for items controlled by 1C351, 1C353, or 1C354; and CB applies to "technology" for materials controlled by 1C350 and for chemical detection systems and dedicated detectors therefor, in 1A004.c, that also have the technical characteristics described in 2B351.a.	CB Column 2.
RS applies to technology for equipment controlled in 1A004.d.	RS Column 2.
AT applies to entire entry	AT Column 1.

Reporting Requirements

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

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

TSR: Yes, except for the following:

- (1) Items controlled for MT reasons; or
- (2) Exports and reexports to destinations outside of those countries listed in Country Group A:5 (See Supplement No. 1 to part

740 of the EAR) of “technology” for the “development” or production” of the following:

- (a) Items controlled by 1C001; or
- (b) Items controlled by 1A002.a which are composite structures or laminates having an organic “matrix” and being made from materials listed under 1C010.c or 1C010.d.

Special Conditions for STA

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

List of Items Controlled

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

Related Definitions: N/A

Items:

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

* * * * *

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

License Requirements

Reason for Control: CB, AT

<i>Control(s)</i>	<i>Country chart (see Supp. No. 1 to part 738)</i>
CB applies to “technology” for the disposal of items controlled by 1C351.d.15 and .16 and the 1C353 genetic elements of toxins in ECCN 1C351.d.15 and .16.	CB Column 1.

<i>Control(s)</i>	<i>Country chart (see Supp. No. 1 to part 738)</i>
CB applies to “technology” for the disposal of items controlled by 1C351, 1C353, or 1C354; and CB applies to “technology” for the disposal of items controlled by 1C350.	CB Column 2.
AT applies to entire entry	AT Column 1.

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

TSR: N/A

List of Items Controlled

Related Controls: N/A

Related Definitions: N/A

Items:

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

* * * * *

Category 2—Materials Processing

B. “Test”, “Inspection” and “Production Equipment”

* * * * *

2B351 Toxic gas monitors and monitoring systems, and their dedicated detecting “parts” and “components” (i.e., detectors, sensor devices, and replaceable sensor cartridges), as follows, except those systems and detectors controlled by ECCN 1A004.c (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

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

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

LVS: N/A

GBS: N/A

List of Items Controlled

Related Controls: See ECCN 2D351 for “software” for toxic gas monitors and monitoring systems, and their dedicated detecting “parts” and “components,” controlled by this ECCN. Also see ECCN 1A004, which controls chemical detection systems and “specially designed” “parts” and “components” therefor that are “specially designed” or modified for detection or identification of chemical warfare agents, but not “specially designed” for military use, and ECCN 1A995, which controls certain detection equipment, “parts” and “components” not controlled by ECCN 1A004 or by this ECCN.

Related Definitions: (1) For the purposes of this entry, the term “dedicated” means committed entirely to a single purpose or device. (2) For the purposes of this entry, the term “continuous operation” describes the capability of the equipment to operate

on line without human intervention. The intent of this entry is to control toxic gas monitors and monitoring systems capable of collection and detection of samples in environments such as chemical plants, rather than those used for batch-mode operation in laboratories.

Items:

a. Designed for continuous operation and usable for the detection of chemical warfare agents or precursor chemicals controlled by 1C350 ‘minimum detection limit’ of 0.3 mg/m³; or

b. Designed for the detection of cholinesterase-inhibiting activity.

Technical note: The ‘minimum detection limit’ of toxic gas monitors or monitoring systems is the lowest detectable concentration of the analyte required to produce a signal greater than three times the standard deviation of the toxic gas monitor’s or monitoring system’s signal when measuring a blank sample.

In the case of toxic gas monitors or monitoring systems having a deadband or programmed zero suppression, the ‘minimum detection limit’ is the lowest detectable concentration required to produce a reading.

2B352 Equipment Capable of Use in Handling Biological Materials, as Follows (See List of Items Controlled).

License Requirements

Reason for Control: CB, AT

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

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

LVS: N/A

GBS: N/A

List of Items Controlled

Related Controls: See ECCNs 1A004 and 1A995 for protective equipment that is not covered by this entry. Also see ECCN 9A120 for controls on certain “UAV” systems designed or modified to dispense an aerosol and capable of carrying elements of a payload in the form of a particulate or liquid, other than fuel “parts” or “components” of such vehicles, of a volume greater than 20 liters.

Related Definitions: (1) “Lighter than air vehicles”—balloons and airships that rely on hot air or on lighter-than-air gases, such as helium or hydrogen, for their lift. (2) “UAVs”—Unmanned Aerial Vehicles. (3) “VMD”—Volume Median Diameter.

Items:

a. Containment facilities and related equipment, as follows:

a.1. Complete containment facilities at P3 or P4 containment level.

Technical Note to 2B352.a.1: P3 or P4 (BL3, BL4, L3, L4) containment levels are as specified in the WHO Laboratory Biosafety Manual (3rd edition, Geneva, 2004).

a.2. Equipment designed for fixed installation in containment facilities specified in paragraph a.1 of this ECCN, as follows:

- a.2.a. Double-door pass-through decontamination autoclaves;
- a.2.b. Breathing air suit decontamination showers;
- a.2.c. Mechanical-seal or inflatable-seal walkthrough doors.
- b. Fermenters and components as follows:
 - b.1. Fermenters capable of cultivation of micro-organisms or of live cells for the production of viruses or toxins, without the propagation of aerosols, having a total internal volume of 20 liters or greater.
 - b.2. Components designed for such fermenters, as follows:
 - b.2.a. Cultivation chambers designed to be sterilized or disinfected in situ;
 - b.2.b. Cultivation chamber holding devices; or
 - b.2.c. Process control units capable of simultaneously monitoring and controlling two or more fermentation system parameters (e.g., temperature, pH, nutrients, agitation, dissolved oxygen, air flow, foam control).

Technical Notes to 2B352.b:

- 1. Fermenters include bioreactors (including single-use (disposable) bioreactors), chemostats and continuous-flow systems.
- 2. Cultivation chamber holding devices controlled by 2B352.b.2.b include single-use cultivation chambers with rigid walls.
- c. Centrifugal separators capable of continuous separation, without the propagation of aerosols, having a flow rate greater than 100 liters per hour, as follows:
 - c.1. Centrifugal separators having all of the following characteristics:
 - c.1.a. One or more sealing joints within the steam containment area;
 - c.1.b. Components of polished stainless steel or titanium; and
 - c.1.c. Capable of in-situ steam sterilization in a closed state.
 - c.2. Single-use centrifugal separators, in which all components that come in direct contact with the substances being processed are disposable or single-use.

Technical Note to 2B352.c: Centrifugal separators and single-use centrifugal separators include decanters.

- d. Cross (tangential) flow filtration equipment and “accessories”, as follows:
 - d.1. Cross (tangential) flow filtration equipment capable of separation of microorganisms, viruses, toxins or cell cultures having all of the following characteristics:
 - d.1.a. A total filtration area equal to or greater than 1 square meter (1 m²); and
 - d.1.b. Having any of the following characteristics:
 - d.1.b.1. Capable of being sterilized or disinfected in-situ; or
 - d.1.b.2. Using disposable or single-use filtration “parts” or “components”.

N.B.: 2B352.d.1 does not control reverse osmosis and hemodialysis equipment, as specified by the manufacturer.

- d.2. Cross (tangential) flow filtration “parts” or “components” (e.g., modules, elements, cassettes, cartridges, units or plates) with filtration area equal to or greater than 0.2 square meters (0.2 m²) for each “part” or “component” and designed for use

in cross (tangential) flow filtration equipment controlled by 2B352.d.1.

Technical Note: In this ECCN, “sterilized” denotes the elimination of all viable microbes from the equipment through the use of either physical (e.g., steam) or chemical agents. “Disinfected” denotes a process to reduce the number of microorganisms, but not usually of bacterial spores, through the use of chemical agents, without necessarily killing or removing all organisms.

- e. Steam, gas or vapor sterilizable freeze-drying equipment with a condenser capacity of 10 kg of ice or greater in 24 hours (10 liters of water or greater in 24 hours) and less than 1000 kg of ice in 24 hours (less than 1,000 liters of water in 24 hours).
- f. Spray-drying equipment capable of drying toxins or pathogenic microorganisms having all of the following characteristics:
 - f.1. A water evaporation capacity of ≥0.4 kg/h and ≤400 kg/h;
 - f.2. The ability to generate a typical mean product particle size of ≤10 micrometers with existing fittings or by minimal modification of the spray-dryer with atomization nozzles enabling generation of the required particle size; and
 - f.3. Capable of being sterilized or disinfected in situ.
- g. Protective and containment equipment, as follows:
 - g.1. Protective full or half suits, or hoods dependent upon a tethered external air supply and operating under positive pressure.

Technical Note to 2B352.g.1: 2B352.g.1 does not control suits designed to be worn with self-contained breathing apparatus.

- g.2. Biocontainment chambers, isolators, or biological safety cabinets having all of the following characteristics, for normal operation:
 - g.2.a. Fully enclosed workspace where the operator is separated from the work by a physical barrier;
 - g.2.b. Able to operate at negative pressure;
 - g.2.c. Means to safely manipulate items in the workspace; and
 - g.2.d. Supply and exhaust air to and from the workspace is high-efficiency particulate air (HEPA) filtered.

Note 1 to 2B352.g.2: 2B352.g.2 controls class III biosafety cabinets, as specified in the WHO Laboratory Biosafety Manual (3rd edition, Geneva, 2004) or constructed in accordance with national standards, regulations or guidance.

Note 2 to 2B352.g.2: 2B352.g.2 controls any isolator having all of the characteristics described in 2B352.g.2.a through g.2.d, regardless of its intended use and its designation, except for medical isolators “specially designed” for barrier nursing or transportation of infected patients.

- h. Aerosol inhalation equipment designed for aerosol challenge testing with microorganisms, viruses or toxins, as follows:
 - h.1. Whole-body exposure chambers having a capacity of 1 cubic meter or greater;
 - h.2. Nose-only exposure apparatus utilizing directed aerosol flow and having a capacity for the exposure of 12 or more rodents, or two or more animals other than

rodents, and closed animal restraint tubes designed for use with such apparatus.

- i. Spraying or fogging systems and “parts” and “components” thereof, as follows:
 - i.1. Complete spraying or fogging systems, “specially designed” or modified for fitting to aircraft, “lighter than air vehicles,” or “UAVs,” capable of delivering, from a liquid suspension, an initial droplet “VMD” of less than 50 microns at a flow rate of greater than 2 liters per minute;
 - i.2. Spray booms or arrays of aerosol generating units, “specially designed” or modified for fitting to aircraft, “lighter than air vehicles,” or “UAVs,” capable of delivering, from a liquid suspension, an initial droplet “VMD” of less than 50 microns at a flow rate of greater than 2 liters per minute;
 - i.3. Aerosol generating units “specially designed” for fitting to the systems as specified in paragraphs i.1 and i.2 of this ECCN.

Technical Notes to 2B352.i:

- 1. Aerosol generating units are devices “specially designed” or modified for fitting to aircraft and include nozzles, rotary drum atomizers and similar devices.
- 2. This ECCN does not control spraying or fogging systems, “parts” and “components,” as specified in 2B352.i, that are demonstrated not to be capable of delivering biological agents in the form of infectious aerosols.
- 3. Droplet size for spray equipment or nozzles “specially designed” for use on aircraft or “UAVs” should be measured using either of the following methods (pending the adoption of internationally accepted standards):
 - a. Doppler laser method,
 - b. Forward laser diffraction method.

j. Nucleic acid assemblers and synthesizers that are both:

- j.1 Partly or entirely automated; and
- j.2. Designed to generate continuous nucleic acids greater than 1.5 kilobases in length with error rates less than 5% in a single run.
- k. Peptide synthesizers that are both:
 - k.1 Partly or entirely automated; and
 - k.2 Capable of generating peptides at a ‘system synthesis scale’ of 1 mmol or greater.

Technical Note to 2B352.k: ‘System synthesis scale’ denotes the maximum amount of peptide (mmol) that can be produced by the instrument using the largest compatible reaction vessels (L). For multiple peptides produced in parallel, this is the sum of the largest compatible reaction vessels (L).

N.B. to paragraph .k: See ECCN 2B350 for other chemical reaction vessels or reactors.

* * * * *

Matthew S. Borman,

Principal Deputy Assistant Secretary for Export Administration.

[FR Doc. 2024–30425 Filed 12–20–24; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 301**

[TD 10017]

RIN 1545–BP63

Rules for Supervisory Approval of Penalties**AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Final regulation.

SUMMARY: This document contains final regulations regarding supervisory approval of certain penalties assessed by the IRS. The final regulations are necessary to address uncertainty regarding various aspects of supervisory approval of penalties that have arisen due to recent judicial decisions. The final regulations affect the IRS and persons assessed certain penalties by the IRS.

DATES:

Effective Date: These regulations are effective December 23, 2024.

Applicability Date: For date of applicability, see § 301.6751(b)–1(f).

FOR FURTHER INFORMATION CONTACT:

William Prater, (202) 317–6845 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**Authority**

This document amends the Regulations on Procedure and Administration (26 CFR part 301) by adding final regulations under section 6751(b) of the Internal Revenue Code (Code) relating to supervisory approval of certain penalties assessed by the IRS. Section 6751(b)(1) expressly delegates to the Secretary of the Treasury or her delegate the authority to designate, for purposes of approving the initial determination of a penalty assessment under the Code, a higher level official other than the immediate supervisor of the individual making that initial determination. In addition, section 7805(a) of the Code authorizes the Secretary to “prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.”

Background

On April 11, 2023, a notice of proposed rulemaking (REG–121709–19) relating to supervisory approval of certain penalties under section 6751(b) was published in the **Federal Register**

(88 FR 21564). See the Background and the Explanation of Provisions sections of the preamble to REG–121709–19 for a discussion of the proposed regulations, which are incorporated in this document to the extent not inconsistent with the Summary of Comments and Explanation of Revisions section of this preamble.

Eight comments responding to the notice of proposed rulemaking were received and are available at <https://www.regulations.gov> or upon request. A public hearing was held on September 11, 2023, and four speakers provided testimony. After careful consideration of all of the written comments and testimony, the proposed regulations are adopted by this Treasury decision with minor modification. The public comments are summarized and discussed in the Summary of Comments and Explanation of Revisions.

Summary of Comments and Explanation of Revisions

Many of the comments addressed similar issues and expressed similar points of view. The comments largely opposed the proposed timing rules and many of the proposed definitions. Comments expressed concern that the proposed regulations would not implement what the comments viewed as the purpose of section 6751(b). The Treasury Department and the IRS disagree with these comments’ characterization of the text and effect of the proposed regulations, as well as their characterization of the statute’s text and scope, its legislative history, and the caselaw interpreting it.

As explained in the preamble to the proposed regulations, the purpose of these rules is to clarify application of section 6751(b) in a manner that is consistent with the statutory text and that promotes nationwide uniformity, administrability for the IRS, and ease of understanding by taxpayers. Several comments suggested alternative rules that would impose extra-statutory formalities on IRS employees that would increase the probability of appropriate penalties being avoided if IRS employees do not satisfy those formalities. By contrast, the adopted rules faithfully interpret the statutory text, ensure penalties are imposed where appropriate, and guard against inappropriate use of penalties.

1. Comments on Proposed Timing Rules

The proposed regulations included three rules regarding the timing of supervisory approval of penalties under section 6751(b). Proposed § 301.6751(b)–1(c) provided that, for penalties that are included in a pre-

assessment notice issued to a taxpayer that provides the basis for jurisdiction in the United States Tax Court (Tax Court) upon timely petition, supervisory approval must be obtained at any time before the notice is mailed by the IRS. Proposed § 301.6751(b)–1(d) provided that, for penalties raised in the Tax Court after a petition, supervisory approval may be obtained at any time prior to the Commissioner requesting that the court determine the penalty. Finally, proposed § 301.6751(b)–1(b) provided that supervisory approval for penalties that are not subject to pre-assessment review in the Tax Court may be obtained at any time prior to assessment.

Comments argued that the proposed timing rules should be rejected in favor of earlier deadlines for supervisory approval of penalties, which the comments asserted would more effectively prevent bargaining by the IRS. The comments’ suggested deadlines, however, lack any basis in the statutory text, and are supported by reasoning that has been rejected by three United States Circuit Courts of Appeals (circuit courts). Moreover, the suggested earlier deadlines would not do anything to prevent bargaining, as the preamble to the proposed regulations explained. Despite the comments’ stated concerns about the existence of bargaining, no comment identified a specific example of bargaining, and no court has ever found that an IRS employee attempted to use a penalty as a bargaining chip.

Some comments suggested that the timing rule should require supervisory approval before issuance of a 30-day letter¹ (or substantive equivalent). As support for this suggestion, one comment stated that caselaw supported the assertion that the statute is ambiguous regarding when approval must occur. This comment misinterprets the existing caselaw, which has focused on an ambiguity as to what the “initial determination” is that must be approved, not on when the approval must occur. On the question of when approval must occur, the circuit courts that have considered the issue have uniformly held that a supervisor can approve a penalty at any point before losing discretion over whether to approve imposition of the penalty. The comments advocating for requiring approval before issuance of a 30-day letter (or substantive equivalent) rest heavily on a misunderstanding of a supervisor’s authority and on policy reasons that are not in fact served by the

¹ Typically a 30-day letter proposes penalties and gives the taxpayer an opportunity to request an administrative appeal.

suggested deadline. The comments also fail to address the circuit courts' opinions that are contrary to their recommendations on this issue.

As multiple circuit courts have explained, the statute lacks an "express timing requirement," and the Tax Court's "formal communication" rule has no basis in the text of the statute. *Kroner v. Commissioner*, 48 F.4th 1272, 1276 (11th Cir. 2022); *Laidlaw's Harley Davidson Sales, Inc. v. Commissioner*, 29 F.4th 1066, 1072 (9th Cir. 2022), *reh'g en banc denied*, No. 20–73420 (9th Cir. July 14, 2022); *Minemyer v. Commissioner*, Nos. 21–9006 & 21–9007, 2023 WL 314832 (10th Cir. January 19, 2023). As explained in the preamble to the proposed regulations, the lack of any deadline in the statute other than assessment indicates that the provision did not intend an earlier deadline.

Despite this, the Tax Court has continued to apply its own precedent in cases appealable to circuits other than the Ninth, Tenth, and Eleventh. See *Aldridge v. Commissioner*, T.C. Memo. 2024–24 (appealable to the Eighth Circuit); *Swift v. Commissioner*, T.C. Memo. 2024–13 (appealable to the Fifth Circuit); *Bachner v. Commissioner*, T.C. Memo. 2023–148; *Robinson v. Commissioner*, T.C. Memo. 2023–147 (appealable to the Fourth Circuit); *Jadhav v. Commissioner*, T.C. Memo. 2023–140; *Conrad v. Commissioner*, T.C. Memo. 2023–100; *Braen v. Commissioner*, T.C. Memo. 2023–85 (appealable to the Third Circuit). For cases appealable to the Ninth Circuit, the Tax Court has held that it will follow the timing rule of *Laidlaw's*, which the Tax Court interpreted to require a case-by-case analysis of whether a particular supervisor retained the discretion to approve penalties when they did so. See *Kraske v. Commissioner*, 161 T.C. 104 (2023). In *Kraske and Pangelina v. Commissioner*, T.C. Memo. 2024–5, the Tax Court suggested that an IRS Examination Division (Exam) supervisor's discretion may be lost when a case is transferred to the Independent Office of Appeals (Appeals), but this is factually incorrect. As the Ninth Circuit recognized in *Laidlaw's*, it is only "once the notice is sent" that "the Commissioner begins to lose discretion over whether the penalty is assessed." *Laidlaw's*, 29 F.4th at 1071 n.4. Even when a case is transferred from Exam to Appeals, the Exam supervisor still has discretion to provide the required approval because the penalty is still before the IRS as a whole. As the preamble to the proposed regulations noted, a supervisor's discretion is lost only after the IRS

issues a pre-assessment notice subject to Tax Court review to a taxpayer. Because a supervisor retains discretion to approve a penalty until that point, issuance of the pre-assessment notice subject to Tax Court review remains the appropriate deadline for obtaining supervisory approval of penalties included in such a notice.

The earlier deadlines that comments recommended and that the Tax Court continues to impose do not serve the legislative purpose that penalties be imposed where appropriate. By contrast, the proposed timing rules serve the legislative purpose of imposing penalties where appropriate while ensuring the requirement for supervisory approval can prevent bargaining. The proposed timing rules are consistent with all of the circuit-level authority interpreting the statute and provide a bright-line rule that is administrable for the IRS and fair to taxpayers. Accordingly, this Treasury decision adopts the proposed timing rules without modification.

2. Comments on Proposed Definitions

A. Individual Who First Proposed the Penalty

The proposed regulations provided that the individual who first proposes a penalty is the individual who section 6751(b)(1) references as the individual making the initial determination of a penalty assessment. A proposal can be made either to a taxpayer (or the taxpayer's representative) or to the individual's supervisor or a designated higher level official. One comment agreed with the proposed definition of "individual who first proposed the penalty," while two others disagreed.

The proposed regulations illustrated the effect of this definition in an example in which a Revenue Agent proposes a penalty to her immediate supervisor, but the supervisor does not approve the penalty and it does not appear in the statutory notice of deficiency; the penalty is then raised by an IRS Office of Chief Counsel (Counsel) Attorney in a Tax Court Answer and that attorney is considered the "individual who first proposed the penalty." Those disagreeing with the proposed definition argued that, in that example, it was the Revenue Agent and not the Counsel attorney that made the initial determination of the penalty. Such a view is at odds with the statutory text, which references (with respect to the penalty) the "initial determination of . . . assessment", and caselaw. See *North Donald LA Property, LLC v. Commissioner*, T.C. Memo. 2023–50 (citing multiple cases before

concluding that "[w]e have never held that the exam team's decision not to assert a penalty has any bearing on Chief Counsel's ability to assert that penalty later"). As the preamble to the proposed regulations explained, an initial determination that does not ultimately result in an assessment of a penalty is not an "initial determination of . . . assessment." In addition, adopting the comments' suggested interpretation would render section 6214, which allows Counsel to raise a penalty in an answer, amended answer, or other pleading, meaningless because it would remove Counsel's ability to make an independent evaluation of whether a penalty is appropriate.

By contrast, the proposed definition harmonizes the statutory scheme and allows the IRS the flexibility to pursue penalties when appropriate. The IRS should not be prevented from asserting a penalty solely because an individual IRS employee involved earlier in the process did not determine that the penalty was appropriate at the time such employee considered it, a result that would follow from adopting the comments' suggestions. Instead, the IRS should be permitted to assert penalties that both a Counsel attorney and the attorney's supervisor believe are warranted.

Comments' concerns about the proposed definition of "individual who first proposed the penalty" have led the Treasury Department and the IRS to conclude that language is needed to clarify that, for purposes of determining which individual first proposed a penalty, the individual must have proposed the penalty either to a taxpayer (or the taxpayer's representative) or to the individual's supervisor or designated higher level official. This requirement is to preclude informal suggestions of coworkers or supervisors as being treated as the initial determination of a penalty assessment when those individuals had no official responsibility with respect to a penalty determination or the responsibility was a supervisory one. This interpretation also allows supervisors to do their job of reviewing and directing a subordinate's work, which may include suggesting that their subordinates propose a penalty. It also eliminates those who are not assigned responsibility for making an initial penalty determination from being treated as having done so by virtue of having made an informal comment about a penalty to a coworker. An example is added to these final regulations to illustrate the effect of the definition. Specifically, the new example highlights that an individual

who did not make a proposal to a taxpayer, supervisor, or designated higher level official is not the individual who made the initial determination of a penalty assessment.

B. Immediate Supervisor and Designated Higher Level Officials

The proposed regulations defined the term “immediate supervisor” as any individual with responsibility to review another individual’s proposal of penalties without the proposal being subject to an intermediary’s approval.

Some comments argued that the proposed definition of “immediate supervisor” was too vague, and that it could allow non-managerial, non-supervisory personnel to approve penalties. Some argued that the definition should be revised to mean any individual who “directly supervises the substantive work” of an individual, while others recommended that it be limited to a single individual that meets the definition of a “supervisor” or “manager” under other provisions of Federal law related to labor and employment matters.

These alternative suggestions focus on substantive work generally, rather than penalty review specifically. Because supervisory approval in this context relates only to penalties, this broader focus is not appropriate. By looking to an individual’s assigned job duties rather than their title, the proposed definition takes a functional approach that is consistent with the statutory purpose of ensuring that a person that is familiar with the penalty aspects of a case be the one to give approval to assert penalties. *See Sand Inv. Co. v. Commissioner*, 157 T.C. 136, 142 (2021) (holding that the legislative history supports the conclusion that the person with the greatest familiarity with the facts and legal issues presented by the case is the “immediate supervisor” for purposes of section 6751(b)). Moreover, unlike some of the suggested alternatives, the proposed definition recognizes that IRS employees often have multiple supervisors with different roles for different parts of an examination.

After consideration of the comments, the final regulations adopt the proposed definition with one modification. Rather than defining “immediate supervisor” as “any individual with responsibility to approve another individual’s proposal of penalties,” the adopted definition defines it as “any individual with responsibility to review another individual’s proposal of penalties.” This definition recognizes that a person assigned to review a penalty proposal has the responsibility to make a

judgment call about the appropriateness of the penalty. Responsibility to review another’s work is the hallmark of being a supervisor. The definition adopted in the final regulations takes a practical approach that is consistent with the statute’s focus on supervision of the penalty proposal.

Pursuant to the grant of authority in section 6751(b)(1) to designate which higher level officials may approve the initial determination, in addition to the general grant of authority in section 7805(a), the proposed regulations defined a “higher level official” as any person who has been directed via the Internal Revenue Manual or other assigned job duties to approve another individual’s proposal of penalties before they are included in a notice that is a prerequisite to Tax Court jurisdiction, an answer to a Tax Court petition, or are assessed without the need for such inclusion.

Some comments disagreed with this definition, arguing that it is too vague and should be narrowed to only a small group of upper-level management. But these comments’ suggested alternatives reject a functional approach in favor of unnecessary formalities that could result in appropriate penalties being eliminated. They are also inconsistent with section 6751(b)’s provision of discretion to designate which higher level officials may designate a penalty. Accordingly, the final regulations adopt the proposed definition without change.

C. Personally Approved (in Writing)

The proposed regulations define “personally approved (in writing)” to mean any writing, including in electronic form, that is made by the writer to signify the writer’s assent and that reflects that it was intended as approval.

Comments argued that the definition of “personally approved (in writing)” should be revised to require that the approval, if made electronically, be made through a digital signature that includes a software-generated timestamp indicating when the document was signed and who signed it. One comment also argued that, alternatively, the IRS should require that a statement of signing accompany the request for a supervisor’s approval of a penalty.

After consideration of the comments, the proposed definition is adopted without change. Adopting the comments’ suggestions would impose formalities that frustrate imposition of appropriate penalties. The statute does not mandate the use of a particular type of signature, only that the approval be in writing. While it may be a best

practice to use digital signatures with software-generated timestamps, mandating their use would go beyond the scope of the statute and these regulations. Nor does the statute require the immediate supervisor to use any particular format when approving the penalty, such as with a statement of signing. The functional approach adopted in these final regulations ensures that written approval, which is all the statute requires, is obtained. *See PBBM-Rose Hill, Ltd. v. Commissioner*, 900 F.3d 193, 213 (5th Cir. 2018) (rejecting an argument that section 6751(b)(1) was not satisfied because the penalty was not on the same page as the signature); *Deyo v. Commissioner*, 296 F. App’x 157 (2d Cir. 2008) (rejecting an argument that section 6751(b)(1) was not satisfied because the approval was provided by a stamp rather than a manual signature); *Thompson v. Commissioner*, T.C. Memo. 2022–80 (rejecting the argument that cross-examination of a revenue agent and his supervisor was needed because it “would be immaterial and wholly irrelevant” where there was written approval in the record); *Raifman v. Commissioner*, T.C. Memo. 2018–101 (same).

D. Automatically Calculated Through Electronic Means

The proposed regulations provide that a penalty is “automatically calculated through electronic means” if it is proposed by an IRS computer program without human involvement. A penalty is no longer considered “automatically calculated through electronic means” if a taxpayer responds to a computer-generated notice proposing a penalty and challenges the penalty or the amount of tax to which the penalty is attributable, and an IRS employee works the case.

Some comments argued that the proposed definition of “automatically calculated through electronic means” is too broad and encompasses penalties that, in the comments’ view, should never be exempt from supervisory approval for various reasons. As explained in the preamble to the proposed regulations, the scope of this definition is limited to identifying when a penalty should be considered exempt from the supervisory approval requirements of section 6751(b)(1) by operation of section 6751(b)(2)(B). Comments sought to narrow the proposed definition and impose additional requirements on the IRS that are divorced from the statutory requirements. The comments were directed to whether proposal and assessment of certain penalties should

ever be automated, as opposed to whether a specific penalty was in fact “automatically calculated through electronic means” within the meaning of section 6751(b)(2)(B). As such, the comments go beyond the scope of the regulations.

One comment recommended that the proposed definition be revised to eliminate the requirement that an IRS employee consider a taxpayer’s response to an automatically-generated notice in order to remove the penalty from the automatically-calculated exception. In this comment’s view, this requirement could lead to situations where the IRS ignores correspondence and asserts penalties without proper consideration of the taxpayer’s response to an automatically-generated penalty notice. The Treasury Department and the IRS are sensitive to the comment’s concerns but consider this a matter outside of the scope of these regulations. The stated concerns are policy considerations about how the IRS should handle correspondence. They are not within the scope of these regulations, which seek only to interpret and define the statutory text of section 6751(b). As stated in the preamble to the proposed regulations, it is the policy of the IRS to give “full and fair consideration to evidence in favor of not imposing [a] penalty, even after the [IRS]’s initial consideration supports imposition of a penalty” This policy should prohibit the type of conduct with which the comment is concerned. Finally, even if the IRS did fail to consider a taxpayer’s response to an automatically-generated penalty notice, there would be no bargaining nor would there be an individual who made an initial determination with respect to the penalty at issue. Accordingly, it would be impossible for the IRS to obtain supervisory approval from the (non-existent) individual’s supervisor. As the preamble to the proposed regulations explains, requiring supervisory approval in that situation would disrupt the automated process and would not square with the statutory text. For these reasons, the proposed definition is adopted without modification.

3. Other Comments

Comments made a number of other recommendations that went beyond the scope of the proposed regulations. These recommendations related to the types of forms the IRS should use in documenting supervisory approval and how those forms should be provided to taxpayers, the internal practices the IRS should follow to ensure compliance with section 6751(b) among its

employees, and the types of employees that should be permitted to approve certain penalties over a certain dollar threshold. Other comments also criticized the existing penalty approval process as ineffective and stated that pending legislation would soon obviate the need for these regulations. Finally, one comment was submitted that did not relate to section 6751(b).

Aside from being outside of the scope of these regulations, adopting these recommendations would impose laborious formalities that are not required by section 6751(b) and that would give taxpayers and their representatives more opportunities to avoid the penalties that Congress intended be asserted against them. The final regulations therefore do not adopt these recommendations.

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(b) of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

II. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on these regulations imposing no obligations on small entities and therefore no economic impact on those entities. Because these regulations ensure that only appropriate penalties will apply by imposing requirements on the IRS and do not otherwise bear on the applicability of any penalty, the final regulations do not impose a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small businesses, and no comments were received.

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. 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 final 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 has 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 William Prater of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS 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 adding an entry for § 301.6751(b)–1(a)(4) in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805.

Section 301.6751(b)–1(a)(4) also issued under 26 U.S.C. 6751(b)(1).

* * * * *

■ **Par. 2.** Section 301.6751(b)–1 is added to read as follows:

§ 301.6751(b)–1 Supervisory and higher level official approval for penalties.

(a) *Approval requirement*—(1) *In general.* Except as provided in paragraph (a)(2) of this section, section 6751(b) of the Internal Revenue Code (Code) generally bars the assessment of a penalty unless the initial determination of the assessment of the penalty is personally approved (in writing) by the immediate supervisor of the individual making the initial determination or such higher level official as the Secretary of the Treasury or her delegate may designate. Paragraph (a)(2) of this section lists penalties not subject to section 6751(b)(1) and this paragraph (a)(1). Paragraph (a)(3) of this section provides definitions of terms used in section 6751(b) and this section. Paragraph (a)(4) of this section designates the higher level officials described in this paragraph (a)(1). Paragraphs (b) through (d) of this section apply section 6751(b)(1) and this paragraph (a)(1) to penalties not subject to pre-assessment review in the United States Tax Court (Tax Court), penalties that are subject to pre-assessment review in the Tax Court, and penalties raised in the Tax Court after a petition is filed, respectively. Paragraph (e) of this section provides examples illustrating the application of section 6751(b) and this section. Paragraph (f) of this section provides dates of applicability of this section.

(2) *Exceptions.* Under section 6751(b)(2), section 6751(b)(1) and this section do not apply to:

(i) Any penalty under section 6651, 6654, 6655, 6673, 6662(b)(9), or 6662(b)(10) of the Code; or

(ii) Any other penalty automatically calculated through electronic means.

(3) *Definitions.* For purposes of section 6751(b) and this section, the following definitions apply—

(i) *Penalty.* The term *penalty* means any penalty, addition to tax, or additional amount under the Code.

(ii) *Individual who first proposed the penalty.* Except as otherwise provided in this paragraph (a)(3)(ii), the *individual who first proposed the penalty* is the individual who section 6751(b)(1) and paragraph (a)(1) of this section reference as the individual making the initial determination of a penalty assessment. For purposes of this section, a proposal of a penalty can be made only to either a taxpayer (or the taxpayer's representative) or to the individual's supervisor or designated higher level official. A proposal of a penalty, as defined in paragraph (a)(3)(i)

of this section, to a taxpayer does not include mere requests for information relating to a possible penalty or inquiries of whether a taxpayer wants to participate in a general settlement initiative for which the taxpayer may be eligible, but does include offering the taxpayer an opportunity to agree to a particular penalty in a particular amount other than a penalty under a settlement initiative offered to a class of taxpayers. An individual who first proposed the penalty is not the individual whom section 6751(b)(1) and paragraph (a)(1) of this section reference as the individual making the initial determination of a penalty assessment if the assessment of the penalty is attributable to an independent proposal made by a different individual.

(iii) *Immediate supervisor.* The term *immediate supervisor* means any individual with responsibility to review another individual's proposal of penalties, as defined in paragraph (a)(3)(i) of this section, without the proposal being subject to an intermediary's approval.

(iv) *Higher level official.* The term *higher level official* means any person designated under paragraph (a)(4) of this section as a higher level official authorized to approve a penalty for purposes of section 6751(b)(1).

(v) *Personally approved (in writing).* The term *personally approved (in writing)* means any writing, including in electronic form, made by the writer to signify the writer's assent. No signature or particular words are required so long as the circumstances of the writing reflect that it was intended as approval.

(vi) *Automatically calculated through electronic means.* A penalty, as defined in paragraph (a)(3)(i) of this section, is *automatically calculated through electronic means* if an IRS computer program automatically generates a notice to the taxpayer that proposes the penalty. If a taxpayer responds in writing or otherwise to the automatically-generated notice and challenges the proposed penalty, or the amount of tax to which the proposed penalty is attributable, and an IRS employee considers the response prior to assessment (or the issuance of a notice of deficiency that includes the penalty), then the penalty is no longer considered "automatically calculated through electronic means."

(4) *Higher level official.* Any person who has been directed by the Internal Revenue Manual or other assigned job duties to approve another individual's proposal of penalties before they are included in a pre-assessment notice prerequisite to Tax Court jurisdiction, an answer, amended answer, or

amendment to the answer to a Tax Court petition, or are assessed without need for such inclusion, is designated as a higher level official authorized to approve the penalty for purposes of section 6751(b)(1).

(b) *Penalties not subject to pre-assessment review in the Tax Court.* The requirements of section 6751(b)(1) and paragraph (a)(1) of this section are satisfied for a penalty that is not subject to pre-assessment review in the Tax Court if the immediate supervisor of the individual who first proposed the penalty personally approves the penalty in writing before the penalty is assessed. Alternatively, a person designated as a higher level official as described in paragraph (a)(4) of this section may provide the approval otherwise required by the immediate supervisor.

(c) *Penalties subject to pre-assessment review in the Tax Court.* The requirements of section 6751(b)(1) and paragraph (a)(1) of this section are satisfied for a penalty that is included in a pre-assessment notice that provides a basis for Tax Court jurisdiction upon timely petition if the immediate supervisor of the individual who first proposed the penalty personally approves the penalty in writing on or before the date the notice is mailed. Alternatively, a person designated as a higher level official as described in paragraph (a)(4) of this section may provide the approval otherwise required by the immediate supervisor. Examples of a pre-assessment notice described in this paragraph (c) include a statutory notice of deficiency under section 6212 of the Code, a notice of final partnership administrative adjustment under former section 6223 of the Code, and a notice of final partnership adjustment under section 6231 of the Code.

(d) *Penalties raised in the Tax Court after a petition.* The requirements of section 6751(b)(1) and paragraph (a)(1) of this section are satisfied for a penalty that the Commissioner raises in the Tax Court after a petition (*see* section 6214(a) of the Code) if the immediate supervisor of the individual who first proposed the penalty personally approves the penalty in writing no later than the date on which the Commissioner requests that the court determine the penalty. Alternatively, a person designated as a higher level official as described in paragraph (a)(4) of this section may provide the approval otherwise required by the immediate supervisor.

(e) *Examples.* The following examples illustrate the rules of this section.

(1) *Example 1.* In the course of an audit regarding a penalty not subject to pre-assessment review in the Tax Court,

Revenue Agent A concludes that Taxpayer T should be subject to the penalty under section 6707A of the Code for failure to disclose a reportable transaction. Revenue Agent A sends T a letter giving T the option to agree to the penalty; submit additional information to A about why the penalty should not apply; or request within 30 days that the matter be sent to the Independent Office of Appeals (Appeals) for consideration. After T requests that Appeals consider the case, A prepares the file for transmission, and B (who is A's immediate supervisor, as defined in paragraph (a)(3)(iii) of this section) signs a cover memorandum informing Appeals of the proposed penalty and asks Appeals to consider it. The Appeals Officer upholds the penalty, and it is assessed. The requirements of section 6751(b)(1) are satisfied because B's signature on the cover memorandum is B's personal written assent to the penalty proposed by A and was given before the penalty was assessed.

(2) *Example 2.* In the course of an audit, Revenue Agent A concludes that Taxpayer T should be subject to an accuracy-related penalty for substantial understatement of income tax under section 6662(b)(2). Revenue Agent A sends T a Letter 915, Examination Report Transmittal, along with an examination report that includes the penalty. The Letter 915 gives T the option to agree to the examination report; provide additional information to be considered; discuss the report with A or B (who is A's immediate supervisor, as defined in paragraph (a)(3)(iii) of this section); or request a conference with an Appeals Officer. T agrees to assessment of the penalty and signs the examination report to consent to the immediate assessment and collection of the amounts shown on the report. B provides written supervisory approval of the penalty after T signs the examination report, but before the penalty is assessed. Paragraph (b) of this section applies because T's agreement to assessment of the penalty excepts it from pre-assessment review in the Tax Court. Because B provided written supervisory approval before assessment of the penalty, the requirements of section 6751(b)(1) are satisfied.

(3) *Example 3.* In the course of an audit of Taxpayer T by a team of revenue agents, Revenue Agent A concludes that T should be subject to an accuracy-related penalty for negligence under section 6662(b)(1) and (c). Supervisor B is the issue manager and is assigned the duty to review the Notice of Proposed Adjustment for any penalty A would propose. Revenue Agent A reports to B, but B is not responsible for

the overall management of the audit of T. C is the case manager of the team auditing T and is responsible for the overall management of the audit of T. C may assign tasks to A and other team members, and has responsibility for approving any examination report presented to T.

(i) *Alternative Outcome 1:* Only B approves the penalty in writing before the mailing to T of a notice of deficiency that includes the penalty. Under paragraph (a)(3)(iii) of this section, B qualifies as the immediate supervisor of A with respect to A's penalty proposal, and the requirements of section 6751(b)(1) are met.

(ii) *Alternative Outcome 2:* Only C approves the penalty in writing before the mailing to T of a notice of deficiency that includes the penalty. Because C has responsibility to approve A's proposal of the penalty as part of approving the examination report, C qualifies as a higher level official designated under paragraph (a)(4) of this section to approve the penalty proposed by A, and the requirements of section 6751(b)(1) are met.

(4) *Example 4.* In the course of an audit, Revenue Agent A concludes that Taxpayer T should be subject to a penalty for negligence under section 6662(c). Revenue Agent A recommends the penalty to her immediate supervisor B, who thinks more factual development is needed to support the penalty but must close the audit immediately due to the limitations period on assessment expiring soon. The IRS issues a statutory notice of deficiency without the penalty and T files a petition in the Tax Court. In reviewing the case file and conducting discovery, IRS Chief Counsel Attorney C concludes that the facts support imposing a negligence penalty under section 6662(c). Attorney C proposes to her immediate supervisor, D, that the penalty should apply and should be raised in an Answer pursuant to section 6214(a). D agrees and signs the Answer that includes the penalty before it is filed. The section 6662(c) penalty at issue is subject to pre-assessment review in the Tax Court and was raised in the Tax Court after a petition was filed under paragraph (d) of this section. Therefore, written supervisory approval under paragraph (d) of this section was required prior to filing the written pleading that includes the penalty. Attorney C is the individual who first proposed the penalty for purposes of section 6751(b)(1) and paragraphs (d) and (a)(3)(ii) of this section, and she secured timely written supervisory approval from D, the immediate supervisor, as defined in paragraph (a)(3)(iii) of this section. As a

result, the requirements of section 6751(b)(1) are met. Revenue Agent A did not make the initial determination of the penalty assessment because any assessment would not be attributable to A's proposal but would be based on the independent proposal of Attorney C raised pursuant to section 6214(a).

(5) *Example 5.* In the course of an audit, Revenue Agent A concludes that Taxpayer T should be subject to a penalty for negligence under section 6662(c). Revenue Agent A includes the penalty in a draft report that she sends for review to her immediate supervisor B. B reviews A's recommendation and notices that A did not consider whether a penalty for a substantial understatement of income tax under section 6662(d) should apply in the alternative. B sends an email to A telling her to "add a section 6662(d) penalty if the math checks out." Revenue Agent A reviews the facts, determines that the imposition of the section 6662(d) penalty is warranted, and adds the penalty to a report she issues to the taxpayer. Revenue Agent A is the individual who first proposed both of the penalties for purposes of section 6751(b)(1) and paragraphs (d) and (a)(3)(ii) of this section because she is the individual who first proposed the penalty to the taxpayer. Supervisor B did not make the initial determination of the section 6662(d) penalty because, even though she first thought of and suggested it, she did not propose it to the taxpayer or her supervisor (or designated higher level official).

(6) *Example 6.* The IRS's Automated Underreporter (AUR) computer program detects a discrepancy between the information received from a third party and the information contained on Taxpayer T's return. AUR automatically generates a CP2000, Notice of Underreported Income, that includes an adjustment based on the unreported income and a proposed penalty under section 6662(d) that is mailed to T. The CP2000 gives T 30 days to respond to contest the proposed adjustments and the penalty. T submits a response to the CP2000, asking only for more time to respond. More time is granted but no further response is received from T, and a statutory notice of deficiency that includes the adjustments and the penalty is automatically generated and issued to T. The section 6662(d) penalty at issue is automatically calculated through electronic means under paragraphs (a)(2)(ii) and (a)(3)(vi) of this section. The penalty was proposed by the AUR computer program, which generated a notice to T that proposed the penalty. Although T submitted a response to the CP2000, the response

did not challenge the proposed penalty, or the amount of tax to which the proposed penalty is attributable. Therefore, the penalty was automatically calculated through electronic means and written supervisory approval was not required.

(f) *Applicability date.* The rules of this section apply to penalties assessed on or after December 23, 2024.

Douglas W. O'Donnell,
Deputy Commissioner.

Approved: December 2, 2024.

Aviva R. Aron-Dine,
Deputy Assistant Secretary of the Treasury
(Tax Policy).

[FR Doc. 2024–29074 Filed 12–20–24; 4:15 pm]

BILLING CODE 4830–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans to prescribe the spreads component of the interest assumption under the asset allocation regulation for plans with valuation dates of January 31, 2025–April 29, 2025. These interest assumptions are used for valuing benefits under terminating single-employer plans and for other purposes.

DATES: Effective January 31, 2025.

FOR FURTHER INFORMATION CONTACT: Monica O'Donnell (*odonnell.monica@pbgc.gov*), Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101, 202–229–8706. If you are deaf or hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions—including an interest assumption—for valuing benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The interest assumption is also

posted on PBGC's website (*www.pbgc.gov*).

PBGC uses the interest assumption in § 4044.54 to determine the present value of annuities in an involuntary or distress termination of a single-employer plan under the asset allocation regulation. The assumptions in part 4044 of PBGC's regulations are also used in other situations where it is appropriate for liabilities to align with private sector group annuity prices. For example, PBGC's regulations on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) and Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) provide that these assumptions are used to value liabilities for purposes of determining withdrawn employers' reallocation liability in the event of a mass withdrawal from a multiemployer plan. Multiemployer plans that receive special financial assistance under the regulation on Special Financial Assistance by PBGC (29 CFR part 4262) must, as a condition of receiving special financial assistance, use the interest assumption to determine withdrawal liability for a prescribed period. Additionally, plan sponsors are required to use some, or all of these assumptions for specified purposes (*e.g.*, reporting benefit liabilities in filings required under PBGC's regulation on Annual Financial and Actuarial Information Reporting (29 CFR part 4010) or determining certain amounts to transfer to PBGC's Missing Participants Program on behalf of a missing participant of a terminating defined benefit plan under PBGC's regulation on Missing Participants (29 CFR part 4050)) and may use them for other purposes (*e.g.*, to ensure that plan spinoffs comply with section 414(l) of the Internal Revenue Code (the Code)).

On June 6, 2024, PBGC issued a final rule at 89 FR 48291 that changes the structure of the interest assumption for valuation dates on or after July 31, 2024, from the select and ultimate approach to a yield curve approach. As described in the June 6 final rule, this “4044 yield curve,” is based on a blend of two publicly available bond yield curves that is adjusted to the extent necessary so that the resulting liabilities align with group annuity prices. The adjustments are referred to as “spreads.” PBGC determines and publishes spreads quarterly based on survey data on pricing of private-sector group annuities. As noted in the preamble to the June 6 rule, PBGC will post the 4044 yield curve on its website at *www.pbgc.gov* each month shortly after its underlying data become available. In

addition, practitioners are able to determine the 4044 yield curve as of the end of any month using the publicly available bond yield curves and the spreads specified in the regulation.

This rule amends the regulation to specify the spreads used to determine the 4044 yield curve as of the last days of January, February, and March of 2025, (*i.e.*, the “first quarter 2025 spreads”).

Need for Immediate Guidance

PBGC has determined that notice of, and public comment on, this rule are impracticable, unnecessary, and contrary to the public interest. PBGC routinely updates the spreads component of the interest assumption in the asset allocation regulation so that the 4044 yield curve may be determined as soon as the underlying bond yield curves become available. These amendments are merely technical; they ensure that use of PBGC's interest assumption continues to yield liabilities in line with group annuity prices. Accordingly, PBGC finds that the public interest is best served by issuing this rule expeditiously, without an opportunity for notice and comment, and that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a “significant regulatory action” under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. In § 4044.54, revise table 1 to paragraph (e) to read as follows:

§ 4044.54 Interest assumptions.

*	*	*	*	*
(e)	*	*	*	

TABLE 1 TO PARAGRAPH (e)—SPREADS

Maturity point	Third quarter 2024 spreads (percent)	Fourth quarter 2024 spreads (percent)	First quarter 2025 spreads (percent)
0.5	0.38	0.33	0.36
1.0	0.38	0.33	0.36
1.5	0.37	0.33	0.36
2.0	0.37	0.33	0.36
2.5	0.37	0.33	0.36
3.0	0.37	0.33	0.36
3.5	0.37	0.33	0.36
4.0	0.37	0.33	0.36
4.5	0.37	0.33	0.36
5.0	0.37	0.33	0.36
5.5	0.37	0.32	0.35
6.0	0.37	0.32	0.35
6.5	0.37	0.32	0.35
7.0	0.37	0.32	0.35
7.5	0.37	0.32	0.35
8.0	0.37	0.32	0.35
8.5	0.37	0.32	0.34
9.0	0.37	0.32	0.34
9.5	0.36	0.32	0.34
10.0	0.36	0.32	0.34
10.5	0.36	0.32	0.33
11.0	0.36	0.32	0.33
11.5	0.36	0.32	0.33
12.0	0.36	0.32	0.33
12.5	0.36	0.32	0.32
13.0	0.36	0.32	0.32
13.5	0.35	0.31	0.32
14.0	0.35	0.31	0.32
14.5	0.35	0.31	0.31
15.0	0.35	0.31	0.31
15.5	0.35	0.31	0.30
16.0	0.35	0.31	0.30
16.5	0.34	0.31	0.30
17.0	0.34	0.31	0.30
17.5	0.34	0.31	0.29
18.0	0.34	0.31	0.29
18.5	0.34	0.31	0.29
19.0	0.34	0.31	0.29
19.5	0.34	0.30	0.28
20.0	0.34	0.30	0.28
20.5	0.33	0.30	0.28
21.0	0.33	0.30	0.28
21.5	0.33	0.30	0.27
22.0	0.33	0.30	0.27
22.5	0.33	0.30	0.27
23.0	0.33	0.30	0.27
23.5	0.33	0.30	0.26
24.0	0.33	0.30	0.26
24.5	0.33	0.30	0.26
25.0	0.33	0.30	0.26
25.5	0.33	0.30	0.26
26.0	0.33	0.30	0.26
26.5	0.32	0.30	0.26
27.0	0.32	0.30	0.26
27.5	0.32	0.30	0.25
28.0	0.32	0.30	0.25
28.5	0.32	0.30	0.25
29.0	0.32	0.30	0.25
29.5	0.32	0.30	0.25
30.0	0.32	0.30	0.25

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2024–30459 Filed 12–20–24; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–CHAT–DTS0039013; Docket No. NPS–2024–0003; PPSEGUI500 PPMPSAS1Z.Y00000]

RIN 1024–AE80

Chattahoochee River National Recreation Area; Bicycling

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service amends the special regulations for Chattahoochee River National Recreation Area to allow for bicycle use on approximately 20.6 miles of trails.

DATES: This rule is effective January 22, 2025.

ADDRESSES:

Docket: The comments received on the proposed rule are available on <https://www.regulations.gov> in Docket No. NPS–2024–0003.

Document Availability: The Chattahoochee River National Recreation Area Comprehensive Trails Management Plan/Environmental Assessment (CTMP/EA), Finding of No Significant Impact (FONSI), and related project documents provide information and context for this rulemaking and are available online at <https://parkplanning.nps.gov/chat> by clicking any of the links entitled “Comprehensive Trails Management Plan” and then clicking the link entitled “Document List.”

FOR FURTHER INFORMATION CONTACT: Beth Wheeler, Chief of Planning, Resources and Education, Chattahoochee River National Recreation Area; (678) 538–1321; beth_wheeler@nps.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:

Background

Purpose and Management Authority for the Recreation Area

The Chattahoochee River is one of the oldest and most stable river channels in North America. It begins as a tiny stream in northern Georgia, passes through the suburbs north of Atlanta, and flows 430 miles to its confluence with the Flint River at the Florida border. In 1978, the United States Congress established Chattahoochee River National Recreation Area by finding that the values of a 48-mile segment of the river and its adjoining lands in the State of Georgia, from Buford Dam downstream to Peachtree Creek, are of special national significance and “should be preserved and protected from developments and uses which would substantially impair or destroy them.” 16 U.S.C. 460ii. Congress stated that the Recreational Area shall consist of “the river and its bed together with the lands, waters, and interests therein.” 16 U.S.C. 460ii.

In 1984, Congress amended the Recreation Area’s enabling legislation by stating that the corridor located within 2,000 feet of each bank along the 48-mile river segment was “an area of national concern.” This amendment increased the size of the Recreation Area from 6,300 acres to 6,800 acres. A subsequent amendment, passed in 1999, expanded the authorized boundary of the Recreation Area to include an additional 3,200 acres and provided funding to support the acquisition of priority land-based linear corridors to link existing units of the Recreation Area and protect other open spaces of the Chattahoochee River corridor.

The National Park Service (NPS) manages the Recreational Area as a unit of the National Park System. In addition to the enabling legislation described above, the NPS manages the Recreation Area pursuant to the NPS Organic Act of 1916, which gives the NPS broad authority to regulate the use of the lands and waters within System units. See 54 U.S.C. 100101; 100751(a).

Bicycle Use in the Recreation Area

The Recreation Area is located within the Atlanta metropolitan area and is a valuable outdoor recreation resource for local residents as well as visitors from the rest of the United States and around the world. The Recreation Area’s 48-mile stretch of river and 15 land units provide an ecological oasis within a densely populated region and contain more than 950 species of plants and a diverse assemblage of wildlife. Its green space and extensive trail network offer abundant opportunities for visitors to

explore the riverbanks, historic sites, rolling forests, grassy meadows, and rocky bluffs. The clear, cold, and slow-moving river supports a variety of water-based recreational activities such as floating, paddling, rafting, boating, wading, and fishing.

Bicycling is a popular form of recreation in and around the Recreation Area. Bicycles are allowed on roads and in parking areas that are open to public motor vehicle traffic; on an administrative road in the Cochran Shoals unit, the Fitness Loop, which also serves as a part of the trail system; and on a subset of trails. The total trail system is extensive, containing approximately 67 miles of designated trails in 12 of the 15 land units in the Recreation Area. Bicycle use occurs on approximately 11.6 miles of multi-use trails in the Vickery Creek, Gold Branch, Cochran Shoals, and Palisades units. Bicycle routes are designated in special regulations for the Recreation Area at 36 CFR 7.90 and in the Superintendent’s compendium, which is a written compilation of designations, closures, permit requirements and visitor use restrictions imposed under the discretionary authority of the Superintendent, as required by 36 CFR 1.7(b). The Superintendent’s compendium is available on the Recreation Area’s website (<https://www.nps.gov/chat>).

Electric bicycles, which are defined in NPS regulations as two- or three-wheeled cycles with fully operable pedals and electric motors of not more than 750 watts that meet the requirements of one of three classes (36 CFR 1.4), are allowed in the Recreation Area where traditional bicycles are allowed.

Comprehensive Trails Management Plan and Environmental Assessment

In March 2021, the NPS published and sought public input on a Preliminary Trails Management Plan to help inform the development of the CTMP/EA and guide the development of a more cohesive trail system within the Recreation Area. Following the public scoping period, in April 2022, the NPS published the CTMP/EA which analyzes the potential environmental impacts of no-action and action alternatives. Under the action alternative, which is the NPS’s preferred alternative, the total mileage of designated trails available for public use in the Recreation Area would increase substantially, and the NPS would improve the quality and sustainability of the trails to better serve visitors and achieve greater resource stewardship. The NPS would add approximately 32 miles of trails to the

trail system, resulting in a 48% net increase in trail mileage, for a total of 99.3 miles. The NPS would allow bicycle use on 20.6 total miles of trail, an increase of approximately 9 miles. The NPS would continue to allow bicycle use on existing trails in four units of the Recreation Area. With the support of NPS partners, the NPS would construct a new, natural surface multi-use trail that would expand bicycle use in the Cochran Shoals unit, and construct new, hardened surface multi-use trails in the Settles Bridge, McGinnis Ferry, Suwanee Creek, Abbotts Bridge, and Jones Bridge units.

New multi-use trails would be designed and situated so that in the future they could connect to a proposed 100-mile regional Chattahoochee Riverlands greenway project. Many of the new trails would be constructed on previously disturbed corridors, such as utility corridors or remnant roadbeds, to minimize new disturbance and protect historic resources. Trail width would vary by location but would not exceed 10 feet. Trails would be constructed using permeable materials to protect water quality and prevent erosion. In wet locations, special structures, such as boardwalks, would be built to limit trail widening from visitors routing around puddles and mud, which tramples trailside vegetation.

In addition to evaluating the potential impacts of trail construction and modification activities, the CTMP/EA also evaluates the potential impacts of allowing bicycles on the new trails. Specifically, the CTMP/EA evaluates the suitability of each trail surface and soil conditions for accommodating bicycle use; and life cycle maintenance costs, safety considerations, methods to prevent or minimize user conflict, and methods to protect natural and cultural resources and mitigate impacts associated with bicycle use. An associated written determination concluded that bicycle use on all of the trails that would be designated in this rule is consistent with the protection of the Recreation Area's natural, scenic, and aesthetic values; safety considerations; management objectives; and will not disturb wildlife or Recreation Area resources. The CTMP/EA contains a full description of the purpose and need for taking action, the alternatives considered, maps of the affected areas, and the environmental impacts associated with the project. The CTMP/EA evaluates site-specific 60-foot-wide trail corridors. The NPS will determine final trail alignments within those corridors in consultation with NPS natural and cultural resources specialists, which could result in minor

adjustments to the trail locations shown on the maps in the CTMP/EA. If the NPS needs to align a trail outside of an identified corridor, it would conduct additional environmental review of the alignment to avoid or minimize impacts to sensitive resources and would document the change as an amendment to the CTMP/EA.

The NPS accepted public comments on the CTMP/EA for 30 days. In January 2023 following a recommendation by the Superintendent of the Recreation Area, the Regional Director for Interior Region 2, South Atlantic—Gulf, signed the FONSI that identified the preferred alternative in the CTMP/EA as the selected alternative. As stated in the FONSI, the NPS believes the selected alternative will improve the sustainability of the trail system, better protect the resources of the Recreation Area, and improve the visitor experience by facilitating circulation and less visitor conflicts through an expanded trail network. Implementation of the selected alternative will provide new opportunities for visitors to enjoy and be inspired by the Recreation Area.

Summary of Public Comments

The NPS published a proposed rule in the **Federal Register** on May 22, 2024 (89 FR 44947). The NPS accepted public comments on the proposed rule for 60 days via the mail, hand delivery, and the Federal eRulemaking Portal at <https://www.regulations.gov>. Comments were accepted through July 22, 2024. The NPS received 104 comments on the proposed rule. Most comments supported more bicycling opportunities in the Recreation Area. Comments were generally focused on balancing increased recreational opportunities with desired resource conditions. Some comments raised concerns about impacts to wildlife, vegetation, trail conditions, ecosystem health, and visitor use conflicts that the NPS considered and evaluated in the CTMP/EA. These comments are not addressed in this final rule. The NPS evaluated the environmental impacts of two alternatives in the CTMP/EA and explained why it selected the preferred alternative in the FONSI. Upon completion of trail construction and authorization of bicycle use on the new trails, the NPS will monitor the trail network and implement mitigation measures as appropriate to improve sustainability, protect resources (including wildlife), and improve the visitor experience. After considering public comments and after additional review, the NPS is finalizing the proposed rule without change. A summary of the pertinent issues raised

in the comments and NPS responses are provided below:

1. Comment: One commenter stated that construction of bicycle trails in the National Park System violates Executive Order (E.O.) 14072, Strengthening the Nation's Forests, Communities, and Local Economies.

NPS Response: The NPS has a responsibility to conserve the natural resources and ecosystems found within the National Park System, including forested areas, for the enjoyment of future generations. The construction of new trails under the selected alternative in the FONSI is consistent with the policy set forth in E.O. 14072. New trail construction will result in the removal of up to 66 acres of forest vegetation, which constitutes only 1.5% of the total forest acreage within the Recreation Area. Mature and old-growth forests would not be affected by trail construction. The NPS will mitigate potential impacts to forest vegetation by implementing mitigation measures identified in Chapter 2 of the CMPT/EA. New or rerouted trails will be located such that they would not interfere with natural processes such as forest regeneration. They would avoid large tracts of forest areas with high diversity and quality. Healthy trees of any size would not be removed except where they interfere with trail traffic and the trail cannot be relocated to eliminate the interference.

2. Comment: Several commenters encouraged the NPS to authorize bicycle use on all 21.9 miles of trail analyzed during the NEPA process.

NPS Response: This rule implements a portion of the selected alternative in the FONSI, which was evaluated as alternative 2 in the CTPM/EA. Alternative 2 evaluates bicycle use on 21.9 total miles of trail (see Table 4 to the CTMP/EA). This rule, however, identifies 20.6 total miles of trail that could be designated for bicycle use. This difference is attributed to a 1.3-mile trail that was identified in Table 4 of the CTMP/EA as located within the Johnson Ferry Unit. The NPS since has determined that this trail is located outside of the Recreation Area and is owned and administered by Cobb County.

3. Comment: Several commenters encouraged the NPS to allow all classes of e-bikes to be used on all trails where traditional bicycle use is allowed.

NPS Response: NPS regulations at 36 CFR 4.30(a) give superintendents the discretionary authority to allow electric bicycles on park roads, parking areas, and administrative roads and trails that are open to traditional bicycles. Currently, the Superintendent allows all

classes of electric bicycles on all existing bicycle trails. When new trails are constructed under the selected alternative, the Superintendent also could designate those trails as open to some or all classes of electric bicycles. If, in the future, the Superintendent determines that electric bicycles or certain classes of electric bicycles should no longer be allowed on any road, parking area, or trail, or that conditions for use should change, the Superintendent could make such changes by updating the Superintendent's compendium and providing adequate public notice under 36 CFR 1.7.

4. *Comment:* One commenter questioned how the NPS will educate the public about rules for bicycle use in the Recreation Area and encouraged the placement of signage related to wildlife crossings, specifically turtles.

NPS Response: The NPS will use several methods to educate the public about the trail system and bicycle use. These may include: posting standardized signs at trailheads and trail access points that display rules for bicycle use (e.g., speed limit), safety guidelines, and trail conditions; providing printed materials (such as brochures and maps) that include detailed information about multi-use trails, rules, and safe riding practices; maintaining up-to-date information about the trail system and rules for bicycle use on the Recreation Area's website; using social media platforms to share information related to bicycling; and engaging local partners and stakeholders to promote safe and responsible bicycling by educating visitors about applicable rules. These actions will help ensure that visitors are well-informed about rules for bicycle use. This will help mitigate potential impacts to resources, including wildlife.

Final Rule

This rule amends paragraph (a) in 36 CFR 7.90, which contains the special regulations for the Recreation Area. The rule authorizes the Superintendent to designate approximately 20.6 miles of trails for bicycle use in nine units of the Recreation Area. The NPS is also changing the paragraph structure and replacing a specific web address as the location of maps showing bicycle routes with a general statement that maps will be available at the visitor center and on the Recreation Area's website. The regulatory text includes formal trail names if they exist to make wayfinding easier. Lastly, the rule removes an unnecessary provision in the current paragraph (a)(4)(ii) that provides the Superintendent with a specific,

discretionary authority to close the trails in the Johnson Ferry South and Cochran Shoals units to mitigate soil erosion and water quality impacts from bicycle use after a rain event. Providing this specific authority is unnecessary because this rule, similar to the existing regulations, authorizes the Superintendent to limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions after taking into consideration public health and safety, resource protection, and other management activities and objectives, as stated in 36 CFR 4.30(f). Further, as a practical matter, the redevelopment of the trail system will restore poorly designed trails to natural conditions in the Cochran Shoals unit and will position new trails on the landscape in that unit to improve physical sustainability, manage water, and limit erosion. There is no existing or planned bicycle use in the Johnson Ferry South unit.

Compliance With NPS Bicycle Regulations

The CTMP/EA constitutes the planning document and evaluates the criteria required by the NPS's general bicycle regulations at 36 CFR 4.30. The no action alternative evaluates the impacts of continued bicycle use on existing trails; and the action alternative evaluates the impacts of bicycle use on the new trails that will be constructed. This rule authorizes the Superintendent to allow bicycles on all trails where bicycles would be allowed under the selected alternative. This includes existing trails that do not require construction or significant modification and new trails that will be constructed. Although NPS regulations do not require special regulations to allow bicycles on existing trails that do not require any construction or significant modification, identifying all of the trails in the special regulations will make it easier for visitors to understand where bicycles are allowed. The other approach would result in some trails designated in the special regulations and others in the Superintendent's compendium.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563 and 14094)

Executive Order 14094 (E.O.) amends E.O. 12866 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. Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. E.O. 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. The NPS has developed this rule in a manner consistent with these requirements.

E.O. 12866, as reaffirmed by E.O. 13563 and amended and reaffirmed by E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA determined that this final rule is not significant.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

This rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This certification is based on information contained in the economic analyses found in the report entitled "Cost-Benefit and Regulatory Flexibility Threshold Analyses: Proposed Special Regulations to Designate New Trails for Bicycle Use at Chattahoochee River National Recreation Area." The report may be viewed on the Recreation Area's planning website at the URL listed under the **ADDRESSES** section.

Congressional Review Act (CRA)

This rulemaking is not a major rule under 5 U.S.C. 804(2). This rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

This rulemaking does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or Tribal governments or the private sector. It addresses public use of national park

lands and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rulemaking does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rulemaking does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule only affects use of federally administered lands and waters. It has no direct effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rulemaking complies with the requirements of Executive Order 12988. This rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. The NPS has evaluated this rulemaking under the criteria in Executive Order 13175 and under the Department's Tribal consultation policy and has determined that Tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian Tribes. Nevertheless, in support of the Department of the Interior and NPS commitment for government-to-government consultation, during the CTMP/EA process, the NPS sent notification letters to Tribal partners to invite participation in the planning process. The Tribes are the Absentee Shawnee Tribe, Alabama-Coushatta Tribe of Texas, Alabama-Quassarte Tribal Town, Cherokee

Nation, Coushatta Tribe of Louisiana, Eastern band of Cherokee Indians, Kialegee Tribal Town, Muskogee (Creek) Nation, Poarch Band of Creek Indians, Seminole Nation of Oklahoma, Seminole Tribe of Florida, Shawnee Tribe, Thlopthlocco Tribal Town, and United Keetoowah Band of Cherokee Indians of Oklahoma. Additionally, the NPS has executed a programmatic agreement in coordination with consulting parties, including the State historic preservation office and affiliated Tribes, which describes historic identification actions as well as minimization and avoidance practices should it be determined that a proposed implementation action may impact a historic property. Additional information about Tribal coordination and the programmatic agreement is published in the FONSI.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)*

This rulemaking does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS 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 of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*)*

The NPS has prepared the CTMP/EA to determine whether this rulemaking will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. This rulemaking will not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because of the FONSI. A copy of the CTMP/EA and FONSI can be found online at the URL listed in **ADDRESSES**.

Effects on the Energy Supply (Executive Order 13211)

This rulemaking is not a significant energy action under the definition in Executive Order 13211; the rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of OIRA as a significant energy action. A Statement of Energy Effects is not required.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

- 1. The authority citation for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10–137 and D.C. Code 50–2201.07.

- 2. Amend § 7.90 by revising paragraph (a) to read as follows:

§ 7.90 Chattahoochee River National Recreation Area.

(a) *Bicycle use.* (1) The Superintendent may designate all or a portion of the following trails as open to bicycle use:

(i) The multi-use trail in the Abbotts Bridge unit (approximately 2 miles).

(ii) The Fitness Loop in the Cochran Shoals unit (approximately 2.7 miles).

(iii) The multi-use trails in the Sope Creek Area of the Cochran Shoals unit (approximately 9.1 miles).

(iv) The Lower Roswell Trail in the Gold Branch unit (approximately 0.5 miles).

(v) The multi-use trail in the Jones Bridge unit (approximately 1.4 miles).

(vi) The multi-use trail in the McGinnis Ferry unit (approximately 1.4 miles).

(vii) The Rottenwood Creek Trail in the Palisades unit (approximately 1.6 miles).

(viii) The multi-use trail in the Settles Bridge unit (approximately 1.6 miles).

(ix) The multi-use trail in the Suwanee Creek unit (approximately 0.2 miles).

(x) The Roswell Riverwalk Trail in the Vickery Creek unit (approximately 0.1 miles).

(2) A map showing trails open to bicycle use will be available at Recreation Area visitor centers and posted on the Recreation Area website. The Superintendent will provide notice of all trails designated for bicycle use in accordance with § 1.7 of this chapter.

(3) The Superintendent may limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions in accordance with § 4.30 of this chapter. A violation of any such condition, closure, limit, or restriction is prohibited.

* * * * *

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2024–30540 Filed 12–20–24; 8:45 am]

BILLING CODE 4312–52–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R03–OAR–2023–0444; FRL–10461–02–R3]

Air Plan Approval; Delaware; 2022 Amendments to Delaware's Ambient Air Quality Standards**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Delaware. This SIP revision consists of Delaware's amendments to its ambient air quality standards for ground level ozone, amendments to citations to the Code of Federal Regulation (CFR) dates for the EPA sampling and analytical procedures and techniques for all ambient air quality standards in Delaware's regulations, and Delaware's amendment removing the sulfur dioxide (SO₂) 24-hour and annual primary standards that have been revoked by EPA. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on January 22, 2025.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2023–0444. All documents in the docket are listed on the www.regulations.gov website. 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 through www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT:

Owen Sears, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2126. Mr. Sears can also be reached by electronic mail at sears.owen@epa.gov.

SUPPLEMENTARY INFORMATION: On August 16, 2024 (89 FR 66659), EPA published a notice of proposed rulemaking

(NPRM) for the State of Delaware. In the NPRM, EPA proposed approval of a revision to the Delaware SIP that consists of amendments to Title 7 of the Delaware Administrative Code (7 DE Admin). Specifically, the amendments are to 7 DE Admin 1103 Ambient Air Quality Standards (DE 1103). DNREC's amendments to DE 1103 aligned the language of that regulation to be consistent with existing Federal regulatory standards. Specifically, DNREC revised DE 1103 to reflect: the most current national ambient air quality standards (NAAQS) for ground level ozone; amendments to update citations in DE 1103 to include the CFR dates in effect at the time DNREC amended DE 1103 for all NAAQS; and amendments to remove the SO₂ 24-hour and annual primary standards. On May 14, 2024, DNREC submitted a withdrawal letter to remove an update to section 1.6.5 of DE 1103 in Delaware's SIP. Delaware withdrew its revision to section 1.6.5 because that regulation erroneously cites an EPA analytical method that was revoked by EPA. The formal SIP revision was submitted by Delaware on November 15, 2022. By a letter dated May 14, 2023, Delaware withdrew a portion of the submission that referenced an obsolete EPA monitoring methodology.

I. Background

The CAA mandates that the EPA set NAAQS for criteria pollutants, which are ozone and related photochemical oxidants, carbon monoxide, lead, nitrogen oxides, particulate matter, and sulfur oxides. The CAA also requires EPA to periodically review the relevant scientific information and the standards and revise them, if appropriate, to ensure that the standards provide the requisite protection for public health and the environment. The CAA also requires states to develop a general plan to attain and maintain the standards in all areas of the country and a specific plan to attain the standards for each area designated nonattainment.

The NAAQS for ground-level ozone were updated on October 1, 2015, to strengthen the NAAQS for ground-level ozone to 0.070 parts per million (ppm). See 80 FR 65291.¹ The primary and secondary standards established in 2015 are determined by the fourth-highest daily maximum 8-hour concentration, averaged over three consecutive years. In December 2020, EPA retained the

2015 standards without revision. See 85 FR 87256, December 31, 2020.²

On June 2, 2010, EPA revised the primary SO₂ NAAQS based on its review of the air quality criteria for oxides of sulfur and the primary NAAQS for oxides of sulfur as measured by SO₂.³ See 75 FR 35520. The 1-hour SO₂ standard was set at a level of 0.075 ppm, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. EPA also revoked both the existing 24-hour and annual primary SO₂ standards.

II. Summary of SIP Revision and EPA Analysis

Delaware's November 15, 2022 SIP submission consists of: (1) amendments to its ambient air quality standards in DE 1103 to reflect the current NAAQS for ground level ozone; (2) amendments to its regulatory citations to the CFR dates for the EPA sampling and analytical procedures and techniques for the various NAAQS that Delaware incorporates into its regulations, and (3) amendments to remove from DE 1103 the SO₂ 24-hour and annual primary standards that have been revoked by EPA. Delaware's regulatory amendments aligned DE 1103 with current EPA's NAAQS regulations. By including these revisions to DE 1103 in the Delaware SIP, the SIP will also align with EPA's current NAAQS regulations.

The Delaware SIP's current primary and secondary ozone NAAQS standards are outdated at 0.075 ppm. DNREC's revision to DE 1103 updated the primary and secondary ozone standards in section 6.0 of DE 1103 to reflect the 2015 Ozone NAAQS of 0.070 ppm. This approval action for Delaware's SIP submittal will make the SIP consistent with EPA's current ozone NAAQS.

DNREC has also amended DE 1103 to update its references to the dates for EPA's sampling and analytical procedures and techniques for the various NAAQS, that Delaware incorporates by reference into DE 1103. The dates, for all sections except 1.6.5, are updated to July 1, 2019, which was the most current version of the CFR as of the time that DNREC revised DE 1103. This approval action will incorporate into Delaware's SIP the NAAQS monitoring methodologies as codified in the 2019 CFR, which was the

² 2020 Review of the Ozone National Ambient Air Quality Standards available at www.federalregister.gov/documents/2020/12/31/2020-28871/review-of-the-ozone-national-ambient-air-quality-standards.

³ 40 CFR parts 50, 53, and 58 Primary National Ambient Air Quality Standard for Sulfur Dioxide; Final Rule available at www3.epa.gov/ttn/naaqs/standards/so2/fr/20100622.pdf.

¹ 2015 National Ambient Air Quality Standards for Ozone available at www.federalregister.gov/documents/2015/10/26/2015-26594/national-ambient-air-quality-standards-for-ozone.

most recent version of the CFR at the time Delaware revised DE 1103. Updating these references will strengthen the Delaware SIP.

Additionally, Delaware removed subsections 4.2 and 4.3 from DE 1103. These subsections had set forth Delaware's SO₂ 24-hour primary standard and SO₂ annual primary standard, which corresponded to the EPA's revoked SO₂ 24-hour primary standard and SO₂ annual primary standard. This amendment to DE 1103 conforms the Delaware SO₂ ambient air quality standard with EPA's current Federal regulations. This approval action will align Delaware's SIP with EPA's current SO₂ NAAQS, at 40 CFR 50.17. No public comments were received on the NPRM.

III. Final Action

EPA is approving Delaware's submittal of November 15, 2022, as modified by the letter dated May 14, 2023, as a revision to the Delaware SIP.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of DE regulation 1103, as effective on July 1, 2019, excluding updates to section 1.6.5, as discussed in sections I and II of this preamble. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region III Office (please contact the person identified in the For Further Information Contact section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁴

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action

merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
 - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect

to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 21, 2025. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

⁴ 62 FR 27968 (May 22, 1997).

This action approving amendments to Delaware's ambient air standards may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and

recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Adam Ortiz,
Regional Administrator, Region III.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart I—Delaware

■ 2. Amend § 52.420 the table in paragraph (c), under the heading “1103 Ambient Air Quality Standards” by revising the entries “Section 1.0”, “Section 4.0”, “Section 5.0”, “Section 6.0”, “Section 8.0”, “Section 10.0”, and “Section 11.0” to read as follows:

§ 52.420 Identification of plan.

* * * * *
(c) * * *

EPA-APPROVED REGULATIONS AND STATUTES IN THE DELAWARE SIP

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
1103 Ambient Air Quality Standards				
Section 1.0	General Provisions	08/11/2022	12/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Revised sections.
*	*	*	*	*
Section 4.0	Sulfur Dioxide	08/11/2022	12/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Revised sections.
Section 5.0	Carbon Monoxide	08/11/2022	12/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Revised sections.
Section 6.0	Ozone	08/11/2022	12/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Revised sections.
*	*	*	*	*
Section 8.0	Nitrogen Dioxide	08/11/2022	12/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Revised sections.
*	*	*	*	*
Section 10.0	Lead	08/11/2022	12/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Revised sections.
Section 11.0	PM ₁₀ and PM _{2.5} Particulates	08/11/2022	12/23/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Revised sections.
*	*	*	*	*

* * * * *
[FR Doc. 2024–30404 Filed 12–20–24; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2023–0206; FRL–11037.1–01–R3]

Air Plan Approval; Air Plan Disapproval; Delaware; Removal of Excess Emissions Provisions; Final Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) is determining that a portion of an October 23, 2023, final disapproval action of a State implementation plan (SIP) revision submitted by the State of Delaware was in error and making a correction pursuant to section 110(k)(6) of the Clean Air Act (CAA).

DATES: This final action is effective on December 23, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R03–OAR–2023–0206. All documents in the docket are listed at www.regulations.gov. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other

material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** for additional availability information.

FOR FURTHER INFORMATION CONTACT: General questions concerning this publication should be addressed to Sean Silverman, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103; by telephone (215) 814–5511 or by email at silverman.sean@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

I. General Information

A. How is the preamble organized?

II. Background

III. What is the EPA correcting?

IV. What action is the EPA taking?

V. Statutory and Executive Order Reviews

II. Background

On November 5, 2024, the EPA proposed to correct an error in an earlier EPA action, using the authority of section 110(k)(6) of the CAA.¹ Specifically, the proposed action explained that the error occurred in an October 23, 2023, EPA action² disapproving revisions to the State of Delaware's SIP which were submitted in response to the 2015 Startup, Shutdown, and Malfunction (SSM) SIP Action.³

On June 12, 2015, the EPA finalized the 2015 SSM SIP Action, which clarified, restated, and updated the EPA's national policy regarding SIP provisions applying to excess emissions during periods of startup, shutdown, and malfunction. As part of the 2015 SSM SIP Action, the EPA issued a finding that certain SIP provisions for 36 States that were applicable in 45 statewide and local jurisdictions were substantially inadequate to meet CAA requirements due to how those SIP provisions treated excess emissions during SSM periods. Further, the EPA issued a "SIP call" to each of those 45 air agencies, including the State of Delaware, on the basis that Delaware's SIP contained impermissible director's discretion provisions that were substantially inadequate to meet CAA requirements.⁴ To respond to the EPA's SIP call in the 2015 SSM SIP Action, each affected State was required to submit its corrective SIP revision by November 22, 2016. The State of Delaware submitted a SIP revision purporting to address the seven issues identified in EPA's 2015 SSM SIP Action on November 22, 2016. On October 23, 2023, the EPA took final

action⁵ disapproving certain portions of Delaware's November 22, 2016, SIP revision based on EPA's finding that the SIP revision did not correct the remaining deficiencies in Delaware's SIP identified by the 2015 SSM SIP Action.⁶

As a result of the March 1, 2024, decision from the United States Court of Appeals for the District of Columbia Circuit in *Environ. Comm. Fl. Elec. Power v. EPA*, 94 F.4th 77 (D.C. Cir. 2024), certain portions of the EPA's SIP call in the 2015 SSM SIP Action were vacated by the D.C. Circuit and therefore have no legal effect. Thus, certain States subject to the 2015 SSM SIP Action no longer have a legal obligation to submit the revisions that the EPA had originally determined were required to correct the deficiency identified in the SIP call.⁷ In other words, by partially vacating the EPA's 2015 SSM SIP Action, the D.C. Circuit's decision rendered Delaware's SIP submission in response to the 2015 SSM SIP Action voluntary rather than mandatory. As a result, the EPA proposed to correct the EPA's October 23, 2023, disapproval action with respect to the consequences of that disapproval. A more complete explanation of the reasons for the proposed error correction can be found in the November 5, 2024, proposed action. Comments on the November 5, 2024, proposed action were due on or before December 5, 2024. The EPA did not receive any comments on the November 5, 2024, proposed action.

III. What is the EPA correcting?

In this action, the EPA is correcting the erroneous triggering of mandatory sanctions under CAA section 179 and 40 Code of Federal Regulations (CFR) 52.31 for the State of Delaware following its October 23, 2023 (88 FR 72688), disapproval of Delaware's SIP revision submitted in response to the 2015 SSM SIP call. The EPA is also correcting the erroneous triggering of the EPA's obligation to issue a Federal Implementation Plan (FIP) under CAA section 110(c)(1)(B). As a result, in

⁵ See 88 FR 72688 (October 23, 2023).

⁶ EPA Region 3 issued two final actions that corrected three of Delaware's seven deficient SIP provisions originally identified in EPA's 2015 SSM SIP call. See 87 FR 41074 (July 11, 2022) and 88 FR 9399 (February 14, 2023). On October 23, 2023 (88 FR 72688), the EPA Region 3 finalized disapproval of Delaware's SIP revision that sought to correct the remaining four deficient provisions.

⁷ 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. 94 F.4th at 110 ("We thus do not reach the question whether the called SIP's relevant emission restrictions in fact amount to (or must amount to) 'emission limitations' per the statutory definition.").

finalizing this error correction action, the imposition of sanctions for the State of Delaware and the FIP obligation for the EPA that were triggered as result of the October 23, 2023 (88 FR 72688) final disapproval action are no longer in effect.

IV. What action is the EPA taking?

As a result of the D.C. Circuit's decision in *Environ. Comm. Fl. Elec. Power v. EPA*, the EPA is determining that, pursuant to section 110(k)(6) of the CAA, a portion of the EPA's October 23, 2023 (88 FR 72688), final disapproval action of Delaware's SIP revision was in error with respect to the consequences of that disapproval. By partially vacating the EPA's 2015 SSM SIP Action, the D.C. Circuit's decision rendered Delaware's SIP submission in response to the 2015 SSM SIP action voluntary rather than mandatory. Thus, the EPA is finding that the triggering of mandatory sanctions and FIP obligation following the October 23, 2023 (88 FR 72688), final disapproval was erroneous and, through this action, is terminating the imposition of sanctions for the State and the FIP obligation for the EPA triggered by that disapproval as they are no longer legally valid.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders (E.O.) can be found at www.epa.gov/laws-regulations/laws-and-executive-orders.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. This action merely corrects an error in EPA's prior action and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993), and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely

¹ 89 FR 87826 (November 5, 2024).

² 88 FR 72688 (October 23, 2023).

³ 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).

⁴ See 78 FR 12460, 12495–12496 (February 22, 2013) and 80 FR 33840 at 33960 (June 12, 2015).

affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is an error correction taken under section 110(k)(6) of the CAA and does not directly or disproportionately affect children.
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the action does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The air agency did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and

applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action as the EPA views this action as a necessary procedural step following the D.C. Circuit decision and vacatur of portions of the 2015 SIP call. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2024–30654 Filed 12–20–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R08–RCRA–2024–0408; FRL–12226–02–R8]

Utah: Final Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The State of Utah Department of Environmental Quality has applied to the Environmental Protection Agency (EPA) for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing the State’s changes through this direct final action. The EPA uses the regulations entitled, “Approved State Hazardous Waste Management Programs” to provide notice of the authorization status of State programs and to incorporate by reference those provisions of State statutes and regulations that will be subject to the EPA’s inspection and enforcement. This rule also codifies in the regulations the approval of Utah’s hazardous waste management program and incorporates by reference authorized provisions of the State’s regulations.

DATES: This direct final rule is effective on February 21, 2025 unless the EPA receives adverse written comment by January 22, 2025. If the EPA receives any such comment, we will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that the rule will not take effect. The Director of the Federal Register approves the incorporation by reference of certain material listed in this direct final rule as of February 21, 2025.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–RCRA–2024–0408; FRL–12226–02–R8 by one of the following methods:

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

2. *Email:* lin.moye@epa.gov.

3. *Fax:* (303) 312–6116 (prior to faxing, please notify the EPA contact listed below).

4. *Mail, hand delivery or courier:* Moye Lin, Land, Chemicals and Redevelopment Division, EPA Region 8, Mailcode 8LCR–RC, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Courier or hand deliveries are only accepted during the Regional Office’s normal hours of operation. The public is advised to call in advance to verify business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: The EPA must receive your comments by January 22, 2025. Direct your comments to EPA–R08–RCRA–2024–0408; FRL–12226–02–R8. The EPA’s policy is that all comments received will be included in the public

docket without change and may be available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov>, or email. The Federal <https://www.regulations.gov> website is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: 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., CBI 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 electronically through <https://www.regulations.gov>. For alternative access to docket materials, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Moye Lin, Land, Chemicals and Redevelopment Division, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129; telephone number: (303) 312–6667; email address: lin.moye@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Authorization of Revisions to Utah’s Hazardous Waste Program

A. Why are revisions to State programs necessary?

States which have received final authorization from the EPA under RCRA

section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA’s regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279.

B. What authorization decision has the EPA made in this rule?

On April 13, 2023, Utah submitted a final complete program revision application seeking authorization of changes to its hazardous waste program. The EPA concludes that Utah’s application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Utah final authorization to operate its hazardous waste program with the changes described in the authorization application. Utah has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs), and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA), for all areas within the State, except for (1) lands located within formal Indian Reservations within or abutting the State of Utah, including the Northwestern Band of the Shoshone Nation, Paiute Indian Tribe (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes), Skull Valley Band of Goshute Indian, and Ute Indian Tribe of the Uintah and Ouray Reservation, (2) any land held in trust by the United States for an Indian Tribe, (3) and any other land, whether on or off a reservation that qualifies as “Indian country” within the meaning of 18 U.S.C. 1151. New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized to the requirements. Thus, the EPA will implement those requirements and prohibitions in Utah, including issuing permits, until Utah is authorized to do so.

C. What is the effect of today’s authorization decision?

The effect of this decision is that a facility in Utah subject to RCRA will have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. The State of Utah will continue to have enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Conduct inspections and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements; suspend or revoke permits; and
- Take enforcement actions after notice to and consultation with the State.

This action to approve these provisions would not impose additional requirements on the regulated community because the regulations for which the State of Utah is requesting authorization are already effective under State law and are not changed by the act of authorization.

D. Why is the EPA using a direct final rule?

The EPA is publishing this rule without a prior proposal because we view this as a noncontroversial action and anticipate no adverse comment. However, in the “Proposed Rules” section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule allowing the public an opportunity to comment. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

E. What happens if the EPA receives comments opposing this action?

If the EPA receives comments that oppose this authorization, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in a later **Federal Register**. You will not have another opportunity to comment, therefore, if you want to comment on this action, you must do so at this time.

F. For what has Utah previously been authorized?

Utah initially received final authorization on October 10, 1984, effective October 24, 1984 (49 FR 39683)

to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on: February 21, 1989, effective March 7, 1989 (54 FR 7417); May 23, 1991, effective July 22, 1991 (56 FR 23648); August 6, 1991, effective July 22, 1991 (56 FR 37291); May 15, 1992, effective July 14, 1992 (57 FR 20770); February 12, 1993, effective April 13, 1993 (58 FR 8232); May 5, 1993, effective April 13, 1993 (58 FR 26689); October 14, 1994, effective December 13, 1994 (59 FR 52084); November 10, 1994, effective December 13, 1994 (59 FR 56114); May 20, 1997, effective July 21, 1997 (62 FR 27501); January 13, 1999, effective March 15, 1999 (64 FR 02144); October 16, 2000, effective January 16, 2001 (65 FR 61109); May 7, 2002, effective July 8, 2002 (67 FR

30599); June 11, 2003, effective June 11, 2003 (68 FR 34829); and May 23, 2008, effective May 23, 2008 (73 FR 29987). On April 23, 2008 (73 FR 21843), the EPA withdrew the immediate final rule for final authorization of Utah's hazardous waste management program revisions published March 7, 2008 (73 FR 12277) following receipt of comment opposing this authorization.

G. What changes is EPA authorizing with this action?

On April 13, 2023, the State of Utah submitted a final complete program revision application seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision, subject to receipt of written comments that oppose this action, that Utah's hazardous waste

program satisfies all the requirements necessary to qualify for final authorization. Therefore, we grant Utah final authorization for the following changes:

1. Program Revision Changes for Federal Rules

The State of Utah revisions consist of regulations which specifically govern Federal hazardous waste revisions promulgated from February 12, 1997, through December 9, 2019 (RCRA Checklists 156, 190, 200, 202, 205 through 209, 211 through 215, 217 through 220, 222 through 233C, and 233D2 through 242). The State requirements from the Utah Administrative Code (UAC), effective January 17, 2023, are included in the chart below.

Description of Federal requirement	Federal Register date and page	Analogous State authority
1. Military Munitions Rule (Checklist 156)	62 FR 6622; 2/12/97	Utah Administrative Code (UAC) R315–260–10(c)(52) through (54), and (95); R315–262–20(f); R315–264–1(g)(8)(iv); R315–265–1(c)(11)(iv); R315–266–202(d); R315–270–1(c)(3)(iii); R315–270–42(i).
2. Land Disposal Restrictions Phase IV—De-ferral for PCBs in Soil (Checklist 190).	65 FR 81373; 12/26/00 ..	R315–268–32(a); R315–268–32(b); R315–268–48(a)/table UTS; R315–268–49(d); R315–268–51.
3. Zinc Fertilizer Rule (Checklist 200)	67 FR 48393; 7/24/02	R315–261–4; R315–261–4(a)(20) and (21); R315–266–20 and 20(d); R315–268–40(i).
4. Hazardous Air Pollutant Standards for Combustors—Corrections 2 (Checklist (202).	67 FR 77687; 12/19/02 ..	R315–270–19(e); R315–270–22 introductory paragraph; R315–270–62 introductory paragraph; R315–270–66 introductory paragraph.
5. NESHAP: Surface Coating of Automobiles and Light-Duty Trucks (Checklist 205).	69 FR 22601; 4/26/04	R315–264–1050; R315–264–1050(h); R315–265–1 introductory paragraph.
6. Nonwastewaters from Dyes and Pigments (Checklist 206).	70 FR 9138; 2/24/05 70 FR 35032; 6/16/05	R315–261–4(b)(15); R315–261–32; R315–261–1091; R315–261–1092; R315–268–20; R315–268–40 last paragraph; R315–268–48/Universal Treatment Standards Table.
7. Uniform Hazardous Waste Manifest Rule (Checklist 207).	70 FR 10776; 3/4/05 70 FR 35034; 6/16/05	R315–260–10; R315–260–10(c)(33); R315–260–10(c)(92) and (93); R315–261–7(b)(1)(iii); R315–262–20(a)(1) and (3); R315–262–21; R315–262–27; R315–262–32(b); R315–262–33; R315–262–34; R315–262–54; R315–262–60; R315–262/appendix; R315–263–20(a)(1)–(3); R315–263–20(g); R315–263–21(b)(1); R315–263–21(c); R315–264–70; R315–264–71(a), (b)(4), and (e); R315–264–72; R315–264–76; R315–265–70; R315–265–71(a)(1) through (3), (b)(4) and (e); R315–265–72(a) through (g); R315–265–76.
8. Methods Innovation Rule and SW–846 Final Update IIIB (Checklist 208).	70 FR 34538; 6/14/05 70 FR 44150; 8/1/05	R315–260–11; R315–260–21(d); R315–260–22(d)(1)(i); R315–261–3(a)(2)(v); R315–261–21(a)(1); R315–261–22; R315–261–35(b)(2)(iii); R315–261–38(c)(7) introductory paragraph; R315–261–1090; R315–264–190(a); R315–264–314(c); R315–264–1034(c)(1)(ii); R315–264–1034(c)(1)(iv); R315–264–1034(d)(1)(iii); R315–264–1034(f); R315–264–1063(d)(2); R315–264–1107; R315–265–190(a); R315–265–1 introductory paragraph; R315–265–1034(c)(1)(ii); R315–265–1034(c)(1)(iv) introductory paragraph; R315–265–1034(c)(1)(iv)(A) and (B); R315–265–1034(d)(1)(iii); R315–265–1034(f); R315–265–1081 “Waste stabilization process”; R315–265–1084(a)(3)(ii)(C); R315–265–1084(a)(3)(iii) introductory paragraph and (A) through (G); R315–265–1084(b)(3)(ii)(C); R315–265–1084(c)(3)(i); R315–266–100(d)(1)(ii); R315–266–100(g)(2); R315–266–102(b)(1); R315–266–106(a); R315–266–112(b)(1) introductory paragraph; R315–266–112(b)(2)(i) and Note; R315–266–608; R315–268–40(b); R315–268–40 last paragraph; R315–268–48/UTS table, Footnote 4; R315–268–56; R315–270–19(c)(1)(iii) and (iv); R315–270–22(a)(2)(ii)(B); R315–270–62(b)(2)(i)(C) and (D); R315–270–66(c)(2)(i) and (ii); R315–15–1.1(b)(1)(ii).

Description of Federal requirement	Federal Register date and page	Analogous State authority
9. Universal Waste Rule Specific Provisions for Mercury Containing Equipment (Checklist 209).	70 FR 45508; 8/5/05	R315–260–10(c)(94); R315–260–10(c)(165)(iii); R315–261–9(c); R315–264–1(g)(11)(iii); R315–265–1(c)(14)(iii); R315–268–1(f)(3); R315–270–1(c)(2)(viii)(C); R315–273–1(a)(3); R315–273–4, R315–273–9(b), (j), (k), (n), (p) and (p)(3); R315–273–13(c); R315–273–14(d); R315–273–32(b)(4) and (5); R315–273–33(c); R315–273–34(d)(1) and (2).
10. Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (“Headworks Exemptions”) (Checklist 211).	70 FR 57769; 10/4/05	R315–261–3(a)(2)(iv)(A), (B), (D), (F), and (G).
11. NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) (Checklist 212).	70 FR 59402; 10/12/05 ..	R315–260–11; R315–264–340(b)(1) and (5); R315–266–100(b); R315–270–10(l)(1); R315–270–19(e); R315–270–22 introductory paragraph; R315–270–24(d)(3); R315–270–25(e)(3); R315–270–32(b)(3); R315–270–42(j) and (k); R315–270–42, appendix I; R315–270–62 introductory paragraph; R315–270–66 introductory paragraph; R315–270–235.
12. Burden Reduction Initiative (Checklist 213)	71 FR 16862; 4/4/06	R315–260–31(b)(2) through (b)(7); R315–261–4(a)(9)(iii)(E); R315–261–4(f)(9); R315–264–15(b)(4); R315–264–16(a)(4); R315–264–52(b); R315–264–56(i); R315–264–73(b)(1), (b)(2), (b)(6), (b)(8), (b)(10), (b)(18) and (b)(19); R315–264–98(d), (g)(2) and (g)(3); R315–264–99(f) and (g); R315–264–100(g); R315–264–113(e)(5); R315–264–115; R315–264–120; R315–264–143(i); R315–264–145(i); R315–264–147(e); R315–264–174; R315–264–191(a); R315–264–191(b)(5)(ii); R315–264–192(a) introductory paragraph and (b); R315–264–193(a)(1) and (a)(2); R315–264–193(i)(2); R315–264–195(b) through (h); R315–264–196(f); R315–264–251(c); R315–264–280(b); R315–264–314(a); R315–264–314; R315–264–343(a)(2); R315–264–347(d); R315–264–554(c)(2); R315–264–571(a) through (c); R315–264–573(a)(4)(iii); R315–264–573(g); R315–264–574(a); R315–264–1061(b)(1), (b)(2) and (d); R315–264–1062(a); R315–264–1100 introductory paragraph; R315–264–1101(c)(2) and (c)(4); R315–265–15(b)(4); R315–265–16(a)(4); R315–265–52(b); R315–265–56(i); R315–265–73(b) introductory paragraph; R315–265–73(b)(1) through (8), and (15); R315–265–90(d)(1) and (3); R315–265–93(d)(2) and (d)(5); R315–265–113(e)(5); R315–265–115; R315–265–120; R315–265–143(h); R315–265–145(h); R315–265–147(e); R315–265–174; R315–265–191(a); R315–265–191(b)(5)(ii); R315–265–192(a) and (b); R315–265–193(a)(1)–(2) and (i)(2); R315–265–195(a) through (g), except (d); R315–265–196(f); R315–265–221(a); R315–265–224(a); R315–265–259(a); R315–265–1 introductory paragraph; R315–265–1101(c)(2) and (c)(4); R315–266–102(e)(10); R315–266–103(d); R315–266–103(k); R315–268–7(a)(1) and (2), and (b)(6); R315–268–9(a) and (d); R315–270–14(a); R315–270–16(b); R315–270–26(c)(15).

Description of Federal requirement	Federal Register date and page	Analogous State authority
13. Corrections to Errors in the Code of Federal Regulations (Checklist 214).	71 FR 40254; 7/14/06	R315–260–10(c)(72)(iii); R315–260–10(c)(115); R315–260–10(c)(165); R315–260–10(c)(170); R315–260–22(a)(1); R315–260–22(d)(1)(ii); R315–260–40(a); R315–260–41 introductory paragraph; R315–261–2 (c)(1)(i); R315–261–3(a)(2)(i); R315–261–4(a)(20)(v); R315–261–4(b)(6)(i)(B); R315–261–4(b)(6)(ii) introductory paragraph; R315–261–4(b)(6)(ii)(D) and (F); R315–261–4(b)(9); R315–261–4(e)(2)(vi); R315–261–4(e)(3)(i); R315–261–6(a)(2)(i)–(v); R315–261–6(c)(2); R315–261–21(a)(3) introductory paragraph; R315–261–21(a)(3)(i); R315–261–21(a)(3)(ii) introductory paragraph; R315–261–21(a)(3)(ii); R315–261–21(a)(4) introductory paragraph; R315–261–21(a)(4)(i) introductory paragraph; R315–261–21(a)(4)(i); R315–261–21 Note 1 through Note 4; R315–261–24(b); R315–261–31(a)/table 2; R315–261–32/table “K107” entry; R315–261–32/table “K069” entry; R315–261–33(e) and (f); R315–261–1091; R315–261–1092; R315–262–70; R315–264–1(g)(2); R315–264–4; R315–264–13(b)(7)(iii)(B); R315–264–17(b) introductory paragraph; R315–264–18(a)(2)(iii); R315–264–18(b)(2)(iii); R315–264–97 (a)(1) introductory paragraph; R315–264–97(a)(1)(i); R315–264–97(i)(5); R315–264–98(a)(2); R315–264–98(g)(4)(i); R315–264–99(h)(2) introductory paragraph; R315–264–101(d); R315–264–111(c); R315–264–112(b)(8); R315–264–115; R315–264–116; R315–264–118(c); R315–264–119(b)(1)(ii); R315–264–140(d)(1); R315–264–142(b)(2), (b)(7) and (b)(8); R315–264–143(e)(5); R315–264–145(a)(3)(i); R315–264–145(d)(6); R315–264–145(f)(11) introductory paragraph; R315–264–147(h)(1); R315–264–151(b); R315–264–151(f) introductory paragraph; R315–264–151(g); R315–264–151(h)(2); R315–264–151(i), item 2.(e) and (d); R315–264–151(k); R315–264–151(k), CERTIFICATE OF VALID CLAIM; R315–264–151(l); R315–264–151(l), CERTIFICATION OF VALID CLAIM; R315–264–151(m)(1), CERTIFICATION OF VALID CLAIM, section 8.(c); R315–264–151(n)(1), under STANDBY TRUST AGREEMENT, section 3.(c)(1); R315–264–151(n)(1), section 3.(e)(3); R315–264–151(n)(1), section 12; R315–264–151(n)(1), section 16; R315–264–193(c)(4), Note; R315–264–193(d)(4); R315–264–193(e)(2)(ii); R315–264–193(e)(2)(iii); R315–264–193(e)(2)(v)(A); R315–264–193(e)(2)(v)(B); R315–264–193(e)(3)(i); R315–264–193(e)(3)(ii); R315–264–193(g)(1)(iii); R315–264–193(g)(1)(iv); R315–264–193(g)(2)(i)(A); R315–264–221(c)(1)(i)(B); R315–264–221(c)(2)(ii); R315–264–221(e)(1); R315–264–221(e)(2)(i)(B) and (C); R315–264–223(b)(1) and (b)(2); R315–264–251(a)(2)(i)(A); R315–264–252(a) and (b); R315–264–259(b); R315–264–280(c)(7); R315–264–280(d) introductory paragraph; R315–264–283(a); R315–264–301(c)(2) and (e)(2)(i)(B); R315–264–302(a) and (b); R315–264–304(b)(1);

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		R315–264–314(e)(2); R315–264–317(a) introductory paragraph; R315–264–344(b); R315–264–552(e)(4)(iii) and (iv)(F); R315–264–552(e)(6)(iii)(E); R315–264–553(e) introductory paragraph; R315–264–554(a) introductory paragraph; R315–264–555(e)(6); R315–264–573(a)(1); R315–264–573(a)(4)(i); R315–264–573(a)(5); R315–264–573(b) introductory paragraph; R315–264–573(m)(2) and (m)(3); R315–264–600; R315–264–601(a) introductory paragraph; R315–264–601(b)(11); R315–264–601(c)(4); R315–264–1030(c); R315–264–1033(f)(2)(vii)(B); R315–264–1034(b)(2); R315–264–1035(c)(4)(i) and (ii); R315–264–1050(f); R315–264–1058(c)(1); R315–264–1064(c)(3); R315–264–1080(a) and (c); R315–264–1101(b)(3)(iii); R315–264–1101(c)(3) introductory paragraph, (c)(3)(i) and (d); R315–264–1102(a); R315–264–1103, table 1; R315–264–1103, table 2, section 2.(d); R315–265–1(c)(6); R315–265–12(a)(1); R315–265–14(b)(1); R315–265–16(b); R315–265–19(c)(2); R315–265–56(b); R315–265–90(d); R315–265–110(b)(4); R315–265–111(c); R315–265–112(b)(5) and (d)(4); R315–265–113(b) and (e)(4); R315–265–117(b); R315–265–119(b)(1)(ii); R315–265–140(b) and (b)(2); R315–265–142(a); R315–265–145(e)(11); R315–265–147(a)(1)(i), (b)(1)(i) and (b)(1)(ii); R315–265–174; R315–265–193(e)(2)(v)(A) and (B); R315–265–193(i)(2); R315–265–194(b)(1) and (2); R315–265–197(b); R315–265–221(a), (d)(2)(i)(A) and (d)(2)(i)(B); R315–265–224(b)(1); R315–265–228(a)(2)(iii)(D); R315–265–228(b)(2); R315–265–229(b)(2) and (b)(3); R315–265–255(b); R315–265–259(b)(1); R315–265–1 intro; R315–265–1033(f)(2)(ii); R315–265–1035(b)(2), (b)(2)(i) and (c)(4)(i); R315–265–1080(a); R315–265–1085(h)(3); R315–265–1087(b); R315–265–1090(f)(1); R315–265–1100(d); R315–265–1101(b)(3)(i)(B), (b)(3)(iii), (c)(3) and (d); R315–266–70(a); R315–266–80(a)(1) through (10); R315–266–100(b)(2)(iv), (d)(3)(i)(A) and (g) introductory paragraph; R315–266–102(a)(2)(vi), (e)(3)(i)(E), (e)(5)(i)(C), (e)(6)(ii)(B)(II), (e)(8)(iii); R315–266–103(a)(4)(vii), (b)(2)(v)(B)(II), (b)(5)(ii)(A), (b)(6)(viii)(A), (c)(1)(i), (c)(1)(ii)(A)(II), (c)(1)(ix) introductory paragraph, (c)(1)(ix)(A), (c)(4)(iv)(C)(I) and (g)(1)(i); R315–266–106(d)(1); R315–266–109(a)(2)(ii) and (b) introductory paragraph; R315–266–602 through 605; R315–266–607, 608 and 611; R315–268–2(g); R315–268–4(a)(3) introductory paragraph; R315–268–6(c)(5) introductory paragraph; R315–268–7(a)(1), (7)(a)(3)(ii), 7(a)(4)/table 1, entry 8, 7(b)(3)(ii)/table 2, entry 5; 7(b)(4)(ii), 7(c)(2) and 7(d); R315–268–14(b) and (c); R315–268–40(g); R315–268–40, last paragraph; R315–268–42/table 1; R315–268–44(c); R315–268–45, last paragraph; R315–268–48/table “UNIVERSAL TREATMENT STANDARDS”; R315–268–49(d); R315–268–50(c) and (g); R315–268–55; R315–270–1(c)(3)(i); R315–270–2; R315–270–10(j); R315–270–11(d)(1) and (d)(2); R315–270–14(a), (b)(11)(ii)(B), (b)(19)(iii) and (b)(21); R315–270–17(f); R315–270–18(b) and (g); R315–270–20(i)(2); R315–270–26(c)(15); R315–270–33(b) introductory paragraph; R315–270–42 appendix I; R315–270–70(a) introductory paragraph; R315–270–72(b)(2); R315–273–9(p), (p)(1) and (2); R315–273–13(b); R315–273–14(a); R315–273–34(a); R315–15–1.1(b)(2), 1.2(a), 1.2/table 1, 4.5(a), 4.5(c)(2), 4.6(a), 5.3(a), 5.3(b), 5.3(b)(1)(ii), 5.3(b)(6)(ii)–(iii), 5.6(a), 5.6(b)(2)(i)(B), 5.7(a)(2), 5.8(a)(2)(ii), 5.11, 6.4(b)(3), 7.1(b)(1) and 9.1(d)(1).
14. Cathode Ray Tubes Rule (Checklist 215)	71 FR 42928; 7/28/06	R315–260–10(c)(18), (c)(29), (c)(31), (c)(32); R315–261–4(a)(22); R315–261–39 through 41.
15. NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments (Checklist 217).	73 FR 18970; 4/8/08	R315–264–340(b)(1), (b)(3) and (b)(5); R315–266–100(b)(3)(iii).
16. F019 Exemption for Wastewater Sludges from Auto Manufacturing Zinc Phosphating Processes (Checklist 218).	73 FR 31756; 6/4/08	R315–261–31(a)/table 2 F019 listing; R315–261–31(b)(4).
17. Revisions to the Definition of Solid Waste (Checklist 219).	73 FR 64668; 10/30/08 ..	R315–260–10(c)(55)(i), (c)(66), (c)(80), (c)(83) and (c)(154); R315–260–30, introductory paragraph, (b), (d) and (e); R315–260–33 introductory paragraph and (a); R315–260–34(a) except last sentence, (b) and (c); R315–261–2(a)(1) through (a)(2)(i)(C), and (c)(3); R315–261–4(a)(23) through (25); R315–261–140 through 151; R315–270–42, table, appendix I.
18. Academic Laboratories Generator Standards (Checklist 220).	73 FR 72912; 12/1/08	R315–261–5(c)(6) and (7); R315–261–10; R315–262–200 through 216.

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19. Hazardous Waste Technical Corrections and Clarifications (Checklist 223).	75 FR 12989, 3/18/10; 75 FR 31716, 6/4/10.	R315–260–10(c)(100); R315–261–1(c)(10); R315–261–2(c)/table 1; R315–261–4(a)(17)(vi); R315–261–6(a)(2) introductory paragraph, (a)(2)(ii), (a)(3), (c)(1) and (d); R315–261–7(a), (b)(1) and (b)(3); R315–261–23(a)(8); R315–261–30(c) and (d); R315–261–31(a) table 2; R315–261–32(a) table; R315–261–33(f) table; R315–261–1091; R315–262–10(f); R315–261–11(d); R315–262–23(f); R315–262–41(b); R315–262–42(a) and (c); R315–263–12(a); R315–264–52; R315–264–56(d)(2); R315–264–72(e)(6), (f)(1), (f)(7) and (f)(8); R315–264–314(d); R315–264–316(b); R315–264–552(a)(3)(ii) through (iv) and (e)(4)(iv)(F); R315–265–52; R315–265–56(d)(2); R315–265–72(e)(6), (f)(1), (f)(7) and (f)(8); R315–265–1; R315–266–20(b); R315–266–22; R315–266–70(d); R315–266–80(b); R315–266–101(c)(2); R315–268–40 last paragraph; R315–268–48 Universal Treatment Standards table; R315–270–4(a).
20. Removal of Saccharin and its Salts from the Lists of Hazardous Wastes (Rule 225; No Federal checklist).	75 FR 78918; 12/17/10 ..	R315–261–33(f) and table; R315–261–1092; R315–268–40 table; R315–268–54.
21. Academic Laboratories Generator Standards Technical Correction (Checklist 226).	75 FR 78918; 12/17/10 ..	R315–262–200, “central accumulation area”; R315–262–206(b)(3)(i); R315–262–212(e)(1); R315–262–214(a)(1) and (b)(1).
22. Revision of the Land Disposal Treatment Standards for Carbamate Wastes (Checklist 227).	76 FR 34147; 6/13/11	R315–268–40 last paragraph; R315–268–48 table of UTS-Universal Treatment Standards; R315–268–48 table of UTS-Universal Treatment Standards.
23. Hazardous Waste Technical Corrections and Clarifications Rule (Checklist 228).	77 FR 22229; 4/13/12	R315–261–32(a), entry for K107; R315–266–20(b).
24. Conditional Exclusions for Solvent Contaminated Wipes (Checklist 229).	78 FR 46448; 7/31/13	R315–260–10(c)(102); R315–260–10(c)(138); R315–260–10(c)(179); R315–261–4(a)(26); R315–261–4(a)(26); R315–261–4(b)(18).
25. Conditional Exclusion for Carbon Dioxide (CO2) Streams in Geologic Sequestration Activities (Checklist 230).	79 FR 350; 1/3/14	R315–260–10(c)(16); R315–261–4(h).
26. Hazardous Waste Electronic Manifest Rule (Checklist 231).	79 FR 7518; 2/7/14	R315–260–2(a); R315–260–2(b); R315–260–2(c)(1); R315–260–2(c)(2); R315–260–10(c)(43), (c)(44), (c)92, (c)171; R315–262–20(a)(3); R315–262–24, R315–264–24(a), (a)(1), (a)(2), (a)(3), (a)(4); R315–262–24(b); R315–262–24(c); R315–262–24(d) through (f); R315–265–25; R315–263–20(a)(1) through (7); R315–263–25; R315–264–71(a)(2), (f) through (k); R315–265–71(a)(2), (f) through (k).
27. Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule (Checklist 232).	79 FR 36220; 6/26/14	R315–260–10(c)(30); R315–261–39(a)(5)(i)(F); R315–261–39(a)(5)(x); R315–261–39(a)(5)(xi); R315–261–41.
28. Changes Affecting All Non-Waste Determinations and Variances (Checklist 233A).	80 FR 1694; 1/13/15	R315–260–31(c); R315–260–33(c) through (e); R315–260–42.
29. Legitimacy-Related Provisions, Including Prohibition of Sham Recycling, Definition of Legitimacy, Definition of Contained (Checklist 233B).	83 FR 24664; 5/30/18 80 FR 1694; 1/13/15	R315–260–10(c)(24) “contained”; R315–260–10(c)(24) “Hazardous secondary material”; R315–260–43; R315–261–2(b)(3) and (b)(4); R315–261–2(g).
30. Speculative Accumulation (Checklist 233C).	80 FR 1694; 1/13/15	R315–261–1(c)(8).
31. 2008 DSW Exclusions and Non-Waste Determinations, Including Revisions from 2015 DSW Final Rule and 2018 DSW Final Rule (Checklist 233D2).	80 FR 1694; 1/13/15 83 FR 24664; 5/30/18.	R315–260–10(c)(55) “facility”; R315–260–10(c)(66) “Hazardous secondary material generator”; R315–260–10(c)(80) “Intermediate facility”; R315–260–10(c)(83) “Land based unit”; R315–260–10(c)(154) “Transfer facility”; R315–260–30(b), 30(d) and (e); R315–260–33 and 33(a); R315–260–34; R315–261–1(c)(4); R315–261–2(c)(3); R315–261–2(c)(4) table 1; R315–261–4(a)(23), (a)(24), (a)(25); R315–261–140 through 151; R315–261–400, 410, 411 and 420; R315–270–42, appendix I.
32. Remanufacturing Exclusion (Checklist 233E).	80 FR 1694; 1/13/15	R315–260–10(c)(126); R315–26–2(c)(3); R315–261–2(c)(4) table 1; R315–261–4(a)(27); R315–261–170 through 179; R315–261–190, 191, 193, 194, and 196 through 200; R315–261–1030 through 1035; R315–261–1050 through 1061; R315–261–1080 through 1084, and 1086 through 1089.
33. Response to Vacatures of the Comparable Fuels Rule and the Gasification Rule (Checklist 234).	80 FR 18777; 4/8/15	R315–260–10; R315–261–4(a)(12)(i); R315–261–4(16).
34. Disposal of Coal Combustion Residuals from Electric Utilities (Checklist 235).	80 FR 21302; 4/17/15	R315–261–4(b)(4)(i); R315–261–4(b)(4)(ii).

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35. Imports and Exports of Hazardous Waste (Checklist 236).	81 FR 85696; 11/28/16 82 FR 41015; 8/29/17 83 FR 38263; 8/6/18.	R315–260–10(c)(6); R315–260–10(c)(41); R315–260–10(c)(125); R315–260–11(a); R315–261–4(d)(1), (d)(4), (e)(1), (e)(4); R315–261–6(a)(3)(i) and (a)(5); R315–261–39(a)(5)(ii), ((5)(v), (v)(A), (v)(B), (vi), (ix) and (xi); R315–262–10(d); R315–262–18(e); R315–262–41(c); R315–262–80; R315–62–80; R315–262–81; R315–262–82; R315–262–83; R315–262–84; R315–262–217; R315–263–10(d); R315–263–20(a)(2), (c), (e)(2), (f)(2), Note to Subsection R315–263–20(f)(2); R315–263–20(g); R315–264–12(a); R315–264–71(a)(3) and (d); R315–265–12(a); R315–265–71(a)(3) and (d); R315–266–70(b); R315–266–80(a); R315–273–20; R315–273–39(a) and (b); R315–273–40; R315–273–56; R315–273–62(a); R315–273–70(a)–(c).
36. Hazardous Waste Generator Improvements Rule (Checklist 237).	81 FR 85732; 11/28/16 ..	R315–260–10(c)(2), (c)(19), (c)(87), (c)(103), (c)(136) and (c)(172); R315–260–11; R315–261–1(a)(1); R315–261–1(c)(6); R315–261–4(a)(7); R315–261–33(e) and (f); R315–261–420(g); R315–262–1; R315–262–10(a), (b), (d), (f), (j), and (l), R315–262–11; R315–262–13 introductory paragraph, (a), (b), (c)(1)–(c)(8) and (d)–(f); R315–262–14; R315–262–15; R315–262–16; R315–262–17; R315–262–18; R315–262–32(b)–(d); R315–262–35; R315–262–40(c); R315–262–41; R315–262–43; R315–262–44 introductory paragraph; R315–262–200(a)(10); R315–262–201(a) and (b); R315–262–202(a) and (b); R315–262–203(a) and (b)(2); R315–262–204(a); R315–262–206(b)(3)(iii); R315–262–207(d)(2); R315–262–208(a) and (d)(2); R315–262–209(b); R315–262–210(a), (b)(3) and (d)(2); R315–262–211(c), (d), (e)(3); R315–262–212(d); R315–262–213(a)(1)–(3) and (b)(2); R315–262–214(b)(5); R315–262–216; R315–262–230 through 233; R315–262–250 through 265; R315–263–12; R315–264–1(g)(1) and (g)(3); R315–264–15(b)(4); R315–264–71(c); R315–264–75; R315–264–170; R315–264–174; R315–264–191(a); R315–264–1030(b)(2); R315–264–1050(b)(3); R315–264–1101(c)(4); R315–265–1(c)(5) and (c)(7); R315–265–15(b)(4); R315–265–71(c); R315–265–75; R315–265–174; R315–265–195(d); R315–265–1030(b)(2) and (b)(3); R315–265–1 intro; R315–265–1101(c)(4); R315–266–80(a); R315–268–1(e)(1); R315–268–7(a)(5); R315–268–50(a)(1) through (2)(i)(D); R315–270–1(c)(2)(i) and (iii); R315–270–42; R315–273–8(a)(2); R315–273–81(b); R315–15–1.1(b)(3).
37. Confidentiality Determinations for Hazardous Waste Export and Import Documents (Checklist 238).	83 FR 60894; 12/26/17 ..	R315–260–2(b), (d)(1) and (d)(2); R315–261–39(a)(5)(iv); R315–262–83(b)(5) and (f)(9); R315–262–84(b)(4) and (f)(8).
38. Hazardous Waste Electronic Manifest User Fee Rule (Checklist 239).	83 FR 420; 1/3/18	R315–260–4; R315–260–5; R315–262–20(a)(1); R315–262–21(f)(5) through (f)(8); R315–262–24(c), (e), (g) and (h); R315–263–20(a)(9); R315–263–21; R315–264–71(a)(2), (j), (l); R315–264–1086(c)(4)(i), (d)(4)(i), R315–264–71(j)(1) and (2); R315–265–71(a)(2), (j) and (l); R315–265–1087(c)(4)(i), (d)(4)(i); R315–265–71(j)(1) and (2).
39. Safe Management of Recalled Airbags (Checklist 240).	83 FR 61552; 11/30/18 ..	R315–260–10(c)(7)–(9); R315–261–4(i) and (j); R315–262–14(a)(5)(ix)–(xi).
40. Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine (Checklist 241).	84 FR 5816; 2/22/19	R315–261–4(a)(1)(ii); R315–261–7(c); R315–261–33(c) and (33)(e) table; R315–262–10(n) and (o); R315–262–13(c)(9); R315–262–14(a)(5)(ix) and (x); R315–264–1(g)(13); R315–265–1(c)(16); R315–266–500 through 510; R315–268–7(a); R315–268–50(a)(4) and (a)(5); R315–270–1(c)(2)(ix); R315–273–80(a) and (e).
41. Universal Waste Regulations: Addition of Aerosol Cans (Checklist 242).	84 FR 67202; 12/9/19	R315–260–10(c)(5); R315–260–10(c)(165)(iii) through (v); R315–260–10(c)(166)(ii)(A); R315–261–9(c)–(e); R315–264–1(g)(11)(iii)–(v); R315–265–1(c)(14)(iii) through (v); R315–268–1(f)(3) through (f)(5); R315–270–1(c)(2)(viii)(C) through (E); R315–273–1(a)(3) through (5); R315–273–3(b)(2); R315–273–6; R315–273–9(a), (j), (m), (n), (p)(3) through (p)(5) and (q); R315–273–13(c)(2)(iii) and (iv), (f) and (g); R315–273–32(b)(4); R315–273–33(c)(2)(iii) and (iv), (f) and (g).

2. State-Initiated Changes

Utah has made amendments to its regulations that are not directly related to any of the Federal rules addressed in Item G.1 above. These State-initiated changes are: (i) conforming changes made to existing authorized provisions,

primarily internal reference citation revisions due to the complete reorganization and renumbering of the State regulations; (ii) amendments that clarify and make the State's regulations internally consistent; and (iii) revisions associated with the modification to the State's approach from an incorporation

by reference format to a verbatim format. These State-initiated changes are submitted under the requirements of 40 CFR 271.21(a) and include the following provisions from the UAC, as amended, January 17, 2023:

a. State-initiated changes that are conforming changes made to existing

authorized provisions, primarily internal reference citation revisions due to the complete reorganization and renumbering of the State regulations—Chapter R315–15 Standards for Management of Used Oil: R315–15–1.1 introductory paragraph, (a), (b)(1)(i), (b)(1)(ii)(A), (b)(2)(ii) and (iii), (c)(1) introductory paragraph, (c)(1)(ii), (d)(1), (e)(3) introductory paragraph, (e)(3)(ii), (g)(4), (i); 1.3(b); 1.7(a) and (b); 2.3 introductory paragraph and (a); 3.3(a); 4.1(a)(4) and (f) introductory paragraph; 4.2(a); 4.5(d); 4.6 introductory paragraph and (b); 4.7(a)(6)(i) and (b)(5)(i); 5.1(b) introductory paragraph and (b)(3) introductory paragraph; 5.3(a)(4)(ii); 5.4(b)(2); 5.5(a), (f)(1)(i), (f)(1)(ii), (f)(2)(ii); 5.6 introductory paragraph, (a)(2)(i)(A) and (B), (b)(2)(i)(A); 5.7(c); 6.1(a)(3); 6.2(a)(1), (a)(2) introductory paragraph, (a)(3), (b)(1), (c); 6.4(c) introductory paragraph, (d); 6.5(a) introductory paragraph, (e); 7.6(b); 8.2(a); 11.1(a) through (c); 18(a); Chapter R315–124 Procedures for Decision making: R315–124–3(f); 5(a), (c)(1), (c)(2), (c)(3), (d), (e); 6(b), (d)(1) through (5), (e); 7; 8(b)(4), (b)(6)(i); 9, 10(a)(1) and (2), (c) introductory paragraph, (c)(5), (d)(1) introductory paragraph, (d)(2) introductory paragraph, (e); 11; 12(a)(3) and (4), (c); 13; 15; 16; 17(a) introductory paragraph, (b); 18; 31(a), (c), (d)(1)(i) through (iv), (d)(2) introductory paragraph, 32(a) introductory paragraph, (b)(1), (c); 33(a), (b), and (f); Chapter R315–260 Hazardous Waste Management System: R315–260–10(a), (c) introductory paragraph; 20; 21(a), (b) introductory paragraph, (b)(3), (e); 22(m); 23; Chapter R315–261 General Requirements—Identification and Listing of Hazardous Waste: R315–261–1(a) introductory paragraph, (b)(2) introductory paragraph; 2(c) introductory paragraph, (c)(1), except (c)(1)(i), (c)(2), (d)(2) and (3), (e)(1)(iii), (e)(2) introductory paragraph, (e)(2)(iv), (f); 3(a) introductory paragraph, (a)(1), (a)(2)(i), (a)(2)(iv) introductory paragraph, (a)(2)(iv)(C), (a)(2)(iv)(E), (b), (c) introductory paragraph, (c)(2)(i), (c)(2)(ii)(B), (c)(2)(ii)(C)(1) and (2); (c)(2)(ii)(D) and (E), (d)(1) and (2), (f), (g); 4(a) introductory paragraph, (a)(4), (a)(6) and (7), 4(a)(8)(iii), (a)(9)(iii) introductory paragraph, (a)(9)(iii)(D), (a)(10), (a)(17) introductory paragraph, (a)(17)(iii), (a)(17)(iv)(C), (a)(18)(i), (a)(19), (b)(6)(i) introductory paragraph, (b)(6)(ii)(A), (b)(7) introductory paragraph through (ii) introductory paragraph, (b)(7)(iii) introductory paragraph, (b)(8), (b)(10), (b)(11) introductory paragraph and (ii), (c), (d)(2) introductory paragraph, (d)(3),

(e)(2) introductory paragraph, (e)(2)(iii) introductory paragraph, (e)(2)(iv), (f) introductory paragraph, (f)(1), (f)(10), (g) introductory paragraph, (g)(1), 8; 9 introductory paragraph through (b); 10(a) introductory paragraph; 11(a)(1), (a)(3) introductory paragraph, (a)(3)(iii) and (xi), (b), (c); 20; 24(a); 30(a) and (b); 33 introductory paragraph through (b), (d); 35(a), (b)(1)(i) through (iii), (b)(4)(i), (c)(12); Chapter R315–262 Hazardous Waste Generator Requirements: R315–262–20(e) introductory paragraph; 23(a)(3), (d) introductory paragraph; 40(a), (b), (d), (e); 44(a) through (c); Chapter R315–263 Standards Applicable to Transporters of Hazardous Waste and Standards Applicable to Emergency Control of Spills for Any Hazardous Waste Handlers: R315–263–10(a) through (c); 20(d)(1) and (2), (e) introductory paragraph, (e)(3) through (e)(5), (f) introductory paragraph, (f)(3)(i) and (ii), (f)(4)(i) and (ii), (h) introductory paragraph, (h)(1); 22(b), (c)(1), and (e); Chapter R315–264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: R315–264–1(a), (b), (d), (e), (g) introductory paragraph, (g)(4) through (6), (g)(8)(i) introductory paragraph, (g)(8)(ii) and (iii), (g)(9) and (10), (g)(11)(i) and (ii), (h), (j); 10(a); 14(a)(2), (b) introductory paragraph, (b)(ii), (c); 16(a)(1), (b), (c), (d)(2) through (4); 17(c); 18(a)(1), (b)(2) introductory paragraph; 19(a)(1), (b) introductory paragraph, (b)(3); 19(c)(1)(i) and (iii), (d); 30; 32(d); 34; 50; 52(a), (c), (d); 53(c); 55; 56(g); 74; 77 introductory paragraph, (a) through (c); 90(a)(1) through (2), (b) introductory paragraph, (b)(1), (b)(3) through (5); 90(c) except (c)(1); 90(d) through (f) except (f)(1); 91(a), (b); 94; 93(a), (b) introductory paragraph, (c); 94(a)(3); 95(a); 96(a); 97 introductory paragraph, (h) introductory paragraph, (i) introductory paragraph, (j); 98 introductory paragraph through (b) except (a)(2); 98(c); (f) except (f)(2); 98(g) except (g)(1), (3), (g)(4)(i), (g)(5) introductory paragraph, and (g)(6)(ii) and (iii); 98(h); 99 introductory paragraph, (a) through (d) except (d)(2); 99(h) introductory paragraph, (h)(2)(i) and (ii), (i) introductory paragraph, (i)(1) and (4), (j); 100 introductory paragraph through (f), (h); 101(b), (d); 171; 175(a), (b)(4) and (5), (c) introductory paragraph, (d) introductory paragraph; 177, 178; 179; 221(a) introductory paragraph, (b) introductory paragraph, (c) introductory paragraph, (c)(1)(ii), (c)(2) introductory paragraph, (d) introductory paragraph, (d)(1), (e) introductory paragraph, (e)(2)(i)(A), (f) introductory paragraph, (i); 222(a), (b); 223(a), (b)(6), (c) introductory

paragraph; 226(a) introductory paragraph, (d)(1); 227(a) introductory paragraph, (b) introductory paragraph, (c); 227(d) except (d)(2) introductory paragraph, (d)(2)(ii), and (e); 228(a)(1), (b) introductory paragraph, (b)(2) and (3), (c); 229 introductory paragraph, (a)(1) and (2), (b); 230; 231(a) introductory paragraph; 232; 250(a) through (c) introductory paragraph; 251(b) introductory paragraph, (c)(1)(ii), (c)(2) and (3); 251(d) except (d)(2); 251(e) and (f) except (f)(2); 251(k); 254(a) introductory paragraph, (c); 256 introductory paragraph, (a)(1) and (2); 258; 259(a) introductory paragraph; 253(a), (b)(6), (c); 270; 271; 272(c)(1)(i); 273 introductory paragraph, (a) introductory paragraph; 276(a)(1) and (2), (a)(3) introductory paragraph, (a)(4), (b)(2)(iv); 278 introductory paragraph, (a)(1) and (2), (c) introductory paragraph, (c)(3) and (4), (d), (f) introductory paragraph, (f)(1), (g) introductory paragraph, (h) introductory paragraph, (h)(1), (h)(4); 279; 280(a) except (a) introductory paragraph, (a)(6), and (a)(8); 280(b); 280(c) except (c) introductory paragraph through (c)(2); 280(d) introductory paragraph, (d)(1), (d)(1)(ii), (e); 281 introductory paragraph, (a)(1) and (2); 282; 300; 301(a) introductory paragraph, (b) introductory paragraph, (c) introductory paragraph, (c)(1)(ii), (c)(3) introductory paragraph, (d) introductory paragraph, (d)(1), (e) introductory paragraph, (e)(1), (e)(2)(i)(C); 301(f) except (f)(2); 301(k); 303(a) introductory paragraph, (c)(1); 304(a), (b)(6), (c) introductory paragraph; 309 introductory paragraph; 310(b) introductory paragraph, (b)(3) and (4), (b)(6); 312; 313; 316(c) through (f); 317(b); 340(a), (b)(2), (b)(4); 340(c) except (c)(1) introductory paragraph; 340(d), (e); 341; 342; 343 introductory paragraph, (a)(1), (c), (d); 344(a)(1) and (2), (c)(2); 345(a), (b) introductory paragraph, (b)(6), (c), (e); 347(a)(2) and (3); 351; Chapter R315–265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: R315–265–1(a) through (c) introductory paragraph, (c)(3), (c)(8) through (10); (c)(11) except (i)(A) through (C) and (iv); (c)(12), (c)(13), (c)(14) introductory paragraph through (c)(14)(ii); (d) introductory paragraph, (e); 3; 4; 10; 12(b), 12(b) Comment; 14(a)(2), (b) introductory paragraph, (b)(2)(ii) Comment, 14(c), 14(c) Comment; 16(a)(1), (c), (d)(2) through (4); 17(b) introductory paragraph; 19(a)(1), 19(b) introductory paragraph, (b)(3), (c)(1)(i) and (iii), (d); 30; 34, 50; 52(a), (c), (d); 55; 56(g) Comment; 71(b)(2); 74; 77 introductory paragraph

through (d); 90(a) through (c) introductory paragraph, (d)(2), (d)(4), (d)(5), (e); (f) except (f)(1); 91(a)(3)(iv); 92(b) introductory paragraph, (b)(1), (b)(2)(vi) Comment, (c); 92(d) except (d) introductory paragraph; 93(a) introductory paragraph, (b) through (d)(1), 93(d)(3) introductory paragraph, (d)(4) introductory paragraph, (d)(6) through (f); 94(a) introductory paragraph, (a)(1), (a)(2)(i) through (iii); 94(b) except (b)(2); 170; 171; 176; 177(a), (b); 178; 220; 221(b), (c) introductory paragraph, (c)(1), (d) introductory paragraph, (d)(1), (d)(2)(i)(C), (e), (f), (h); 222; 225(a) introductory paragraph, (a)(2)(ii); 226(a)(1), (b)(1), (b)(3), 226(b)(3) Comment; 229 introductory paragraph, (a)(1); 230; 231; 250; 252; 252 Comment; 254; 255 except (b); 256(a) introductory paragraph, (a)(1); 257 except (b) and Comment; 258; 259(b)(6), (c) introductory paragraph; 260; Chapter R315–270 Hazardous Waste Permit Program: R315–270–1(a), (b)(1) through (b)(3), (c) introductory paragraph, third through sixth sentences, (c)(1), (c)(2)(ii), (c)(2)(iv) through (vii), (c)(5) through (7); 10(a), (c)(1), (e) introductory paragraph, (e)(1) introductory paragraph, (e)(1)(i) and (ii), (e)(4) and (5), (f)(1) through (3), (g)(1)(i), (g)(1)(iii), (g)(2), (h)(2), (i), (j)(1)(ii), (k); 11(b) introductory paragraph, (b)(1), (c); 12; 13(a), (j); 14(b) introductory paragraph; (b)(2) through (7), (b)(9), (b)(11)(i) and (ii) introductory paragraph; 14(b)(11)(iv)(C) except (C)(I) and (C)(III); 14(b)(11)(v), (b)(12), (b)(13) through (18); (b)(20), (b)(22); 14(c) introductory paragraph through (c)(4)(ii) except (c)(2) and (c)(4) introductory paragraph; 14(c)(5), (c)(6) introductory paragraph, (c)(7) introductory paragraph, (c)(7)(iii), (c)(8) introductory paragraph, (c)(8)(ii), (c)(8)(v), (d)(1)(i); 15 introductory paragraph, (a) introductory paragraph, (b) introductory paragraph, (c) through (e); 17 introductory paragraph, (b) introductory paragraph, (b)(1) and (2), (b)(4) and (5), (c); 17(e) through (h) except (f); 17(i), (j); 18 introductory paragraph, (c) introductory paragraph, (c)(1)(i), (c)(1)(iv) and (v), (d), (f) through (i) introductory paragraph; 19 introductory paragraph through (b), (c)(1)(v), (c)(3), (c)(5)(i), (c)(6) introductory paragraph and (ix), (c)(7) and (8); 19(d)(2); 20 introductory paragraph, (a) introductory paragraph, (b) introductory paragraph, (b)(2) introductory paragraph, (b)(3)(vii), (b)(4), (c) introductory paragraph, (c)(5), (d) introductory paragraph, (e) through (h), (i) introductory paragraph; 21 introductory paragraph, (b) introductory paragraph through (b)(1)(v) except (b)(1)(iii); 21(c) through (j) introductory paragraph; 23 introductory paragraph,

(a)(2) through (b), (e); 28; 29; 30(a), (i)(4), (j)(2), (k), (l)(2) introductory paragraph, (l)(2)(ii)(B), (l)(3), (l)(4), (l)(6) introductory paragraph, (l)(7) through (10), (m); 31(c); 32(a), (b)(1), (b)(2), (d); 33(a) introductory paragraph, (a)(1), (a)(2) introductory paragraph; 40(a); 41 introductory paragraph, (a)(5), (b)(2); 43(b); 50(b), (c), (d); 51(a)(1) through (b), 51(c)(2) and (3); 60 introductory paragraph, (b)(1), (b)(2); (b)(3)(i) and (ii); (c)(3)(i) through (vii); 61(a) introductory paragraph, (b)(6); 62(a) introductory paragraph through (b)(1); (b)(2)(iv) and (viii), (b)(3) and (4), (b)(5)(i), (b)(5)(iii), (b)(5)(iv), (b)(6) introductory paragraph, (b)(7)(iv) through (vi), (b)(7)(x), (b)(8), (b)(10), (b)(11), (c), (d); 63(a) through (d) introductory paragraph except (a)(1); 63(d)(1) and (2); 65(a) introductory paragraph, (a)(1), (b), (d); 70(a)(1) and (2), (b), (c); 71(b); 72(a) introductory paragraph, (a)(4) and (5), 72(b) introductory paragraph through (b)(2), (b)(5) through (b)(8); 73(a), (b), (d) introductory paragraph, (e); 235(a)(1)(i)(A), (a)(1)(ii)(B)(II)(Iii), (a)(1)(iii)(A) and (B), (a)(2)(i)(A)(I), (a)(2)(ii)(B)(II)(Iii), (a)(2)(iii)(A) and (B), (b)(1)(i) and (ii); Chapter R315–273 Standards for Universal Waste Management: R315–273–1(a) introductory paragraph through (a)(2), 1(b); 2(a) and (b); 3(a) introductory paragraph, (a)(1)(i); 3(b) except (b)(2); 3(c)(1) introductory paragraph, (c)(2), (d); 5 except (c); 8 except (a)(2); 9(e) “Destination Facility”, (h) “Generator”, (o) “Thermostat”; 10; 11(b); 13(a)(3) introductory paragraph, (a)(3)(i), (b)(2), (b)(3); 14 introductory paragraph, (b) introductory paragraph, (c) introductory paragraph, (c)(1)(iii); 15(a); 17(b); 18(b), 30; 31(b); 32(a)(3); 33(a)(3) introductory paragraph, (a)(3)(i), (b)(2), (b)(3); 34 introductory paragraph, (b) introductory paragraph, (c)(1)(ii) and (iii); 35(a); 37(b); 38(b); 39(c)(1) and (2); 50; 51(b); 52(a); 53(b); 54(b); 60(a),(b); 62(b); 80(b), (c); 81(a),(e),(f),(g).

b. State-initiated changes that are amendments that clarify and make the State’s regulations internally consistent—Chapter R315–15 Standards For Management of Used Oil: R315–15–1.3 introductory paragraph, (a), (d); 1.5(a) through (b)(1); 1.6; 1.7(c) through (h); 2.1(a)(1), 2.2(b); 2.3 introductory paragraph, (b)(2) through (4); 2.4 introductory paragraph, (a) introductory paragraph, (a)(3) through (a)(5), (b); 2.5 introductory paragraph, (a) introductory paragraph, (b) introductory paragraph, (b)(3), (c) introductory paragraph; 3.1(a), (a)(1), (a)(2), (b) introductory paragraph, (b)(2), (b)(3) introductory paragraph, (b)(3)(i) through (iv), (b)(4), (c); 3.2(a) introductory paragraph, (a)(1), (a)(2), (b)

introductory paragraph, (b)(2), (b)(3); 4.1(a) introductory paragraph; 4.4(d); 4.5(b)(2); 4.6(c) introductory paragraph, (c)(3) and (4), (d), (d)(1)(iii), (d)(3) through (6); 4.7(a) introductory paragraph, (a)(1), (a)(3), (b) introductory paragraph, (c) and (d); 5.3(a)(1), (a)(2) introductory paragraph, (a)(3), (b)(1)(i), (b)(2)(i), (v) and (vi); 5.5(b) introductory paragraph, (b)(3), (c) introductory paragraph, (c)(1)(iii), (c)(3) through (5); 5.6(a)(1); 5.7(a) introductory paragraph, (a)(7), 6.1(a) introductory paragraph, (b) introductory paragraph, (b)(6) through (8), (d); 6.4(b)(2); 6.5(b), (c) introductory paragraph, (c)(1) introductory paragraph, (c)(1)(iii), (c)(3) and (4); 6.6(a)(7); 6.7(b); 6.8; 7.6(a) introductory paragraph, (a)(2); 8.2(b); 9.1(a)(1) through (4), (d) and (e); 9.2; 9.3; 11.3(a) introductory paragraph and (a)(1); 11.4(a); Chapter R315–124 Procedures for Decision making: R315–124–1; 3(a), (c), (d), (e), (g) introductory paragraph, (g)(4); 6(a), (d) introductory paragraph; 8(a), (b)(5), (b)(6) intro.; 10(a)(3), (b)(1), (b)(2) introductory paragraph, (c)(1) introductory paragraph, (c)(1)(ii), (c)(1)(iii), (c)(1)(ix)(B) and (C), (c)(2)(ii), (d) introductory paragraph, (d)(1)(i), (d)(1)(ii) through (v), (d)(2)(i); 12(a)(1) and (2), (b), (d); 17(a)(1) and (2); 19(a); 20; 31(b); 32(b)(2)(ii) through (iv); Chapter R315–260 Hazardous Waste Management System: R315–260–1; 3; 10(c)(165) “Universal waste” (vi); 19; Chapter R315–261 General Requirements—Identification and Listing of Hazardous Waste: R315–261–1(a)(2) through (4); 4(a)(8) introductory paragraph, (a)(9)(iii)(A) through (C), (a)(14)(i), (e)(1)(i), (e)(2)(i) and (ii), (g)(2)(i); 9(f); 31(a) table 2, F999 entry; Chapter R315–262 Hazardous Waste Generator Requirements: R315–262–23(c); 30; and 32(a); Chapter R315–263 Standards Applicable to Transporters of Hazardous Waste and Standards Applicable to Emergency Control of Spills for Any Hazardous Waste Handlers: R315–263–11; 20(b), (h)(2)(iii), (h)(4); 21(a)(1), (a)(2) (a)(4); 22(c) introductory paragraph, (c)(2); 30 through 33; Chapter R315–264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: R315–264–1(g)(8)(i)(C); 11; 1314(a) introductory paragraph; 15(a) through (b)(2), (c), (d); 16(a)(3) introductory paragraph, (a)(3)(i), (d) introductory paragraph, (e); 18(a)(2) except (a)(2)(iii); 18(b)(1)(i); 31; 32 except (d); 35; 37(a)(1) and (2); 51; 52(e), (f); 53(b); 54; 56(a)(2); 56(b) through (f) except (d)(2) introductory paragraph through (d)(2)(ii); 56(d)(2)(v) and (vi); 90(b)(2) introductory paragraph; 94(a)(1), (a)(2) table; 97(g) introductory

paragraph, (g)(2); 98(f)(2), (g)(6)(iii); 99(d)(2), (i)(3); 101(a); 220; 221(c)(2)(v); 226(c) introductory paragraph; 227(d)(2)(ii); 251(a)(2) introductory paragraph; 256(b); 257 except (b); 272(b), (c) introductory paragraph, (c)(2); 276 introductory paragraph, (b)(1)(ii), (f)(2), (f)(3) introductory paragraph, (g)(1) and (2), (h)(2) and (3); 281(b); 283(b); 301(a)(1) introductory paragraph, (a)(2) introductory paragraph, (c)(1)(i)(B), (c)(3)(ii), (e)(2)(i)(A); 345(d)(3), (f); 347(a)(1), (c); Chapter R315–265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: R315–265–1(c)(1), (c)(11)(iv); 11; 14(a) except (a)(2); 14(b)(2)(i) and (ii); 15(a), (b)(1) and (2), (d); 16(a)(3)(iii); 32 introductory paragraph through (b); 33; 35; 51(a); 52(e), (f); 53(b); 54; 56(d) introductory paragraph, (d)(1), (d)(2)(iii) and (iv), (e) through (h) except (h)(2); 71(b) introductory paragraph, (b)(2) Comment, (b)(4) Comment, (b)(5); 92(a)(4), (a)(4) Comment; (b)(2)(vi); 94(a)(2) introductory paragraph, (b)(2); 172 and 173 except 173(a); 177(c); 221(g); 225(a)(2)(ii) Comment; 229(b) except (b)(3); 253 Comment; 256(a)(2); 257(b), 257(b) Comment; and 259(b)(2); 42(b) and (b) Note; Chapter R315–270 Hazardous Waste Permit Program: R315–270–1(c) introductory paragraph, first 2 sentences, (c)(2)(viii) introductory paragraph, (c)(4); 10(b), (d), (e)(1)(iii), (e)(3), (g) introductory paragraph, (g)(1) introductory paragraph, (g)(1)(ii), (h) introductory paragraph, (h)(1); 13 introductory paragraph and (b); 14(b)(11)(iii), (b)(19) introductory paragraph, (b)(19)(xii), (c)(8)(iv), (d)(1) intro; 17(d); 30 introductory paragraph, (b), (d), (f) through (i)(3), (l)(2)(i) and (ii)(A), (l)(5), (l)(6)(i)(B), (l)(11); 31 introductory paragraph; 32(e); 33(a)(2)(ii), (a)(3), (b)(1) and (2), (b)(3)(iv); 41(a) introductory paragraph through (a)(3), (b) introductory paragraph; 43(a); 50(a); 51(a) introductory paragraph, (c) introductory paragraph and (1), (d); 62(b)(2)(ii) introductory paragraph, (b)(6)(ii)(B); 63(a)(1); 65(c); 68; 71(a)(1) through (3); 72(a)(1), (a)(3) introductory paragraph; 73(c)(1), (d)(1), (f), (g); Chapter R315–273 Standards for Universal Waste Management: R315–273–1 Note; 9(c) “Antifreeze”, (f) “Drum-top Lamp Crusher”, (l) “On-site”, (p) Universal Waste” (6); 12; 14(b)(2), (c)(2); 18(g); 32(a)(1) and (2); 34(b)(2), (c)(2); 35(c)(2); 38(g); 61(c); 80(d);

c. State-initiated changes that are revisions associated with the modification to the State’s approach from an incorporation by reference

format to a verbatim format—Chapter R315–260 Hazardous Waste Management System: R315–260–10(c)(1) “Above ground tank”, (c)(3) “Active life”, (c)(4) “Active portion”, (c)(10) “Approved hazardous waste management facility” through (c)(15) “Boiler”, (c)(17) “Carbon regeneration unit”, (c)(20) “Certification” through (c)(23) “Confined aquifer”, (c)(25) “Container” through (c)(28) “Corrosion expert”, (c)(34) “Destination Facility” through (c)(40) “Drip pad”, (c)(42) “Elementary neutralization unit”, (c)(45) “EPA hazardous waste number” through (c)(51) “Existing tank system” or “Existing component”, (c)(56) “Federal agency” through (c)(64) “Hazard class”, (c)(67) “Hazardous waste constituent” through (c)(79) “Installation inspector” except (c)(72)(iii), (c)(81) “International shipment”, (c)(82) “Lamp”, (c)(84) “Landfill” through (c)(86) “Land treatment facility”, (c)(88) “Leachate” through (c)(91) “Management” or “Hazardous waste management”, (c)(96) “Mining overburden returned to the mine site” through (c)(99) “Movement”, (c)(101) “New tank system”, (c)(104) “On ground tank” through (c)(114) “Person”, (c)(116) “Pesticide” through (c)(123) “Qualified ground water scientist”, (c)(124) “RCRA”, (c)(127) “Remediation waste” through (c)(135) “Sludge dryer”, (c)(137) “Solid waste management unit”, (c)(139) “Sorbent” through (c)(153) “Totally enclosed treatment facility”, (c)(155) “Transport vehicle” through (c)(165) “Universal waste” (i), (c)(166) “Universal waste handler” except (ii)(A), (c)(167) “Universal waste transporter” through (c)(169) “Uppermost aquifer”, (c)(173) “Vessel” through (c)(178) “Well injection”, (c)(180) “Zone of engineering control”; 22(a) through (e) except (a)(1), (d)(1)(i), and (d)(1)(ii); 22(h) through (l); 30(a) and (c); 31(a) through (b)(1); 32; 33(b); 40(a)(1) through (5); 41(a) and (b); Chapter R315–261 General Requirements—Identification and Listing of Hazardous Waste: R315–261–1(c)(1) through (3), (c)(5), (c)(7), (c)(9); 6(a)(1); 6(a)(3) except (a)(3) introductory paragraph and (a)(3)(i); 6(a)(4), (b), (c)(2)(i) through (iii); 24(b); 31(b) introductory paragraph through (b)(3); Chapter R315–264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: R315–264–13 except (b)(7)(iii)(B); 110; 111 except (c); 112 except (b)(8); 113 except (e)(5); 114; 117 through 119 except 118(c) and 119(b)(1)(ii); 140 except (d)(1); 141; 142 except (b)(2); 143 except (b)(7), (b)(8), (e)(5), and (i); 144; 145 except (a)(3)(i),

(d)(6), and (f)(11); 146; 148; 147 except (e) and (h)(i); 151 except (b), (f), (g), (h)(2) through (m)(1), and (n)(1); 190 except (a); 191(b) through (d) except (b)(5)(ii); 192 except (a) introductory paragraph and (b) introductory paragraph; 193(c) except (c)(4); 193(e) except (e)(2)(ii), (e)(2)(v)(A), (e)(2)(v)(B), (e)(3)(i), and (e)(3)(ii); 193(f) through (h) except (g)(1)(iii), (g)(1)(iv), and (g)(2)(i)(A); 193(i) except (i)(2); 194; 195(a); 196 except (f); 197 through 200; 550; 551; 552 except (a)(3)(ii) through (iv), (e)(4)(iii), (e)(4)(iv)(F), (e)(6)(iii)(E); 553 except (e) introductory paragraph; 554 except (a) introductory paragraph and (c)(2); 554 except (a) introductory paragraph and (c)(2); 555 except (a)(3) and (e)(6); 570; 571 except (a) through (c); 572; 573(a) except (a)(1), (a)(4)(i), (a)(4)(ii), and (a)(5); 573(c) through (d), (h) through (l), (m)(2), (m)(3), (n) and (o); 574 except (a); 575; 601 except (a), (b)(11), and (c)(4); 602; 603; 1030 except (b)(2) and (c); 1031 through 1033 except 1033(f)(2)(vii)(B); 1034 except (b)(2), (c)(1)(ii), (c)(1)(iv) introductory paragraph, (c)(1)(iv)(A), (c)(i)(iv)(B), (d)(1)(iii), and (f); 1036; 1050 except (b)(3), (f), and (h); 1051 through 1057; 1058 except (c)(1); 1059; 1060; 1061 except (b)(1), (b)(2), and (d); 1062 except (a) introductory paragraph and (b)(2); 1063 except (d)(2); 1064 except (c)(3); 1065; 1080 except (a) and (c); 1081; 1085; 1086 except (c)(4)(i) and (d)(4)(i); 1087; 1089; 1090 except (c); 1100(a) through (e); 1101(a) and (b) except (b)(3)(iii); 1101(c) except (c)(2), (c)(3) introductory paragraph, (c)(3)(i), and (c)(4); 1101(d)(1) through (3), (e); 1102(b); 1103 through 1106; Chapter R315–265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: R315–265–13; 73 except (b) introductory paragraph, (b)(1), (b)(6) through (b)(8) and (b)(15); 110 except (b)(4); 111 except (c); 112 except (b)(5) and (d)(4); 113 except (b), (e)(4) and (e)(5); 114; 116; 117 except (b); 118; 119 except (b)(1)(ii); 121; 140 except (b) introductory paragraph and (b)(2); 141; 142 except (a) introductory paragraph; 143 except (h); 144; 145 except (e)(11) and (h); 146; 147 except (a)(1)(i), (b)(1)(i), and (e); 148; 190 except (a); 191 except (a) and (b)(5)(ii); 192 except (a) introductory paragraph and (b) introductory paragraph; 193 except (a)(1), (a)(2), (e)(2)(v)(A), (e)(2)(v)(B), and (i)(2); 194 except (b)(1) and (b)(2); 196 except (f); 197 except (b); 198 through 200; 202; 228 except (a)(2)(iii)(D) and (b)(2); 1030 except (b)(2) and (3); 1031 and 1032; 1033 except (f)(2)(ii); 1034 except (c)(1)(ii), (c)(1)(iv), (d)(1)(iii), and (f); 1035 except

(b)(2) introductory paragraph, (b)(2)(i), and (c)(4)(i); 1080 except (a); 1081 except “Waste stabilization process”; 1082; 1083; 1084(a) except (a)(3)(ii)(C), (a)(3)(iii), (b)(3)(ii)(C), (b)(3)(iii), and (c)(3)(i); 1085 except (h)(3) introductory paragraph; 1086; 1087 except (b)(1) introductory paragraph, (c)(4)(i), and (d)(4)(i); 1088; 1089; 1090 except (f)(1); 1100 except introductory paragraph and (d); 1101(a) and (b) except (b)(3)(i)(B) and (b)(3)(iii); 1101(c) except (c)(2), (c)(3) introductory paragraph, and (c)(4); 1101(d)(1) through (e); 1102; Chapter R315–266 Standards For the Management Of Specific Hazardous Wastes and Specific Types Of Hazardous Waste Management Facilities: R315–266–20(a); 21; 70(c); 80(b)(1) and (2); 100(a); 100(b) through (c) except (b)(1), (b)(2)(iv), (b)(3) introductory paragraph through (b)(3)(iii), and (b)(4); 100(d) through (f) except (d)(1)(ii) and (d)(3)(i)(A); 100(g) except (g) introductory paragraph and (g)(2), 100(h); 101 except (c)(1) and (c)(2); 102(a) through (d) except (a)(2)(vi) and (b)(1); 102(e) except (e)(3)(i)(E), (e)(5)(i)(C), (e)(6)(ii)(B), (e)(8)(iii), and (e)(10); 103(a) through (c) except (a)(4)(vii), (b)(2)(v)(B)(2), (b)(5)(ii)(A), (b)(6)(viii)(A), (c)(1)(i), (c)(1)(ii)(A)(2), (c)(1)(ix) introductory paragraph, (c)(1)(ix)(A), and (c)(4)(iv)(C)(1); 103(e) through (j) except (g)(1)(i); 103(l); 104; 105; 106 except (a) and (d)(1); 107; 108; 109 except (a)(2)(ii) and (b) introductory paragraph; 110; 111; 112 except (b)(1) introductory paragraph, (b)(2)(i), and (b)(2)(i) Note; Chapter R315–268 Land Disposal Restrictions: R315–268–1 except (e)(1) and (f)(3) through (f)(5); 2 except (g); (3); 4 except (a)(3); (5); 6 except (c)(5); 7(a) except (a) introductory paragraph, (a)(1) introductory paragraph, (a)(2) introductory paragraph, (a)(3)(ii), (a)(4), and (a)(5) introductory paragraph; 7(b) except (b)(3)(ii), (b)(4)(ii), and (b)(6); 7(c) through (e) except (c)(2) and (d) introductory paragraph through (d)(3) introductory paragraph; 9 except (a) and (d) introductory paragraph; 13; 14(a); 30; 31; 33(a) through (d); 34; 35(a) through (c); 36(a) through (c); 37 through 39; 40 except (b), (g), (i), and table; 41; 42 except (a) table; 43; 44; 45(a) through (c)(5); 46; 48(a); 49 except (d); 50(a) except (a)(1), (a)(2)(i)(A) through (D), (a)(4), and (a)(5); 50(b) through (f) except (c); 52; 53; 57; Chapter R315–270 R315–270–16 except (a); 22 except introductory paragraph and (a)(2)(ii)(B); 24 except (d)(3); 25 except (e)(3); 26 except (c)(15); 27; 42 except (d)(2)(i), (i), (j)(1) through (j)(3), (k) and appendix I; 66(a) through (c) except (c)(2)(i) and (ii); 66(d) through (g); 230.

H. Where are the revised State rules different from the Federal rules?

The Utah revisions being authorized in this rule include provisions that contain purely Federal functions which are not delegable to States. The non-delegable Federal program areas include import/export requirements reserved as part of the Federal foreign relations function, and manifest registry and electronic manifest functions administered solely by the EPA. Utah has appropriately adopted these provisions by leaving the authority with the EPA for implementation and enforcement. We consider the following State requirement to be more stringent than the Federal requirement: R315–261–420(f)(4)(ii) because the State requires that notification also be given to the Utah Department of Environmental Quality as well as the Federal entities. Utah did not change any previously more stringent or broader-in-scope provisions to be equivalent to the Federal rules.

I. Who handles permits after the authorization takes effect?

The State of Utah will continue to issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization, until Utah has equivalent instruments in place. The EPA will continue to implement and issue permits for HSWA requirements for which Utah is not yet authorized.

J. How does today's action affect Indian country (18 U.S.C. 1151) in Utah?

Utah is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. This includes, but is not limited to:

1. Lands within the exterior boundaries of the following Indian Reservations located within or abutting the State of Utah:
 - a. Northwestern Band of the Shoshone Nation
 - b. Paiute Indian Tribe (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)
 - c. Skull Valley Band of Goshute Indians
 - d. Ute Indian Tribe of the Uintah and Ouray Reservation
2. Any land held in trust by the U.S. for an Indian Tribe; and
3. Any other land, whether on or off a reservation, that qualifies as Indian

country within the meaning of 18 U.S.C. 1151.

Therefore, this program revision does not extend to Indian country where the EPA will continue to implement and administer the RCRA program.

II. Incorporation by Reference

A. What is codification?

Codification is the process of including the statutes and regulations that comprise the State's authorized hazardous waste management program into the CFR. Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs. The State regulations authorized by EPA supplant the Federal regulations concerning the same matter with the result that after authorization the EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by the EPA with the consequence that the EPA enforces the authorized statutory provision. The EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. The EPA codifies the authorized State program in 40 CFR part 272 and incorporates by reference State statutes and regulations that make up the approved program, which is federally enforceable in accordance with sections 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973, and any other applicable statutory and regulatory provisions.

B. What is the history of the codification of Utah's hazardous waste management program?

The EPA incorporated by reference Utah's authorized hazardous waste program effective November 26, 2001 (66 FR 58964). In this action, the EPA is revising subpart TT of 40 CFR part 272 to include the authorization revision actions described in this document.

C. What codification decisions have we made in this rule?

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference of the authorized hazardous waste management program of the State of Utah. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Utah rules described in section I.G. of this document and set forth below in the amendments to § 272.2251. The EPA has made, and will continue to make, these documents available electronically

through <https://www.regulations.gov>. For alternative access to docket materials, please contact the person identified in the **ADDRESSES** section of this preamble.

This action codifies EPA's authorization of Utah's base hazardous waste management program and its revisions to that program. The codification reflects the State program that is in effect at the time the EPA's authorized revisions to the Utah hazardous waste management program addressed in this direct final rule become final. This action does not reopen any decision the EPA previously made concerning the authorization of the State's hazardous waste management program. The EPA is not requesting comments on its decisions published in the **Federal Register** in the final rules referenced in section I.F. of this document concerning revisions to the authorized program in Utah.

The EPA is incorporating by reference the EPA's approval of Utah's hazardous waste management program by amending subpart TT to 40 CFR part 272. The action amends § 272.2251 and incorporates by reference Utah's authorized hazardous waste regulations, as amended effective April 19, 2021. Section 272.2251 also references the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provide the legal basis for the State's implementation of the hazardous waste management program. In addition, § 272.2251 references the Memorandum of Agreement, the Attorney General's Statements, and the Program Description, which are evaluated as part of the approval process of the hazardous waste management program in accordance with subtitle C of RCRA.

D. What is the effect of Utah's codification on enforcement?

The EPA retains the authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in all authorized States. With respect to enforcement actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State analogs to these provisions. Therefore, the EPA is not incorporating by reference Utah's inspection and enforcement authorities, nor are those authorities part of Utah's approved State program which operates in lieu of the Federal program. 40 CFR 272.2251(c)(2) lists these authorities for informational purposes, and because the

EPA also considered them in determining the adequacy of Utah's procedural and enforcement authorities. Utah's authority to inspect and enforce the State's hazardous waste management program requirements continues to operate independently under State law.

E. What State provisions are not part of the codification?

The public is reminded that some provisions of Utah's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions include:

1. Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));
2. State procedural and enforcement authorities which are necessary to establish the ability of the State's program to enforce compliance but which do not supplant the Federal statutory enforcement and procedural authorities.

State provisions that are "broader in scope" than the Federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, the EPA lists in 40 CFR 272.2251(c)(3) the Utah statutory provisions which are "broader in scope" than the Federal program and which are not part of the authorized program being incorporated by reference. While "broader in scope" provisions are not part of the authorized program and cannot be enforced by the EPA, the State may enforce such provisions under State law.

F. What will be the effect of codification on Federal HSWA requirements?

With respect to any requirement(s) pursuant to HSWA for which the State has not yet been authorized, and which the EPA has identified as taking effect immediately in States with authorized hazardous waste management programs, the EPA will enforce those Federal HSWA standards until the State is authorized for those provisions.

The codification does not affect Federal HSWA requirements for which the State is not authorized. The EPA has authority to implement HSWA requirements in all States, including States with authorized hazardous waste management programs, until the States become authorized for such requirements or prohibitions, unless the EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the Federal program. A HSWA requirement or prohibition, unless identified by the EPA as optional or as less stringent,

supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985).

Some existing State requirements may be similar to the HSWA requirements implemented by the EPA. However, until the EPA authorizes those State requirements, the EPA enforces the HSWA requirements and not the State analogs.

III. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Therefore, this action is not subject to review by OMB. This action authorizes and codifies State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes and codifies State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA.

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant

regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, Feb. 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

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. The EPA will

submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective February 21, 2025.

List of Subjects

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 272

Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This rule is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: December 11, 2024.

KC Becker,

Regional Administrator, Region 8.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), the EPA is granting final authorization under 40 CFR part 271 to the State of Utah for revisions to its hazardous waste program under the Resource Conservation and Recovery Act and is amending 40 CFR part 272 as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

- 1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Subpart TT—Utah

- 2. Revise § 272.2251 to read as follows:

§ 272.2251 Utah State-Administered program: Final authorization.

(a) *History of the State of Utah authorization.* Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b),

Utah has final authorization for the following elements as submitted to EPA in Utah's base program application for final authorization which was approved by EPA effective on October 24, 1984. Subsequent program revision applications were approved effective on March 7, 1989; July 22, 1991; July 14, 1992; April 13, 1993; December 13, 1994; July 21, 1997; March 15, 1999; January 16, 2001; July 8, 2002; June 11, 2003; May 23, 2008; and February 21, 2025.

(b) *Enforcement authority.* The State of Utah has primary responsibility for enforcing its hazardous waste management program. However, the EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State statutes and regulations.*

(1) *Incorporation by reference.* The Utah regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* You may obtain copies of the Utah regulations that are incorporated by reference in this paragraph from Utah Department of Environmental Quality, 288 North 1460 West, Salt Lake City, Utah 84114-4880; phone number: (801) 538-6776; website: <https://www.deq.utah.gov/>.

(i) "EPA-Approved Utah Regulatory Requirements Applicable to the Hazardous Waste Management Program," dated June 2024.

(ii) [Reserved]

(2) *Legal basis.* The following provisions provide the legal basis for the State's implementation of the hazardous waste program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Utah Administrative Code (UAC), as amended January 17, 2023, Title R315, Environmental Quality, Waste Management and Radiation Control, Waste Management, Chapter R315-15, Standards for the Management of Used Oil: sections 15-1.1(j) and (k), 15-11.4(b); R315-124, Procedures for Decision Making: sections 124-1, 124-3(a) and (c), 124-5(b), 124-6(a), (b), (d), except references to R315-17 and R315-301 through R315-320 at 124-6(d)(4), (e), 124-7 through 124-13, 124-15 through 124-20, 124-34; Chapter R315-260, Hazardous Waste Management System: sections 260-1, 260-3, 260-6;

Chapter R315–264, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: section 264–4 citation to statutory provision “Section 19–5–115”; Chapter R315–270, Hazardous Waste Permit Program: sections 270–1(b)(1) and (2), 270–12, 270–32(b)(2), (b)(3), (c), and (e), 270–43(b), 270–50(a) and (b), 270–51(c).

(ii) Utah Code Annotated (UCA), 2020 Replacement as amended, 2022 Supplement, dated July 2022, Title 19, Chapter 1, Part 3: Administration: sections 19–1–306(2) and (3);

(iii) UCA 2020 Replacement as amended, 2022 Supplement, dated July 2022, Title 19, Chapter 6, Part 1: Solid and Hazardous Waste Act (SHWA): sections 19–6–102(1), (2), (5) through (9), (11), (13) through (19), (21), (23), (24), except references to solid waste, and (25); 19–6–102.1, 19–6–103, 19–6–104(1) introductory paragraph through (1)(d)(i), (1)(e), (2)(b), (6), and (7), 19–6–105(1) introductory paragraph through (1)(f), (1)(i), (2); 19–6–106, 19–6–107, 19–6–108(1) introductory paragraph through (3)(a), (3)(c) except (3)(c)(ii)(B), (3)(d), (3)(f), (3)(g), (4) through (9), (12), (13); 19–6–109; 19–6–111; 19–6–112; 19–6–113(1) through (4), (6); 19–6–114 through 19–6–116.

(iv) UCA 2020 Replacement as amended, 2022 Supplement, dated July 2022, Title 19, Chapter 6, Part 3: Hazardous Substances Mitigation Act: section 19–6–309.

(v) UCA 2020 Replacement as amended, 2022 Supplement, dated July 2022, Title 63G, Chapter 2: Utah Government Records Access and Management Act (GRAMA): sections 63G–2–103 through 105; 63G–2–201; 63G–2–202, 63G–2–203(1) through (9); 63G–2–204; 63G–2–205; 63G–2–301 through 305; 63G–2–306 through 308; 63G–2–401 through 405; 63G–2–802.

(3) *Related legal provisions.* The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference and are not federally enforceable:

(i) UCA 2020 Replacement as amended, 2022 Supplement, dated July 2022, Title 19, Chapter 6, Part 1: Solid and Hazardous Waste Act (SHWA): section 19–6–102(24) as that provision references solid waste; 19–6–105(3); 19–6–113(5); 19–6–117.5; 19–6–118; 19–6–120 through 122.

(ii) Utah Administrative Code (UAC), as amended January 17, 2023, Title R315, Environmental Quality, Waste Management and Radiation Control, Waste Management, Chapter R315–15 Standards for Management of Used Oil:

sections R315–15–2.2(b) related to chlorinated paraffins; 15–2.5 introductory paragraph with respect to transporter permits and used oil handler certificates; 15–2.5(a) introductory paragraph with respect to transporter permits and used oil handler certificates; 15–2.5(b) introductory paragraph with respect to transporter permits and used oil handler certificates; 15–2.5(c) introductory paragraph with respect to transporter permits and used oil handler certificates; 15–3.2(c); 15–4.1(a) introductory paragraph with respect to used oil handler certificates; 15–5.1(b)(6) and (7); 15–5.1(c); 15–5.9 with respect to transporter permits and used oil handler certificates; 15–6.1(b)(6) with respect to on specification used oil burners; 15–6.1(c); 15–6.9; 15–7.1(d); 15–7.5(b)(4) with respect to the PCB requirements of R315–15–18; 15–7.6(a)(2) with respect to used oil handler certificates and used oil burner permits; 15–7.7; 15–9.2 with respect to transporter permits and used oil handler certificates; 15–10; 15–11.2 with respect to used oil transfer and off-specification used oil burning facilities; 15–11.4(a) with respect to used oil permits; 15–12; 15–13.1 through 15–13.4, 15–13.5(a)—(c), (e) and (f); 15–14 through 15–17; Chapter R315–260 Hazardous Waste Management System: section R315–260–10(c)(165) “Universal waste” (vi); Chapter R315–261 General Requirements—Identification and Listing of Hazardous Waste: sections R315–261–9(f); 261–31(a) table 2 F999 entry; 261–33(e) table P999 entry; Chapter R315–273 Standards for Universal Waste Management: sections R315–273–1(a)(6); 273–7; 273–9(j) “large quantity handler of universal waste” related to State-only universal waste; 273–9(n) “small quantity handler of universal waste” related to State-only universal waste; 273–9(p) “Universal waste” (6); 273–13(e); 273–14(f); 273–32(a)(2) related to notification for handlers using drum-top lamp crushers; 273–33(e); 273–34(f).

(4) *Unauthorized State amendments.* Utah has adopted but is not authorized for the following Federal final rules:

(i) The following Federal rules are not delegable to States. Utah has adopted these provisions and left the authority to the EPA for implementation and enforcement: Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision C(92)39 Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations, published April 12, 1996; and Revisions to the Requirements for: Transboundary Shipments of Hazardous Wastes

Between OECD Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes, published January 8, 2010.

(ii) Those Federal rules written under RCRA provisions that predate HSWA (non-HSWA) which the State has adopted, but for which it is not authorized, are not federally enforceable. In contrast, the EPA will continue to enforce the Federal HSWA standards for which Utah is not authorized until the State receives specific authorization from EPA.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 8 and the State of Utah, signed by the Executive Director of the Utah Department of Environmental Quality on June 14, 2016, and by the EPA Region 8 Regional Administrator on July 28, 2016, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of legal authority.* “Attorney General’s Statement for Final Authorization”, signed by the Attorney General of Utah on January 16, 1984, and revisions, supplements and addenda to that Statement dated October 29, 1986, March 6, 1991, September 17, 1991, September 22, 1992, November 19, 1993, March 16, 1994, March 20, 1995, November 13, 1997, and March 2, 1999, November 1, 2001, February 11, 2003, and October 13, 2022, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program description.* The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the entry “Utah” to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Utah

The regulatory provisions include:
Utah Administrative Code (UAC), effective January 17, 2023: Chapter R315–15 Standards for Management of Used Oil: sections R315–15–1.1 introductory paragraph through 1.1(i); 1.2 through 2.1; 2.2, except reference to

chlorinated paraffins in 2.2(b); 2.3; 2.4; 2.5, except references to transporter permits and used oil handler certificates in 2.5 introductory paragraph, 2.5(a) introductory paragraph, 2.5(b) introductory paragraph, and 2.5(c) introductory paragraph; 3.1 through 3.3; 4.1(a), except references to transporter permits and used oil handler certificates in 4.1(a) introductory paragraph; 4.1(b) and (c); 4.1(f); 4.2 through 4.8; 5.1(a) through (b)(5); 5.2 through 5.8; 5.9, except references to transporter permits and used oil handler certificates; 5.11; 6.1(a); 6.1(b), except references to on-specification used oil burners in 6.1(b)(6); 6.1(d); 6.2 through 6.8; 7.1(a) through (c); 7.2; 7.4; 7.5, except references to PCB requirements of R315–15–18 in 7.5(b)(4); 7.6, except references to transporter permits and used oil handler certificates in 7.6(a)(2); 8.1 through 9.1; 9.2, except references to transporter permits and used oil handler certificates; 9.3; 9.4; 11.1(a) through (c); 11.3(a) introductory paragraph and (a)(1); 11.4(a) except reference to the used oil permit; 13.5(d); 18(a).

Chapter R315–124 Procedures for Decision making: R315–124–3(d) through (g); 124–5(a), (c), (d), and (e); 124–31 through 124–33.

Chapter R315–260 Hazardous Waste Management System: sections R315–260–2; 260–4; 260–5; 260–10(a), (b), (c) introductory paragraph through (c)(165) “universal waste” (v), (c)(166) through (c)(180); 260–11; 260–19 through 260–23; 260–30 through 260–34; 260–40 through 260–43.

Chapter R315–261 General Requirements—Identification and Listing of Hazardous Waste: sections R315–261–1 through 261–4; 261–6 through 261–8; 261–9, except 9(f); 261–10; 261–11; 261–20 through 261–24; 261–30; 261–31, except F999 entry in 261–31(a) table 2; 261–32; 261–33, except P999 entry in 261–33(e) table; 261–35; 261–39 through 261–41; 261–140 through 261–151; 261–170 through 261–173; 261–175 through 261–177; 261–179; 261–190; 261–191; 261–193; 261–194; 261–196 through 261–200; 261–400; 261–410; 261–411; 261–420; 261–1030 through 261–1035; 261–1050 through 261–1064; 261–1080 through 261–1089; 261–1090 through 261–1093.

Chapter R315–262 Hazardous Waste Generator Requirements: sections R315–262–1; 262–10(a), (b), (e) through (h), (l), (n), (o); 262–11; 262–13 through 262–18, except reserved paragraphs; 262–20 through 262–25, except reserved paragraphs; 262–27; 262–30 through 262–33; 262–35; 262–40 through 262–44; 262–70; 262–200 through 262–216; 262–230 through 262–233; 262–250 through 262–256; 262–260 through 262–265.

Chapter R315–263 Standards Applicable to Transporters of Hazardous Waste and Standards Applicable to Emergency Control of Spills for Any Hazardous Waste Handlers: sections R315–263–10(a), (b), (c), (g); 263–11; 263–12; 263–20 through 263–22, except reserved paragraphs; 263–25; 263–30 through 263–34.

Chapter R315–264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: sections R315–264–1, except reserved paragraphs; 264–3; 264–4; 264–10; 264–11; 264–12, except (a)(2); 264–13 through 264–19; 264–30 through 264–35; 264–37; 264–50

through 264–56; 264–70; 264–71, except (a)(3) and (d); 264–72 through 264–77; 264–90, except (a)(3); 264–91 through 264–101; 264–110 through 264–120; 264–140 through 264–148; 264–151; 264–170 through 264–179; 264–190 through 264–200; 264–220 through 264–223; 264–226 through 264–232; 264–250 through 264–254; 264–256 through 264–259; 264–270 through 264–273; 264–276; 264–278 through 264–283; 264–300 through 264–304; 264–309; 264–310; 264–312 through 264–317; 264–340 through 264–345; 264–347; 264–351; 264–550 through 264–555; 264–570 through 264–575; 264–600 through 264–603; 264–1030 through 264–1036; 264–1050 through 264–1065; 264–1080 through 264–1090; 264–1100 through 264–1107.

Chapter R315–265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities: sections R315–265–1, except reserved paragraphs; 265–4; 265–10 through 265–19; 265–30 through 265–35; 265–37; 265–50 through 265–56; 265–70; 265–71, except (a)(3) and (d); 265–72 through 265–77; 265–90 through 265–94; 265–110 through 265–121; 265–140 through 265–148; 265–170 through 265–174; 265–176 through 265–178; 265–190 through 265–200, except reserved sections; 265–202; 265–220 through 265–226; 265–228 through 265–231; 265–250 through 265–260; 265–1030 through 265–1035; 265–1080 through 265–1090; 265–1100 through 265–1102.

Chapter R315–266 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities: sections R315–266–20 through 266–23; 266–70; 266–80; 266–100 through 266–112; 266–202(d); 266–500 through 266–510; 266–600 through 266–611.

Chapter R315–268 Land Disposal Restrictions: sections R315–268–1 through 268–7; 268–9; 268–13; 268–14; 268–20; 268–30 through 268–46, except reserved paragraphs; 268–48 through 268–57.

Chapter R315–270 Hazardous Waste Permit Program: sections R315–270–1(a), (b)(3), (c); 270–2; 270–4; 270–10, except reserved paragraphs; 270–11; 270–13 through 270–31; 270–32(a), (b)(1), (d), and (e); 270–33; 270–40 through 270–43; 270–50(c) and (d); 270–51(a), (b), and (d); 270–60, except reserved paragraphs; 270–61 through 270–63; 270–65; 270–66; 270–68; 270–70 through 270–73; 270–79; 270–80; 270–85; 270–90; 270–95; 270–100; 270–105; 270–110; 270–115; 270–120; 270–125; 270–130; 270–135; 270–140; 270–145; 270–150; 270–155; 270–160; 270–165; 270–170; 270–175; 270–180; 270–185; 270–190; 270–195; 270–200; 270–205; 270–210; 270–215; 270–220; 270–230; 270–235.

Chapter R315–273 Standards for Universal Waste Management: sections R315–273–1(a) introductory paragraph through 1(a)(5); 273–1(b) and Note; 273–2 through 273–6; 273–8; 273–9(a) through (i); 273–9(j), except reference to other universal waste regulated in Rule R315–273; 273–9(k) through (m); 273–9(n), except reference to other universal waste regulated in Rule R315–273; 273–9(o); 273–9(p), except (p) “Universal Waste” (6); 273–9(q) through (s); 273–10 through 273–12; 273–13(a) introductory paragraph through (d)(2), and (f); 273–14 introductory paragraph

through (e), and (g); 273–15 through 273–20; 273–30; 273–31; 273–32, except reference to R315–273–33(d)(3) in 273–32(a)(2); 273–33(a) introductory paragraph through (d)(2), and (f); 273–34 introductory paragraph through (e), and (g); 273–35 through 273–40; 273–50 through 273–56; 273–60 through 273–62; 273–70(a) through (c); 273–80; 273–81.

Utah Administrative Code (UAC), effective May 15, 1996: Chapter R315–15 Standards for Management of Used Oil: sections R315–15–7.3 and 15–11.2, except with respect to used oil transfer and off-specification used oil burning facilities.

Copies of the Utah regulations that are incorporated by reference are available from Utah Department of Environmental Quality, 288 North 1460 West, Salt Lake City, Utah 84114–4880; phone number: (801) 538–6776; website: <https://www.deq.utah.gov/>.

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[FR Doc. 2024–30025 Filed 12–20–24; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 5b

[Docket Number ACF–2024–0015]

RIN 0970–AD15

Privacy Act; Implementation

AGENCY: Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Direct final rule with request for comments.

SUMMARY: In accordance with subsection (k)(2) of the Privacy Act of 1974, as amended (the Privacy Act or the Act), the Department of Health and Human Services (HHS or Department) is exempting a new system of records maintained by the Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), Unaccompanied Children Bureau (UCB), System No. 09–80–0323, “ORR Unaccompanied Children Bureau (UCB) Child Abuse or Neglect Investigation Records and Central Registry,” from certain requirements of the Privacy Act.

DATES: This rule is effective February 6, 2025, without further action, unless adverse comments are received. If adverse comments are received, a timely notification of withdrawal will be published in the **Federal Register**. Submit either electronic or written comments regarding this document no later than January 22, 2025.

ADDRESSES: Submit comments, identified by agency name and Docket No. ACF–2024–0015, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- **Mail:** Hanan Abu Lebdeh, Senior Agency Officer for Privacy, by mail at Administration for Children and Families, Mary E. Switzer Building, 330 C Street SW, Washington, DC 20201, or by email at hanan.abulebdeh@acf.hhs.gov.

Instructions: All submissions received must include the agency name and Docket No. for this rulemaking. All comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the instructions provided for conducting a search, using the docket number(s) found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

General questions about the exemptions may be submitted to Toby Biswas, Director, Division of Unaccompanied Children Policy by mail at 330 C Street SW, Washington, DC 20201, email at UCPolicy-RegulatoryAffairs@acf.hhs.gov, or phone at 202–205–4440.

SUPPLEMENTARY INFORMATION:

I. Background on New System of Records 09–80–0323

HHS/ACF recently published notice of its establishment of a new system of records 09–80–0323, “ORR Unaccompanied Children Bureau (UCB) Child Abuse or Neglect Investigation Records and Central Registry,” in the **Federal Register**; see 89 FR 96250 (Dec. 4, 2024). The purpose of this rulemaking is to exempt that system of records from certain requirements of the Privacy Act as permitted by 5 U.S.C. 552a(k)(2). The new system of records will consist of investigatory material compiled and maintained by the UCB about reports and investigations of child abuse and neglect, allegations at ORR care provider facilities located in States that will not investigate such reports, as well as at ORR Emergency or Influx Facilities. It will include a Central Registry of ORR care provider facility staff and volunteers determined by ORR, pursuant to ORR regulations and policies, to have a sustained allegation

of child abuse or neglect of a child while the child was in ORR custody. The Central Registry will be used to vet prospective candidates to ensure that individuals on the registry are not permitted to work on ORR grants or contracts or have access to unaccompanied children at ORR care provider facilities.

II. Eligible Records and Exemptions

New system of records 09–80–0323 will include both criminal and non-criminal (e.g., civil, administrative, regulatory) investigatory records of reports of child abuse and neglect allegations at ORR care provider facilities located in States that will not investigate such reports, as well as at ORR Emergency or Influx Facilities, which will be retrieved by subject individuals’ personal identifiers. Such records are eligible for exemptions based on 5 U.S.C. 552a(k)(2), permitting investigatory material compiled for law enforcement purposes to be exempted from sections (c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) through (I), and (f) of the Privacy Act, which require the agency to provide an accounting of disclosures; provide notification, access, and amendment rights to record subjects; maintain only relevant and necessary information to accomplish a purpose of the agency; establish and describe procedures whereby an individual can be notified if a system of records contains information pertaining to that individual and how to gain access to pertinent records; identify categories of record sources; and promulgate rules regarding these procedures. This exemption is available under the circumstances described here even though ORR is not a law enforcement agency. The effect of the access exemption on a subject individual’s access rights will be limited as required by subsection (k)(2): If, as a result of the maintenance of the investigative records, an individual is denied any right, benefit, or privilege to or for which the individual would otherwise be entitled or eligible by Federal law, ACF will disclose the record to the individual, except to the extent that the disclosure would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence.

Notwithstanding the establishment of these exemptions, individual record subjects may submit accounting, access, notification, and correction requests, and HHS/ACF will consider such requests on a case-by-case basis. Only information that is not factually

accurate, or is not relevant, timely, or complete may be contested.

In addition to the exemptions that HHS/ACF is establishing for system of records 09–80–0323 in this direct final rule, if any investigatory material compiled in that system of records is from another system of records in which such material was exempted from the Privacy Act based on 5 U.S.C. 552a(j)(2), HHS/ACF will claim the same exemptions in system of records 09–80–0323 on the same basis (i.e., 5 U.S.C. 552a(j)(2)) and from the same requirements as in the source system of records from which they originated.

III. Exemption Rationales

The exemptions are necessary and appropriate to prevent interference with and ensure the integrity of pending, closed, future, and related investigations of alleged child abuse and neglect, protect the identity of children and confidential sources involved in the investigations, and prevent disclosure of investigative techniques. The following specific rationales explain why each exemption is necessary and appropriate for the records in system of records 09–80–0323. All subsections referenced are subsections of 5 U.S.C. 552a.

- Subsection (c)(3) (Provide Accountings of Disclosures). Providing an accounting of disclosures to an individual record subject could reveal the existence of a pending or prior investigation or present or past investigative interest on the part of the UCB or another agency. This would pose a serious impediment to and undermine the investigative process by enabling a subject individual or others in concert with that individual to harass, intimidate, or collude with witnesses, destroy, conceal, or tamper with evidence, threaten or endanger investigative personnel, alter patterns of behavior, and avoid detection or apprehension by investigative authorities, which would undermine the investigative process.

- Subsection (d)(1) through (4) (Notification, Access and Amendment Rights). Providing subject individuals with notification, access, and amendment rights to records in the system of records could reveal the existence of a pending or prior investigation or present or past investigative interest by the UCB or another agency and details about the investigation, including identities and personal information of children involved in the investigation, of sources of information, personal information about third parties, and sensitive investigative techniques, which could hinder or impede pending and future

investigations by chilling or deterring sources of information from providing information to investigators (particularly if they are not certain of its accuracy or if they fear retribution), by providing an opportunity for subject individuals and others acting in concert with subject individuals to tamper with witnesses or evidence, and by allowing individuals to alter their behavior to defeat investigative techniques and avoid detection or apprehension. Complying with amendment requirements could significantly delay investigations while attempts are made to resolve questions of accuracy, relevance, timeliness, and completeness and would impose an unreasonable administrative burden by requiring investigations to be continuously reinvestigated.

- Subsection (e)(1) (Maintain Only Relevant and Necessary Information Authorized by Statute or Executive Order). In the course of an investigation, and especially in the early stages of an investigation, the relevance and necessity of information obtained or introduced may be unclear or the information may not be strictly relevant or necessary to a specific investigation but may lead to discovery of relevant information. In the interests of effective enforcement of ORR requirements, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

- Subsections (e)(4)(G) and (H) and (f) (Describe Procedures for Notification, Access, and Amendment). Because system of records 09–80–0323 will be exempt from request requirements in subsection (d)(1) through (4) (Provide Notification, Access, and Amendment Rights) and HHS/ACF's compliance with those request requirements will therefore be discretionary, it is appropriate that HHS/ACF's compliance with the requirements in subsection (e)(4)(G) and (H) and (f) to provide request procedures be discretionary also. Notwithstanding these exemptions, HHS/ACF has included request procedures in the SORN for system of records 09–80–0323 because, notwithstanding the exemptions, individual record subjects may submit access and amendment requests, and HHS/ACF will consider such requests on a case-by-case basis.

- Subsection (e)(4)(I) (Identify Categories of Record Sources in the SORN). Because the information in these records may come from any source, it is not possible to know every category in advance in order to include them all in the SORN. Further, some record source categories would not be appropriate to publish in the SORN if,

for example, revealing them could thwart or impede pending and future investigations by enabling record subjects or other individuals to discover sensitive investigative techniques and devise ways to bypass or defeat them to evade detection and apprehension.

- Subsection (f) (Agency Rules). As noted above, establishing procedures to notify record subject individuals, to review requests from individuals, and to disclose records to subject individuals could reveal the existence of an investigation or an investigative interest by the UCB or another agency and details about the investigation and sensitive investigative techniques, which could hinder or impede pending and future investigations by chilling or deterring sources of information from providing information to investigators (particularly if they are not certain of its accuracy or fear retribution), by providing an opportunity for subject individuals and others acting in concert with subject individuals to tamper with witnesses or evidence, and by allowing individuals to alter their behavior to defeat investigative techniques and avoid detection or apprehension. Notwithstanding the exemptions, individual record subjects may submit access and amendment requests, and HHS/ACF will consider such requests on a case-by-case basis.

For the foregoing reasons, HHS/ACF believes that the exemptions authorized in 5 U.S.C. 552a(k)(2) are essential to system of records 09–80–0323.

Accordingly, HHS exempts both criminal and non-criminal investigatory material in system of records 09–80–0323, “ORR Unaccompanied Children Bureau (UCB) Child Abuse or Neglect Investigation Records and Central Registry,” from the requirements in subsections (c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) through (I), and (f) of the Privacy Act, as permitted by 5 U.S.C. 552a(k)(2).

Analysis of Impacts

I. Review Under Executive Orders 12866, 13563, and 14094

The agency believes that this direct final rule is not a significant rule under Executive Order (E.O.) 12866, Regulatory Planning and Review; E.O. 13563, Improving Regulation and Regulatory Review; or E.O. 14094, Modernizing Regulatory Review, because it will not (1) have an annual effect on the economy of \$200 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal

governments or communities; (2) create a serious inconsistency or otherwise interfere with any action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees or loan programs, or the rights and obligations of recipients thereof; or (4) raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in these Executive orders. This direct final rule renders certain Privacy Act requirements inapplicable to certain records (in this case, investigatory records) in accordance with criteria established in the Privacy Act based on a showing that agency compliance with those requirements with respect to those records would harm the effectiveness or integrity of the agency function or process for which the records are maintained (in this case, investigations). However, the Office of Management and Budget has reviewed this regulation under its Privacy Act oversight authority.

II. Review Under the Regulatory Flexibility Act (5 U.S.C. 601–612)

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the direct final rule concerns records about individuals, it imposes no duties or obligations on small entities; the agency therefore certifies that the direct final rule will not have a significant economic impact on a substantial number of small entities.

III. Review Under the Unfunded Mandates Reform Act of 1995 (Section 202, Public Law 104–4)

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing “any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year.” The current inflation-adjusted statutory threshold is approximately \$183 million based on the Bureau of Labor Statistics inflation calculator. The agency does not expect that this direct final rule will result in any one-year expenditure that would meet or exceed this amount.

IV. Review Under the Paperwork Reduction Act of 1995 (44 U.S.C. 35–1 et seq.)

This direct final rule does not contain any information collection requirements subject to the Paperwork Reduction Act.

V. Review Under Executive Order 13132, Federalism

This direct final rule will not have any direct effects on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no federalism assessment is required.

List of Subjects in 45 CFR Part 5b

Privacy.

For the reasons set out in the preamble, the Department of Health and Human Services amends its Privacy Act Regulations, 45 CFR part 5b, as follows:

PART 5b—PRIVACY ACT REGULATIONS

- 1. The authority citation for part 5b continues to read as follows:

Authority: 5 U.S.C. 301, 5 U.S.C. 552a.

- 2. Section 5b.11 is amended by adding paragraph (b)(4) to read as follows:

§ 5b.11 Exempt systems.

* * * * *

(b) * * *

(4) The following systems of records are exempt from the following provisions of the Act and this part: 5 U.S.C. 552a(c)(3) and § 5b.9(c)(3), which require a subject individual to be granted access to an accounting of disclosures of a record; 5 U.S.C. 552a(d)(1) through (4) and (f) and §§ 5b.6, 5b.7, and 5b.8, relating to notification of or access to records and correction or amendment of records; and 5 U.S.C. 552a(e)(4)(G) through (I) which require inclusion of information about Department procedures for notification, access, and correction or amendment of records and categories of record sources in the notice for the systems of records.

(i) Pursuant to subsection (k)(2) of the Privacy Act:

(A) ORR Unaccompanied Children Bureau (UCB) Child Abuse or Neglect Investigation Records and Central Registry, 09–80–0323.

(B) [Reserved]

(ii) [Reserved]

* * * * *

Dated: December 16, 2024.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2024–30311 Filed 12–20–24; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2022–0062; FXES11130900000C6–256–FF09E42000]

RIN 1018–BG77

Endangered and Threatened Wildlife and Plants; Technical Corrections for 62 Wildlife and Plant Species on the Lists of Endangered and Threatened Wildlife and Plants; Hawaiian Hoary Bat; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are publishing this document to correct an error in the listing of the Hawaiian hoary bat (*Lasiurus cinereus semotus*).

DATES: This document is effective December 23, 2024.

FOR FURTHER INFORMATION CONTACT:

Carolyn Menke, Recovery Manager, U.S. Fish and Wildlife Service, Pacific Regional Office, Ecological Services, 911 NE 11th Avenue, Portland, OR 97232; telephone 503–231–6131. 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: On February 2, 2023, we published in the **Federal Register** (88 FR 7134) a direct final rule to make technical corrections to 62 wildlife and plant species on the Lists of Endangered and Threatened Wildlife and Plants in title 50 of the Code of Federal Regulations (CFR) at §§ 17.11 and 17.12, respectively. One of these species was the Hawaiian hoary bat. We planned to update its scientific name to *Aeorestes semotus* and add the common name ‘ōpe‘ape‘a to its listing.

On April 24, 2023, based on comments we received on the February 2, 2023, direct final rule relating to

scientific research relevant to the Hawaiian hoary bat’s taxonomic classification, we published a document in the **Federal Register** (88 FR 24712) withdrawing the amendment in the direct final rule for the Hawaiian hoary bat only.

In 2024, during an internal Service review, we erroneously identified the Hawaiian hoary bat listing in the February 2, 2023, direct final rule as an amendment that had not been properly codified in the Code of Federal Regulations. We requested that the Office of the Federal Register publish a correction to update the listing of the Hawaiian hoary bat as it appeared in the February 2, 2023, direct final rule. The Office of the Federal Register’s correction published on September 17, 2024, at 89 FR 75976.

Since that time, we discovered our error, and we are correcting it in this document by restoring the listing of the Hawaiian hoary bat to its original scientific name and omitting the common name we included in the February 2, 2023, direct final rule.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Signing Authority

Martha Williams, Director of the U.S. Fish and Wildlife Service, approved this action on November 26, 2024. Acting Director Steve Guertin approved these packages December 15, 2024. On December 16, 2024, the acting Director authorized the undersigned to sign the document electronically and submit it to the Office of the Federal Register for publication as an official document of the U.S. Fish and Wildlife Service.

Regulation Promulgation

For the reasons given in the preamble, we 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, under MAMMALS, by revising the entry for “Bat, Hawaiian hoary” to read as follows:

§ 17.11 Endangered and threatened (h) * * *
wildlife.
* * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
MAMMALS				
Bat, Hawaiian hoary	<i>Lasiurus cinereus semotus</i>	Wherever found	E	35 FR 16047, 10/13/1970.

Madonna Baucum,
Regulations and Policy Chief, Division of Policy, Economics, Risk Management, and Analytics of the Joint Administrative Operations, U.S. Fish and Wildlife Service.
[FR Doc. 2024–30368 Filed 12–20–24; 8:45 am]
BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 648
[Docket No. 231215–0305; RTID 0648–XE552]
Fisheries of the Northeastern United States; Summer Flounder Fishery; 2024 Commercial Quota Harvested for the State of New York
AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.
ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the 2024 summer flounder commercial quota allocated to the State of New York has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New York for the remainder of calendar year 2024, unless additional quota becomes available through a transfer from another state. Regulations governing the summer flounder fishery require publication of this notification to advise New York that the quota has been harvested, and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing summer flounder in New York.
DATES: Effective 0001 hours December 21, 2024, through December 31, 2024.
FOR FURTHER INFORMATION CONTACT: Matthew Rigdon, (978) 281–9336, or Matthew.Rigdon@noaa.gov.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR 648.100 through 648.111. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102.
The commercial quota for summer flounder for 2024 was set equal to 8,789,830 pounds (lb; 3,987,000 kilograms (kg)) (88 FR 88266, December 23, 2023). The amount allocated to vessels landing summer flounder in New York is 672,157 lb (304,885 kg).
The NMFS Regional Administrator for the Greater Atlantic Region monitors the state commercial landings and determines when a state’s commercial quota has been harvested. NMFS is required to publish notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the state’s commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. Based on dealer reports and other available information, the Regional Administrator has determined that the available quota has been harvested. The Marine Resources Division of the New York State Department of Environmental Conservation is closing the state fishery on December 21, 2024, and this action promotes consistency between the state and Federal management measures.
The regulations at 50 CFR 648.14(n) prohibit federally permitted vessels from landing summer flounder for sale in a state, and prohibit all persons from purchasing or otherwise receiving summer flounder for a commercial purpose after the effective date published in the **Federal Register** notification that commercial quota is no longer available in that state. Therefore, effective 0001 hours on December 21, 2024, landings of summer flounder in

New York by vessels holding Federal summer flounder commercial fishery permits are prohibited for the remainder of the 2024 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours on December 21, 2024, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in New York for the remainder of the calendar year, or until additional quota becomes available through a transfer from another state.
Classification
This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.
The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action closes the commercial summer flounder fishery for New York until January 1, 2025, under current regulations. The regulations at 50 CFR 648.103(b) require such action to ensure that summer flounder vessels do not exceed quotas allocated to the states. If implementation of this closure was delayed to solicit prior public comment, the quota for this fishing year will be exceeded, thereby undermining the conservation objectives of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. The Assistant Administrator further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reason stated above.
Authority: 16 U.S.C. 1801 *et seq.*
Dated: December 18, 2024.
Kelly Denit,
Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 2024–30602 Filed 12–18–24; 4:15 pm]
BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 89, No. 246

Monday, December 23, 2024

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA-2024-2570; Notice No. 25-24-05-SC]

Special Conditions: Airbus Model A321 neo ACF and A321 neo XLR Series Airplanes; Dynamic Test Requirements for Single Occupant Oblique Seats at an Installation Angle of 49 Degrees With Airbags and 3-Point Restraint or Pretensioner Restraint Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Airbus Model A321 neo ACF and A321 neo XLR airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is a single-occupant oblique seat with an airbag and 3-point or pretensioner restraint system positioned at a 49-degree angle from the cabin centerline. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send comments on or before January 13, 2025.

ADDRESSES: Send comments identified by Docket No. FAA-2024-2570 using any of the following methods:

Federal eRegulations 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 (DOT), 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 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.

FOR FURTHER INFORMATION CONTACT: Shannon Lennon, Cabin Safety Section, AIR-624, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, WA 98198; telephone (206) 231-3209; email Shannon.Lennon@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the proposed special conditions, explain the reason for any recommended change, and include supporting data.

The proposed special conditions address single-occupant oblique seats with airbags and 3-point restraint or pretensioner restraint systems at a 49-degree installation angle. The proposed special conditions substantially align with previously issued conditions (Special Conditions Nos. 25-811-SC and 25-861-SC) but were adapted to align with the combination of the novel 49-degree angle installation along with the potential use of a pretensioner restraint system. Delivery of these airplanes with this novel or unusual design feature is currently scheduled for the first quarter of 2025. While the comment period provided by the FAA for proposed special conditions has typically been thirty days, the FAA is providing twenty days in this instance

due to the substantive similarity of these conditions with the terms of previously issued special conditions, and due to the pendency of the anticipated delivery date for the affected airplane models, per the criteria in 14 CFR 11.38.

The FAA will consider all comments received by the closing date for comments and will consider comments filed late if it is possible to do so without incurring delay. The FAA may change these special conditions based on the comments received.

Privacy

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in title 14, Code of Federal Regulations (14 CFR) 11.35, the FAA will post all comments received without change to www.regulations.gov, including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about these special conditions.

Confidential Business Information

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 these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, 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 the indicated comments will not be placed in the public docket of these proposed special conditions. Send submissions containing CBI to the individual listed in the For Further Information Contact section above. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these proposed special conditions.

Background

On April 6, 2022, Airbus SAS applied for an amendment to Type Certificate

No. A28NM for the installation of a single-occupant oblique seat with an airbag and 3-point or pretensioner restraint system, positioned at a 49-degree angle from the cabin centerline in new Airbus Model A321 neo ACF and A321 neo XLR airplanes. Airbus Model A321 neo ACF and A321 neo XLR airplanes, which are derivatives of the Model A321 currently approved under TC no. A28NM, are twin-engine, transport category airplanes with a maximum passenger capacity of 244. The maximum takeoff weight of the Airbus Model A321 neo ACF is approximately 213,848 pounds, while the Airbus Model A321 neo XLR has a maximum takeoff weight of approximately 222,667 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Airbus SAS must show that the Model A321 neo ACF and A321 neo XLR airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate No. A28NM or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (e.g., 14 CFR part 25) do not contain adequate or appropriate safety standards for Airbus Model A321 neo ACF and A321 neo XLR airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, Airbus Model A321 neo ACF and A321 neo XLR airplanes must comply with the exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

Airbus Model A321 neo ACF and A321 neo XLR airplanes will incorporate the following novel or unusual design feature: single-occupant oblique seats with airbag devices and 3-point restraints or a pretensioner restraint system installed at 49 degrees relative to the aircraft cabin centerline.

Discussion

Title 14 of the CFR, § 25.785(d) requires that each occupant of a seat installed at an angle of more than 18 degrees relative to airplane cabin centerline, must be protected from head injury using a seatbelt and an energy-absorbing rest that supports the arms, shoulders, head, and spine, or using a seatbelt and shoulder harness designed to prevent the head from contacting any injurious object.

The proposed Airbus Model A321 neo ACF and A321 neo XLR airplane's single occupant oblique seat installation with airbag devices and 3-point restraint or pretensioner restraint system is novel such that the current requirements do not adequately address airbag or pretensioner devices and protection of the occupant's neck, spine, torso, and legs for seating configurations that are positioned at an angle of 49 degrees from the airplane centerline. The seating configuration installation angle is beyond the installation-design limits of current special conditions issued for seat positions at angles between 18 degrees and 45 degrees. At angles greater than 45 degrees, lateral neck bending and other injury mechanisms prevalent from a fully side-facing installation become a concern, given the addition of oblique seat properties. To address these potential injury mechanisms, these special conditions are based on FAA Policy Statement PS-AIR-25-27, "Technical Criteria for Approving Obliques Seats" as well as Policy Statement PS-ANM-25-03-R1, "Technical Criteria for Approving Side-Facing Seats."

To provide a level of safety equivalent to that afforded to the occupants of forward and aft-facing seats, new special conditions containing additional airworthiness standards for dynamic testing requirements, including both the injury criteria limits from the oblique-seat policy and the fully side-facing seat policy, are necessary.

FAA-sponsored research found that an un-restrained flailing of the upper torso, even when the pelvis and torso are nearly aligned, can produce serious spinal and torso injuries. At lower impact severities, even with significant misalignment between the torso and

pelvis, these injuries did not occur. Tests with an FAA H-III anthropomorphic test device (ATD) have identified a level of lumbar spinal tension corresponding to the no-injury impact severity. The FAA has implemented this spinal tension limit in special conditions for oblique seats. The spine tension limit selected by the FAA is conservative with respect to other aviation injury criteria since it corresponds to a no-injury loading condition.

Other restraint systems, in lieu of single lap belt restrain systems, have been used to comply with the occupant injury criteria of § 25.562(c)(5). For instance, shoulder harnesses have been widely used on flight-attendant seats, flight-deck seats, in business jets, and in general-aviation airplanes to reduce occupant head injury in the event of an emergency landing. Special conditions, pertinent regulations, and published guidance exist that relate to other restraint systems. However, the use of pretensioners in the restraint system on transport category airplane seats to comply with the occupant injury criteria of § 25.562(c)(5) is a novel design.

Pretensioner technology involves a step-change in loading experienced by the occupant for impacts below and above that at which the device deploys, because activation of the shoulder harness, at the point at which the pretensioner engages, interrupts upper-torso excursion. Such an excursion could result in the head-injury criteria (HIC) being higher at an intermediate impact condition than that resulting from the maximum impact condition corresponding to the test conditions specified in § 25.562. See condition (a)(3) in these special conditions.

The ideal triangular maximum-severity pulse is defined in Advisory Circular (AC) 25.562-1B, "Dynamic Evaluation of Seat Restraint Systems and Occupant Protection on Transport Airplanes." For the evaluation and testing of less-severe pulses for purposes of assessing the effectiveness of the pretensioner setting, a similar triangular pulse should be used with acceleration, rise time, and velocity change scaled accordingly. The magnitude of the required pulse should not deviate below the ideal pulse by more than 0.5g until 1.33 t_1 is reached, where t_1 represents the time interval between 0 and t_1 on the referenced pulse shape, as shown in AC 25.562-1B. This is an acceptable method of compliance with the test requirements of the special conditions.

Additionally, the pretensioner might not provide protection, after actuation, during secondary impacts. Therefore, the case where a small impact is

followed by a large impact should be addressed. If the minimum deceleration severity at which the pretensioner is set to deploy is unnecessarily low, the protection offered by the pretensioner may be lost by the time a second, larger impact occurs.

Conditions (a) through (g) address occupant protection in consideration of the oblique-facing seats. Condition (h) addresses airbag systems. Conditions (i)(1) through (i)(3) ensure that the pretensioner system activates when intended and protects a range of occupants under various accident conditions. Conditions (i)(4) through (i)(9) address the maintenance and reliability of the pretensioner system, including any outside influences on the mechanism, to ensure it functions as intended. Condition (j) addresses general instructions that supplement these special conditions when tests are required to assist with test set-ups and appropriate anthropomorphic test dummy (ATD) selection.

The proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these proposed special conditions are applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would apply to the other model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, and 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Airbus

Model A321 neo ACF and A321 neo XLR airplanes.

In addition to the requirements of §§ 25.562 and 25.785, passenger seats with airbag devices and 3-point restraints or pretensioner restraints installed at an angle 49 degrees from the aircraft centerline must meet the following conditions:

(a) Head Injury Criteria (HIC)

HIC assessments are required only for head contact with the seat and other structures.

(1) Compliance with § 25.562(c)(5) is required, except when an airbag device is present in addition to the 3-point restraint system and the anthropomorphic test dummy (ATD) has no apparent contact with the seat and other structure but has contact with the airbag, a HIC score in excess of 1,000 is acceptable, provided the HIC15 score (calculated in accordance with 49 CFR 571.208) for that contact is less than 700.

(2) ATD head contact with the seat or other structure, through the airbag (if installed), or contact subsequent to contact with the airbag requires an HIC value not exceeding 1,000.

(3) The HIC value must not exceed 1,000 in any condition in which the airbag or pretensioner (if installed) does or does not deploy up to the maximum severity pulse specified by the existing requirements.

(4) To accommodate a range of occupant heights (5th percentile female to 95th percentile male), any surface, airbag or otherwise, that provides support for the occupant's head must provide that support in a consistent manner regardless of occupant stature. Otherwise, additional HIC assessment tests may be needed.

(b) Body-to-Wall/Furnishing Contact

If a seat is installed aft of a structure, such as an interior wall or furnishing that does not provide a homogenous contact surface for the expected range of occupants and yaw angles, then additional analysis and tests may be required to demonstrate that the injury criteria are met for the area an occupant could contact. For example, different yaw angles could result in different injury considerations and airbag performance, and additional analysis or separate tests may be necessary to evaluate performance.

(c) Neck Injury Criteria

(1) The seating system must protect the occupant from experiencing serious neck injury. The assessment of neck injury must be conducted with the airbag device activated unless there is

also reason to consider that the neck injury potential would be higher for impacts below the airbag device deployment threshold.

(2) Rotation of the head about its vertical axis, relative to the torso, is limited to 105 degrees in either direction from forward-facing.

(3) The neck must not impact any surface that would produce concentrated loading on the neck.

(4) Assess neck injury for fore and aft neck bending using an FAA Hybrid III ATD, as described in SAE International (SAE) Technical Paper 1999-01-1609, "A Lumbar Spine Modification to the Hybrid III ATD for Aircraft Seat Tests," applying the following criteria:

(i) The N_{ij} , calculated in accordance with 49 CFR 571.208, must be below 1.0, where $N_{ij} = F_z/F_{zc} + M_y/M_{yc}$, and N_{ij} critical values are:

$F_{zc} = 1,530$ lbs (6,805 N) for tension

$F_{zc} = 1,385$ lbs (6,160 N) for compression

$M_{yc} = 229$ lb-ft (301 Nm) in flexion

$M_{yc} = 100$ lb-ft (136 Nm) in extension

(ii) In addition, peak upper-neck F_z must be below 937 lbs (4,168 N) in tension and 899 lbs (3,999 N) in compression.

(5) When lateral neck bending is present, assess it using an ES-2re ATD as defined by 49 CFR part 572, subpart U. The data must be filtered at channel frequency class 600 as defined in SAE Recommended Practice J211/11, "Instrumentation for Impact Test Part 1—Electronic Instrumentation."

(i) The upper-neck tension force at the occipital condyle (O.C.) location must be less than 405 lbs (1,800 N).

(ii) The upper-neck compression force at the O.C. location must be less than 405 lbs (1,800 N).

(iii) The upper-neck bending torque about the ATD x-axis at the O.C. location must be less than 1,018 in-lbs (115 Nm).

(iv) The upper-neck resultant shear force at the O.C. location must be less than 186 lbs (825 N).

(d) Spine and Torso Injury Criteria

(1) The seating system must protect the occupant from experiencing spine and torso injury. The assessment of spine and torso injury must be conducted with the airbag device activated unless it is necessary to also consider that the occupant-injury potential would be higher for impacts below the airbag-device deployment threshold.

(2) Assess spine and torso injury for oblique torso bending using an FAA Hybrid III ATD, applying the following criteria:

(i) The lumbar spine tension (Fz) cannot exceed 1,200 lbs (5,338 N).

(ii) Significant concentrated loading on the occupant's spine, in the area between the pelvis and shoulders during impact, including rebound, is not acceptable. During this type of contact, the interval for any rearward (X direction) acceleration exceeding 20g must be less than 3 milliseconds, as measured by the thoracic instrumentation specified in 49 CFR part 572, subpart E, filtered in accordance with SAE Recommended Practice J211/1.

(3) When lateral torso bending is present, assess spine and torso injury using an ES-2re ATD, applying the following criteria:

(i) *Thoracic*: The deflection of any of the ES-2re ATD upper, middle, and lower ribs must not exceed 1.73 inches (44 mm). Process the data as defined in Federal Motor Vehicle Safety Standards (FMVSS) 571.214, title 49 of the CFR.

(ii) *Abdominal*: The sum of the measured ES-2re ATD front, middle, and rear abdominal forces must not exceed 562 lbs (2,500 N). Process the data as defined in FMVSS 571.214.

(iii) *Upper-torso support*: The lateral flexion of the ATD torso must not exceed 40 degrees from the normal upright positions during impact.

(e) Pelvic Criteria

(1) The seating system must protect the occupant from experiencing pelvis injury.

(2) Any part of the load-bearing portion of the bottom of the ATD pelvis must not translate beyond the edges of the seat-bottom seat-cushion supporting structure.

(3) When pelvis contact with the armrest or surrounding interior components is present, assess it using an ES-2re ATD. The pubic symphysis force measured by the ES-2re ATD must not exceed 1,350 lbs (6,000 N). Process the data as defined in FMVSS 571.214.

(f) Femur Criteria

Limit axial rotations of the upper leg (about the z-axis of the femur, per SAE Recommended Practice J211/1) to 35 degrees from the nominal seated position. Evaluation during rebound does not need to be considered.

(g) ATD and Test Condition

(1) Perform longitudinal tests to measure the injury criteria above using the FAA Hybrid III ATD or the ES-2re ATD. Conduct the tests with the undeformed floor, at the most critical yaw cases for injury, and with all lateral structural supports (e.g., armrests or walls) installed.

(2) For longitudinal tests conducted in accordance with § 25.562(b)(2), show compliance with the seat-strength requirements of § 25.562(c)(7) and (8), and these special conditions, to ensure proper loading of the seat by the occupant, the ATD pelvis must remain supported by the seat pan, and the restraint system must remain on the pelvis of the ATD until rebound begins. No injury criteria evaluation is necessary for tests conducted only to assess seat-strength requirements.

(3) If a seat installation includes adjacent items that are within contact range of an occupant, assess the injury potential of that contact. To make this assessment, tests may be conducted to include the actual contact item, located and attached in a representative fashion. Alternatively, the injury potential may be assessed through a combination of tests with contact items having the same geometry as the actual contact item but having stiffness characteristics that would create the worst case for injury, such as injuries due to both contact with the item and lack of support from the item.

(4) Conduct the combined horizontal and vertical test, required by § 25.562(b)(1) and these special conditions, with a Hybrid II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent.

(5) The design and installation of seat belt buckles must prevent unbuckling due to applied inertial forces or impact from seat occupant hands and arms during an emergency landing.

(h) Inflatable Airbag-Restraint System Special Conditions (When Installed)

An inflatable airbag-restraint system must meet the requirements of Special Conditions No. 25-375-SC, "Airbus A318, A319, A320 and A321 Series Airplanes Inflatable Restraints."

(i) Pretensioner System Special Conditions (When Installed)

(1) Protection During Secondary Impacts:

The pretensioner activation setting must be demonstrated to maximize the probability of the protection being available when needed, considering secondary impacts.

(2) Protection of Occupants Other than 50th Percentile:

Protection of occupants for a range of stature from a 2-year-old child to a 95th percentile male must be shown. For shoulder harnesses that include pretensioners, protection of occupants other than a 50th percentile male may be shown by test or analysis. In addition, the pretensioner must not

introduce a hazard to passengers due to the following seating configurations:

(i) The seat occupant is holding an infant.

(ii) The seat occupant is a child in a child-restraint device.

(iii) The seat occupant is a pregnant woman.

(3) Occupants Adopting the Brace Position:

Occupants in the traditional brace position, when the pretensioner activates, must not experience adverse effects from the pretensioner activation.

(4) Inadvertent Pretensioner Actuation:

(i) The probability of inadvertent pretensioner actuation must be shown to be extremely remote (i.e., average probability per flight hour of less than 10^{-7}).

(ii) The system must be shown not susceptible to inadvertent pretensioner actuation due to wear and tear or inertia loads resulting from in-flight or ground maneuvers likely to be experienced in service.

(iii) The seated occupant must not be seriously injured due to inadvertent pretensioner actuation.

(iv) Inadvertent pretensioner activation must not cause a hazard to the airplane nor cause serious injury to anyone positioned close to the retractor or belt (e.g., seated in an adjacent seat or standing adjacent to the seat).

(5) Availability of the Pretensioner Function Before Flight:

The design must provide means for a crewmember to verify the availability of the pretensioner function before each flight or the probability of failure of the pretensioner function must be demonstrated to be extremely remote (i.e., average probability per flight hour of less than 10^{-7} between inspection intervals.)

(6) Incorrect Seat Belt Orientation:

The system design must ensure that any incorrect orientation (twisting) of the seat belt does not compromise the pretensioner protection function.

(7) Contamination Protection:

The pretensioner mechanisms and controls must be protected from external contamination that could occur on or around passenger seating.

(8) Prevention of Hazards:

The pretensioner system must not induce a hazard to passengers in case of fire, nor create a fire hazard if activated.

(9) Functionality After Loss of Power:

The system must function properly after the loss of normal airplane electrical power and after a transverse separation in the fuselage at the most critical location. A separation at the location of the system does not have to be considered.

(j) General Test Instructions

(1) The appropriate ATD to assess occupant injury (FAA Hybrid III or ES-2re) will be determined based on the occupant kinematics at the selected test angle. At the +10 degree yaw angle, the occupant kinematics show that occupant injury tests using both ATDs may be required.

(2) Conduct vertical tests with the Hybrid II ATD or equivalent, with existing pass/fail criteria.

(3) Conduct longitudinal structural tests with the Hybrid II ATD or equivalent, deformed floor, with 10 degrees yaw, and with all lateral structural supports (e.g., armrests or walls) required to support the occupant.

(4) Conduct longitudinal occupant injury tests, as necessary, with the Hybrid III ATD or ES-2re ATD, or both, undeformed floor, yaw, and with all lateral structural supports (e.g., armrests or walls) critically represented which are within the contact range of the occupant.

(i) Pass/fail injury assessments:

(A) Perform HIC, fore/aft neck injury, spinal tension, and femur evaluations using an FAA Hybrid III ATD.

(B) Perform lateral neck injury, thoracic, abdominal, pelvis, and femur evaluations using an ES-2re ATD.

(ii) [Reserved]

(5) For injury assessments accomplished by testing with the ES-2re ATD for the longitudinal test(s) conducted in accordance with § 25.562(b)(2) and these special conditions, the ATDs must be positioned, clothed, and have lateral instrumentation configured as follows:

*(i) ES-2re ATD Lateral**Instrumentation:*

The rib-module linear slides are directional (i.e., deflection occurs in either a positive or negative ATD y-axis direction). Install the modules such that the moving end of the rib module is toward the front of the airplane. Install the three abdominal-force sensors so that they are on the side of the ATD and toward the front of the airplane.

(ii) ATD Clothing:

Clothe each ATD in form-fitting cotton stretch garments with short to full-length sleeves, mid-calf to full-length pants, and size 11E (45) shoes weighing about 2.5 lbs (1.1 kg) and having a heel height of about 1.5 inches (3.8 cm). The color of the clothing should be in contrast to the color of the restraint system and the background. The color of the clothing should be chosen to avoid overexposing the high-speed images taken during the test. The ES-2re jacket is sufficient for torso clothing, although a form-fitting shirt may be used if desired.

(iii) ATD Positioning:

(A) Lower the ATD vertically into the seat while simultaneously:

(1) Aligning the midsagittal plane (a vertical plane through the midline of the body; dividing the body into right and left halves) with approximately the middle of the seat place.

(2) Keeping the upper legs horizontal by supporting them just behind the knees.

(3) Applying a horizontal x-axis direction (in the ES-2re ATD coordinate system) force of about 20 lbs (89 N) to the bottom rib of the ES-2re to compress the seat back cushion.

(B) After all lifting devices have been removed from the ATD:

(1) Rock it slightly to settle it in the seat.

(2) Bend the knees of the ATD.

(3) Separate the knees by about 4 inches (100 mm).

(4) Set the ATD's head at approximately the midpoint of the available range of z-axis rotation (to align the head and torso midsagittal planes).

(5) Position the ATD's arms at the joint's mechanical detent to position them to an approximately 20 to 40-degree angle with respect to the torso.

(6) Position the feet such that the centerlines of the lower legs are approximately parallel.

Issued in Kansas City, Missouri, on December 10, 2024.

Patrick R. Mullen,

Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2024-29465 Filed 12-20-24; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2024-2667; Project Identifier MCAI-2024-00473-T]

RIN 2120-AA64

Airworthiness Directives; Deutsche Aircraft GmbH (Type Certificate Previously Held by 328 Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD)

2024-03-07, which applies to all Deutsche Aircraft GmbH Model 328-100 and 328-300 airplanes. AD 2024-03-07 requires a one-time detailed inspection of each affected part, and applicable corrective actions. Since the FAA issued AD 2024-03-07, the FAA determined that repetitive inspections are necessary. This proposed AD continues to require the actions in AD 2024-03-07 and would require repetitive inspections of the affected part as specified in a European Union Aviation Safety Agency (EASA) AD which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by February 6, 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-2024-2667; 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; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*. It is also available at *regulations.gov* under Docket No. FAA-2024-2667.

- 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.

FOR FURTHER INFORMATION CONTACT: Joe Salameh, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410,

Westbury, NY 11590; telephone 206–231–3536; email joe.salameh@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–2024–2667; Project Identifier MCAI–2024–00473–T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to [regulations.gov](https://www.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 Joe Salameh, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3536; email joe.salameh@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2024–03–07, Amendment 39–22677 (89 FR 17723, March 12, 2024) (AD 2024–03–07), for all Deutsche Aircraft GmbH Model 328–100 and 328–300 airplanes. AD 2024–

03–07 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2023–0137, dated July 12, 2023, to correct an unsafe condition.

FAA AD 2024–03–07 requires a one-time detailed inspection of each affected part, and applicable corrective actions. The FAA issued AD 2024–03–07 to address reports of worn and ruptured bonding straps inside the feeder wing tanks and in both outer and inner wing tanks.

Actions Since AD 2024–03–07 Was Issued

Since the FAA issued AD 2024–03–07, EASA superseded AD 2023–0137 and issued EASA AD 2024–0154, dated August 2, 2024 (EASA AD 2024–0154) (also referred to as the MCAI), to correct an unsafe condition for all Deutsche Aircraft GmbH Model 328–100 and 328–300 airplanes. The MCAI states that occurrences were reported of finding damaged affected parts (*i.e.*, worn and ruptured bonding straps). The extent of the detected damage of the affected parts did not ensure that appropriately low electrical impedance is obtained and maintained through the affected bonding path. This condition, if not detected and corrected, could lead to loss of bonding function and, in combination with a lightning strike, create a source of ignition in a fuel tank, possibly resulting in a fire or explosion and consequent loss of the airplane. To address this potentially unsafe condition, EASA issued AD 2024–0154 to require repetitive inspections of the affected parts. Additionally, Deutsche Aircraft GmbH developed a modification that replaces all the existing bonding straps with parts of the same cross-section and length but with nickel-plated surface protection.

The FAA is proposing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–2667.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2024–03–07, this proposed AD would retain all of the requirements of AD 2024–03–07. Those requirements are referenced in EASA AD 2024–0154, which, in turn, is referenced in paragraph (g) of this proposed AD.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0154 specifies procedures for repetitive detailed inspections for damage of the bonding

straps located inside the feeder wing tank (left-hand (LH) and right-hand (RH) sides), outer and inner wing tanks (LH and RH sides), and replacement or repair of damaged affected parts. EASA AD 2024–0154 also specifies procedures for an optional modification to replace all the existing bonding straps with parts of the same cross-section and length but with nickel-plated surface protection. The optional modification still includes detailed inspections for damage of the bonding straps as required by EASA AD 2024–0154, but allows for the termination of repetitive inspections. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2024–0154 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 NPRM and the MCAI.”

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 EASA AD 2024–0154 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2024–0154 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in

EASA AD 2024–0154 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2024–0154. Material required by EASA AD 2024–0154 for compliance will be available at *regulations.gov* under Docket No. FAA–2024–2667 after the FAA final rule is published.

Differences Between This NPRM and the MCAI

Paragraph (4) of EASA AD 2024–0154 specifies that an optional modification of an airplane in accordance with the instructions of the modification service bulletins cited in EASA AD 2024–0154 allows for the termination of repetitive inspections. However, the optional modification service bulletins include detailed inspections for damage (*i.e.*, any worn or ruptured bonding strap), but do not specify corrective actions if any damage is found. This proposed AD

would require doing corrective actions, as specified in paragraph (3) of EASA AD 2024–0154, if any worn or ruptured bonding strap is detected during the detailed inspection. The FAA has added an exception to EASA AD 2024–0154 in paragraph (h)(5) of this proposed AD accordingly.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 23 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
44 work-hours × \$85 per hour = \$3,740	\$0	\$3,740	\$86,020

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
56 work-hours × \$85 per hour = \$4,760	\$1,500	\$6,260

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

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

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

ESTIMATED COSTS OF ON-CONDITION REPLACEMENT

Labor cost	Parts cost	Cost per product
10 work-hours × \$85 per hour = \$850	\$117	\$967

The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this 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:

- a. Removing Airworthiness Directive (AD) 2024–03–07, Amendment 39–22677 (89 FR 17723, March 12, 2024) and
- b. Adding the following new AD:

Deutsche Aircraft GmbH (Type Certificate Previously Held by 328 Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH): Docket No. FAA–2024–2667; Project Identifier MCAI–2024–00473–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 6, 2025.

(b) Affected ADs

This AD replaces AD 2024–03–07, Amendment 39–22677 (89 FR 17723, March 12, 2024) (AD 2024–03–07).

(c) Applicability

This AD applies to all Deutsche Aircraft GmbH Model 328–100 and 328–300 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by operator reports of worn and ruptured bonding straps inside the feeder wing tanks and in both outer and inner wing tanks. The FAA is issuing this AD to address damaged bonding straps. The unsafe condition, if not addressed, could result in the loss of bonding function and, in combination with a lightning strike, create a source of ignition in a fuel tank, possibly resulting in a fire or explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2024–0154, dated August 2, 2024 (EASA AD 2024–0154).

(h) Exceptions to EASA AD 2024–0154

(1) Where EASA AD 2024–0154 refers to July 26, 2023 (the effective date of EASA AD 2023–0137), this AD requires using April 16, 2024 (the effective date of AD 2024–03–07).

(2) Where EASA AD 2024–0154 refers to its effective date, this AD requires using the effective date of this AD.

(3) This AD does not adopt the “Remarks” section of EASA AD 2024–0154.

(4) Where paragraph (3) of EASA AD 2024–0154 specifies if “any damage is detected as defined in the inspection ASB,” this AD requires replacing those words with “any worn or ruptured bonding strap is detected.”

(5) Where paragraph (4) of EASA AD 2024–0154 specifies “Modification of an aeroplane in accordance with the instructions of the modification SB,” this AD requires replacing those words with “Accomplishing a modification, including doing detailed inspections, of an airplane in accordance with the instructions of the modification SB, and doing corrective actions if any worn or

ruptured bonding strap is detected as specified in paragraph (3).”

(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 attention of the person identified in paragraph (j) of this AD and email 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.

(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 Deutsche Aircraft GmbH’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Additional Information

For more information about this AD, contact Joe Salameh, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3536; email joe.salameh@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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 2024–0154, dated August 2, 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-locationsoremailfr.inspection@nara.gov.

Issued on December 17, 2024.

Victor Wicklund,

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

[FR Doc. 2024–30549 Filed 12–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2668; Project Identifier AD–2024–00561–E]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2023–09–06, which applies to all CFM International, S.A. Model (CFM) LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26CJ, LEAP–1A26E1, LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A (LEAP–1A) engines. AD 2023–09–06 requires replacement of certain high-pressure turbine (HPT) rotor stage 1 disks (HPT stage 1 disks), forward outer seals, and compressor rotor stages 6–10 spools. AD 2023–09–06 also prohibits installation of an HPT stage 1 disk, forward outer seal, or compressor rotor stages 6–10 spool that has a part number and serial number identified in the service information onto any engine. Since the FAA issued AD 2023–09–06, the manufacturer identified additional affected parts that were manufactured from material suspected to have reduced material properties due to iron inclusion, which prompted this AD. This proposed AD would retain the requirements to replace certain HPT stage 1 disks, forward outer seals, and compressor rotor stages 6–10 spools and expand the applicability to include additional affected parts manufactured from the same material suspected to have reduced material properties due to iron inclusion. 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 February 6, 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](https://www.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](https://www.regulations.gov) under Docket No. FAA–2024–2668; 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.

Material Incorporated by Reference:

- For CFM material identified in this proposed AD, contact CFM, GE Aviation Fleet Support, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45215; phone: (877) 432–3272; email: aviation.fleetsupport@ge.com.

- 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:

Mehdi Lamnyi, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7743; email: mehdi.lamnyi@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–2024–2668; Project Identifier AD–2024–00561–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](https://www.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 Mehdi Lamnyi, 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 2023–09–06, Amendment 39–22429 (88 FR 32092, May 19, 2023) (AD 2023–09–06), for all CFM Model LEAP–1A engines. AD 2023–09–06 was prompted by a manufacturer investigation that revealed that certain HPT stage 1 disks, forward outer seals, and compressor rotor stages 6–10 spools were manufactured from material suspected to have reduced material properties due to iron inclusion. AD 2023–09–06 requires replacement of certain HPT stage 1 disks, forward outer seals, and compressor rotor stages 6–10 spools. The agency issued AD 2023–09–06 to prevent fracture and consequent uncontained failure of certain HPT stage 1 disks, forward outer seals, and compressor rotor stages 6–10 spools.

Actions Since AD 2023–09–06 Was Issued

Since the FAA issued AD 2023–09–06, further analysis by the manufacturer identified additional affected parts that were manufactured from material suspected to have reduced material properties due to iron inclusion. This condition, if not addressed, could result in uncontained debris release, damage

to the engine, 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.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed CFM Service Bulletin LEAP–1A–72–00–0507–01A–930A–D, Issue 001, dated January 24, 2024, which identifies the part numbers and serial numbers of HPT stage 1 disks, forward outer seals, and compressor rotor stages 6–10 spools with potentially reduced material properties and specifies procedures for replacement of these parts.

This proposed AD would also require the following material, which the Director of the Federal Register approved for incorporation by reference as of June 23, 2023 (88 FR 32092, May 19, 2023):

- CFM Service Bulletin LEAP–1A–72–00–0470–01A–930A–D, Issue 003, dated March 3, 2023.

- CFM Service Bulletin LEAP–1A–72–00–0493–01A–930A–D, Issue 002, dated November 17, 2022.

- CFM Service Bulletin LEAP–1A–72–00–0496–01A–930A–D, Issue 001, dated March 7, 2023.

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.

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the requirements of AD 2023–09–06. This proposed AD would require replacement of certain HPT stage 1 disks, forward outer seals, and compressor rotor stages 6–10 spools. This proposed AD would also prohibit installation of an HPT stage 1 disk, forward outer seal, or compressor rotor stages 6–10 spool that has a part number and serial number identified in the material incorporated by reference onto any engine.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 42 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 HPT stage 1 disk (42 affected parts).	8 work-hours × \$85 per hour = \$680.	\$215,635 (pro-rated)	\$216,315	\$9,085,230
Replace forward outer seal (24 affected parts).	8 work-hours × \$85 per hour = \$680.	\$47,500 (pro-rated)	48,180	1,156,320
Replace compressor rotor stages 6–10 spool (15 affected parts).	8 work-hours × \$85 per hour = \$680.	\$37,660 (pro-rated)	38,340	575,100

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 2023–09–06, Amendment 39–22429 (88 FR 32092, May 19, 2023); and
- b. Adding the following new airworthiness directive:

CFM International, S.A.: Docket No. FAA–2024–2668; Project Identifier AD–2024–00561–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 6, 2025.

(b) Affected ADs

This AD replaces AD 2023–09–06, Amendment 39–22429 (88 FR 32092, May 19, 2023) (AD 2023–09–06).

(c) Applicability

This AD applies to CFM International, S.A. Model (CFM) LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26CJ, LEAP–1A26E1, LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section; 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a manufacturer investigation that revealed that certain high-pressure turbine (HPT) rotor stage 1 disks (HPT stage 1 disks), forward outer seals, and compressor rotor stages 6–10 spools were manufactured from material suspected to have reduced material properties due to iron inclusion. The FAA is issuing this AD to prevent fracture and consequent uncontained failure of certain HPT stage 1 disks, forward outer seals, and compressor rotor stages 6–10 spools. The unsafe condition, if not addressed, could result in uncontained debris release, 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

(1) For engines with an installed HPT stage 1 disk, forward outer seal or compressor rotor stages 6–10 spool having a part number (P/N) and serial number (S/N) identified in Compliance, paragraph 3.E., Tables 1 through 9, of CFM Service Bulletin (SB) LEAP–1A–72–00–0496–01A–930A–D, Issue 001, dated March 7, 2023 (CFM SB LEAP–1A–72–00–0496–01A–930A–D): At the next piece-part exposure of the HPT stage 1 disk, forward outer seal, or compressor rotor stages 6–10 spool, as applicable, or before exceeding the applicable cycles since new (CSN) threshold identified in Compliance, paragraph 3.E., Tables 1 through 9, of CFM SB LEAP–1A–72–00–0496–01A–930A–D, whichever occurs first after June 23, 2023 (the effective date of AD 2023–09–06); or if the applicable CSN threshold has been exceeded as of June 23, 2023 (the effective date of AD 2023–09–06), within 50 flight cycles (FCs) from June 23, 2023 (the effective date of AD 2023–09–06); remove the HPT stage 1 disk, forward outer seal, or compressor rotor stages 6–10 spool, as applicable, from service and replace with a part eligible for installation.

(2) For engines with an installed forward outer seal having a P/N and S/N identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM SB LEAP–1A–72–00–0470–01A–930A–D, Issue 003, dated March 3, 2023 (CFM SB LEAP–1A–72–00–0470–01A–930A–D): At the next piece-part exposure of the forward outer seal, or before exceeding the applicable CSN threshold identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM SB LEAP–1A–72–00–0470–01A–930A–D, whichever occurs first after June 23, 2023 (the effective date of AD 2023–09–06); or if the applicable CSN threshold has been exceeded as of June 23, 2023 (the effective date of AD 2023–09–06), within 50 FCs from June 23, 2023 (the effective date of AD 2023–09–06); remove the forward outer seal from service and replace with a part eligible for installation.

(3) For engines with an installed HPT stage 1 disk having a P/N and S/N identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM SB LEAP–1A–72–00–0493–01A–930A–D, Issue 002, dated November 17, 2022 (CFM SB LEAP–1A–72–00–0493–01A–930A–D): At the next piece-part exposure of the HPT stage 1 disk, or before exceeding the applicable CSN threshold identified in Compliance, paragraph 3.E., Tables 1 through

2, of CFM SB LEAP-1A-72-00-0493-01A-930A-D, whichever occurs first after June 23, 2023 (the effective date of AD 2023-09-06); or if the applicable CSN threshold has been exceeded as of June 23, 2023 (the effective date of AD 2023-09-06), within 50 FCs from June 23, 2023 (the effective date of AD 2023-09-06), remove the HPT stage 1 disk from service and replace with a part eligible for installation.

(4) For engines with an installed HPT stage 1 disk having a P/N and S/N identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM SB LEAP-1A-72-00-0507-01A-930A-D, Issue 001, dated January 24, 2024 (CFM SB LEAP-1A-72-00-0507-01A-930A-D): At the next piece-part exposure of the HPT stage 1 disk, or before exceeding the applicable CSN threshold identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM SB LEAP-1A-72-00-0507-01A-930A-D, whichever occurs first after the effective date of this AD; or if the applicable CSN threshold has been exceeded as of the effective date of this AD, within 50 FCs from the effective date of this AD; remove the HPT stage 1 disk from service and replace with a part eligible for installation.

(h) Definition

For the purpose of this AD, a “part eligible for installation” is an HPT stage 1 disk, forward outer seal, or compressor rotor stages 6–10 spool that does not have a P/N and S/N identified in the service information listed in paragraphs (g)(1) through (4) of this AD.

(i) Installation Prohibition

After the effective date of this AD, do not install an HPT stage 1 disk, forward outer seal, or compressor rotor stages 6–10 spool that has a P/N and S/N identified in the service information listed in paragraphs (g)(1) through (4) of this AD on any engine.

(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 Mehdi Lamnyi, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238-7743; email: mehdi.lamnyi@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.

(3) The following material was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) CFM Service Bulletin LEAP-1A-72-00-0507-01A-930A-D, Issue 001, dated January 24, 2024.

(ii) [Reserved]

(4) The following material was approved for IBR on June 23, 2023 (88 FR 32092, May 19, 2023).

(i) CFM Service Bulletin LEAP-1A-72-00-0470-01A-930A-D, Issue 003, dated March 3, 2023.

(ii) CFM Service Bulletin LEAP-1A-72-00-0493-01A-930A-D, Issue 002, dated November 17, 2022.

(iii) CFM Service Bulletin LEAP-1A-72-00-0496-01A-930A-D, Issue 001, dated March 7, 2023.

(5) For CFM material identified in this AD, contact CFM International, S.A., GE Aviation Fleet Support, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45215; phone: (877) 432-3272; email: aviation.fleetsupport@ge.com.

(6) 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.

(7) 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 December 17, 2024.

Suzanne Masterson,

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

[FR Doc. 2024-30539 Filed 12-20-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-2663; Project Identifier MCAI-2023-00200-R]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters

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 Airbus Helicopters Model EC225LP helicopters. This proposed AD

was prompted by the identification of missing electrical bonding on a certain part-numbered additional and optional search light (search light). This proposed AD would require installing an electrical bonding braid modification and prohibit installing that part-numbered search light unless the modification is done. These actions are 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 February 6, 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](https://www.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](https://www.regulations.gov) under Docket No. FAA-2024-2663; 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; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N 321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-2663.

FOR FURTHER INFORMATION CONTACT: Kurt Ladendorf, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222-5254; email: Kurt.D.Ladendorf@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–2024–2663; Project Identifier MCAI–2023–00200–R” 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 Kurt Ladendorf, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5254; email: Kurt.D.Ladendorf@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2023–0030, dated February 2, 2023 (EASA AD 2023–0030) (also referred to as the MCAI), to correct an unsafe condition on Airbus Helicopters Model EC 225 LP

helicopters, except helicopters having Airbus Helicopters modification MC29201 embodied in production. The MCAI states missing electrical bonding was identified on a certain part-numbered search light installed on some Model EC 225 LP helicopters. The MCAI further states that the location where the search light is installed is an area that could get struck by lightning, which, in case of a lightning strike, could lead to potential total loss of electrical distribution, with loss of electrically supplied systems, and subsequent reduced control of the helicopter.

The FAA is proposing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–2663.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2023–0030 requires installing an electrical bonding braid modification for a certain part-numbered search light under the sponson. EASA AD 2023–0030 also prohibits installing that part-numbered search light from being installed unless its requirements are met.

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 EASA AD 2023–0030, described previously, as incorporated by reference, 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.”

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 EASA AD 2023–0030 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2023–0030 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2023–0030 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2023–0030. Material referenced in EASA AD 2023–0030 for compliance will be available at *regulations.gov* under Docket No. FAA–2024–2663 after the FAA final rule is published.

Differences Between This Proposed AD and the MCAI

The MCAI allows a +10% tolerance to the calendar compliance time to install the electrical bonding braid modification, whereas this proposed AD would not allow that tolerance. If the insulation resistance value is 8 or more ohms as a result of the continuity test that is specified in the material referenced in EASA AD 2023–0030, this proposed AD would require accomplishing corrective action in accordance with a method approved by the FAA, EASA, or Airbus Helicopters’ EASA Design Organization Approval, whereas the MCAI and the material referenced in the MCAI are not specific about the continuity test.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 9 helicopters of U.S. Registry. Labor rates are estimated at \$85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Installing an electrical bonding braid modification would take 14 work-hours and parts would cost \$16,370 for an estimated cost of \$17,560 per helicopter and up to \$158,040 for the U.S. fleet.

Performing a continuity test would take a minimal amount of time for a nominal cost. Depending on the results,

corrective action could vary significantly from helicopter to helicopter. The FAA has no data to determine the costs to accomplish the corrective action.

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:

Airbus Helicopters: Docket No. FAA–2024–2663; Project Identifier MCAI–2023–00200–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by February 6, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model EC225LP helicopters, certificated in any category, as identified in European Union Aviation Safety Agency AD 2023–0030, dated February 2, 2023 (EASA AD 2023–0030).

(d) Subject

Joint Aircraft System Component (JASC) Code: 1420, electrical connectors; and 2497, electrical power system wiring.

(e) Unsafe Condition

This AD was prompted by the identification of missing electrical bonding on additional and optional search lights. The FAA is issuing this AD to prevent a lightning current evacuating to the aircraft structure. In the event of a lightning strike, the unsafe condition, if not addressed, could result in potential total loss of electrical distribution, with loss of electrically supplied systems, and subsequent reduced control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0030.

Note 1 to paragraph (g): Appendix 4 of Airbus Helicopters Alert Service Bulletin No. EC225–33A018, dated December 15, 2023, which is referenced in EASA AD 2023–0030, identifies helicopter configurations (right-hand column of the table) by helicopter serial number (left-hand column of the table).

(h) Exceptions to EASA AD 2023–0030

(1) Where EASA AD 2023–0030 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2023–0030 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where Note 1 of EASA AD 2023–0030 specifies that a tolerance of +10% may be applied to the calendar compliance time specified in paragraph (1) of EASA AD 2023–0030, this AD does not allow that tolerance.

(4) Where the material referenced in EASA AD 2023–0030 specifies discarding parts, this

AD requires removing those parts from service.

(5) This AD requires replacing text as specified in paragraphs (h)(5)(i) through (v) of this AD.

(i) Where the material referenced in EASA AD 2023–0030 specifies to "do the electrical bonding," this AD requires replacing that text with "install the electrical bonding braid."

(ii) Where the material referenced in EASA AD 2023–0030 specifies to "bond the labels "741VN" and "742VN" of the set of labels (8) as close as possible from the equipment (SECTION A–A and B–B)," this AD requires replacing that text with "apply labels "741VN" and "742VN" of the set of labels (8) directly adjacent to the grounding point as depicted in Figure 6, Section A–A and Section B–B."

(iii) Where the material referenced in EASA AD 2023–0030 specifies to "remove and keep," this AD requires replacing that text with, "remove."

(iv) Where the material referenced in EASA AD 2023–0030 specifies to "locate the hole (A) in accordance to the position," this AD requires replacing that text with "determine the position of hole (A) in Figure 4, Detail B."

(v) Where the material referenced in EASA AD 2023–0030 specifies to paint strip the hole on "the both face," this AD requires replacing the text "the both face" with "each side."

(6) Where the material referenced in EASA AD 2023–0030 specifies to do a continuity test, if the insulation resistance value is 8 or more ohms as a result of the continuity test, this AD requires, before further flight, accomplishing corrective action in accordance with a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus Helicopters' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(7) This AD does not adopt the "Remarks" section of EASA AD 2023–0030.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2023–0030 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

(1) 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 local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, 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 local flight standards district office/certificate holding district office.

(k) Related Information

(1) For more information about this AD, contact Kurt Ladendorf, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222-5254; email: Kurt.D.Ladendorf@faa.gov.

(2) For Airbus Helicopters material identified in this AD that is not incorporated by reference, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; phone: (972) 641-0000 or (800) 232-0323; fax: (972) 641-3775; website: airbus.com/en/products-services/helicopters/hcare-services/airbusworld.

(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 2023-0030, dated February 2, 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 the EASA material on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. 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 December 16, 2024.

Victor Wicklund,

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

[FR Doc. 2024-30374 Filed 12-20-24; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2024-2048; Airspace Docket No. 24-AWP-101]

RIN 2120-AA66

Modification of Class E Airspace; Colusa County Airport, Colusa, CA**Correction**

Proposed Rule Document 2024-27837, appearing on pages 94601-94603, in the issue of Friday, November 29, 2024, was incorrectly published in

the Rules section and should have appeared in the Proposed Rules section.

[FR Doc. C1-2024-27837 Filed 12-19-24; 2:00 pm]

BILLING CODE 0099-10-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[REG-106595-22]

RIN 1545-BQ83

Substantiation Requirements and Qualified Nonpersonal Use Vehicles; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects a notice of proposed rulemaking (REG-106595-22), published in the **Federal Register** on December 3, 2024, containing proposed regulations relating to the definition of qualified nonpersonal use vehicles.

DATES: Written or electronic comments and requests for a public hearing must be received by March 3, 2025.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (indicate IRS and REG-106595-22) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal Rulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically or on paper, to the IRS’s public docket. Send paper submissions to CC:PA:01:PR (REG-106595-22), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Stephanie Caden at (202) 317-4774; concerning submissions of comments or requests for a public hearing, the Publications and Regulations section by email at publichearings@irs.gov (preferred) or (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:**Background**

The notice of proposed rulemaking (REG-106595-22) that is subject to this correction contains proposed regulations issued under the authority granted to the Secretary of the Treasury or her delegate (Secretary) by sections 274(p) and 132(o) of the Internal Revenue Code (Code) that would amend the Income Tax Regulations (26 CFR part 1) under sections 274(i) and 132(d) related to qualified nonpersonal use vehicles.

Correction of Publication

Accordingly, FR Doc. 2024-28040 (REG-106595-22), appearing on page 95727 in the **Federal Register** on Tuesday, December 3, 2024, is corrected on page 95727, in the second column, under the caption **FOR FURTHER INFORMATION CONTACT**, the second line is corrected to read “Stephanie Caden at (202) 317-4774;”.

Aron L. Cosby,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2024-30280 Filed 12-20-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF DEFENSE**Office of the Secretary****32 CFR Part 310**

[Docket ID: DoD-2024-OS-0135]

RIN 0790-AL55

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary of Defense (OSD), Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: The Department of Defense (Department or DoD) is giving concurrent notice of a new Department-wide system of records pursuant to the Privacy Act of 1974 for the DoD-0023, “Military Corrections and Parole Board Records” system of records and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of this system of records from certain provisions of the Privacy Act because of national security and law enforcement requirements.

DATES: Send comments on or before February 21, 2025.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods.

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

* *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or Regulation Identifier Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Rahwa Keleta, Defense Privacy and Civil Liberties Directorate, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700; OSD.DPCLTD@mail.mil; (703) 571–0070.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, the DoD is establishing a new system of records titled, “Military Corrections and Parole Board Records,” DoD–0023. This system of records describes DoD’s collection, use, and maintenance of records covering military Service members confined for violation of the Uniform Code of Military Justice. These records include information on prisoner’s confinement, health assessment, disciplinary actions while in confinement, observations by confinement staff and United States probation officers, and confinement utilization assessments such as basis for correctional treatment and education programs. The records also include information used for clemency and parole decisions conducted by the military Departments’ Clemency and Parole Boards.

II. Privacy Act Exemption

The Privacy Act allows Federal agencies to exempt eligible records in a system of records from certain provisions of the Act, including those that provide individuals with a right to request access to and amendment of their own records. If an agency intends to exempt a particular system of records, it must first undertake the rulemaking

process to provide public notice and an opportunity to comment on the proposed exemption. This proposed rule explains why an exemption is being claimed for this system of records and invites public comment, which DoD will consider before the issuance of a final rule implementing the exemption.

The DoD proposes to modify 32 CFR part 310 to add a new Privacy Act exemption rule for the DoD–0023, “Military Corrections and Parole Board Records” system of records. The DoD proposes this exemption because some of its records may contain classified national security information and disclosure of those records to an individual may cause damage to national security. The Privacy Act, pursuant to 5 U.S.C. 552a(k)(1), authorizes agencies to claim an exemption for systems of records that contain information properly classified pursuant to executive order. The DoD is proposing to claim an exemption from the access and amendment requirements and certain disclosure accounting requirements of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(1), to prevent disclosure of any information properly classified pursuant to executive order, as implemented by DoD Instruction 5200.01 and DoD Manual 5200.01, Volumes 1 and 3.

The DoD also proposes to exempt this system of records because these records support the conduct of criminal law enforcement activities, and certain requirements of the Privacy Act may interfere with the effective execution of these activities, and undermine, good order and discipline. The Privacy Act, pursuant to 5 U.S.C. 552a(j)(2), authorizes agencies with a principal law enforcement function pertaining to the enforcement of criminal laws (including activities of prosecutors, courts, etc.) to claim an exemption for systems of records that contain information identifying criminal offenders and alleged offenders, information compiled for the purpose of criminal investigation, or reports compiled during criminal law enforcement proceedings. Additionally, the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2), authorizes agencies to compile investigatory material for law enforcement purposes, other than materials within the scope of 5 U.S.C. 552a(j)(2). The DoD is proposing to claim exemptions from several provisions of the Privacy Act, including various access, amendment, disclosure accounting, and notice requirements, pursuant to 5 U.S.C. 552a(j)(2) and 552a(k)(2), to prevent the harms articulated in this rulemaking from occurring.

If implemented, this rulemaking will deny an individual access under the Privacy Act to only those portions of records for which one or more claimed exemptions apply. In addition, records in this system of records are only exempt from the Privacy Act to the extent the purposes underlying the exemption pertain to the record.

A notice of a new system of records for DoD–0023, “Military Corrections and Parole Board Records,” is published elsewhere in this issue of the **Federal Register**.

Regulatory Analysis

Executive Order 12866, “Regulatory Planning and Review,” as Amended by Executive Order 14094, “Modernizing Regulatory Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review.”

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, distribute 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. It has been determined that this rulemaking is not a significant regulatory action.

Section 202, Public Law 104–4, “Unfunded Mandates Reform Act”

Section 202(a) of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532(a)) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates may result in the expenditure by State, local and Tribal governments in the aggregate, or by the private sector, in any one year of \$100 million in 1995 dollars, updated annually for inflation. This rulemaking will not mandate any requirements for State, local, or Tribal governments, nor will it affect private sector costs.

Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. Chapter 6)

The Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency has certified that this rulemaking is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This

rulemaking is concerned only with the administration of Privacy Act systems of records within the DoD. Therefore, the Regulatory Flexibility Act, as amended, does not require DoD to prepare a regulatory flexibility analysis.

Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) was enacted to minimize the paperwork burden for individuals; small businesses; educational and nonprofit institutions; Federal contractors; State, local and Tribal governments; and other persons resulting from the collection of information by or for the Federal Government. The Act requires agencies obtain approval from the Office of Management and Budget before using identical questions to collect information from ten or more persons. This rulemaking does not impose reporting or recordkeeping requirements on the public.

Executive Order 13132, “Federalism”

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that has federalism implications, imposes substantial direct compliance costs on State and local governments, and is not required by statute, or has federalism implications and preempts State law. This rulemaking will not have a substantial effect on State and local governments.

Executive Order 13175, “Consultation and Coordination With Indian Tribal Governments”

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on one or more Indian tribes, preempts Tribal law, or affects the distribution of power and responsibilities between the Federal Government and Indian tribes. This rulemaking will not have a substantial effect on Indian Tribal governments.

List of Subjects in 32 CFR Part 310

Privacy.

Accordingly, the Department of Defense proposes to amend 32 CFR part 310 as follows:

PART 310—PROTECTION OF PRIVACY AND ACCESS TO AND AMENDMENT OF INDIVIDUAL RECORDS UNDER THE PRIVACY ACT OF 1974

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 5 U.S.C. 552a.

■ 2. Amend § 310.13 by:

■ a. Adding reserved paragraphs (e)(15) and (16).

■ b. Adding paragraph (e)(17).

The additions read as follows:

§ 310.13 Exemptions for DoD-wide systems.

* * * * *

(e) * * *

(15)–(16) [Reserved]

(17) *System identifier and name.*

DoD–0023, “Military Correction and Parole Board Records”.

(i) *Exemptions.* When applying exemption (j)(2), this system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G), (4)(H), and 4(I), (5), and (8); (f); and (g). When applying exemption (k)(1) and (k)(2), this system of records is exempt from 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G), (4)(H), (4)(I), and (5), and (f).

(ii) *Authority.* 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2).

(iii) *Exemption from the particular subsections.* Exemption from the particular subsections is justified for the following reasons:

(A) *Subsection (c)(3), (d)(1), and (d)(2)—(1) Exemption (j)(2).* Records in this system of records may contain investigatory material compiled for criminal law enforcement purposes to include information identifying criminal offenders and alleged offenders, information compiled for the purpose of criminal investigation, or reports compiled during criminal law enforcement proceedings. Application of exemption (j)(2) may be necessary as access to, amendment of, or release of the accounting of disclosures of such records could: Inform the record subject of an investigation of the existence, nature, or scope of an actual or potential law enforcement or disciplinary investigation, and thereby seriously impede law enforcement, prosecutorial, or disciplinary efforts by permitting the record subject and other persons to whom he might disclose the records to avoid criminal penalties, or disciplinary measures; reveal confidential sources who might not have otherwise come forward to assist in an investigation and thereby hinder DoD’s ability to obtain information from future confidential sources and result in an unwarranted invasion of the privacy of others.

(2) *Exemption (k)(1).* Records in this system of records may contain information concerning DoD personnel or disciplinary activities that is properly classified pursuant to executive order. Application of exemption (k)(1) for such records may be necessary because access to and amendment of the records, or release of the accounting of disclosures for such records could reveal classified information. Disclosure of classified records to an individual may cause damage to national security.

(3) *Exemption (k)(2).* Records in this system of records may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2). Application of exemption (k)(2) for such records may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could: inform the record subject of an investigation of the existence, nature, or scope of an actual or potential law enforcement or disciplinary investigation, and thereby seriously impede law enforcement, disciplinary, or prosecutorial efforts by permitting the record subject and other persons to whom he might disclose the records or the accounting of records to avoid criminal penalties, civil remedies, or disciplinary measures; interfere with a civil or administrative action or investigation which may impede those actions or investigations; reveal confidential sources who might not have otherwise come forward to assist in an investigation and thereby hinder DoD’s ability to obtain information from future confidential sources; and result in an unwarranted invasion of the privacy of others.

(B) *Subsection (c)(4), (d)(3) and (4).* These subsections are inapplicable to the extent that an exemption is being claimed from subsections (d)(1) and (2).

(C) *Subsection (e)(1).* In the collection of information for investigatory or law enforcement purposes, it is not always possible to conclusively determine the relevance and necessity of particular information in the early stages of the investigation or adjudication. In some instances, it will be only after the collected information is evaluated in light of other information that its relevance and necessity for effective investigation and adjudication can be assessed. Collection of such information permits more informed decision-making by the Department when making required disciplinary and prosecutorial determinations. Additionally, records within this system may be properly classified pursuant to executive order. Accordingly, application of exemptions

(j)(2), (k)(1), and (k)(2) may be necessary.

(D) *Subsection (e)(2)*. To collect information from the subject individual could serve notice that he or she is the subject of a criminal investigation and thereby present a serious impediment to such investigations. Collection of information only from the individual accused of criminal activity or misconduct could also subvert discovery of relevant evidence and subvert the course of justice. Accordingly, application of exemption (j)(2) may be necessary.

(E) *Subsection (e)(3)*. To inform individuals as required by subsection (e)(3) could reveal the existence of a criminal investigation and compromise investigative efforts. Accordingly, application of exemption (j)(2) may be necessary.

(F) *Subsections (e)(4)(G) and (H)*. These subsections are inapplicable to the extent an exemption is claimed from subsections (d)(1) and (2).

(G) *Subsection (e)(4)(I)*. To the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(H) *Subsection (e)(5)*. It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined through judicial processes. Accordingly, application of exemption (j)(2) may be necessary.

(I) *Subsection (e)(8)*. To serve notice could give persons sufficient warning to evade investigative efforts. Accordingly, application of exemption (j)(2) may be necessary.

(J) *Subsection (f)*. The agency's rules are inapplicable to those portions of the system that are exempt. Accordingly, application of exemptions (j)(2), (k)(1), and (k)(2) may be necessary.

(K) *Subsection (g)*. This subsection is inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act. Accordingly, application of exemption (j)(2) may be necessary.

(iv) *Exempt records from other systems*. In the course of carrying out the overall purpose for this system, exempt records from other systems of records may in turn become part of the records maintained in this system. To the extent that copies of exempt records from those other systems of records are maintained in this system, the DoD claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the prior system(s) of which they are a part, provided the reason for the exemption remains valid and necessary.

Dated: December 11, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–29639 Filed 12–20–24; 8:45 am]

BILLING CODE 6001–FR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2023–0262; FRL–12160–01–OAR]

RIN 2060–AW41

Regional Haze Third Implementation Period; Extension of the State Implementation Plan Due Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing revisions to the Regional Haze Rule under the Clean Air Act (CAA) to change the due date for the next round of State Implementation Plans (SIPs) for the third implementation period. Under the Regional Haze Rule, States must submit plans to protect visibility in mandatory Class I Federal areas (Class I areas) to continue reasonable progress towards natural visibility.

DATES: Comments must be received on or before February 6, 2025.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2023–0262, by any of the following methods: via the Federal eRulemaking Portal, <http://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.

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: Ms. Paige Wantlin, Air Quality Policy Division, Office of Air Quality Planning and Standards (Mailcode C539–01), Environmental Protection Agency, 109 TW Alexander Drive, Research Triangle Park, NC 27711; telephone number: (919) 541–5760; email address: Wantlin.Paige@epa.gov or Mr. Brian Timin, Air Quality Policy Division, Office of Air Quality Planning and Standards (Mailcode C539–01), Environmental Protection Agency, 109 TW Alexander Drive, Research Triangle Park, NC 27711; telephone number: (919) 541–1850; email address: Timin.Brian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2023–0262, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full the EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

II. General Information

A. Preamble Glossary of Terms and Acronyms

The following are abbreviations of terms used in this document.

CAA Clean Air Act

CFR Code of Federal Regulations
 EGU Electric generating unit
 EPA Environmental Protection Agency
 FLM(s) Federal Land Managers
 NAAQS National Ambient Air Quality Standards
 NO_x Nitrogen oxides
 OMB Office of Management and Budget
 PM Particulate matter
 PM_{2.5} Particulate matter equal to or less than 2.5 microns in diameter (fine particulate matter)
 PM₁₀ Particulate matter equal to or less than 10 microns in diameter
 PRA Paperwork Reduction Act
 RPG Reasonable progress goal
 SIP State implementation plan
 SO₂ Sulfur dioxide

B. Does this action apply to me?

Entities potentially affected directly by this proposed rule include State, local and Tribal governments, as well as Federal Land Managers (FLMs) responsible for protection of visibility in mandatory Class I areas. Entities potentially affected indirectly by this proposed rule include owners and operators of sources that emit particulate matter equal to or less than 10 microns in diameter (PM₁₀), particulate matter equal to or less than 2.5 microns in diameter (PM_{2.5} or fine PM), sulfur dioxide (SO₂), oxides of nitrogen (NO_x), volatile organic compounds and other pollutants that may cause or contribute to visibility impairment. Others potentially affected indirectly by this proposed rule include members of the general public who live, work or recreate nearby or in mandatory Class I areas affected by visibility impairment. Because emissions sources that contribute to visibility impairment in Class I areas also may contribute to air pollution in other areas, members of the general public may also be affected by this proposed rulemaking.

C. What should I consider as I prepare my comments for the EPA?

When submitting comments, remember to identify the rulemaking docket by docket number and other identifying information (such as subject heading and **Federal Register** date and page number). Commenters should follow directions described in the proposed rule by responding to specific questions or by organizing comments by referencing a Code of Federal Regulations (CFR) part or section number. Commenters should also explain why they agree or disagree, suggest alternatives, or substitute language for requested changes. To support comments, described any assumptions and provide any technical information and/or data that you used to support your comment. If you estimate potential costs or burdens, explain how

you arrived at your estimate in sufficient detail to allow for it to be reproduced. Please provide specific examples to illustrate your concerns wherever possible, suggest alternatives, and explain your views as clearly as possible while avoiding profanity or personal threats. Finally, make sure to submit your comments by the comment period deadline.

Please note that this proposed rulemaking is narrow in scope. Please focus your comments on only those sections of the CFR affected by our proposed changes. Comments that are outside the scope of this proposed action will not be considered.

D. Where can I obtain a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this **Federal Register** document will be posted at <http://www.epa.gov/visibility>.

*E. How is this **Federal Register** document organized?*

The information presented in this document is organized as follows:

- I. Public Participation
- II. General Information
 - A. Preamble Glossary of Terms and Acronyms
 - B. Does this action apply to me?
 - C. What should I consider as I prepare my comments for the EPA?
 - D. Where can I obtain a copy of this document and other related information?
 - E. How is this **Federal Register** document organized?
- III. What action is the EPA proposing to take?
- IV. What is the background for the EPA's proposed action?
 - A. Regional Haze
 - B. Requirements for Regional Haze SIPs for the Second Implementation Period
- V. Proposed Rule Changes
- VI. Environmental Justice Considerations
- VII. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review
 - B. Paperwork Reduction Act (PRA)
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks
 - H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income

Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All
 VIII. Statutory Authority

III. What action is the EPA proposing to take?

The EPA is proposing to revise the due date for the next required regional haze SIP revision from the current due date of July 31, 2028, to a revised due date of July 31, 2031. The revised SIP due date would apply to periodic comprehensive State implementation plans developed for the third regional haze implementation period.¹ The proposed change to the third regional haze SIP due date has no effect on prior due dates for the second² or prior³ implementation periods under the existing Regional Haze Rule. The EPA is also proposing to revise 40 CFR 51.308(f) to clarify that the due date for the fourth implementation period SIPs will still be due on July 31, 2038. The end date for the third implementation period is not being revised and will remain in 2038. Therefore, State plans will remain focused on emissions reduction measures designed to achieve reasonable progress by 2038, as required by the current rule. Other than the proposed change to the next due date for periodic comprehensive SIP revisions (*i.e.*, for those currently due in 2028) and clarifying the due date for future periodic comprehensive SIP revisions (*i.e.*, for those that will still be due in 2038), the EPA is proposing no other changes for due dates for future periodic comprehensive SIP revisions or future progress reports.

The EPA is proposing a third implementation period deadline change from July 31, 2028, to July 31, 2031, for several reasons, as described more fully later in this proposed action. The EPA intends to propose revisions to the Regional Haze Rule through a notice-and-comment rulemaking. Once finalized, these revisions would impact the third implementation period SIPs. The proposed extension rule revisions also clarify that the due date for the fourth implementation period SIPs remains 2038 and does not alter the previously established SIP schedule. The current SIP revision deadline of July 31, 2028, is not expected to provide States with enough time to develop their

¹ While the EPA uses "implementation period" in this notice of proposed rulemaking, we note that "planning period" may be used in other Regional Haze guidance, policy, and rules. The terms may be used interchangeably and convey the same meaning.

² SIP revisions for the second implementation period were due July 31, 2021.

³ SIPs for the first implementation period were due December 17, 2007.

regional haze SIP revisions to reflect any updated requirements based on the anticipated forthcoming rule revisions. In addition, extending the third implementation period SIP due date allows States to obtain and consider the potential emissions reductions resulting from implementing other near-term regulatory programs,⁴ including implementation of measures adopted as part of the regional haze second implementation period. The SIP due date extension would also allow States to develop SIP revisions for the third implementation period that are more integrated with State planning for these other programs. This was an advantage that was identified in feedback from States over prior implementation periods and that is anticipated to result in greater environmental progress than if planning for these multiple programs were not as well integrated.⁵

While the EPA is proposing the specific extended third implementation period SIP deadline of July 31, 2031, and clarifying the deadline remains July 31, 2038 for the fourth implementation period SIPs, the EPA is also soliciting comment on alternative deadline options for the third implementation period Haze SIPs. Commenters may suggest alternate deadline options for the third implementation period regional haze SIP revisions by submitting alternatives to Docket ID No. EPA-HQ-OAR-2023-0262 at <http://www.regulations.gov>. If commenters provide feedback identifying a date other than July 31, 2031, the EPA asks that comments also include the specific basis and/or rationale for the identified date.

IV. What is the background for the EPA's proposed action?

A. Regional Haze

Regional haze is visibility impairment that is produced by a multitude of sources and activities that are located across a broad geographic area and emit

PM₁₀, PM_{2.5} (e.g., sulfates, nitrates, organic carbon, elemental carbon and soil dust) and their precursors (e.g., SO₂, NO_x and, in some cases, ammonia and volatile organic compounds). Fine particle precursors react in the atmosphere to form PM_{2.5}, which impairs visibility by scattering and absorbing light. This light scattering reduces the clarity, color and visible distance that one can see. Particulate matter can also cause serious health effects in humans (including premature death, heart attacks, irregular heartbeat, aggravated asthma, decreased lung function and increased respiratory symptoms) and contribute to environmental effects such as acid deposition and eutrophication.

B. Requirements for Regional Haze SIPs for the Second Implementation Period

In 2017, the EPA revised the Regional Haze Rule (2017 RHR) to clarify States' obligations and streamline certain regional haze requirements for the second implementation period.⁶ These revisions to the regional haze program focused on the requirement that States' SIPs contain long-term strategies for making reasonable progress towards the national visibility goal. These reasonable progress requirements as revised in the 2017 rulemaking are codified at 40 CFR 51.308(f). Among other changes, the 2017 RHR adjusted the deadline for States to submit their second implementation period SIPs,⁷ clarified the order of analysis and the relationship between the reasonable progress goals and the long-term strategy and focused on making visibility improvements on the days with the most *anthropogenic* visibility impairment, as opposed to the days with the most visibility impairment overall. The EPA also revised requirements of the visibility protection program related to periodic progress reports and FLM consultation.

Currently, 40 CFR 51.308(f) requires States to submit periodic comprehensive revisions of implementation plans (referred to in this document as periodic comprehensive SIP revisions) addressing regional haze visibility impairment by no later than July 31, 2021, July 31, 2028, and every 10 years thereafter. All 50 States, the District of Columbia, and the U.S. Virgin Islands are required to submit regional haze SIPs satisfying the applicable requirements for the second

implementation period of the regional haze program. Each SIP must contain a long-term strategy for making reasonable progress toward meeting the national goal of remedying any existing and preventing any future anthropogenic visibility impairment in Class I areas.⁸ To this end, 40 CFR 51.308(f) lays out the process by which States determine what constitutes their long-term strategies, with the order of the requirements in 40 CFR 51.308(f)(1) through (3) generally mirroring the order of the steps in the reasonable progress analysis⁹ and 40 CFR 51.308(f)(4) through (6) containing additional, related requirements. In addition to satisfying the requirements at 40 CFR 51.308(f) related to reasonable progress, the regional haze SIP revisions for the second implementation period must address the requirements in 40 CFR 51.308(g)(1) through (5) pertaining to periodic reports describing progress towards the reasonable progress goals (RPGs), 40 CFR 51.308(f)(5), as well as requirements for FLM consultation that apply to all visibility protection SIPs and SIP revisions.¹⁰

For additional background on the EPA's regional haze program and the 2017 RHR revisions, please refer to Section III. Overview of Visibility Protection Statutory Authority, Regulation, and Implementation of "Protection of Visibility: Amendments to Requirements for State Plans" of the 2017 RHR.¹¹

V. Proposed Rule Changes

The EPA has announced its intention to revise the Regional Haze Rule, in part to incorporate lessons learned from the implementation of the rule in the second implementation period. Given that such revisions have not yet been proposed, we are proposing to extend the SIP due date timeline to avoid a situation where the rule revisions are finalized too close in time to the existing timeline, resulting in State inability to meet that timeline. Therefore, we are proposing to extend the SIP deadline in anticipation that it will be necessary to provide States with sufficient time to take potential revisions into account when developing their SIPs. Indeed, we expect that extending the deadline to align with the

⁴ This includes programs such as the 2015 8-hour Ozone NAAQS Serious and Severe Area SIPs, implementation of the 2024 annual PM_{2.5} NAAQS revised standard, CAA section 111(d) EGU State plans, and CAA section 111(d)—OOOO(c) Oil and Gas State plans.

⁵ In early 2024, the EPA conducted a series of outreach webinars to inform stakeholders of EPA's intent to revise the Regional Haze Rule for the third implementation period. Comments on potential rule revisions were submitted to a non-regulatory docket (EPA-HQ-OAR-2023-0262). Many commenters requested that the EPA extend the third implementation period SIP deadline by 3–5 years following any major revision of the Regional Haze Rule given that regional haze SIP development requires many years and States do not yet know how any major regulatory revisions will impact the SIP development process. See FN 21 for more information.

⁶ 82 FR 3078 (January 10, 2017).

⁷ The 2017 RHR extended the deadline to submit second implementation period SIPs from July 31, 2018, to July 31, 2021. *Id.* at 3116–3118.

⁸ CAA 169A(b)(2)(B).

⁹ The EPA explained in the 2017 RHR Revisions that we were adopting new regulatory language in 40 CFR 51.308(f) that, unlike the structure in 51.308(d), "tracked the actual planning sequence." (82 FR 3091, January 10, 2017).

¹⁰ 40 CFR 51.308(i).

¹¹ See 82 FR 3078 (January 10, 2017, located at <https://www.federalregister.gov/documents/2017/01/10/2017-00268/protection-of-visibility-amendments-to-requirements-for-state-plans#h-16>).

forthcoming Regional Haze Rule revisions will result in a more effective program in terms of achieving the goal of improved visibility in Class I areas by aligning programmatic objectives with an opportunity for holistic air quality planning approaches across multiple criteria air pollutants. In addition, we are also proposing revisions that would clarify that the fourth implementation plans are still due on July 31, 2038, and do not significantly alter the originally intended SIP revision schedule.

Extension of the Next Regional Haze SIP Deadline From 2028 to 2031

The EPA is proposing to amend 40 CFR 51.308(f) to extend the compliance deadline for the third periodic comprehensive SIP revisions from July 31, 2028, to July 31, 2031. We are also proposing revisions to clarify that the compliance deadline for the fourth periodic comprehensive SIP revisions is still July 31, 2038. Periodic comprehensive SIP revisions for the third implementation period would be due on July 31, 2031, SIP revisions for the fourth implementation period would be due on July 31, 2038, and future periodic comprehensive SIP revisions would be due every 10 years thereafter. The EPA is not proposing to change the end date for the third implementation period, which will remain 2038 regardless of when States submit their SIP revisions. The EPA is also not proposing to amend the due date for third implementation period progress reports, which remain due in 2033.

The EPA is within its statutory authority to propose this deadline extension.¹² First, the EPA's proposal to extend the third implementation period's submission deadline by 3 years will not impact the EPA's statutory duty to ensure that reasonable progress towards natural visibility is being made at Class I areas. Section 169A(a)(4) of the CAA requires the EPA to promulgate regulations to assure (1) reasonable progress toward meeting the national goal of preventing any future and remedying any existing visibility impairment; and (2) compliance with other regional haze requirements. Then, CAA section 169A(b) generally outlines what EPA must cover in those regulations. Under CAA section 169A(b)(2)(B), regional haze SIP submissions must include, among other things, a long-term, 10-to-15-year, strategy for making reasonable progress toward meeting the national goal. Although second implementation

period SIPs were initially due in 2018, when the EPA extended that deadline to 2021,¹³ the second implementation period still ended in 2028. Therefore, the third implementation period's long-term strategy could end anywhere between 2038–2043. However, as outlined in this proposal, the EPA is proposing for the SIP submission deadline to be 2031, with the third implementation period still ending in 2038. Therefore, the timing of third implementation period SIPs will still allow for a long-term strategy that meets the statutory requirements and will not elongate the third implementation period. This is especially true given that the due date for the fourth periodic comprehensive SIP revisions is still July 31, 2038.

The EPA acknowledges that extending the deadline to submit third implementation SIPs by three years will also extend the timeframe for additional measures to be added to the State's long-term strategy by three years. However, between 2028 and 2031, existing regional haze implementation plans that include measures deemed necessary for reasonable progress for the first two implementation periods will continue to be in place. Additionally, if a State would ever wish to revise those measures being implemented under its current SIP, the State would have to submit a SIP revision for EPA review. In that review, the EPA is obligated to ensure, *inter alia*, that such a revision does not contribute to an increase in anthropogenic visibility impairment in any Class I area. Therefore, despite EPA's proposed 3-year extension, the measures deemed necessary for reasonable progress during the first two implementation periods will continue to ensure reasonable progress from 2028 to 2031 and beyond, unless the State submits a SIP revision.

Under the current rule, when determining what is necessary for reasonable progress within a given implementation period, States must consider the four statutory factors under CAA section 169A(g)(1).¹⁴ However, before considering the four statutory factors, States must conduct photochemical modeling and/or other technical analyses to estimate their contributions of anthropogenic visibility impairment in various Class I areas nationwide. States then select sources

for analysis under the four statutory factors to determine if new controls are necessary or if existing controls suffice to make reasonable progress and justify their decisions within their SIP. As discussed later in this section, States have indicated that it may take 4 years to complete this work. Providing States sufficient time to develop meaningful and comprehensive SIPs that address visibility improvement goals ultimately helps ensure that the SIPs contain measures that are necessary for reasonable progress and will in fact make progress towards the national goal of eliminating existing and preventing future visibility impairment.

Furthermore, while SIP development schedules can vary State-to-State, regional haze SIPs often take longer than 2 years to develop due to modeling and technical analyses that are performed up front, prior to SIP development. As an example, the most recent Regional Haze Rule revisions were published in January 2017 and gave States approximately 4.5 years from the publication date to submit final SIP revisions.¹⁵ Even with the 4-year notice, only 8 (out of 52 required) States submitted SIPs by the July 31, 2021, compliance deadline for the second implementation period. Multiple States claimed that the 4-year window was an insufficient period of time in which to develop legally compliant SIPs.¹⁶ While the EPA believes that States were given a reasonable amount of time to develop and submit their SIPs for the second implementation period, it is clear that States need time beyond the current 2028 deadline to complete the necessary technical work (which often includes photochemical modeling, as discussed earlier in this section), make appropriate and reasonable decisions on the content of their long-term strategies, fully document the work in a SIP submittal, satisfy the FLM consultation and public comment requirements, and sometimes lengthy State legislative requirements. Based on this past experience, we estimate that States will need approximately 4 years to complete this work. Given the current rule revisions schedule, that aligns with a 2031 third implementation period SIP due date.

Finally, extending the regional haze SIP due date will also allow States to coordinate regional haze planning with other CAA regulatory program planning,

¹³ 82 FR 3078 at 30116–3118 (January 10, 2017).

¹⁴ In determining what measures are necessary for reasonable progress, States must consider the cost of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements (CAA section 169A(g)(1)).

¹⁵ See 40 CFR 51.308(f): "Each State identified in § 51.300(b) must revise and submit its regional haze implementation plan revision to EPA by July 31, 2021, July 31, 2028, and every 10 years thereafter . . ."

¹⁶ See comments submitted to our non-regulatory docket (EPA–HQ–OAR–2023–0262), available at <https://www.regulations.gov/>.

¹² The EPA is authorized to promulgate the Regional Haze Rule under CAA sections 110, 114, 121, 160–169, and 169A.

including but not limited to the 2015 8-hr Ozone NAAQS Serious Area and Severe Area SIPs,¹⁷ implementation of the 2024 annual PM_{2.5} NAAQS revised standard,¹⁸ CAA section 111(d) electric generating unit (EGU) State Plans,¹⁹ and CAA section 111(d)—OOOO(c) Oil and Gas State Plans.²⁰ With this proposed extension, States would be able to gather more information on the effects of these programs and develop periodic comprehensive SIP revisions that are more integrated with State planning for these other programs, an advantage that has been identified by States in comments submitted to the non-regulatory docket.^{21 22} The Regional Haze Rule requires States to address the impacts of other regulatory programs when developing their regional haze SIPs and States have stressed the importance of coordination between programs. A number of other regulatory programs will be taking effect in the coming years, which presents a strategic opportunity for States to coordinate their strategies to address significant sources of emissions. The EPA expects this cross-program coordination to lead to better overall policies and enhanced environmental protection.

With this in mind, we are proposing this SIP due date extension for several reasons. First, the EPA has indicated its intent to develop a rulemaking that may substantively revise aspects of the Regional Haze Rule, which would impact the third implementation period SIPs, and possibly into future implementation periods. The public can track the EPA's progress on rulemakings through the EPA's Regulatory Agenda, which generally includes regulatory timelines.²³ Therefore, the current SIP revision deadline of July 31, 2028, will likely not provide States sufficient time to thoughtfully develop their regional

haze SIP revisions to reflect any updated requirements based on the anticipated timing of the forthcoming rule revisions. At this time, it is premature to explain how the current requirements in 40 CFR 51.308(f) will change; however, the EPA acknowledges that it has announced an intention to revise the Regional Haze Rule for purposes of the third implementation period on a timeline that is likely not consistent with the current third implementation period SIP due date, as previously described.

VI. Environmental Justice Considerations

When finalized, the proposed regulation will revise procedural and timing aspects of the SIP requirements for visibility protection but will not change the requirement that SIPs provide for reasonable progress towards the goal of natural visibility conditions consistent with the CAA timeline. Additionally, when finalized, the proposed revision will apply a new timeline for SIP submission that will affect all States.

The EPA acknowledges that the proposed delay in submitting SIP revisions from 2028 to 2031 might cause delays in when sources must comply with any new requirements. However, because neither the CAA nor the existing Regional Haze Rule set specific deadlines for when sources must comply with any new requirements in a State's next periodic comprehensive SIP revision, States have substantial discretion in establishing reasonable compliance deadlines for measures in their SIPs. Given this, we expect to see a range of compliance deadlines in the next round of regional haze SIPs from early in the third implementation period to 2038, depending on the types of measures adopted, whether or not these proposed rule changes are finalized. Thus, the EPA believes the delay in the periodic comprehensive SIP revision submission deadline from 2028 to 2031 will not meaningfully reduce the overall progress towards better visibility made by the end of 2038 and will not meaningfully adversely affect environmental protection for all general segments of the population.

Since the revision applies nationally, the EPA anticipates there may be areas impacted where conditions exist that have the potential to result in disproportionate and adverse effects on communities with environmental justice concerns. However, it is not practicable to provide any more detailed assessment. Nonetheless, the EPA offered meaningful engagement related to today's proposal above and beyond

minimum notice and comment rulemaking obligations. For example, today's proposal was preceded by seeking comment on a wide array of issues related to the implementation of the Regional Haze Program. EPA did this through the opening of a non-regulatory docket, which occurred on March 28, 2024, and will close December 31, 2024.²⁴ So far, the EPA has received 32 comments from different perspectives. Many of the comments requested and supported the action being proposed today. Consistent with legal requirements, the EPA is now seeking comment on this specific proposal as well.

VII. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0704. This action simply proposes to extend the SIP due date. The burden associated with developing and submitting SIPs is covered in the existing information collection request. This action does not impose an information collection burden because it does not create an obligation for Regional offices, States, or sources to submit new information to the EPA.

C. Regulatory Flexibility Act

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. Small entities are not subject to the requirements of this rule.

²⁴ This docket will be open for public comment from March 28, 2024, to December 31, 2024, however, comments received after June 28, 2024, will be considered late and EPA may be unable to consider comments received after this date.

¹⁷ See 83 FR 10376.

¹⁸ See 89 FR 16202.

¹⁹ See 88 FR 80480.

²⁰ *Id.*

²¹ In early 2024, the EPA solicited feedback from interested parties on revisions to the Regional Haze Rule to improve implementation of the regional haze third, and possibly later, implementation period SIPs in advance of proposing rule revisions. To facilitate this effort, the EPA conducted a series of informational public webinars intended to help the public consider different aspects of the current Regional Haze Rule relating to how key aspects of the program could be implemented in future implementation periods. Following the public webinar series, we invited interested parties to submit comments and feedback to a non-regulatory docket (EPA-HQ-OAR-2023-0262).

²² See comments submitted to our non-regulatory docket (EPA-HQ-OAR-2023-0262), available at <https://www.regulations.gov/>.

²³ EPA's Regulatory Agenda may be accessed through the following website: <https://www.epa.gov/laws-regulations/regulatory-agendas-and-regulatory-plans>.

D. Unfunded Mandates Reform Act

I certify that this action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local or Tribal governments or the private sector.

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175. It would not have a substantial direct effect on one or more Indian Tribes. Furthermore, these proposed regulation revisions do not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the TAR establish the relationship of the Federal government and Tribes in characterizing air quality and developing plans to protect visibility in Class I areas. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, the EPA’s Policy on Children’s Health also does not apply.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

The EPA believes that it is not practicable to assess whether the human health or environmental conditions that exist prior to this action result in disproportionate and adverse effects on communities with environmental justice concerns. This action revises a procedural requirement—a deadline for submission of a SIP requirement, for all States, the District of Columbia, and the U.S. Virgin Islands. Neither the CAA nor the RHR require States to conduct an evaluation of environmental justice when preparing a Haze SIP, although the EPA encourages States to consider whether there may be equity and environmental justice considerations when developing a Haze SIP. This proposed rulemaking only proposes to extend the SIP deadline for the third implementation period. It does not revise or impose new requirements regarding the development of a Haze SIP. For these reasons, the EPA believes that it is not practicable to assess whether this action is likely to result in new disproportionate and adverse effects on communities with environmental justice concerns. As was explained in this action, the EPA provided for meaningful outreach and engagement through the opening of a nonregulatory docket and receipt of feedback, including feedback being considered as part of this proposed rulemaking.

VIII. Statutory Authority

The statutory authority for this action is provided by 42 U.S.C. 7403, 7407, 7410 and 7491(A)(b).

List of Subjects in 40 CFR Part 51

Environmental protection, administrative practice and procedure, air pollution control, nitrogen dioxide, particulate matter, sulfur oxides, transportation, volatile organic compounds.

Michael S. Reagan,
Administrator.

For the reasons stated in the preamble, Title 40, Chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

■ 2. Amend § 51.308 by revising paragraph (f) introductory text, to read as follows:

§ 51.308 Regional haze program requirements.

* * * * *

(f) *Requirements for periodic comprehensive revisions of implementation plans for regional haze.* Each State identified in § 51.300(b) must revise and submit its regional haze implementation plan revision to EPA by July 31, 2021, July 31, 2031, July 31, 2038, and every 10 years thereafter. The plan revision due on or before July 31, 2021, must include a commitment by the State to meet the requirements of paragraph (g) of this section. In each plan revision, the State must address regional haze in each mandatory Class I Federal area located within the State and in each mandatory Class I Federal area located outside the State that may be affected by emissions from within the State. To meet the core requirements for regional haze for these areas, the State must submit an implementation plan containing the following plan elements and supporting documentation for all required analyses:

* * * * *

[FR Doc. 2024–30212 Filed 12–20–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R06–OAR–2020–0162; FRL–12488–01–R6]

Air Plan Disapproval; Texas; Attainment Demonstrations for the Dallas-Fort Worth and Houston-Galveston-Brazoria Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to disapprove revisions to the Texas State Implementation Plan (SIP). The revisions were submitted by the Texas Commission on Environmental Quality

(TCEQ or State) on July 10, 2015, August 5, 2016, December 29, 2016, and May 13, 2020, and address certain CAA requirements for the Dallas-Fort Worth (DFW) and Houston-Galveston-Brazoria (HGB) nonattainment areas for the 2008 ozone National Ambient Air Quality Standards (NAAQS or standard). Specifically, the EPA is proposing to disapprove the attainment demonstrations and the associated reasonably available control measures (RACM) analyses and motor vehicle emission budgets (budgets) in the submitted revisions.

DATES: Written comments must be received on or before January 22, 2025.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2020–0162, at <https://www.regulations.gov> or via email to tsui-bowen.alethea@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact Alethea Tsui-Bowen, 214–665–7555, tsui-bowen.alethea@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.*, CBI).

FOR FURTHER INFORMATION CONTACT: Ms. Alethea Tsui-Bowen, EPA Region 6 Office, Infrastructure and Ozone Section, 214–665–7555, tsui-bowen.alethea@epa.gov. We encourage the public to submit comments via <https://www.regulations.gov>. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we” or “our” is used, we mean the EPA.

I. What is the EPA proposing?

The EPA is proposing to disapprove attainment demonstrations for the DFW area submitted to EPA on July 10, 2015, August 5, 2016, and May 13, 2020. The July 2015 and August 2016 SIP revisions address the DFW Moderate nonattainment area for the 2008 ozone NAAQS and the May 2020 SIP revision addresses the DFW Serious nonattainment area for the 2008 ozone NAAQS. We are also proposing to disapprove attainment demonstrations for the HGB area submitted to EPA on December 29, 2016, and May 13, 2020. The December 2016 SIP revision addresses the HGB Moderate nonattainment area for the 2008 ozone NAAQS and the May 2020 SIP revision addresses the HGB Serious nonattainment area for the 2008 ozone NAAQS. We are also proposing to disapprove the RACM associated with these submitted attainment demonstrations as well as the NO_x and VOC motor vehicle emissions budgets (or “budgets”) associated with these submitted attainment demonstrations and included as part of the SIP. We are proposing to disapprove these SIP submissions because the DFW and HGB areas failed to attain the 2008 ozone NAAQS by the July 20, 2018, Moderate attainment date and subsequently failed to attain the 2008 ozone NAAQS by the July 20, 2021, Serious attainment date.¹

II. Background

A. The 2008 Ozone NAAQS and the DFW and HGB Areas

Ground-level ozone, or smog, which harms human health and the environment, is formed when volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) interact in the presence of sunlight. Motor vehicle exhaust and industrial emissions, gasoline vapors, chemical solvents and natural sources emit VOCs and NO_x. Urban areas tend to have high levels of ground-level ozone, but areas without significant industrial activity and with relatively low vehicular traffic are also subject to increased ozone levels

¹ The EPA determined that the DFW and HGB Moderate areas failed to meet the 2008 ozone NAAQS by the applicable July 20, 2018, attainment date and these areas were reclassified as Serious by operation of law (84 FR 44238, August 23, 2019). Subsequently, EPA determined that the DFW and HGB Serious areas failed to meet the 2008 ozone NAAQS by the applicable July 20, 2021, attainment date and these areas were reclassified as Severe by operation of law (87 FR 60926, October 7, 2022).

because wind carries ozone and its precursors hundreds of miles from their sources.²

Repeated exposure to ozone pollution may cause lung damage. Even at very low concentrations, ground-level ozone triggers a variety of health problems including aggravated asthma, reduced lung capacity, and increased susceptibility to respiratory illnesses like pneumonia and bronchitis. It can also have detrimental effects on plants and ecosystems.

CAA section 109 requires the EPA to establish primary and secondary NAAQS for certain air pollutants and also establishes provisions for the review and revision of such NAAQS. Primary standards are designed to provide requisite protection of public health while secondary standards are designed to provide requisite protection of public welfare. The EPA has set NAAQS for six common air pollutants, including ozone.³

On March 27, 2008, the EPA published a rule in the **Federal Register** revising the levels of the primary and the secondary ozone NAAQS to 0.075 parts per million (ppm).⁴ On May 21, 2012, the EPA designated and classified the 10-county DFW area (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant and Wise counties) as Moderate nonattainment and designated and classified the eight-county HGB area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties) as Marginal nonattainment for the 2008 ozone NAAQS (77 FR 30088). The HGB Marginal area was initially given an attainment date of no later than December 31, 2015, and the DFW Moderate area was initially given an attainment date of no later than December 31, 2018 (77 FR 30160, May 21, 2012).

On December 23, 2014, the U.S. Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) issued a decision, among other things, that we did not have statutory authority under the CAA to extend attainment deadlines to the end of the calendar year. *NRDC v. EPA*, 777 F.3d 456, 464–69 (D.C. Cir. 2014). Consistent with the Court’s decision to vacate that portion of the rule, we modified the attainment deadlines for all nonattainment areas for the 2008 ozone NAAQS and set the attainment deadline for such areas to run from the effective date of

² More information on ground-level ozone is available at <https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics>.

³ For more about the NAAQS, please visit <https://www.epa.gov/naaqs>.

⁴ 73 FR 16436 (March 27, 2008).

designation, which was July 20, 2012 (80 FR 12264, March 6, 2015). Therefore, the HGB Marginal attainment date was modified to no later than July 20, 2015, and the DFW Moderate attainment date was modified to no later than July 20, 2018 (80 FR 12264).

For the HGB area, the TCEQ requested a one-year extension to the Marginal attainment date, which EPA approved (81 FR 26697, May 4, 2016). However, the HGB area did not attain the 2008 ozone NAAQS by the July 20, 2016, attainment date and was thus reclassified as Moderate (81 FR 90207, December 14, 2016). The DFW and HGB areas did not meet the Moderate attainment date and were accordingly reclassified as Serious with an attainment date of no later than July 20, 2021 (84 FR 44238, August 23, 2019). Subsequently, the DFW and HGB areas did not meet the Serious attainment date and were thus reclassified as Severe (87 FR 60926, October 7, 2022).⁵

B. What is a State implementation plan?

The SIP is a plan that specifies the manner in which the NAAQS will be achieved and maintained within each air quality control region in a State. States must develop and submit a SIP to EPA for approval as required by the CAA. A SIP includes air pollution regulations, control strategies, other means or techniques, and technical analyses developed by the State to help ensure that the State meets the NAAQS. When a State makes changes to the regulations and control strategies in its SIP, such revisions must be submitted to the EPA for approval and incorporation into the federally enforceable SIP.⁶

C. What did the State submit?

On July 10, 2015, the TCEQ submitted a SIP revision for the DFW Moderate area based on an attainment date of

December 31, 2018. Because that date was vacated by the Court, Texas revised the SIP to address an attainment date of July 20, 2018, which it submitted on August 5, 2016. The August 5, 2016, SIP submission included baseline and future emissions inventories for all source categories that account for the impacts of control strategies in the area; a photochemical modeling analysis and a weight-of-evidence analysis in which the State asserted that the DFW area would attain by the July 20, 2018, attainment date; a RACM analysis; budgets for VOC and NO_x consistent with the emissions inventory for demonstrating attainment in the year 2017; a RACT analysis; certifications addressing enhanced monitoring, the motor vehicle Enhanced Inspection and Maintenance (I/M) program, and Nonattainment New Source Review (NNSR); and contingency measures for failure to attain. This action concerns the portions of the July 2015 and August 2016 SIP submissions related to the attainment demonstration, RACM analysis, and budgets for 2017.

On December 29, 2016, the TCEQ submitted a SIP revision for the HGB Moderate area, which included baseline and future emissions inventories for all source categories that account for the impacts of control strategies in the area; a photochemical modeling analysis and a weight-of-evidence analysis in which the State asserted that the HGB area would attain by the July 20, 2018, attainment date; a RACM analysis; budgets for VOC and NO_x consistent with the emissions inventory for demonstrating attainment in the year 2017; a RACT analysis; certifications addressing enhanced monitoring, the motor vehicle Enhanced Inspection and Maintenance (I/M) program, and Nonattainment New Source Review (NNSR); and contingency measures for failure to attain. This action concerns the portions of the December 2016 SIP submission related to the attainment demonstration, RACM analysis, and budgets for 2017.

On May 13, 2020, the TCEQ submitted a SIP revision for the DFW Serious area and a SIP revision for the HGB Serious area. Each of these submissions included baseline and future emissions inventories for all source categories that account for the impacts of control strategies in these areas; a photochemical modeling analysis and weight-of-evidence analysis in which the State asserted that the area would attain by the July 20, 2021, attainment date; a RACM analysis; budgets for VOC and NO_x consistent with the emissions inventory for demonstrating attainment in the year

2020; a RACT analysis; certifications addressing enhanced monitoring, the motor vehicle Enhanced Inspection and Maintenance (I/M) program, and Nonattainment New Source Review (NNSR); and contingency measures for failure to attain. On October 3, 2022, the EPA determined that the State fulfilled the CAA requirements for NNSR for the DFW and HGB Serious nonattainment areas for the 2008 ozone NAAQS (87 FR 59697). On September 8, 2023, the EPA determined that the State fulfilled the CAA requirements for the motor vehicle Enhanced I/M program for the DFW and HGB Serious nonattainment areas for the 2008 ozone NAAQS (88 FR 61971). On October 3, 2023, the EPA disapproved the submitted contingency measures for the DFW and HGB Serious areas for the 2008 ozone NAAQS (88 FR 67957).⁷ We will address the enhanced monitoring and RACT analyses for the DFW and HGB Serious nonattainment areas for the 2008 ozone NAAQS in a separate rulemaking action. This action concerns the portions of the May 2020 SIP submissions for the DFW and HGB areas related to the attainment demonstration, RACM analysis, and budgets for 2020.

D. What is the EPA proposing to disapprove and what is EPA's rationale for disapproval?

We are proposing to disapprove the DFW Moderate area attainment demonstrations submitted on July 10, 2015, and August 5, 2016, and we are proposing to disapprove the HGB Moderate area attainment demonstration submitted on December 29, 2016. We are also proposing to disapprove the DFW and HGB Serious area attainment demonstrations submitted on May 13, 2020. We are also proposing to disapprove the associated RACM analyses and NO_x and VOC budgets that are included within each of these SIP submissions. CAA section 110(k) requires that EPA act on any submitted SIP revisions that have not been formally withdrawn by the State.

Ozone nonattainment areas classified as Moderate and above are required to submit SIPs demonstrating that the nonattainment area will attain the ozone NAAQS as expeditiously as practicable, but no later than the applicable attainment date.⁸ As explained in detail in section II. Background, the DFW and

⁵ On October 26, 2015 (80 FR 65292), the EPA published a rule in the **Federal Register** revising the level of the ozone NAAQS to 0.070 ppm and retaining all the other elements of the NAAQS ("the 2015 ozone NAAQS"). On May 4, 2018, the EPA promulgated designations under the 2015 ozone NAAQS (83 FR 25776) and in that action, the EPA designated the nine-county DFW area (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Tarrant, and Wise counties) and the six-county HGB area (Brazoria, Chambers, Fort Bend, Galveston, Harris, and Montgomery counties) as Marginal with an attainment date of no later than August 3, 2021. The DFW and HGB nonattainment areas missed the Marginal attainment date and thus were reclassified as Moderate (87 FR 60897, October 7, 2022). The Governor of Texas requested a voluntary reclassification of the DFW and HGB areas from Moderate to Serious and the EPA approved the request (89 FR 51829, June 20, 2024). The EPA's actions herein do not address the DFW and HGB nonattainment areas for the 2015 ozone NAAQS.

⁶ For more about SIPs, please visit <https://www.epa.gov/air-quality-implementation-plans>.

⁷ On December 5, 2023, the State of Texas and the TCEQ filed a petition for judicial review of EPA's final action at 88 FR 67957, and on August 22, 2024, the U.S. Court of Appeals for the 5th District vacated the action and remanded it to EPA. We will address the remanded action in a separate rulemaking.

⁸ CAA section 172 and 182; 40 CFR 51.1108.

HGB nonattainment areas did not attain by the various applicable attainment dates for the classification levels at issue in this action. Therefore, the attainment demonstrations at issue in this action do not, and cannot, show that the DFW and HGB nonattainment areas will attain by the attainment dates. The EPA is therefore proposing to disapprove the submitted attainment demonstrations identified in this action.

As noted earlier, we are also proposing to disapprove the RACM analyses and budgets that are associated with the attainment demonstrations submitted in the SIPs for the DFW and HGB nonattainment areas on July 10, 2015, August 5, 2016, December 29, 2016, and May 13, 2020. For ozone NAAQS implementation under subpart 2 of the CAA, the EPA's rules require the RACM element to be submitted with the attainment demonstration.⁹ The RACM demonstration must show that an area has adopted all reasonably available control measures necessary to demonstrate attainment as expeditiously as practicable and meet the required showing of Reasonable Further Progress (RFP).¹⁰ The EPA has long evaluated RACM in terms of whether, beyond the control strategy associated with the accompanying attainment demonstration, there are any reasonably available control measures that could advance an area's attainment date.¹¹ The determination of whether a SIP contains all RACM requires an area-specific analysis showing that there are no additional economically and technologically feasible control measures (alone or cumulatively) that will advance the attainment date.¹² The EPA's RACM policy, as outlined in the April 16, 1992, General Preamble, indicates that States should consider all candidate measures that are potentially available for the particular nonattainment area that could advance the attainment date by 1 year.¹³ Thus, the basis for our proposal to disapprove the attainment demonstrations identified herein is applicable to the

associated RACM analyses as well. The former classification's attainment date is in the past and was not met. Thus, the RACM SIP submittal currently pending before the Agency does not and cannot show that attainment will be achieved by the attainment date or advanced.

Regarding the motor vehicle emissions budgets, to be approvable, budgets must be consistent with an approvable attainment plan. In relevant part, as defined in 40 CFR 93.101, a budget is "that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision . . . for a certain date for the purpose of . . . demonstrating attainment . . . of the NAAQS, . . . allocated to highway and transit vehicle use and emissions." A budget in a SIP provides the allowable on-road mobile emissions of a pollutant or precursor that an area can produce and continue to demonstrate attainment. The Federal transportation conformity rule, 40 CFR part 93 subpart A, requires that transportation plans, transportation improvement programs (TIPs), and projects conform to air quality SIPs and establishes the criteria and procedures for determining whether they do or do not conform. The regulation requires that budgets must be found adequate or approved before they can be used for transportation conformity purposes (40 CFR 93.109(c)(1)).

The criteria by which we determine whether budgets in a SIP submittal are adequate for conformity purposes are specified in 40 CFR 93.118(e)(4). These criteria also serve to determine whether budgets could be approved as part of a SIP submission. One of these criteria is that the budgets, when considered with other emission sources, are consistent with the submitted SIP's purpose, in this case, attainment (see 40 CFR 93.118(e)(4)(iv)). As noted earlier, the DFW and HGB areas did not attain the 2008 ozone standard by the July 20, 2018, Moderate attainment date, or by the July 20, 2021, Serious attainment date and accordingly, the DFW and HGB areas were reclassified by operation of law. Because these Moderate and Serious SIP submissions did not demonstrate attainment by the attainment dates, the budgets associated with them are not adequate or approvable, and accordingly, we are proposing to disapprove the budgets.

E. What are the consequences of a disapproved SIP?

Pursuant to CAA section 179(a), final disapproval of a SIP submittal or SIP revision required under part D, title I of the CAA triggers the imposition of sanctions under CAA section 179(b).

See also 40 CFR 52.31. Additionally, final disapproval of a required SIP submission triggers the EPA's obligation to promulgate a Federal Implementation Plan (FIP) under CAA section 110(c)(1)(B). The State submitted the July 2015, August 2016, December 2016, and May 2020 attainment demonstration SIP submissions for the DFW and HGB areas to address ozone nonattainment area requirements under part D with respect to the Moderate and Serious classifications.

Following mandatory reclassification upon failure to attain, the former, superseded classifications' attainment dates are in the past and are no longer applicable, and it is no longer meaningful to evaluate whether the submitted plans for the prior classification demonstrate that the areas would attain by the superseded dates. Moreover, it is impossible for plans, including FIPs promulgated by EPA, to demonstrate that an area that has not attained would attain by the superseded dates—once the applicable attainment date has passed, an area cannot show that it will attain by the attainment date unless it has already attained. No changes could be made that would change facts that have already come to pass (*i.e.*, that the areas failed to attain by their applicable attainment dates). There can only be one attainment date that applies at any given time, and the CAA does not require attainment demonstrations for attainment dates that are not applicable to the area. Because the former classifications' attainment dates are no longer applicable, it is therefore no longer relevant for the areas to demonstrate attainment with respect to such dates (just as it is not relevant for an area initially classified as Serious to provide an attainment demonstration for a Moderate attainment date).

The EPA reclassified the DFW and HGB areas as Severe ozone nonattainment areas effective November 7, 2022, after the DFW and HGB areas failed to attain the 2008 ozone NAAQS by the date associated with the Serious classification, which was July 20, 2021.¹⁴ As a result, the State's new attainment date for the 2008 ozone NAAQS is July 20, 2027. The State therefore no longer has an applicable attainment date associated with the Serious classification for the DFW and HGB areas for the 2008 ozone NAAQS.

Thus, the attainment demonstrations and the associated RACM analyses for the DFW and HGB areas that the State submitted with respect to the Moderate and Serious classifications for the 2008 ozone NAAQS are no longer considered

⁹ 40 CFR 51.1312(c).

¹⁰ *Id.*

¹¹ See 83 FR 62998, 63008 (December 6, 2018).

¹² Memorandum of December 14, 2000, from John S. Seitz, Director, Office of Air Quality Planning and Standards, re: "Additional Submission on RACM from States with Severe One-Hour Ozone Nonattainment Area SIPs." This document is posted in the docket for this action and on the internet at https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20001214_seitz_additional_racm_submissions.pdf.

¹³ "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed Rule." 57 FR 13507 (April 16, 1992). The discussion of RACM contains other relevant history concerning the RACM requirement.

¹⁴ 87 FR 60926.

to be required submissions under the CAA.¹⁵ Because the State no longer has a legal obligation to submit the SIP submissions that the EPA is proposing to disapprove, the EPA finds that this disapproval action, if finalized as proposed, would not trigger imposition of mandatory sanctions under CAA section 179 and 40 CFR 52.31, or a FIP obligation under CAA 110(c).

In addition, the State submitted attainment demonstrations for the DFW and HGB Severe nonattainment areas for the 2008 ozone NAAQS on May 7, 2024, and we will evaluate these Severe area submissions in a separate rulemaking.

Similarly, if finalized as proposed, our final disapproval action on the DFW and HGB attainment demonstrations for the Moderate and Serious classifications for the 2008 ozone NAAQS would not result in the consequences for disapprovals of control strategy implementation plans under 40 CFR 93.120(a). As described elsewhere in this document, the submitted attainment demonstrations for the Moderate and Serious classifications for the DFW and HGB areas are no longer considered to be required submissions under the CAA, in light of the reclassification of these nonattainment areas as Severe for the 2008 ozone NAAQS. The Moderate and Serious area ozone attainment demonstrations are no longer required to satisfy CAA requirements for demonstrations of attainment, and therefore are not considered “control strategy implementation plan revisions” under the definition of that term found in the transportation conformity regulation at 40 CFR 93.101. Therefore, the transportation conformity consequences in 40 CFR 93.120(a) would not occur, if finalized as proposed.

III. Proposed Action

The EPA is proposing to disapprove attainment demonstrations for the DFW area submitted to EPA on July 10, 2015, August 5, 2016, and May 13, 2020. The July 2015 and August 2016 SIP submissions address the attainment demonstrations for the DFW Moderate nonattainment area for the 2008 ozone NAAQS and the May 2020 SIP submission addresses the attainment demonstration for the DFW Serious nonattainment area for the 2008 ozone NAAQS. We are also proposing to disapprove the RACM and budgets associated with these attainment demonstrations for the DFW area. We are also proposing to disapprove

attainment demonstrations for the HGB area, submitted to EPA on December 29, 2016, and May 13, 2020. The December 2016 SIP submission addresses the attainment demonstration for the HGB Moderate nonattainment area for the 2008 ozone NAAQS and the May 2020 SIP submission addresses the attainment demonstration for the HGB Serious nonattainment area for the 2008 ozone NAAQS. We are also proposing to disapprove the RACM and budgets associated with these attainment demonstrations for the HGB area.

IV. Environmental Justice Considerations

Executive Order (E.O.) 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

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

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to review State choices,

and approve those choices if they meet the minimum criteria of the CAA. Accordingly, this proposed action to disapprove the attainment demonstrations and associated RACM and budgets for the DFW and HGB areas submitted to EPA on July 10, 2015, August 5, 2016, December 29, 2016, and May 13, 2020, disapproves State law as not meeting Federal requirements and does not impose additional requirements beyond those imposed by State law.

A. Executive Order 12866: Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review, and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by E.O. 14094 (88 FR 21879, April 11, 2023), and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA (44 U.S.C. 3501 *et seq.*) because it does not contain any information collection activities.

C. 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 (5 U.S.C. 601 *et seq.*). This action will not impose any requirements on small entities.

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

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in E.O. 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

This proposed action has no Tribal implications as specified in E.O. 13175

¹⁵ As noted earlier however, CAA section 110(k) requires that EPA act on any submitted SIP revision that has not been formally withdrawn by the state.

(65 FR 67249, November 9, 2000). This action will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt Tribal law. This action will not impose substantial direct compliance costs on federally recognized Tribal governments because no actions will be required of Tribal governments. This action will also not preempt Tribal law as it does not have applicable or related Tribal laws.

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

The EPA interprets E.O. 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it merely proposes to disapprove SIP revisions. Furthermore, the EPA’s Policy on Children’s Health does not apply to this action.

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

This action is not subject to E.O. 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under E.O. 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. This action is not subject to the requirements of section 12(d) of the NTTAA (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the

greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The air agency did not evaluate EJ considerations as part of the SIP submittals addressed in this proposed action; the CAA and applicable implementing regulations neither prohibit nor require such evaluation. The EPA did not perform an EJ analysis, as is described earlier in section IV titled, “Environmental Justice Considerations” of this document. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goals of E.O.s 12898 or 14096.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 12, 2024.

Eartha Nance,

Regional Administrator, Region 6.

[FR Doc. 2024–29971 Filed 12–20–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[EPA–R06–OAR–2020–0086; FRL–12482–01–R6]

National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Oklahoma Department of Environmental Quality (ODEQ) has submitted updated regulations for receiving delegation and approval of its program for the implementation and

enforcement of certain National Emission Standards for Hazardous Air Pollutants (NESHAP) for all sources as provided for under previously approved delegation mechanisms. The updated State regulations incorporate by reference certain NESHAP promulgated by the Environmental Protection Agency (EPA) as they existed through June 30, 2022. The EPA is proposing to approve ODEQ’s requested delegation update. The proposed delegation of authority under this action applies to sources located in certain areas of Indian country as discussed herein.

DATES: Written comments must be received on or before January 22, 2025.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2020–0086, at <https://www.regulations.gov> or via email to barrett.richard@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact Rick Barrett, 214–665–7227, barrett.richard@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.*, CBI).

FOR FURTHER INFORMATION CONTACT: Rick Barrett, EPA Region 6 Office, Air Permits Section (ARPE), 214–665–7227, barrett.richard@epa.gov. We encourage the public to submit comments via <https://www.regulations.gov>. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

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I. What does this action do?

The EPA is proposing to approve the delegation of the implementation and enforcement of certain NESHAP to ODEQ. If finalized, the delegation will provide ODEQ with the primary responsibility to implement and enforce the delegated standards.

II. What is the authority for delegation?

Section 112(l) of the Clean Air Act (CAA), and 40 CFR part 63, subpart E, authorize the EPA to delegate authority to any State or local agency which submits adequate regulatory procedures for implementation and enforcement of emission standards for hazardous air pollutants. The hazardous air pollutant standards are codified at 40 CFR parts 61 and 63.

III. What criteria must Oklahoma’s program meet to be approved?

Section 112(l)(5) of the CAA requires the EPA to disapprove any program submitted by a State for the delegation of NESHAP standards if the EPA determines that:

- (A) the authorities contained in the program are not adequate to assure compliance by the sources within the State with respect to each applicable standard, regulation, or requirement established under section 112;
- (B) adequate authority does not exist, or adequate resources are not available, to implement the program;
- (C) the schedule for implementing the program and assuring compliance by affected sources is not sufficiently expeditious; or
- (D) the program is otherwise not in compliance with the guidance issued by

the EPA under section 112(l)(2) or is not likely to satisfy, in whole or in part, the objectives of the CAA.

In carrying out its responsibilities under section 112(l), the EPA promulgated regulations at 40 CFR part 63, subpart E setting forth criteria for the approval of submitted programs. For example, in order to obtain approval of a program to implement and enforce Federal section 112 rules as promulgated without changes (straight delegation) for part 70 sources, a State must demonstrate that it meets the criteria of 40 CFR 63.91(d). 40 CFR 63.91(d)(3) provides that interim or final Title V program approval will satisfy the criteria of 40 CFR 63.91(d).¹ The NESHAP delegation for Oklahoma, as it applies to both part 70 and non-part 70 sources, was most recently approved on October 22, 2018 (83 FR 53183).

IV. How did ODEQ meet the NESHAP program approval criteria?

As to the NESHAP standards in 40 CFR parts 61 and 63, as part of its Title V submission ODEQ stated that it intended to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 standards into its regulations. This commitment applied to both existing and future standards as they applied to part 70 sources. The EPA’s final interim approval of Oklahoma’s Title V operating permits program delegated the authority to implement certain NESHAP, effective March 6, 1996 (61 FR 4220, February 5, 1996). On December 5, 2001, the EPA promulgated full approval of the State’s operating permits program, effective November 30, 2001 (66 FR 63170). These interim and final Title V program approvals satisfy the up-front approval criteria of 40 CFR 63.91(d). Under 40 CFR 63.91(d)(2), once a State has satisfied up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals of the section 112 standards. ODEQ has affirmed that it still meets the up-front approval criteria. With respect to non-part 70 sources, the EPA has previously approved delegation of NESHAP authorities to ODEQ after finding adequate authorities to implement and

¹ Some NESHAP standards do not require a source to obtain a Title V permit (e.g., certain area sources that are exempt from the requirement to obtain a Title V permit). For these non-Title V sources, the EPA believes that the State must assure the EPA that it can implement and enforce the NESHAP for such sources. See 65 FR 55810, 55813 (September 14, 2000). The EPA previously approved Oklahoma’s program to implement and enforce the NESHAP as they apply to non-part 70 sources. See 66 FR 1584 (January 9, 2001).

enforce the NESHAP for such sources. See 66 FR 1584 (January 9, 2001).

V. What is being delegated?

By letter dated December 2, 2021, ODEQ requested the EPA to update its existing NESHAP delegation. With certain exceptions noted in section VI of this document, Oklahoma’s request included NESHAPs in 40 CFR parts 61 and 63. ODEQ’s request included newly incorporated NESHAPs promulgated by the EPA and amendments to existing standards currently delegated, as amended between June 30, 2019, and June 30, 2020, as adopted by the State.

By letter dated October 17, 2022, the EPA received a request from ODEQ to update its existing NESHAP delegation. With certain exceptions noted in section VI of this document, ODEQ’s request includes certain NESHAP in 40 CFR parts 61 and 63. ODEQ’s request included newly incorporated NESHAPs promulgated by the EPA and amendments to existing standards currently delegated, as amended between June 30, 2020, and June 30, 2021, as adopted by the State.

More recently, by letter dated November 30, 2023, the EPA received a request from ODEQ to update its existing NESHAP delegation. With certain exceptions noted in section VI of this document, ODEQ’s request includes certain NESHAP in 40 CFR parts 61 and 63. ODEQ’s request included newly incorporated NESHAPs promulgated by the EPA and amendments to existing standards currently delegated, as amended between June 30, 2021, and June 30, 2022, as adopted by the State.

VI. What is not being delegated?

All authorities not affirmatively and expressly proposed for delegation by this action will not be delegated. These include the following parts 61 and 63 authorities listed below:

- 40 CFR part 61, subpart B (National Emission Standards for Radon Emissions from Underground Uranium Mines);
- 40 CFR part 61, subpart H (National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities);
- 40 CFR part 61, subpart I (National Emission Standards for Radionuclide Emissions from Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H);
- 40 CFR part 61, subpart K (National Emission Standards for Radionuclide Emissions from Elemental Phosphorus Plants);
- 40 CFR part 61, subpart Q (National Emission Standards for Radon

Emissions from Department of Energy facilities);

- 40 CFR part 61, subpart R (National Emission Standards for Radon Emissions from Phosphogypsum Stacks);

- 40 CFR part 61, subpart T (National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings); and

- 40 CFR part 61, subpart W (National Emission Standards for Radon Emissions from Operating Mill Tailings).

In addition, the EPA regulations provide that we cannot delegate to a State any of the Category II Subpart A authorities set forth in 40 CFR 63.91(g)(2). These include the following provisions: § 63.6(g), Approval of Alternative Non-Opacity Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; and § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting. Also, certain provisions in 40 CFR parts 61 and 63 are non-delegable to the states as outlined in specific subparts. Furthermore, no authorities are being proposed for delegation that require rulemaking in the **Federal Register** to implement, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA section 112. Finally, this action does not propose delegation of any authority under section 112(r), the accidental release program.

If this action is finalized as proposed, all questions concerning implementation and enforcement of the excluded standards in the State of Oklahoma should be directed to the EPA Region 6 Office.

The EPA is proposing a determination that the NESHAP program submitted by Oklahoma meets the applicable requirements of CAA section 112(l)(5) and 40 CFR part 63, subpart E.

As more fully discussed in section XIII of this document, the proposed delegation to ODEQ to implement and enforce certain NESHAP extends to sources or activities located in certain areas of Indian country, as defined in 18 U.S.C. 1151.

VII. How will statutory and regulatory interpretations be made?

If this NESHAP delegation update is finalized as proposed, ODEQ must obtain concurrence from the EPA on any matter involving the interpretation of section 112 of the CAA or 40 CFR parts 61 and 63 to the extent that

implementation, administration, or enforcement of these sections have not been covered by prior EPA determinations or guidance.

VIII. What authority does the EPA have?

We retain the right, as provided by CAA section 112(l)(7) and 40 CFR 63.90(d)(2), to enforce any applicable emission standard or requirement under section 112. In addition, the EPA may enforce any federally approved State rule, requirement, or program under 40 CFR 63.90(e) and 63.91(c)(1)(i). The EPA also has the authority to make certain decisions under the General Provisions (subpart A) of parts 61 and 63. We are proposing to delegate to the ODEQ some of these authorities, and retaining others, as explained in sections V and VI above. In addition, the EPA may review and disapprove State determinations and subsequently require corrections. *See* 40 CFR 63.91(g)(1)(ii). The EPA also has the authority to review ODEQ's implementation and enforcement of approved rules or programs and to withdraw approval if we find inadequate implementation or enforcement. *See* 40 CFR 63.96.

Furthermore, we retain the authority in an individual emission standard that may not be delegated according to provisions of the standard. Finally, we retain the authorities stated in the original delegation agreement. *See* "Provisions for the Implementation and Enforcement of NSPS and NESHAP in Oklahoma," effective March 25, 1982, a copy of which is included in the docket for this action.

A table of currently delegated NESHAP standards and how the updated NESHAP delegation would look if this proposal is finalized may be found in the Technical Support Document (TSD) included in the docket for this action. The table also shows the authorities that cannot be delegated to any State or local agency.

IX. What information must ODEQ provide to the EPA?

EPA may request at any time, and ODEQ must provide within 45 days, information to review the adequacy of implementation and enforcement of an approved rule or program, as set forth at 40 CFR 63.96(a). In receiving delegation for specific General Provisions authorities, ODEQ may request delegated authority to make certain determinations. *See* 40 CFR 63.91(g)(1). For part 63 standards, these determinations include: § 63.1, Applicability Determinations; § 63.6(e), Operation and Maintenance

Requirements—Responsibility for Determining Compliance; § 63.6(f), Compliance with Non-Opacity Standards—Responsibility for Determining Compliance; § 63.6(h), Compliance with Opacity and Visible Emissions Standards—Responsibility for Determining Compliance; § 63.7(c)(2)(i) and (d), Approval of Site-Specific Test Plans; § 63.7(e)(2)(i), Approval of Minor Alternatives to Test Methods; § 63.7(e)(2)(ii) and (f), Approval of Intermediate Alternatives to Test Methods; § 63.7(e)(iii), Approval of Shorter Sampling Times and Volumes When Necessitated by Process Variables or Other Factors; § 63.7(e)(2)(iv), (h)(2) and (3), Waiver of Performance Testing; § 63.8(c)(1) and (e)(1), Approval of Site-Specific Performance Evaluation (Monitoring) Test Plans; § 63.8(f), Approval of Minor Alternatives to Monitoring; § 63.8(f), Approval of Intermediate Alternatives to Monitoring; §§ 63.9 and 63.10, Approval of Adjustments to Time Periods for Submitting Reports; § 63.10(f), Approval of Minor Alternatives to Recordkeeping and Reporting; and § 63.7(a)(4), Extension of Performance Test Deadline. ODEQ must submit to EPA Region 6 on a semi-annual basis, copies of determinations issued under these authorities. *See* 40 CFR 63.91(g)(1)(ii).

X. What is the EPA's oversight role?

The EPA must oversee ODEQ's decisions to ensure the delegated authorities are being adequately implemented and enforced. We will integrate oversight of the delegated authorities into the existing mechanisms and resources for oversight currently in place. If, during oversight, we determine that ODEQ has made decisions that decrease the stringency of the delegated standards, then ODEQ shall be required to take corrective actions and the source(s) affected by the decisions will be notified, as required by 40 CFR 63.91(b) and (g)(1)(ii). We will initiate withdrawal of the program or rule if the corrective actions taken are insufficient. *See* 51 FR 20648 (June 6, 1986).

XI. Should sources submit notices to the EPA or ODEQ?

For the delegated NESHAP standards and authorities covered by this proposed action, if finalized, sources would submit all of the information required pursuant to the general provisions and the relevant subpart(s) of the delegated NESHAP (40 CFR parts 61 and 63) directly via electronic submittal to online EPA database portals that are specified in each rule, and also as paper submittals to the ODEQ at the following address: Oklahoma Department of

Environmental Quality, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101–1677. The ODEQ is the primary point of contact with respect to delegated NESHAP. The EPA Region 6 proposes to waive the requirement that courtesy notifications and reports for delegated standards be submitted to the EPA in addition to ODEQ in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii).² For those standards and authorities not delegated as discussed above, sources must continue to submit all appropriate information to the EPA.

XII. How will unchanged authorities be delegated to ODEQ in the future?

As stated in previous NESHAP delegation actions, the EPA has approved Oklahoma's mechanism of incorporation by reference of NESHAP standards into ODEQ regulations, as they apply to both part 70 and non-part 70 sources. See, e.g., 61 FR 4224 (February 5, 1996) and 66 FR 1584 (January 9, 2001). Consistent with the EPA regulations and guidance,³ ODEQ may request future updates to Oklahoma's NESHAP delegation by submitting a letter to the EPA that appropriately identifies the specific NESHAP which have been incorporated by reference into State rules, reaffirms that it still meets up-front approval delegation criteria for part 70 sources, and demonstrates that ODEQ maintains adequate authorities and resources to implement and enforce the delegated NESHAP requirements for all sources. We will respond in writing to the request stating that the request for delegation is either approved or denied. A **Federal Register** action will be published to inform the public and affected sources of the updated delegation, indicate where source notifications and reports should be sent, and amend the relevant portions of the Code of Federal Regulations identifying which NESHAP standards have been delegated to the ODEQ.

XIII. Impact on Areas of Indian Country

Following the U.S. Supreme Court decision in *McGirt v. Oklahoma*, 140 S.

Ct. 2452 (2020), the Governor of the State of Oklahoma requested approval under Section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005: A Legacy for Users, Public Law 109–59, 119 Stat. 1144, 1937 (August 10, 2005) (“SAFETEA”), to administer in certain areas of Indian country (as defined at 18 U.S.C. 1151) the State's environmental regulatory programs that were previously approved by the EPA outside of Indian country.⁴ The State's request excluded certain areas of Indian country further described below.

On October 1, 2020, the EPA approved Oklahoma's SAFETEA request to administer all of the State's EPA-approved environmental regulatory programs, including the delegated portions of the NESHAP program, in the requested areas of Indian country.⁵ As requested by Oklahoma, the EPA's approval under SAFETEA does not include Indian country lands, including rights-of-way running through the same, that: (1) qualify as Indian allotments, the Indian titles to which have not been extinguished, under 18 U.S.C. 1151(c); (2) are held in trust by the United States on behalf of an individual Indian or Tribe; or (3) are owned in fee by a Tribe, if the Tribe (a) acquired that fee title to such land, or an area that included such land, in accordance with a treaty with the United States to which such Tribe was a party, and (b) never allotted the land to a member or citizen of the Tribe (collectively “excluded Indian country lands”).

The EPA's approval under SAFETEA expressly provided that to the extent EPA's prior approvals of Oklahoma's environmental programs excluded Indian country, any such exclusions are superseded for the geographic areas of Indian country covered by the EPA's

approval of Oklahoma's SAFETEA request.⁶ The approval also provided that future revisions or amendments to Oklahoma's approved environmental regulatory programs would extend to the covered areas of Indian country (without any further need for additional requests under SAFETEA).

As explained above, the EPA is proposing to approve an update to the Oklahoma NESHAP delegation. Consistent with the EPA's October 1, 2020, SAFETEA approval, if this action is finalized as proposed, Oklahoma's delegation of the NESHAP program will apply to all areas of Indian country within the State of Oklahoma, other than the excluded Indian country lands.

XIV. Proposed Action

In this action, the EPA is proposing to approve an update to the Oklahoma NESHAP delegation that would provide the ODEQ with the authority to implement and enforce certain newly incorporated NESHAP promulgated by the EPA and amendments to existing standards currently delegated, as they existed though June 30, 2021. This proposed delegation to ODEQ extends to sources and activities located in certain areas of Indian country, as explained in section XIII above.

XV. Environmental Justice Considerations

EPA reviewed demographic data, which provides an assessment of individual demographic groups of the populations living within Oklahoma.⁷ The EPA then compared the data to the national average for each of the demographic groups.⁸ The results of the demographic analysis indicate that, for populations within Oklahoma, the percent people of color (persons who reported their race as a category other than White alone (not Hispanic or Latino)) is less than the national average (36.2 percent versus 40.7 percent). Within people of color, the percent of the population that is Black or African American alone is lower than the national average (7.8 percent versus 13.6 percent) and the percent of the population that is American Indian/

⁴ A copy of the Governor's July 22, 2020, request can be found in the docket for this proposed rulemaking.

⁵ A copy of EPA's October 1, 2020, approval can be found in the docket for this proposed rulemaking. In accordance with Executive Order 13990, EPA is currently reviewing our October 1, 2020, SAFETEA approval and is engaging in further consultation with Tribal governments and discussions with the State of Oklahoma as part of this review. EPA also notes that the October 1, 2020, approval is the subject of a pending challenge in federal court. (*Pawnee v. Regan*, No. 20–9635 (10th Cir.)). Pending completion of EPA's review, EPA is proceeding with this proposed action in accordance with the October 1, 2020, approval. EPA's final action on the NESHAP delegation update will address the scope of the State's program with respect to Indian country, and may make any appropriate adjustments, based on the status of our review at that time. If EPA's final action on Oklahoma's NESHAP delegation update is taken before our review of the SAFETEA approval is complete, EPA may make further changes to the approval of Oklahoma's NESHAP delegation to reflect the outcome of the SAFETEA review.

⁶ EPA's prior approvals relating to Oklahoma's NESHAP delegation frequently noted that the NESHAP delegation was not approved to apply in areas of Indian country located in the State. See, e.g., 83 FR 53183 (October 22, 2018). Such prior expressed limitations are superseded by the EPA's approval of Oklahoma's SAFETEA request.

⁷ See the United States Census Bureau's QuickFacts on Oklahoma at <https://www.census.gov/quickfacts/fact/table/OK,US/PST045222>.

⁸ See the United States Census Bureau's QuickFacts on Oklahoma at <https://www.census.gov/quickfacts/fact/table/OK,US/PST045222>.

² This waiver only extends to the submission of copies of notifications and reports; the EPA does not waive the requirements in delegated standards that require notifications and reports be submitted to an electronic database (e.g., 40 CFR part 63, subpart HHHHHH).

³ See Hazardous Air Pollutants: Amendments to the Approval of State Programs and Delegation of Federal Authorities, Final Rule (65 FR 55810, September 14, 2000); and “Straight Delegation Issues Concerning Sections 111 and 112 Requirements and Title V,” by John S. Seitz, Director of Air Quality Planning and Standards, EPA, dated December 10, 1993.

Alaska Native is significantly higher than the national average (9.7 percent versus 1.3 percent). The percent of the population that is two or more races is higher than the national averages (6.6 percent versus 2.9 percent). The percent of people living below the poverty level in Oklahoma is higher than the national average (15.6 percent versus 11.6 percent). The percent of people over 25 with a high school diploma in Oklahoma is similar to the national average (88.7 percent versus 88.9 percent), while the percent with a Bachelor's degree or higher is below the national average (26.8 percent versus 33.7 percent).

This action proposes to approve the requests from the State to update its NESHAP delegations under section 112 of the CAA. The authorities contained in the Oklahoma permitting program to implement and enforce Federal section 112 rules as promulgated, without changes for both part 70 and non-Part 70 sources, are adequate to assure compliance by sources within the State with respect to each applicable standard, regulation, or requirement established under section 112. EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations with environmental justice concerns because it is not anticipated to result in or contribute to emissions increases in Oklahoma.

XVI. Statutory and Executive Order Reviews

Under the CAA, the Administrator has the authority to approve section 112(l) submissions that comply with the provisions of the Act and applicable Federal regulations. In reviewing section 112(l) submissions, the EPA's role is to approve State choices, provided that they meet the criteria and objectives of the CAA and of the EPA's implementing regulations. Accordingly, this proposed action would merely approve the State's request as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

This proposal to approve Oklahoma's request to update the NESHAP delegation will apply, if finalized as proposed, to certain areas of Indian country as discussed in section XIII above, and therefore has Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). However, this action will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt Tribal law. This action will not impose substantial direct compliance costs on federally recognized Tribal governments because no actions will be required of Tribal governments. This action will also not preempt Tribal law as no Oklahoma tribe implements a regulatory program under the CAA, and thus does not have applicable or related Tribal laws. Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes (May 4, 2011), on July 16, 2021, the EPA offered consultation to all 38 Tribal governments whose lands are located within the exterior boundaries of the State of Oklahoma. Requested consultation was initiated on December 21, 2021, and concluded on January 26, 2022.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and

Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation's Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements E.O. 12898 and defines EJ as, among other things, the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, or Tribal affiliation, or disability in agency decision-making and other Federal activities that affect human health and the environment.”

ODEQ did not evaluate EJ considerations as part of its submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA performed an EJ analysis, as is described in this proposed action 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. 12898/14096 of achieving EJ for communities with EJ concerns.

List of Subjects

40 CFR Part 61

Environmental protection, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements, Vinyl chloride.

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: December 12, 2024.

Dzung Ngo Kidd,

Acting Director, Air and Radiation Division, Region 6.

[FR Doc. 2024–30245 Filed 12–20–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R08–RCRA–2024–0408; FRL–12226–01–R8]

Utah: Final Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant authorization to the State of Utah for the changes to its hazardous waste program under the Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through a direct final action, which can be found in the "Rules and Regulations" section of this **Federal Register**. In addition, the EPA is proposing to codify in the regulations entitled "Approved State Hazardous Waste Management Programs," Utah's authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that the EPA will enforce under RCRA.

DATES: Send written comments by January 22, 2025.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–RCRA–2024–0408 at <https://www.regulations.gov>. Follow the detailed instructions for submitting comments electronically or by other methods in the **ADDRESSES** section of the direct final rule located in the "Rules and Regulations" section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Moye Lin, Land, Chemicals and Redevelopment Division, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129; telephone number: (303) 312–6667, email address: lin.moye@epa.gov.

SUPPLEMENTARY INFORMATION: In the "Rules and Regulations" section of this **Federal Register**, the EPA is authorizing changes to the Utah program, in addition to codifying and incorporating by reference the State's hazardous waste program as a direct final rule. The EPA did not make a proposal prior to the direct final rule because we believe

these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this authorization and incorporation by reference in the preamble to the direct final rule.

Unless the EPA receives written comments that oppose the authorization and incorporation by reference during the comment period, the direct final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose the authorization, we will withdraw the direct final rule and it will not take immediate effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

Dated: December 11, 2024.

CK Becker,

Regional Administrator, Region 8.

[FR Doc. 2024–30027 Filed 12–20–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[EPA–HQ–OPPT–2024–0085; FRL–5398–06–OCSPJ]

RIN 2070–AJ64

Lead Wheel Weights; Petition for Rulemaking Under the Toxic Substances Control Act (TSCA); Decision Not To Proceed With a Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Petition; reasons for Agency response.

SUMMARY: The Environmental Protection Agency (EPA or Agency) has decided not to proceed with the development of a regulation addressing the manufacture, processing, or distribution in commerce of lead for wheel-balancing weights ("lead wheel weights") under the Toxic Substances Control Act (TSCA). This action relates to a citizen petition filed with the Agency in 2009 ("2009 petition"). The 2009 petition, which EPA granted, asked EPA to initiate a rulemaking proceeding to regulate the manufacturing, processing, or distribution in commerce of lead wheel weights. In 2023, the same parties filed a petition for a writ of mandamus ("mandamus petition") that sought to compel EPA to initiate the rulemaking

proceeding requested in the 2009 petition. After reviewing the information submitted in response to an advance notice of proposed rulemaking (ANPRM) issued in April 2024 and EPA's technical analysis thereof, EPA has decided not to proceed with the development of a proposed rule. Addressing potential remaining exposures from lead continues to be a high priority for EPA, as reflected in EPA's announcement that "Lead and Lead Compounds" is on its list of candidate chemical substances currently being considered for future prioritization actions under TSCA.

DATES: This decision is effective December 23, 2024.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2024–0085, is available online at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the docket in-person, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Technical information: Sean Duenser, Existing Chemicals Risk Management Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 343–9157; email address: duenser.sean@epa.gov.

General information: The TSCA Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. It may be of interest to those who manufacture, process, distribute in commerce, use, or dispose of lead wheel weights, or their substitutes. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum) (NAICS code 331419);
- Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum) (NAICS code 331492);
- Lead die-castings, unfinished, manufacturing (NAICS code 331523);
- Lead die-castings, unfinished, manufacturing (NAICS code 331523);

- Automobile Manufacturing (NAICS code 336111);
- Light Truck and Utility Vehicle Manufacturing (NAICS code 336112);
- Heavy Duty Truck Manufacturing (NAICS code 336120);
- All Other Motor Vehicles Parts Manufacturing (NAICS code 336399);
- Motorcycle, Bicycle, and Parts Manufacturing (NAICS code 336991);
- Automobile and Other Motor Vehicle Merchant Wholesalers (NAICS code 423110);
- Motor Vehicle Supplies and New Parts Merchant Wholesalers (NAICS code 423120);
- Tire and Tube Merchant Wholesalers (NAICS code 423130);
- Motor Vehicle Parts (Used) Merchant Wholesalers (NAICS code 423140);
- New Car Dealers (NAICS code 441110);
- Used Car Dealers (NAICS code 441120);
- Recreational Vehicle Dealers (NAICS code 441210);
- Motorcycle, Boat, and Other Motor Vehicle Dealers (NAICS code 441220);
- Automotive Parts and Accessories Stores (NAICS code 441310);
- Tire Dealers (NAICS code 441320);
- General Automotive Repair (NAICS code 811111);
- Other Automotive Mechanical and Electrical Repair and Maintenance (NAICS code 811118);
- Automotive Oil Change and Lubrication Shops (NAICS code 811191); and
- All Other Automotive Repair and Maintenance (NAICS code 811198).

If you have any questions regarding the applicability of this action, please consult the technical information contact listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the Agency's authority for taking this action?

TSCA section 21, 15 U.S.C. 2620, allows citizens to petition EPA to initiate a rulemaking proceeding for the issuance, amendment, or repeal of a rule under TSCA sections 4, 6, or 8 or an order under TSCA sections 4 or 5(e) through (f). If EPA grants such a petition, the Agency must promptly commence an appropriate proceeding. In addition, under TSCA section 6(a), if EPA determines that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance presents an unreasonable risk to human health or the environment, it must “apply one or more of the [TSCA section 6(a)] requirements . . . to the extent necessary so that the chemical substance . . . no longer presents such

risk,” which may range from prohibiting or otherwise restricting the manufacture, processing, or distribution in commerce of the chemical substance (or a particular use), to commercial use requirements or disposal restrictions, to labeling and recordkeeping, among other requirements.

C. What action is the Agency taking?

EPA is issuing this action to inform the public of its decision not to regulate the manufacture, processing, or distribution in commerce of lead for wheel-balancing weights (“lead wheel weights”) under TSCA. This action is limited to lead for lead wheel weights. EPA’s actions to address “lead and lead compounds” more broadly are discussed in Unit IV.C. This action relates to a citizen petition filed with the Agency in 2009 under TSCA section 21, which asked EPA to initiate a TSCA rulemaking proceeding to regulate the manufacture, processing, or distribution in commerce of lead wheel weights (Ref. 1). The 2009 petition was filed by representatives of the following groups: Ecology Center, Sierra Club, Alliance for Healthy Homes, Center for Environmental Health, Environmental Health Watch, Coalition to End Childhood Lead Poisoning, United Parents Against Lead, Louisiana ACORN, Lead Technicians, Tulane University, Drexel School of Public Health, and one individual (collectively, “Petitioners”). EPA granted this petition in 2009. In 2023, the same parties filed a petition for a writ of mandamus (“mandamus petition”) in the United States Court of Appeals for the Ninth Circuit: *Ecology Center, et al. v. U.S. EPA*, No. 23–70158 (9th Cir.) (Ref. 2). The mandamus petition sought to compel EPA to initiate the rulemaking proceeding requested in the 2009 petition. EPA published for comment a proposed settlement agreement with the petitioners in March 2024. As part of the settlement agreement, EPA proceeded with an ANPRM in April 2024. EPA and the Petitioners then entered into a settlement agreement in September 2024.

EPA is taking this action after reviewing the information submitted to EPA in response to the ANPRM (Ref. 3), in addition to other reasonably available information, and this action is also supported by EPA’s technical analysis, entitled: *Technical Support Document for Lead Wheel Weights* (TSD) (Ref. 4), which further discusses the low potential for exposure to children and injury to human health or the environment from lead wheel weights

based on the exposure scenarios evaluated for this petition.

This action serves as EPA’s final decision in response to the 2009 petition. In addition, this action will not have a preemptive effect on State actions under TSCA section 18.

D. Why is the Agency taking this action?

In April 2024, EPA published an ANPRM seeking information regarding the use and exposure to lead from the manufacture (including import), processing (including recycling), distribution in commerce, use, and disposal of lead wheel weights, as well as information on their substitutes, to help determine if there is unreasonable risk to human health and the environment associated with lead wheel weights (Ref. 3). The Agency received 128 comments providing input on whether to move forward with the development of a rule regulating lead wheel weights. The Agency did not, however, receive any lead wheel weight exposure data during the ANPRM public comment period that it had not already considered or that would be sufficient to determine that this activity presents an unreasonable risk of injury to health or the environment and necessitate a proposed rulemaking, as discussed in Unit IV. As also addressed in Unit IV., the Agency preliminarily found that risk associated with residential exposure is lower than previously believed. The Agency further believes that examination of risks associated with exposures to lead from the manufacture (including import), processing (including recycling), distribution in commerce, use, and disposal of lead wheel weights would be more appropriately assessed and addressed as part of a broader assessment of exposures associated with lead and lead compounds during a complete TSCA section 6(b) risk evaluation. Therefore, EPA is not proceeding with a proposed regulation addressing lead wheel weights.

II. Background

A. Overview of Lead Wheel Weights

Wheel weights are small pieces of metal or other material used to correct imbalances in the weight distribution of motor vehicle tires. Lead has historically been a primary component of many wheel weights because of its malleability, high density, and relatively low cost. Nine States in the United States have banned the sale, distribution, and/or use of lead wheel weights. In addition, many automotive manufacturers, both those manufacturing within the United States

and those exporting vehicles to the United States, have switched to alternative wheel weight options in new vehicle production that meet the regulatory requirements in those states, citing the impracticality of using different wheel weights for new vehicles sold only in those States, due to the interstate and international nature of automotive production (Ref. 5). For the same reasons, most automotive manufacturers that sell vehicles in the United States are in compliance with Canada's prohibition on the use of lead wheel weights as well (Ref. 5). However, lead wheel weights may still be used for wheel balancing in auto repair and maintenance of vehicles post-sale. EPA identified one remaining domestic manufacturer of lead wheel weights in the United States and EPA has identified multiple importers of lead wheel weights (Ref. 6). Wheel weights can separate from the wheel due to failure of the adhesive or clip attaching them, or due to impact of the wheel with a pothole or road debris, during a crash, or due to other physical strains. Lead wheel weights that separate from vehicle wheels, or are not properly disposed of, may be abraded into fine particles by traffic. Abraded lead particles may then be released into the air as part of roadway dust due to turbulence from wind or from passing vehicles. As this lead migrates to nearby homes, it can enter the yard soil or the indoor dust. Children or adults living nearby can be exposed through ingestion of soil or dust particles. Lead wheel weights may also enter the environment by washing off roads during rain, being thrown from the road intact by vehicles, or by being collected by street cleaners and disposed of in landfills. Exposure scenarios identified by Petitioners are addressed further in the TSD (Ref. 4).

B. Overview of Petitioners Request

1. 2009 Petition

In May 2009, Petitioners submitted a TSCA section 21 petition requesting that EPA "establish regulations prohibiting the manufacture, processing, and distribution in commerce of lead wheel balancing weights ('wheel weights')" (Ref. 1). Petitioners raised concerns that lead wheel weights result in pervasive lead exposure to children and health effects on ecological receptors. EPA requested public comment on the petition in July 2009 (Ref. 7) and granted the petition on August 26, 2009 (Ref. 8). EPA stated in its letter granting the petition, "[t]he Agency will promptly commence an appropriate proceeding under TSCA. EPA

anticipates commencing this proceeding through either an Advance Notice of Proposed Rulemaking or a Proposed Rule" (Ref. 8).

2. 2023 Petition for Writ of Mandamus

In August 2023, the same Petitioners sought a writ of mandamus in the United States Court of Appeals for the Ninth Circuit and asked the court to direct EPA to conclude the rulemaking Petitioners requested in the 2009 petition. EPA and Petitioners subsequently entered the Ninth Circuit Mediation Program. A joint motion to dismiss the petition for writ of mandamus was filed and granted. EPA was required to either (1) sign a proposed rule and request publication by the Office of the Federal Register, or (2) request publication in the **Federal Register** of a determination not to proceed with regulating lead wheel weights.

3. What support did the petitioners offer?

In the 2009 petition, Petitioners highlighted that automobiles are a significant contributor to ongoing lead releases to the environment and identified lead wheel weight failures as one of the largest ongoing releases of lead to the environment (Ref. 1). Petitioners cited research from the New Jersey Department of Environmental Protection finding that high concentrations of environmental lead are directly correlated with traffic volume. Petitioners also claimed that the voluntary National Lead-Free Wheel Weight Initiative (NLFWWI) falls short of what is needed to protect children, the public, and the environment given EPA acknowledged that 1.6 million pounds of lead is lost when wheel weights fall off during normal driving conditions.

EPA granted the 2009 petition on August 26, 2009. In the 2023 mandamus petition, the Petitioners provided discussion on the danger posed by lead, stating that lead is a toxic heavy metal for which there is no safe level of exposure, citing EPA's own Integrated Science Assessment for Lead from 2013 (Ref. 9), and the Reconsideration of the Dust-Lead Hazard Standards and Dust-Lead Post Abatement Clearance Levels proposed rule (Ref. 10). Petitioners also discussed the impacts on human health and the environment related to lead exposures, stressing that children are at particularly high risk of harm from lead exposure (Ref. 2). Specifically, Petitioners noted that children experiencing disproportionate impacts due to racial and socioeconomic disparities are at high risk of harm.

Petitioners also noted that lead causes detrimental environmental effects to fish and wildlife (Ref. 2). Petitioners raised that lead from lead wheel weights is one pathway of exposure to humans, claiming that lead wheel weights enter the environment, and ultimately people's bodies when they are dislodged from vehicles, despite the availability of safer, lead-free, wheel weight alternatives in the market (Ref. 2). Petitioners also provided comment and numerous studies in response to the ANPRM; however, no new information that could be used to inform exposure to lead wheel weights was identified in the comments.

C. Overview of the 2024 ANPRM

In order for EPA to consider lead wheel weight regulation under TSCA section 6(a), the agency needs technical data linking lead wheel weight exposure to effects on human health and the environment in order to inform whether lead wheel weights pose unreasonable risk. EPA issued an ANPRM on April 3, 2024, requesting comment and information from the public and all stakeholders on the use and exposure to lead from the manufacture (including import), processing, distribution in commerce, use, and disposal of lead wheel weights, as well as information on their substitutes (Ref. 3). EPA received 21,297 comments, of which 128 were posted to the docket, including 8 unique comments from Petitioners; mass mailers; comments from the recycling, metal, and automotive industries; and a scientific organization (Ref. 11). The Agency did not receive additional data in response to the ANPRM that could be used in its technical analysis to support a proposed rulemaking.

1. ANPRM Comment Summary

The following is a summary of comments received on EPA's ANPRM for lead wheel weights (Ref. 3). This is intended to serve as a summary, rather than an opportunity for EPA to respond to each individual comment.

a. Lead Wheel Weight Effects on Human Health and the Environment

Petitioners and advocacy groups support regulatory action for lead wheel weights based on the rationale that this would protect children's health (Ref. 12). Petitioners stated that fallen lead wheel weights can lead to potential exposures to children and adults who inhale or ingest roadway particles containing lead from wheel weights or who drink contaminated water (Ref. 12). They commented that even very low blood lead levels are associated with

neurodevelopmental harm with irreversible effects in children and increased risks of cardiovascular disease in adults (Ref. 12). Another commenter stated that scientists now recognize that lead does lasting harm to children even at extremely low exposure levels. The commenter cited the 2012 National Toxicology Program conclusion that blood lead concentrations below 5 µg/dL have adverse effects on academic achievement, IQ, and attention-related behaviors (Ref. 13).

The commenter added that people from backgrounds with socioeconomic disparities live closer to transportation roadways and are more vulnerable to exposure to lead wheel weights that have fallen from vehicles. The commenter stated that exposure to lead from the degraded wheel weights can occur in a variety of ways, including from pedestrians in urban areas (and their pets) stepping on dust from lead wheel weights in city streets and tracking the lead dust into their homes (Ref. 13). The commenter also noted that it is known that blood lead levels correlate with transportation corridors (both in and outside of urban centers) and lead wheel weights contribute to those transportation-related exposures. The commenter raised the concern that there is growing evidence that the adverse effects of lead are most severe in Black and Hispanic children and children in low-income households. The commenter contended that this suggests that socioeconomic disadvantages can worsen the impact of lead exposures (Ref. 13).

b. Safer Wheel Weight Alternatives and Voluntary Programs

Petitioners also commented that there are widely available, economically viable alternatives to lead wheel weights (Ref. 12). Another commenter noted that industry has largely shifted into using zinc or steel alloy wheel weights (Ref. 5). The commenter continued to discuss that lead content in wheel weights has been reduced from the over 90% associated with high-density lead wheel weights to the current 0.1% associated with current weights as mandated by multiple State and international standards. EPA's voluntary NLFWWI, combined with the actions taken by the States, has resulted in the voluntary removal of all but trace amounts of lead in wheel weights used in new vehicles manufactured by NLFWWI members. The commenter stated that this approach appears to have mitigated the potential for unreasonable risk to human health or the environment (Ref. 5).

c. State Bans on Lead Wheel Weights

Petitioners are seeking a nationwide ban on lead wheel weights to streamline regulations and certainty across the United States. In their comments, Petitioners noted that even though there are existing lead wheel weight bans in nine States, Petitioners believe Federal action is required since they claim State bans are incomplete. For example, it is possible to live in a State where lead wheel weights are banned, such as Maine, and purchase lead wheel weights from online retailers such as eBay (Ref. 12). All State bans took place after the 2009 petition was granted. Another commenter, a trade association representing the auto industry, countered this assertion by stating that, given the interstate and international nature of auto production, it would be impractical to use different wheel weights for new vehicles sold in only those nine States. Consequently, the commenter noted, all of the automobile manufacturers in the trade association have switched to alternative wheel weight options in new vehicle production that meet the requirements of these State regulations (Ref. 5). The commenter extended this rationale internationally to Canada, where the country prohibited the "manufacturing or importing wheel weights containing more than 0.1% lead by weight," in February 2024 (Ref. 14). The commenter noted that, for the same reasons, the original equipment manufacturer members that sell vehicles in the United States are in compliance with Canada's prohibition on the use of lead wheel weights (Ref. 5).

d. Federal Regulations on Lead Wheel Weight Recycling Already Exist

One commenter expressed concerns about lead from wheel weights entering a metal scrap stream. The commenter feared that if the lead wheel weights are not removed prior to the shredding and crushing process, they become nearly impossible to locate within the scrap stream and will be melted in an electric arc furnace (EAF) (Ref. 15). However, another commenter believed existing regulations suffice, asserting that regulations for certain EAFs and iron and steel foundries under the Clean Air Act (CAA) effectively require removal of lead wheel weights from end-of-life vehicles (ELVs) by automotive dismantlers and metal shredding facilities. The commenter cited existing Federal regulations such as the CAA regulations under 40 CFR part 63, subparts EEEEE (Iron and Steel Foundries), YYYYY (Electric Arc Furnace Area Sources), and ZZZZZ

(Iron and Steel Foundries Area Sources), which include requirements for these EAFs and foundries to minimize, to the extent practicable, the presence of lead and lead containing components in the input ferrous materials supplied to them (Ref. 16).

e. Economic Value and Obligations To Remove Lead Wheel Weights During Recovery and Recycling

Multiple commenters also raised the economic value of recovering lead wheel weights at the recycling stage. One commenter mentioned that these recycling facilities are heavily regulated under Federal environmental statutes. The commenter believed that this ensures that recycling facilities have not just a legal obligation to properly manage any lead wheel weights, but also appropriate financial assurance for the future (Ref. 17). Another commenter provided an example of economic value to the recycling sector, commenting that lead wheel weights are easily accessible on the wheels of ELVs and are relatively valuable, especially as a recycled material that meets the "ropes" specification. The commenter believed that the low cost of removing lead wheel weights from the wheels of ELVs combined with their higher value provides economic incentive to remove them from ELVs as soon as possible (before further dismantling or shredding). Such removal of lead wheel weights prior to ELV shredding also provides operational benefits at the metal shredding facility (e.g., higher quality of produced recycled ferrous metal and recycled nonferrous metals) (Ref. 16).

2. Additional Industry and Stakeholder Engagement

In addition to issuing the ANPRM, EPA conducted outreach to various stakeholders in the lead wheel weight industry. EPA identified one remaining lead wheel weight manufacturer in the United States; other manufacturers that had previously manufactured lead wheel weights confirmed their transition to lead-free alternatives, such as steel and zinc alloy wheel weights, citing the bans of lead wheel weights in nine States. During discussions with the sole remaining manufacturer and other stakeholders, as well as review of comments to the ANPRM, EPA learned that lead wheel weight products are increasingly being imported into the United States rather than manufactured domestically. EPA requested exposure data from the manufacturer and did not receive any. The Alliance for Automotive Innovation, which represents automakers that produce and

sell approximately 95 percent of the new light-duty vehicles in the United States, commented that they surveyed their members and found that none of their original-equipment manufacturers use lead wheel weights on new vehicles manufactured or distributed to dealerships in the United States (Ref. 5).

III. Analysis of Exposure Pathways

A. Children's Roadside Exposure

EPA analyzed the potential exposure pathway of residential exposure to children from lead-containing road dust from lead wheel weights. IQ loss in children is considered the most sensitive endpoint for lead exposure. This quantitative exposure analysis simulated the scenario for exposure from this pathway (a residence at the intersection of two busy roads) and estimated the blood lead levels and IQ decrement in children up to age 7 that could result from exposure to lead dust created by abraded lead wheel weights that could be tracked-in with yard soil or blown into a household where children could be exposed (Ref. 4). This analysis found low risk to children from this pathway based on the information and data available. The increase in residential soil and dust lead concentration due to lead wheel weights, even in the near-roadway scenario, is small compared with other sources that contribute to lead concentration. Soil and dust lead concentrations from lead wheel weights, along with residential background soil and dust lead concentrations taken from the American Healthy Homes Surveys (AHHS I and II), are presented in table 4–8 of the Technical Support Document (Ref. 4). The baseline concentrations of lead in residential soil and dust from the AHHS used in this analysis were 100.06 µg/g and 79.16 µg/g respectively, and lead wheel weights contributed an additional 3.02 µg/g and 1.15 µg/g respectively in the near-roadway scenario. The small contribution of lead wheel weights to residential lead concentrations leads to small potential impacts on BLL and IQ loss. The approximate wheel weight contribution to IQ point decrement was estimated to be 0.026 IQ points at the higher-end of predicted soil and dust exposure, which corresponded to a 2-year-old child living near a busy road intersection. By comparison, the estimated IQ decrement for a 2-year-old child in the corresponding baseline scenario from residential background concentrations of lead in soil and dust was 2.61 IQ points (see table 5–2 in the Technical Support Document (Ref. 4)). This means that the estimated IQ decrement from

residential background concentrations of lead in soil and dust are over 100 times higher than those expected from lead wheel weight exposure for a 2-year-old child in the near-roadway scenario.

In the children's roadside exposure scenario, lead wheel weights are lost from cars onto the road. Lost wheel weights are abraded over time due to weathering and further traffic abrasion. Some of the lead that is abraded will be emitted to the air as part of roadway dust due to roadway turbulence and other dust emission mechanisms. EPA estimated the road dust from lead wheel weights, accounting for the following parameters: loss rate of lead wheel weights, fraction of weights degraded per day, street cleaning frequency, additional wheel weight removal rate, additional dust loss rate, and emission rate. EPA used a similar model to characterize deposition to soil resulting from airborne lead particles emitted from the road, which computed the steady State amount of lead in the air as a function of distance away from the road. This model accounted for particle deposition rate, height of the air compartment, and wind speed. For its yard soil module, EPA predicted the yard lead concentrations in a receptor yard near the roadway, downwind from the road, which accounted for soil depth, half-life of lead in soil, dimensions of the yard, and accumulation time. Further modeling estimated the contribution of lead in yard soil from lead wheel weights to indoor dust lead concentrations in the residence. Each of these model parameters is subject to uncertainty, and, while EPA attempted to make conservative assumptions, when possible, not all exposure scenarios could be accounted for. For details of the assumptions made in estimating children's exposure to lead from lead wheel weights, please see the accompanying Technical Support Document (Ref. 4).

EPA determined the effect of lead wheel weights on a hypothetical child's blood lead level using peer-reviewed models and literature wherever possible, using approaches and input values similar to those used in other EPA lead analyses. EPA's blood lead module used the lead soil, air, and dust concentrations as calculated above as inputs to the All Ages Lead Model (AALM) version 3.0, an EPA-developed exposure model of lead across a lifetime. Using this model, blood lead levels were estimated each year at ages 1 through 7. The results show a low impact of the exposure to lead wheel weights on blood lead levels through the first seven years of a child's life.

Estimated exposure to lead wheel weights contributed to an increase of blood lead levels of 0.012 µg/dL at the higher end of the predicted exposure. That estimate means the contribution of lead exposure from lead wheel weights led to a less than 1% estimated increase in blood lead levels. Additionally, EPA calculated IQ decrements for children exposed to lead wheel weights in the children's roadside exposure scenario. The effects of lead wheel weights on lifetime IQ loss were estimated to be small (0.026 IQ points at the higher-end of predicted exposure) for the near-roadway soil and dust exposure scenario, and because IQ loss in children is considered the most sensitive endpoint for lead exposure, other health effects of near-roadway lead wheel weight exposure in children and adults were not evaluated, but are expected to be small as well.

B. Ecological Screening Assessment

EPA considered lead wheel weights that are lost from cars and deposited into streams or freshwater lakes via rainfall by modeling a short-term exposure scenario and a long-term exposure scenario. In the short-term exposure scenario, a hypothetical 1-mile roadway drains directly into a stream after a 1-day rainfall event. The rate of lead wheel weight loss from cars on all modeled roads in the water deposition scenario was set to the highest value available in the scientific literature, representing a busy six-lane road in Albuquerque, New Mexico (Ref. 18) and corresponding to approximately five hundred 1-ounce lead wheel weights lost per mile of roadway per year. EPA expects that this assumption is an overestimate, as most roads are not six-lane highways and because current rates of lead wheel weight use are expected to be lower than in 2000, when the Albuquerque loss rate study (Ref. 18) was published. Nine U.S. States have banned lead wheel weights since this loss rate study was conducted, and an industry group representing the manufacturers of approximately 95 percent of new cars sold in the United States currently indicates that these manufacturers no longer use lead wheel weights on new vehicles (Ref. 5). Aquatic organisms in streams and lakes can be exposed to lead through this route. EPA's assessment of this scenario estimates the lead concentration in water attributable to lead wheel weights that dissolve in streams and lakes. It considers a 1-day rainfall event and long-term accumulation of lead wheel weights in freshwater bodies.

This assessment accounted for the following parameters: wheel weight loss

rate, street cleaning frequency, flow rate of stormwater-receiving streams, fraction of lead wheel weights that dissolve during each rainfall event, and water concentrations. EPA assumed that all lead wheel weights present on the roadway were washed into the stream, that no rainfall event had occurred since the street was last cleaned, and that the maximum time had elapsed between street cleaning events (6 months). These assumptions corresponded to slightly more than 257 1-ounce lead wheel weights simulated to enter the 1-mile stretch of stream. EPA estimated lead concentrations for varying values of streamflow and dissolution rates of lead in a 1-day rainfall scenario. The maximum water concentration attributable to lead wheel weights due to a 1-day rainfall event is 0.0000164 µg/L (less than 0.1 parts per trillion), which occurs when 100% of a lead wheel weight dissolves per year (the fastest dissolution rate modeled), there are only two rainfall events per year, each immediately preceding the street cleaning event (leading to the maximum possible accumulation of lead wheel weights), and the stream flow rate is 50 cubic feet per second (the smallest stream modeled). By comparison, the level of concern for acute freshwater aquatic exposure to lead in water is 65 µg/L (Ref. 19). Therefore, under the most conservative conditions modeled (a fast dissolution rate for lead wheel weights, and a small stream containing a low volume of water in which to dilute the wheel weights' lead contribution), the estimated water concentration of lead attributable to wheel weights remains far below the level of concern for acute toxicity in freshwater organisms. The slow dissolution rate of lead wheel weights and the relative insolubility of inorganic lead in water means that the estimated acute exposure to lead in freshwater streams due to lead wheel weights (0.0000164 µg/L) is far below the acute level of concern for aquatic life (65 µg/L), indicating that acute toxicity to freshwater organisms from lead wheel weights is unlikely based on this analysis.

EPA also considered a long-term ecological exposure scenario. Depending on certain conditions (*e.g.*, water acidity), lead wheel weights that have been swept up by rainfall and deposited in freshwater ponds and lakes can dissolve over time, increasing the lead water concentration. EPA's analysis of this scenario considers the average contribution of lead wheel weights to freshwater lead concentration on a national scale. The model was based on determining the accumulated mass of

wheel weights in water, the rate at which they dissolve, the volume of water, and the rate at which fresh water is replaced by rainfall. This analysis determined that the highest estimated lead concentration in water was 0.0009 µg/L (less than 1 part per trillion), which is below the criterion continuous concentration (CCC) hazard level for freshwater aquatic life, which ranges from 1.3 to 7.7 µg/L depending on water hardness with a default value at 2.5 µg/L (corresponding to 100 mg/L hardness as CaCO₃). This estimate included the assumption that 100 percent of lost lead wheel weights are deposited in water bodies. Therefore, actual average lead concentrations in the environment due to lead wheel weights are likely lower, although limitations in the analysis due to the national scale of the long-term ecological exposure scenario means that individual water bodies may experience different contributions of lead from lead wheel weights depending on their location relative to roads. For further details on the technical analyses conducted in support of this action, please see the accompanying Technical Support Document.

IV. Decision Not To Proceed With Rulemaking

A. EPA's Analysis Estimates Low Impacts to Children and the Environment From Exposure to Lead Wheel Weights

Children exposed to lead are at an increased risk of adverse health effects, including decreased cognitive performance, greater incidence of problem behaviors, and increased diagnoses of attention-related behavioral problems. The negative health effects associated with lead exposure are well-documented, and include neurological, cardiovascular, renal, reproductive, developmental, and hematological effects (Ref. 20). Several studies have demonstrated a link between increased blood lead level (BLL) and IQ loss in children (Ref. 21 and Ref. 22). IQ loss is among the most sensitive endpoints studied (*i.e.*, IQ loss occurs at a lower BLL than other health effects and therefore IQ loss is used as a reference for lead's adverse health effects in children). EPA calculated IQ decrements for children exposed to lead from lead wheel weights in a near-roadway scenario, where lead is released into the roadway environment due to abrasion of lost wheel weights, the lead migrates to the air surrounding the home, the deposition of lead particles contributes to yard soil concentrations, and outdoor soil lead levels influence the indoor dust lead

levels in the residence (Ref. 4). The effects of lead wheel weights on lifetime IQ loss were estimated to be low for the near-roadway soil and dust scenario. At ages 2 and 7, lifetime IQ loss models with conservative assumptions found the contribution of lead wheel weights to result in an estimated difference in lifetime IQ loss of 0.026 points for this exposure scenario. This means that near-roadway soil and dust exposure from abraded lead wheel weights added approximately 1 percent to the IQ loss already attributable to exposure to other sources of lead.

Lead exposure can also cause adverse effects in animals and plants in the environment (Ref. 20). EPA estimated water concentrations in streams and water bodies attributable to lead wheel weights lost from vehicles and compared them to the freshwater levels of concern published in the Ambient Water Quality Criteria for Lead (Ref. 19). These levels of concern represent acute and chronic lead concentrations in freshwater that EPA considers harmful to wildlife. In the acute (short-term) and chronic (long-term) scenario, EPA's analysis estimated that the concentration of lead in freshwater streams and water bodies attributable to lead wheel weights was less than 1 part per trillion. By comparison, the freshwater levels of concern are 65 parts per billion for acute exposure, and 2.5 parts per billion for chronic exposure. The estimated lead exposure of wildlife in freshwater due to lead wheel weights is several orders of magnitude lower than the acute and chronic levels of concern, indicating low potential for adverse effects. See EPA's TSD for more information (Ref. 4).

In addition to the conclusions made in EPA's analysis, the Agency did not receive, during its engagement with stakeholders and with the sole remaining domestic lead wheel weight manufacturer, or during the 30-day public comment period for the ANPRM, additional data that could be used in the TSD that would support a proposed rulemaking for lead wheel weights. The Agency did receive comment from the Alliance for Automotive Innovation, which represents automakers that produce and sell approximately 95 percent of the new light-duty vehicles in the United States. They surveyed their members and found that none of their original-equipment manufacturers use lead wheel weights on new vehicles manufactured or distributed to dealerships in the United States (Ref. 5).

B. Statutory and Regulatory Context

In the August 2023 mandamus petition (Ref. 2), Petitioners cite EPA's

proposed rule entitled, “*Reconsideration of the Dust-Lead Hazard Standards and Dust-Lead Post-Abatement Clearance Levels*” (88 FR 50444, August 1, 2023 (FRL–8524–01–OCSPP)) (Ref. 10). Specifically, Petitioners reference EPA’s statement: “[T]here is no evidence of a threshold below which there are no harmful health effects from lead exposure.” This is cited to support the petition’s discussion on the dangers posed by lead and lead wheel weights and, more specifically, that lead is a dangerous toxic chemical that can cause irreversible health harms at low levels of exposure. Furthermore, the Federal Lead Action Plan, developed by the President’s Task Force on Environmental Health Risks and Safety Risks to Children, which comprises 17 Federal departments and offices, including EPA, states that “no safe blood lead level in children has been identified” (Ref. 23).

EPA is reaffirming these positions and continues its commitment to strengthening public health protections, addressing lead contamination for communities with the greatest exposures, and promoting environmental justice. EPA is clarifying in this document that the authorities under Title X of the Housing and Community Development Act of 1992 (also known as the Residential Lead-Based Paint Hazard Reduction Act of 1992 or “Title X”) (Pub. L. 102–550) and TSCA Title IV differ from TSCA section 6.

TSCA Title IV directs EPA to identify the level of dust-lead exposure that “would result in adverse human health effects” as a type of lead-based paint hazard (15 U.S.C. 2681(10)). In addition, on May 14, 2021, the United States Court of Appeals for the Ninth Circuit issued an opinion (2021 Court Opinion) which instructed EPA to consider only health factors when setting the dust-lead hazard standards (described as “dust-lead reportable levels” in EPA’s final rule) (89 FR 89416, November 12, 2024 (FRL–8524–02–OCSPP)). On November 12, 2024, EPA published the final rule to lower these standards to “any reportable level as analyzed by a laboratory recognized by EPA’s National Lead Laboratory Accreditation Program (NLLAP).” This revision acknowledges the current state of scientific evidence (*i.e.*, that there is no evidence of a threshold below which there are no harmful effects on cognition from lead exposure) and is consistent with the 2021 Court Opinion. The revised hazard standards are inclusive of any reportable level of dust-lead and do not distinguish based on health risks posed. In the same

rule, EPA revised the dust-lead action levels (DLAL, previously known as dust-lead clearance levels), which are the allowable levels of dust-lead loadings on a surface following completion of an abatement activity outlined in the Lead-based Paint Activities Rule (40 CFR 745.83 and 745.223). The revised DLAL are 5 µg/ft², 40 µg/ft², and 100 µg/ft² for floors, window sills, and troughs, respectively, and are the levels at which EPA recommends an abatement or other lead hazard control measures. Therefore, under the Lead-based Paint Activities Rule, in instances where reportable dust-lead levels are present (*i.e.*, a dust-lead hazard), EPA recommends lead hazard control work only when the levels are at or above the DLAL.

Under TSCA section 6(a), “[i]f the Administrator determines in accordance with subsection (b)(4)(A) that the manufacture, processing, distribution in commerce, use or disposal of a chemical substance or mixture, or that any combination of such activities, presents an unreasonable risk of injury to health or the environment, the Administrator shall by rule . . . apply one or more of the [section 6(a)] requirements to such substance or mixture to the extent necessary so that the chemical substance no longer presents such risk.” EPA looks to section 6(b) and its implementing regulations (Ref. 24) when considering whether a chemical substance presents an unreasonable risk. Pursuant to TSCA section 6(b), EPA must decide whether the “chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to potentially exposed or susceptible subpopulations identified as relevant to the risk evaluation by the Administrator, under the conditions of use.” For example, TSCA section 6(b)(4)(F) states: “In conducting a risk evaluation under this subsection, the Administrator shall . . . integrate and assess available information on hazards and exposures for the conditions of use of the chemical substance.” When determining unreasonable risk, the Agency weighs the effects of the chemical substance on health and human exposure under the conditions of use; the effects of the chemical substance on the environment and environmental exposure under the conditions of use; the population exposed (including any potentially exposed or susceptible subpopulations), the severity of hazard (the nature of the hazard, the irreversibility of hazard), and uncertainties.

C. Including Lead and Lead Compounds in the TSCA Prioritization Process

EPA’s work to protect children from exposure to lead is ongoing, and reducing childhood lead exposure continues to be a priority for both EPA and the Federal Government (Federal Lead Action Plan) (Ref. 23). There are multiple sources of lead including lead-based paint, lead in drinking water, and lead contaminated dust and soil. As a part of this action, the Agency analyzed the potential risk from lead in the environment as a result of lead from fallen wheel weights, which could in turn contaminate residential soil, residential dust, surface water, and groundwater, as these risks were the focus of the 2009 petition. EPA recognizes there are many other potential sources of lead exposure, including occupational exposure during the production and processing of lead wheel weights. However, EPA believes these exposures would be more appropriately assessed when “Lead and Lead Compounds” are prioritized and a full risk evaluation under TSCA section 6(b) with peer review can be conducted. During this process, EPA will conduct a comprehensive, peer reviewed, risk evaluation to determine whether lead and lead compounds present an unreasonable risk of injury to health, without consideration of costs or other non-risk factors, including an unreasonable risk to potentially exposed or susceptible subpopulations identified. EPA will identify, where relevant, the likely duration, intensity, frequency, and number of exposures to lead and lead compounds under each condition of use for each step in the chemical’s life cycle. EPA may also need to develop a peer-reviewed threshold to determine the level of adult health effects that would be considered unreasonable during the risk evaluation process.

EPA has included “Lead and Lead Compounds” on its list of candidate chemical substances currently being considered for future prioritization actions. As described in 40 CFR 702.5(c)(2), EPA is required to ensure that, at any given time, at least 50 percent of TSCA risk evaluations are drawn from the TSCA 2014 Work Plan (Ref. 25). Lead and lead compounds are included in the TSCA 2014 Work Plan, but prioritization and risk evaluation for lead and lead compounds have not yet been initiated (Ref. 26). During a risk evaluation, lead and lead compounds would undergo a 3-year robust and comprehensive review of hazards and exposures and consider the weight of the scientific evidence as required by

TSCA section 6(b)(4)(F), including peer-review of scientific information, technical procedures, measures, methods, protocols, methodologies, or models used in the evaluation, employed in a manner consistent with the best available science, in accordance with TSCA section 26(h).

V. References

The following is a list of the documents that are specifically referenced in this document. The docket includes these references and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the reference is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. Ecology Center. TSCA Section 21 Petition Requesting EPA to Establish Regulations Prohibiting the Manufacture, Processing, and Distribution in Commerce of Lead Wheel Balancing Weights. May 28, 2009. <https://www.epa.gov/sites/default/files/2015-10/documents/petition4.pdf>.
2. United States Court of Appeals for the Ninth Circuit. Petition for Writ of Mandamus. August 22, 2023. <https://www.epa.gov/system/files/documents/2024-01/petition-for-review.pdf>.
3. U.S. EPA. Lead Wheel Weights; Regulatory Investigation Under the Toxic Substances Control Act (TSCA). **Federal Register**. 89 FR 22972, April 3, 2024 (FRL-5398-05-OCSP). <https://www.govinfo.gov/content/pkg/FR-2024-04-03/pdf/2024-06804.pdf>.
4. U.S. EPA. Technical Support Document for Lead Wheel Weights. December 2024.
5. Comment submitted by Alliance for Automotive Innovation. May 9, 2024. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2024-0085-0037>.
6. Abt. Memo, Estimated Volume of LWW Imports, Manufacture, and Use. July 23, 2024.
7. U.S. EPA. Lead Wheel Balancing Weights; TSCA Section 21 Petition; Notice of Receipt and Request for Comment. **Federal Register**. 74 FR 34342, July 15, 2009 (FRL-8424-7). <https://www.govinfo.gov/content/pkg/FR-2009-07-15/pdf/E9-16815.pdf>.
8. U.S. EPA. EPA Response to TSCA Section 21 Petition. August 26, 2009. <https://www.epa.gov/sites/default/files/2015-10/documents/document.pdf>.
9. U.S. EPA. Integrated Science Assessment for Lead. July 2013. <https://assessments.epa.gov/isa/document/&deid%3D255721>.
10. U.S. EPA. Proposed rule. Reconsideration of the Dust-Lead Hazard Standards and Dust-Lead Post-Abatement Clearance Levels. **Federal Register**. 88 FR 50444, August 1, 2023 (FRL-8524-01-OCSP). <https://www.govinfo.gov/content/pkg/FR-2023-08-01/pdf/2023-15073.pdf>.
11. U.S. EPA. Lead Wheel Weight Docket. <https://www.regulations.gov/docket/EPA-HQ-OPPT-2024-0085>.
12. Comment submitted by Ecology Center et al. May 10, 2024. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2024-0085-0058>.
13. Comment submitted by Project TENDR (Targeting Environmental Neuro-Development Risks), The Arc of the U.S. May 9, 2024. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2024-0085-0039>.
14. Canada Gazette. Prohibition of the Manufacture and Importation of Wheel Weights Containing Lead Regulations. Part II, Volume 157, Number 4. February 3, 2023. <https://gazette.gc.ca/rp-pr/p2/2023/2023-02-15/html/sor-dors15-eng.html>.
15. Comment submitted by Steel Manufacturers Association (SMA). May 9, 2024. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2024-0085-0038>.
16. Comment submitted by Recycled Materials Association (ReMA). May 9, 2024. <https://www.regulations.gov/comment/EPA-HQ-OPPT-2024-0085-0041>.
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Authority: 15 U.S.C. 2601 *et seq.*

Dated: December 16, 2024.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2024–30401 Filed 12–20–24; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–75

[FMR Case 2024–02; Docket No. GSA–FMR–2024–0013; Sequence No. 1]

RIN 3090–AK80

Federal Management Regulation; Real Property Disposition Policies and Procedures

AGENCY: Office of Government-Wide Policy (OGP), U.S. General Services Administration (GSA)

ACTION: Proposed rule.

SUMMARY: The U.S. General Services Administration (GSA) proposes to amend subparts of the Federal Management Regulation (FMR) pertaining to real property disposition to align with the Federal Property and Administrative Services Act's disposition process and to address considerations and decisions needed at each stage of the disposal process. This proposed rule will add definitions, policy, and procedures where there were none previously. The rule will assist Federal landholding agencies with understanding their responsibilities when contemplating asset management and disposal actions and engaging with GSA using GSA's authority and their own authorities to meet their Federal real property goals and objectives.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before February 21, 2025, to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FMR case 2024–02 to: *Regulations.gov* at <https://www.regulations.gov>. Submit comments

via the Federal eRulemaking portal by searching for “FMR Case 2024–02.” Select the link “Comment Now” that corresponds with FMR Case 2024–02. Follow the instructions provided at the “Comment Now” screen. Please include your name, company name (if any), and “FMR Case 2024–02” on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite FMR Case 2024–02, in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal or business confidential information, or both. 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: Mr. Chris Coneeney, Director, Real Property Policy Division, Office of Government-wide Policy, at 202–208–2956 or chris.coneeney@gsa.gov, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov. Please cite FMR Case 2024–02. A summary of this proposed rule is available at <https://www.regulations.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

GSA was founded in 1949 with the enactment of the Federal Property and Administrative Services Act.¹ Public Law 107–217, enacted August 21, 2002 (40 U.S.C. 101 and 501, *et seq.*), “Public Buildings, Property and Works,” effectively repealed the Federal Property and Administrative Services Act and re-codified its provisions without substantive change. Chapter 5 of the public law will be referred to as the “Property Act” throughout this regulation. The Federal Property and Administrative Services Act established GSA as the Federal Government’s centralized management agency consolidating the functions of predecessor agencies (e.g., Federal Works Agency and the War Assets Administration) and authorities such as the 1935 Act and the Surplus Property Act of 1944, including the authority to be the Federal Government’s real property disposal agent. Since that time,

the Federal real estate landscape has dramatically changed and GSA has evolved from operating solely as the Property Act disposal agent to being a customer-focused Government-wide realty services provider.

Over the past fifteen years there has been a heightened focus on Federal real property asset management that can be attributed to both executive and legislative actions demonstrating a continuing desire for GSA to play a critical role in disposing of unneeded real property and increasing proceeds from the sale of such property.

On November 9, 2011, President Obama signed Executive Order (E.O.) 13589 “Promoting Efficient Spending”² directing each agency to reduce its combined costs in a variety of administrative categories by not less than 20 percent in Fiscal Year (FY) 2013 from FY 2010 levels.

To achieve these savings, many agencies identified and implemented creative and innovative practices to reduce costs and improve efficiencies in real estate. On May 11, 2012, the Office of Management and Budget (OMB) published Memorandum M–12, “Promoting Efficient Spending to Support Agency Operations,”³ to describe a series of policies and practices for agencies to take to improve operations, increase efficiency, and cut unnecessary spending.

Subsequently, OMB published Memorandum No. 2013–02 on March 14, 2013, “Implementation of OMB Memorandum M–12–12 Section 3: Freeze the Footprint,”⁴ as guidance for the Freeze the Footprint (FTF) policy, which directed Chief Financial Officers (CFO) Act agencies to maintain the total size of their agency office and warehouse space to an FY 2012 baseline. FTF required agencies to freeze the growth in their office and warehouse inventory or offset any new acquisitions with concomitant reductions. Under the guidance, agencies developed and annually updated three-year plans to restrict the growth in their office and warehouse inventories. Agencies also developed internal controls to facilitate increased communication between agency CFO and Real Property Management offices. The coordinated planning and communication improved agencies’

internal management of Federal real property assets. The FTF policy was in effect from FY 2012 through FY 2015. Federal agencies exceeded the FTF policy’s objective by decreasing the Government-wide office and warehouse baseline by 24.7 million square feet.⁵

After the FTF policy expired, the requirement for agencies to freeze their office and warehouse baselines to a set portfolio continued through the Reduce the Footprint (RTF) policy. The RTF policy was the successor to the FTF policy; it used FY 2015 data to set a new office and warehouse baseline for agencies to adhere to.

On March 25, 2015, OMB released the National Strategy for the Efficient Use of Real Property⁶ and its companion policy, the Reduce the Footprint (RTF) policy.⁷ The National Strategy was a three-step framework to improve real property management aimed to freeze growth in the inventory, measure performance to identify opportunities for efficiency improvements through data driven decision-making, and ultimately reduce the size of the inventory by prioritizing actions to consolidate, co-locate, and dispose of properties. Over time, application of the National Strategy improved the utilization of Government owned and leased buildings, lowered the number of excess and underutilized properties, and improved the cost effectiveness and efficiency of the overall real property portfolio.

To make progress under this strategy, OMB issued the RTF policy with Memorandum No. 2015–01, “Implementation of OMB Memorandum M–12–12 Section 3: Reduce the Footprint,”⁸ on March 25, 2015. The RTF policy required agencies to submit annual Real Property Efficiency Plans (Plan) to OMB that—

- (1) Set annual square foot reduction targets for Federal domestic buildings;
- (2) Adopted an office space design standard to optimize Federal domestic office space usage; and
- (3) Required agencies’ office and warehouse portfolios to remain at or below their FY 2015 FTF baselines.

Under the RTF policy, OMB established a Government-wide policy to use property as efficiently as possible

⁵ <https://obamawhitehouse.archives.gov/performance.gov/initiative/freeze-footprint.html>.

⁶ <https://obamawhitehouse.archives.gov/sites/default/files/omb/financial/national-strategy-efficient-use-real-property.pdf>.

⁷ <https://obamawhitehouse.archives.gov/sites/default/files/omb/financial/memos/implementation-reduce-the-footprint.pdf>.

⁸ <https://obamawhitehouse.archives.gov/sites/default/files/omb/financial/memos/implementation-reduce-the-footprint.pdf>.

¹ <https://disposal.gsa.gov/s/act49>.

² <https://obamawhitehouse.archives.gov/the-press-office/2011/11/09/executive-order-13589-promoting-efficient-spending>.

³ https://obamawhitehouse.archives.gov/sites/default/files/omb/memoranda/2012/m-12-12_0.pdf.

⁴ <https://obamawhitehouse.archives.gov/sites/default/files/omb/financial/memos/implementation-of-freeze-the-footprint-guidance.pdf>.

and to reduce agency portfolios through annual reduction targets. The RTF policy was an impetus for real property management transformation that provided value to taxpayers. By implementing this policy, in FY 2016 through FY 2020, the U.S. Government reduced its office and warehouse space by 8.2 million square feet, with an estimated annual cost avoidance of \$130.7 million.⁹

On November 6, 2019, with the issuance of OMB Memorandum M–20–03, “Implementation of Agency-wide Real Property Capital Planning,”¹⁰ CFO Act agencies are no longer required to submit annual Plans to OMB. Agencies are still required to set the office, warehouse, and owned property annual reduction targets, but these targets are incorporated into the agency capital plans supported by a brief narrative.

OMB Memorandum M–20–03 also provided heads of executive departments and agencies with capital planning requirements for real property, in accordance with the Federal Property Management Reform Act of 2016 (FPMRA), 40 U.S.C. 621, *et seq.*, enacted on December 16, 2016.¹¹ The FPMRA established the Federal Real Property Council (FRPC)¹² and charged it with ensuring implementation of an efficient and effective real property management strategy.

In addition, in OMB Memorandum M–20–10, “Issuance of an Addendum to the National Strategy for the Efficient Use of Real Property,”¹³ issued March 6, 2020, Action 6 states that the Government will establish and publish accountable annual performance metrics for all agencies.

To further improve the management of Federal real property, the Federal Assets Sale and Transfer Act of 2016 (FASTA) (Pub. L. 114–287)¹⁴ was enacted on December 16, 2016, with subsequent amendments. FASTA requires that all executive branch Federal agencies, with certain exceptions, submit current data of all Federal civilian real properties owned, leased, or controlled by a Federal agency. Data is reported at the constructed asset level for each land, building and other structure that is

owned, leased or otherwise managed by the agency.

FASTA also requires OMB and GSA to identify opportunities for the Federal Government to reduce its inventory of civilian real property, more efficiently utilize existing properties, and reduce the cost for maintaining these properties.

GSA provides the Federal Government a center of expertise for Federal real property disposal by offering strategic asset management tools to landholding agencies to identify, prepare, and divest unneeded property.

II. Summary of Significant Changes

Section 102–75.5

GSA is adding this section to clarify and add to the definitions that apply to this part that are consistent with U.S. Code; as well as move the definitions to one section to increase the readability for the user. GSA is updating the definitions of the types of utilization. GSA is removing § 102–75.45 and replacing the term “not utilized” with “unutilized,” and adding the corresponding statutory reference. GSA is removing § 102–75.50 and adding the corresponding statutory reference. GSA is removing § 102–75.55 and no longer uses the term “not being put to optimum use.” GSA is adding the definition of “utilized” which is consistent with definitions used by Federal agencies in responding to the Federal Real Property Profile Management System.¹⁵

Section 102–75.6

GSA is changing this section to more accurately describe the scope and coverage of the regulation. GSA is adding specific references to laws for clarity and defining the Property Act.

Section 102–75.7

GSA is moving § 102–75.296 to § 102–75.7.

Section 102–75.8

GSA is moving § 102–75.297 to § 102–75.8.

Section 102–75.9

GSA is moving § 102–75.298 to § 102–75.9.

Section 102–75.10

GSA is moving § 102–75.65 to § 102–75.10.

Section 102–75.11

GSA is moving § 102–75.70 to § 102–75.11.

Section 102–75.12

GSA is adding this section. GSA is removing any reference to “disposal agency” and replacing it with “GSA”

since these regulations implement a primary authority of GSA. The term “GSA” also includes any agency with a delegation of authority from GSA applicable to these regulations.

Section 102–75.13

GSA is adding this section to state that severability applies to the part.

Section 102–75.15

GSA updated this section to clarify and provide more detailed information to include a comprehensive list of the disposal actions landholding agencies may take while operating under a GSA delegated authority.

Section 102–75.20

GSA updated this section to clarify and provide more detailed information about how Federal agencies with independent disposal authority may obtain disposal services from GSA through a Memorandum of Agreement or Reimbursable Work Authorization.

Section 102–75.40

GSA is adding this section to clarify and add to the definitions that apply to this part that are consistent with U.S. Code; as well as move the definitions to one section to increase the readability for the user. GSA is adding the definitions of “public domain land” and “withdrawn public domain land.”

Sections 102–75.50 Through 102–75.60

GSA is adding these sections to clarify and expand upon current §§ 102–75.100 and 102–75.105.

III. Regulatory Impact Analysis

During the first year after publication of the final rule, GSA will need to update the Real Property Disposal Customer Guide. GSA estimates this cost by multiplying the time required to review the regulations and guidance implementing the proposed rule by the estimated hourly compensation. GSA calculates the estimated hourly compensation using the U.S. Office of Personnel Management’s 2024 General Schedule (GS) Rest of United States Locality Pay Table, a full fringe benefit cost factor of 36.25%, and an overhead cost factor of 12%.^{16 17 18 19}

¹⁶ General Schedule (<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2024/general-schedule/>).

¹⁷ Computing Hourly Rates of Pay Using the 2,087-Hour Divisor (<https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/computing-hourly-rates-of-pay-using-the-2087-hour-divisor/>).

¹⁸ OMB Memo M–08–13, dated March 11, 2008 (https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2008/m08-13.pdf).

⁹ <https://www.performance.gov/real-property/real-property-metrics/>.

¹⁰ <https://www.whitehouse.gov/wp-content/uploads/2019/11/M-20-03.pdf>.

¹¹ <https://www.govinfo.gov/content/pkg/PLAW-114publ318/pdf/PLAW-114publ318.pdf>.

¹² <https://www.performance.gov/real-property/>.

¹³ <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-10.pdf>.

¹⁴ <https://www.congress.gov/114/plaws/publ287/PLAW-114publ287.pdf>.

¹⁵ <https://www.gsa.gov/policy-regulations/policy/real-property-policy-division-overview/asset-management/federal-real-property-profile-frpp>.

1. Government Costs

The Government must update the glossary in the Customer Guide to Real Property Disposal. GSA makes these assumptions based on historical familiarization and subject matter expert judgment. Below is a list of activities related to updating the glossary in the Real Property Disposal Customer Guide that GSA anticipates will occur. GSA estimates it will take 1 GSA data analyst on average, with a GS–9 step 5 with an average hourly rate of \$48.28/hour, 12 hours in year 1 to update the glossary in the Real Property Disposal Customer Guide. Therefore, GSA estimates the total estimated cost for this part of the proposed rule to be \$579 (= 1 × \$48.28 GS–9 step 5 rate × 12 hours). GSA estimates it will take 5 GSA Senior Realty Specialists on average, with a GS–13 step 5 with an average hourly rate of \$83.25/hour, 2 hours each in year 1 to review the glossary updates in the Real Property Disposal Customer Guide.

Therefore, GSA estimates the total estimated cost of this part of the proposed rule to be \$833 (= 5 × \$83.25 GS–13 step 5 rate × 2 hours). GSA estimates it will take 1 GSA Branch Chief on average, with a GS–14 step 5 with an average hourly rate of \$98.38/hour, 2 hours in year 1 to review the glossary updates in the Real Property Disposal Customer Guide. Therefore, GSA estimates the total estimated cost of this part of the proposed rule to be \$197 (= 1 × \$98.38 GS–14 step 5 rate × 2 hours). GSA estimates it will take 1 GSA Zonal Director on average, with a GS–15 step 5 with an average hourly rate of \$115.72/hour, 1 hour in year 1 to review and approve the glossary updates in the Real Property Disposal Customer Guide. Therefore, GSA estimates the total estimated cost of this part of the proposed rule to be \$116 (= 1 × \$115.72 GS–15 step 5 rate × 1 hour). GSA estimates it will take 1 GSA attorney on average, with an SES Level

3 with an average hourly rate of \$144.91/hour, 4 hours in year 1 to review and approve the glossary updates in the Real Property Disposal Customer Guide. Therefore, GSA estimates the total estimated cost of this part of the proposed rule to be \$580 (= 1 × \$144.91 SES Level 3 rate × 4 hours). GSA estimates it will take 1 GSA Assistant Commissioner on average, with an SES Level 3 with an average hourly rate of \$144.91/hour, 1 hour in year 1 to review and approve the glossary updates in the Real Property Disposal Customer Guide. Therefore, GSA estimates the total estimated cost of this part of the proposed rule to be \$145 (= 1 × \$144.91 SES Level 3 rate × 1 hour).

2. Total Government Costs

GSA estimates the total estimated Government costs to be \$2,449 for years 1 through 10. A breakdown of total estimated Government costs by year is provided in the table below.

Year	1	2	3	4	5	6	7	8	9	10
Total Government Costs	\$2,449	.....	.....	.....	.....	.....	.....	.....	.....	.....

3. Total Overall Costs

The undiscounted estimated total overall cost over a 10-year period is \$2,449, equal to the total estimated Government costs, above, as there is no direct cost to the public under this proposed rule. The following is a summary of the estimated costs calculated for a 10-year time horizon at a 2-percent discount rate:

Summary	Total costs
Present Value (2 percent)	\$2,401
Annualized Costs (2 percent)	267

4. Benefits

The regulations for real property disposition were last published in November 2005. There are numerous updates needed to improve the readability and clarity of the regulation. The proposed rule will add definitions, policies, and procedures where there were none previously. The clarity provided by this update will assist Federal landholding agencies with understanding their responsibilities when contemplating asset management and disposal actions and how to engage with GSA using GSA’s authority and their own authorities to meet their

Federal real property goals and objectives.

5. Analysis of the Alternative

The preferred process is laid out in the analysis above. However, GSA has analyzed an alternative to the preferred process below.

Alternative 1: GSA could decide to take no regulatory action. The Government would not incur the additional costs associated with this proposed rule; however, the regulation would not reflect current policy and best practices for real property disposition. As a result, GSA rejected this alternative.

IV. Executive Orders 12866, 13563, and 14904

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. OMB’s Office of Information and Regulatory Affairs has determined that this proposed rule is a significant regulatory action and, therefore, it is subject to review under section 6(b) of E.O. 12866.

V. Regulatory Flexibility Act

GSA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it applies to agency management or personnel. Therefore, an Initial Regulatory Flexibility Analysis has not been 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

¹⁹ OMB Circular A–76 (https://georgewbush-whitehouse.archives.gov/omb/circulars/a076/a76_incl_tech_correction.html).

public that require the approval of OMB under 44 U.S.C. 3501, *et seq.*

VII. Severability

GSA is proposing to add a new provision on severability at 41 CFR 102–75.13, which states that all provisions included in part 102–75 are separate and severable from one another.

If any particular term or provision in part 102–75, or the application thereof to any agency or circumstance, is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining terms or provisions, or the application of such term or provision to agencies or circumstances other than those to which it is invalid or unenforceable, will not be affected thereby, and each term and provision of this proposed rule will be valid and be enforced to the fullest extent permitted by law.

Further, any cross-references that appear throughout part 102–75 are duplicative and are intended only to make the regulations more user-friendly. Invalidation of a particular provision that is cross-referenced elsewhere will not materially alter the provision that contains the cross-reference.

In summary, removal of any particular provision from part 102–75 would not render the entire regulatory scheme unworkable. Thus, GSA considers each of the provisions in subpart A or B of part 102–75 to be separate and severable from one another. In the event of a stay or invalidation of any particular provision, it is GSA's intention that the remaining provisions will continue in effect.

List of Subjects in 41 CFR Part 102–75

Federal buildings and facilities, Government property management, Rates and fares, Surplus Government property.

Earl Pinto,

Acting Associate Administrator, Office of Government-wide Policy.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR part 102–75 as set forth below:

PART 102–75—REAL PROPERTY DISPOSAL

■ 1. The authority citation for 41 CFR part 102–75 is revised to read as follows:

Authority: 40 U.S.C. 121(c), 521–523, 541–559.

■ 2. Revise subparts A and B to read as follows:

Subpart A—General

Sec.

102–75.5 What definitions apply to this part?

102–75.6 What is the scope of this part?

102–75.7 When may a landholding agency other than GSA be the disposal agency for real and related personal property?

102–75.8 Are there any exceptions to when landholding agencies can serve as the disposal agency?

102–75.9 Can agencies request that GSA be the disposal agency for real property and real property interests described in § 102–75.7?

102–75.10 Why are Federal landholding agencies required to notify GSA of their real property needs?

102–75.11 Are there any exceptions to the notification policy in this subpart?

102–75.12 What basic real property policy does GSA follow and promote?

102–75.13 What portions of this part are severable?

102–75.14 [Reserved]

Real Property Disposal Services

102–75.15 If an agency is operating under authority delegated from GSA, what real property disposal services is it authorized to provide?

102–75.20 How can Federal agencies with independent disposal authority obtain disposal and other real estate related services?

102–75.25–102–75.35 [Reserved]

Subpart B—Asset Management Policy for Federal Real Property

102–75.40 What definitions apply to this subpart?

102–75.45 [Reserved]

Land Withdrawn or Reserved from the Public Domain

102–75.50 What process or steps does a landholding agency follow to relinquish withdrawn or reserved public domain land?

102–75.51 What makes land not suitable for return to the public domain?

102–75.52 If DOI determines and the Administrator concurs that the land is not suitable for return to the public domain, what are the next steps?

102–75.53 What happens to improvements on withdrawn or reserved public domain land if BLM determines the land is suitable for return to the public domain?

102–75.54 Can landholding agencies abandon, destroy, or donate improvements on withdrawn public land determined to be unsuitable for return to the public domain?

102–75.55 [Reserved]

102–75.60 Which agency is responsible for disposing of mineral interests and rights?

Subpart A—General

§ 102–75.5 What definitions apply to this part?

All the definitions in 41 CFR 102–71.20 apply to this part, in addition to the definitions listed in this section. Some definitions have been repeated in this section for ease of reference.

Landholding agency means the Federal agency that has accountability for the property involved and reports the real property on its financial statements and inventory records.

Underutilized means an entire property or portion thereof, with or without improvements, which is used only at irregular periods or intermittently by the accountable landholding agency for current program purposes of that agency, or which is used for current program purposes that can be satisfied with only a portion of the property (§ 102–75.1160; accord 45 CFR 12a.1; 24 CFR 581.1).

Unutilized means an entire property or portion thereof, with or without improvements, not occupied for current program purposes for the accountable executive agency or occupied in caretaker status only (§ 102–75.1160; accord 45 CFR 12a.1; 24 CFR 581.1).

Utilized means real property that is used for the current mission needs of the accountable landholding agency and is not defined as unutilized or underutilized.

§ 102–75.6 What is the scope of this part?

This part implements the real property disposition authorities provided by Public Law 107–217 (40 U.S.C. 101 and 501, *et seq.*), “Public Buildings, Property and Works.” The real property policies contained in this part apply to Federal landholding agencies (landholding agency), including GSA's Public Buildings Service (PBS), operating under, or subject to, the authorities of the Administrator of General Services. This part also applies to Federal agencies with delegated authority to dispose of real property under the “Property Act” (chapter 5 of Pub. L. 107–217), the Surplus Property Act of 1944, as amended (1944 Act), and the provisions of other applicable statutes.

§ 102–75.7 When may a landholding agency other than GSA be the disposal agency for real and related personal property?

A landholding agency may be the disposal agency for real and related personal property when—

(a) The agency has statutory authority to dispose of real and related personal property;

(b) The agency has delegated authority from GSA to dispose of real and related personal property;

(c) The agency is disposing of—

(1) Leases, licenses, permits, easements, and other similar real estate interests held by agencies in non-Government-owned real property;

(2) Government-owned improvements, including fixtures,

structures, and other improvements of any kind, as long as the underlying land is not being disposed; or

(3) Standing timber, embedded gravel, sand, stone, and underground water, without the underlying land; or

(d) The agency has independent disposal authority. The agency should follow its regulations implementing such disposal authority. Where the agency's regulations are silent, then the agency can follow GSA's regulations as a best practice for the disposition of real and related personal property.

§ 102–75.8 Are there any exceptions to when landholding agencies can serve as the disposal agency?

Yes, landholding agencies may not serve as the disposal agency when—

(a) Either the landholding agency or GSA determines that the Government's best interests are served by disposing of leases, licenses, permits, easements, and similar real estate interests together with other property owned or controlled by the Government that has been or will be reported to GSA; or

(b) Government-owned machinery and equipment being used by a contractor-operator will be sold to a contractor-operator.

§ 102–75.9 Can agencies request that GSA be the disposal agency for real property and real property interests described in § 102–75.7?

Yes. If requested, GSA, at its discretion, may be the disposal agency for such real property and real property interests.

§ 102–75.10 Are Federal landholding agencies required to notify GSA of their real property needs?

Yes, 40 U.S.C. 521(1) and 524(b)(3), require Federal landholding agencies to notify GSA of their real property needs. It is important that each landholding agency notify GSA of its real property needs to determine whether the excess or surplus real property of another agency is available and would meet its need, preventing the unnecessary purchase or lease of real property. The requirements for reporting real property are provided in subsequent sections of this part.

§ 102–75.11 Are there any exceptions to the notification policy in this subpart?

Yes, a landholding agency with real estate acquisition authority is not required to notify GSA when its proposed acquisition of real property is dictated by exact geographical location, topography, engineering, or similar characteristics that limit the possibility of using another agency's available real

property. Also, notification is not required if the acquisition of real property is required or directed by statute. For example, if a landholding agency needs to acquire real property for a dam site, reservoir area, or the construction of a generating plant or a substation, it is not required to notify GSA since specific land is needed, which limits the potential of other available excess real property to meet the need. However, agencies are encouraged to notify GSA and utilize its knowledge and expertise to assist in the proposed acquisition.

§ 102–75.12 What basic real property policy does GSA follow and promote?

GSA provides, in a timely, efficient, and cost-effective manner, the full range of real estate services necessary to support its and other landholding agencies' real property asset management, utilization, and disposal needs. GSA also assists landholding agencies with meeting the requirements of E.O. 13327, which includes identifying property that is utilized, underutilized, and unutilized. Through this part, GSA establishes policies that promote and improve asset management, and that facilitate the efficient and effective utilization and disposal of Federal real property.

§ 102–75.13 What portions of this part are severable?

All provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is GSA's intention that the remaining provisions will continue in effect.

§ 102–75.14 [Reserved]

Real Property Disposal Services

§ 102–75.15 If an agency is operating under authority delegated from GSA, what real property disposal services is it authorized to provide?

A landholding agency with GSA's delegated authority must follow the Property Act disposal process (exception: see subpart F of this part regarding delegations) and may provide real estate services, within its own agency, such as appraisals, and land use, environmental, and market studies. Under a delegation, landholding agencies may transfer excess real property for further use within the agency and to other landholding agencies. With respect to the disposal of surplus real property, agencies with GSA's delegated authority may assign and convey surplus real property for the various public purposes as allowed in the Property Act, and may also conduct

negotiated sales, public sales, and other related disposal and post-disposal services (e.g., compliance inspections for public benefit conveyances, excess profits monitoring for negotiated sales, and monitoring of any other deed restrictions and special conditions).

§ 102–75.20 How can Federal agencies with independent disposal authority obtain disposal and other real estate related services?

Federal agencies with disposal authority separate and apart from the Property Act are encouraged to obtain utilization, disposal, and related real estate and asset management services from GSA, as allowed by both the Property Act and 31 U.S.C. 1535 (Economy Act), so that they can remain focused on their core missions. In such cases, GSA may provide disposal and other real estate services on a reimbursable basis, using an agreement or other authorizing document (e.g., Memorandum of Agreement (MOA) or Reimbursable Work Authorization (RWA)) between GSA and the landholding agency. At a minimum, the agreement or authorizing document will provide details on the authority being used, roles and responsibilities of the landholding agency and GSA, retention of proceeds, as applicable, GSA's expenses and reimbursement, and protection and maintenance of the property. Unless specifically exempted by other statutory provisions, all real property dispositions are subject to the Property Act.

§§ 102–75.25–102–75.35 [Reserved]

Subpart B—Asset Management Policy for Federal Real Property

§ 102–75.40 What definitions apply to this subpart?

All the definitions in 41 CFR 102–71.20 apply to this subpart, in addition to the definitions listed in this section.

Public domain land means land that was acquired from another sovereign and has either never left Federal ownership after initial acquisition or was acquired in exchange for other land owned by the United States that similarly had never left Federal ownership—i.e., acquired in exchange for other public domain land (see 43 CFR 3000.5).

Withdrawn public domain land means land that has been taken out of public use or access for a specific Federal mission purpose.

§ 102–75.45 [Reserved]**Land Withdrawn or Reserved From the Public Domain****§ 102–75.50 What process or steps does a landholding agency follow to relinquish withdrawn or reserved public domain land?**

Before withdrawn or reserved public domain land can be returned to the public domain or disposed of, the Secretary of the Department of the Interior (DOI) must determine, and the Administrator of GSA (Administrator) must concur on whether or not the land is suitable for return to the public domain. Specifically, the landholding agency must submit a Notice of Intention to Relinquish (NOITR) (43 CFR part 2370, subpart 2372) to the appropriate Bureau of Land Management (BLM) office and send a copy to the appropriate GSA regional office.

§ 102–75.51 What makes land not suitable for return to the public domain?

Generally, the Secretary of DOI determines, and the Administrator concurs, that the land is substantially changed in character and condition by improvements or otherwise.

§ 102–75.52 If DOI determines and the Administrator concurs that the land is not suitable for return to the public domain, what are the next steps?

Landholding agencies must submit a Report of Excess Real Property (Standard Form 118), with Schedules A, B, and C, as appropriate along with a copy of DOI's response to the NOITR to the appropriate GSA regional office. Also, landholding agencies must submit DOI's report identifying whether—

(a) Any agency (other than the relinquishing agency) claims either primary, joint, or secondary jurisdiction over the lands; or

(b) The DOI's records show any encumbrances under the public land laws.

§ 102–75.53 What happens to improvements on withdrawn or reserved public domain land if BLM determines the land is suitable for return to the public domain?

The formal withdrawal order will address the disposition of improvements on land that returns to the public domain. Specifically, the withdrawal order will authorize BLM, at its discretion, to—

(a) Assume responsibility for the use and management of the improvement;

(b) Require the landholding agency to remove the improvement; or

(c) Engage GSA (or require the landholding agency) to dispose of the improvement for off-site removal use.

§ 102–75.54 Can landholding agencies abandon, destroy, or donate improvements on withdrawn public land determined to be unsuitable for return to the public domain?

Landholding agencies must report the real property as excess to GSA (see § 102–75.52) and follow the requirements in subpart E of this part on abandonment, destruction, or donation to public bodies.

§ 102–75.55 [Reserved]**§ 102–75.60 Which agency is responsible for disposing of mineral interests and rights?**

GSA is generally responsible for the disposal of mineral interests and rights, whether separate from the land or with the land, for real property that the landholding agency has determined to be excess. GSA has exclusive authority for such disposal when the mineral interest and rights are located within incorporated areas (e.g., city, town, village, etc.) using its authority under the Property Act.

(a) As set out in the Federal Land and Policy Management Act of 1976, DOI, through BLM, has authority for the disposal of mineral interests and rights within public domain or withdrawn lands.

(b) BLM also has authority to manage and dispose of mineral interests and rights associated with real property acquired outside of incorporated areas where the land was acquired under authorities prior to 1920.

(1) If land and mineral interests or rights are reported to GSA and are located outside of an incorporated area, GSA may provide an opportunity to BLM to provide GSA with a recommendation on whether the mineral interests and rights should be retained by the Government.

(2) If BLM recommends that the mineral interests and rights should be retained, GSA may transfer such to BLM. If BLM determines that the Government does not need to retain the mineral interests and rights or does not respond to the notice given, GSA will dispose of such under its authority.

(c) Where BLM is given an opportunity to provide a recommendation under paragraph (b)(1) of this section, GSA will provide BLM 30 days to provide such recommendation.

(d) When determining the suitability of land for return to the public domain, BLM may make a determination with regard to any mineral interests located on such land. For land determined to be unsuitable for return to the public domain, GSA may take BLM's determination with regard to mineral

interests into consideration when deciding whether to—

(1) Proceed with a disposal of such interests, with or without the fee interest in the land; or

(2) Reserve such interests. If reserved, BLM is the agency responsible for managing such reserved mineral interests.

[FR Doc. 2024–29377 Filed 12–20–24; 8:45 am]

BILLING CODE 6820–61–P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 26**

[WT Docket No. 24–687; DA 24–1230; FRS 268462]

Wireless Telecommunications Bureau Seeks Comment on Mechanism and Criteria for Selecting Space Launch Frequency Coordinator

AGENCY: Federal Communications Commission.

ACTION: Notification.

SUMMARY: In this Public Notice, the Wireless Telecommunications Bureau (Bureau) makes proposals and seeks comment on criteria and a mechanism for selecting a Space Launch Frequency Coordinator for the Federal Communications Commission's (Commission) Space Launch Service. In particular, it proposes a process in which interested parties would file applications electronically using the Commission's Electronic Comment Filing System in WT Docket 24–687, through which they would demonstrate certain minimum qualifying criteria. Filers responding to this Public Notice should submit comments in WT Docket No. 24–687.

DATES: Interested parties may file comments on or before January 22, 2025.

ADDRESSES: You may submit comments, identified by WT Docket No. 24–687, by any of the following methods:

- Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing ECFS: <https://www.fcc.gov/ecfs/>.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by First-Class or overnight U.S. Postal Service mail. All filings must be addressed to the

Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8 a.m. and 4 p.m. at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight deliveries (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

U.S. Postal Service First-Class, Express, and Priority mail must be addressed to Secretary, Federal Communications Commission, 45 L St. NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Mark DeSantis, Wireless Telecommunications Bureau, Mobility Division, (202) 418-0678 or mark.desantis@fcc.gov. For information regarding the PRA information collection requirements, contact Cathy Williams, Office of Managing Director, at 202-418-2918 or Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the WTB Public Notice, WT Docket No. 24-687; DA 24-1230, released on December 6, 2024. The released, formatted version of this document is available at <https://docs.fcc.gov/public/attachments/DA-24-1230A1.pdf>. Text and Microsoft Word formats are also available (replace “.pdf” in the link with “.txt” or “.docx”, respectively. Alternative formats are available for people with disabilities (braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Ex Parte Rules

The proceeding this Public Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in

the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Supplemental Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” If an agency files a certification with a rulemaking, the certification must contain a statement that provides a factual basis for its conclusion that there will not be significant economic impact on a substantial number of small entities. Accordingly, the Commission has prepared an Initial Regulatory Flexibility Certification (IRFC) certifying that any rules subject to the RFA that may be contained in this Public Notice will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Analysis

This Public Notice may contain proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens,

invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in this Public Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

By this Public Notice, as directed by the Commission in the *Second Report and Order* (89 FR 63296-01, August 5, 2024) in this proceeding, the Wireless Telecommunications Bureau (Bureau) proposes and seeks comment on the mechanism and criteria for selecting the third-party frequency coordinator for the new commercial Space Launch Service. After reviewing the record, the Bureau will issue subsequent public notice(s) that announces the criteria for selection of the frequency coordinator, as well as a filing window for submission of applications to serve as the space launch frequency coordinator. The Bureau also proposes that the applicant selected to serve as the third-party space launch frequency coordinator will be required to execute a Memorandum of Understanding with the Commission. The Bureau issues this Public Notice at this time as part of an effort to meet the statutorily mandated deadlines set forth in the Launch Communications Act.

I. Background

In the *Second Report and Order*, the Commission adopted a new secondary allocation in the 2025-2110 MHz band for non-Federal Space Operation and, for the 2200-2290 MHz band, made the entire band available for secondary non-Federal Space Operation. The Commission also adopted a licensing framework for these two bands under a new part 26 Space Launch Service. Under the framework, eligible space launch operators seeking authorization in either band will: (1) apply for and obtain a non-exclusive nationwide license in the Commission's Universal Licensing System (ULS); (2) register in ULS their launch sites and operational parameters, space launch vehicle stations, and each corresponding station (fixed, base, itinerant, or mobile) needed to support a launch; (3) complete a frequency coordination process using a third-party frequency coordinator; and (4) following successful coordination, register in ULS the technical and

operating parameters associated with each specific coordinated launch prior to commencing operations. A space launch operator must register the final coordinated technical parameters in ULS to be authorized to commence launch operations. The *Second Report and Order* requires that a single third-party frequency coordinator shepherd both Federal and non-Federal coordination on a post-grant, per-launch basis. Requirements for the third-party frequency coordinator are set forth in Commission rule § 26.202, adopted in the *Second Report and Order*.

Federal Coordination. Pursuant to the *Second Report and Order*, Federal coordination is required on a per-launch basis in both the 2025–2110 MHz and 2200–2290 MHz bands, to be initiated after the launch operator has registered its applicable site and station information in ULS. Once the third-party frequency coordinator verifies that the operator is licensed and that the request is consistent with the Commission's rules, it will initiate coordination with the National Telecommunications and Information Administration (NTIA). For Federal coordination in both bands, the third-party frequency coordinator may provide a showing that the operational and technical parameters of a proposed launch are consistent with a prior successful coordination and that the space launch licensee continues to comply with any conditions or agreements resulting from such prior coordination, or that its proposed launch is covered by an applicable coordination agreement with co-frequency entities.

Non-Federal Coordination. Pursuant to the *Second Report and Order*, non-Federal coordination is required in the 2025–2110 MHz band. Once a launch operator has registered its site and station information and submitted its coordination request to the third-party frequency coordinator, the coordinator will verify that the operator is licensed and that the request is consistent with the Commission's rules, and then contact the Society of Broadcast Engineers (SBE) Frequency Coordination Manager and the relevant SBE local market coordinator to initiate coordination for the local launch site. There is no requirement to conduct per-launch coordination with non-Federal users in the 2025–2110 MHz band if the launch operator can demonstrate its proposed uplink operations meet the protection criteria by providing a showing to the third-party frequency coordinator that: (a) it has previously coordinated its proposed operations with the SBE Frequency Coordination

Manager and continues to comply with any conditions or agreements resulting from such prior coordination; (b) it has ascertained that its proposal will not constrain, preclude, nor interfere with incumbents in the band, including Broadcast Auxiliary Service licensees, Cable Television Relay Service licensees, and Local Television Transmission Service licensees; and (c) it has demonstrated in a technical showing that its proposed operation will not create more than 0.5 dB increase in the noise threshold of a receiver at a fixed or temporary fixed electronic news gathering receive site.

Launch Communications Act. Following the Commission's adoption of the *Second Report and Order*, Congress enacted the Launch Communications Act (LCA) on September 26, 2024. The LCA requires Commission action with respect to three frequency bands: the 2025–2110 MHz and 2200–2290 MHz bands that were the subject of the *Second Report and Order*, and the 2360–2395 MHz band, upon which the Commission sought comment in the *Second Further Notice* (89 FR 6488–01, February 1, 2024). The LCA first requires the Commission to, within 90 days of enactment, allocate each of these bands on a secondary basis for commercial space launches and reentries, and complete any proceeding in effect related to the adoption of service rules for these three bands. In order to meet the 90-day requirement, we anticipate that the Commission would benefit from development of a record that includes the issues included in this Public Notice.

In a companion Public Notice published elsewhere in this issue of the **Federal Register**, the Bureau on delegated authority proposes and seeks comment on licensing and coordination procedures for the space launch service, which currently applies to the 2025–2110 MHz and 2200–2290 MHz bands. In the event the Commission incorporates the 2360–2395 MHz band into the part 26 Space Launch Service licensing framework, the Bureau also includes in that separate Public Notice proposed licensing and coordination procedures for the 2360–2395 MHz band. We take the same approach in this Public Notice, where any proposals assume that a third-party frequency coordinator will have responsibilities to coordinate, per the LCA, requests for space launch operations in three bands: 2025–2110 MHz, 2200–2290 MHz, and 2360–2395 MHz. We note that any such procedures, data requirements etc., set forth in this and the Bureau's companion Public Notice, are subject to

Commission action taken pursuant to the LCA's requirements.

The LCA also requires the Commission to issue, within 180 days of the LCA's enactment, new regulations that streamline the process for granting authorizations for access to the three bands. These new regulations must provide for, among other things, improved coordination by the Commission with NTIA to increase the speed of review of space launch applications, including coordination to increase automation similar to the automation described in the Commission's service rules for the 70/80/90 GHz service. The 70/80/90 GHz service allows use of the millimeter wave spectrum in the 71–76 GHz, 81–86 GHz, and 92–95 GHz bands on a shared basis with Federal operations. A licensee seeking authorization in those bands must complete coordination with NTIA by registering individual links in a database administered by third-party database managers. The database managers have access to NTIA's automated coordination mechanism, and the database serves as a clearinghouse and repository of site path information to manage the coordination of Federal Government operations and non-Federal Government links. Given the LCA's requirement that, within 180 days of enactment, the Commission improve coordination with NTIA for space launch operations by increasing automation, we propose below to require the Space Launch Frequency Coordinator to have the willingness and capability to interface with any such automated process developed by NTIA for coordination of requests related to space launch operation in any of the three LCA bands.

In the interim, the Bureau hereby fulfills the Commission's directive from the *Second Report and Order* to seek comment on the circumstances attending the designation of the space launch frequency coordinator. To reiterate, these proposals and any subsequent final action taken through subsequent Bureau public notice(s) following review of the record, including those specifically relating to the 2360–2395 MHz band, are subject to forthcoming Commission action taken pursuant to the LCA's requirements.

II. Selecting the Space Launch Frequency Coordinator

The Bureau proposes and seeks comment on the mechanism for selecting the space launch frequency coordinator and the minimum industry and technical expertise that parties interested in being designated as the space launch frequency coordinator

must demonstrate. After reviewing the record developed in response to this Public Notice, the Bureau will issue subsequent public notice(s) announcing the mechanism and criteria for selection of the frequency coordinator, as well as a filing window for applications to serve as space launch frequency coordinator. The Bureau proposes that the applicant selected from this process to serve as space launch frequency coordinator will be required to execute a Memorandum of Understanding with the Commission, formally memorializing its duties and obligations.

A. Mechanism for Selection of the Space Launch Frequency Coordinator

First, we propose to rely on a mechanism for selecting a third-party frequency coordinator similar to those we have successfully implemented in other radio services where the Bureau was tasked with designating a single frequency coordinator. Following those prior examples, we propose to require interested parties to file applications electronically using the Commission's Electronic Comment Filing System (ECFS) in WT Docket 24–687, that include the following information:

1. A description of the entity requesting to be space launch frequency coordinator and its qualifications, including how it meets or will meet minimum qualifying criteria ultimately specified by the Bureau;
2. How the applicant will prevent conflicts of interest;
3. A proposed fee structure; and
4. The length of time before the applicant will be able to begin duties as the space launch frequency coordinator.

We seek comment on this approach, including on the information interested parties should file, and whether additional information should be required to assist the Bureau in making a selection. How should conflicts of interest be defined? How can we ensure that the frequency coordinator administers its responsibilities in a neutral and non-discriminatory manner? Should the Bureau impose any limits on fee structures, including whether fees can be charged on a per application basis, or adopt any deadline by which an applicant must be able to begin its duties as the space launch frequency coordinator? How should applicants demonstrate an ability to complete frequency coordination using an NTIA automated process, one of the minimum qualifying criteria proposed below, such that the Commission can fulfill its statutory obligation to increase automation in NTIA coordination similar to the automation in the 70/80/90 GHz service rules?

B. Minimum Qualifying Criteria

Next, we propose minimum qualifying criteria for entities interested in being designated as the space launch frequency coordinator. Interested parties would be required to demonstrate in their applications the extent to which they meet the following qualifications:

1. Ability to implement a mechanism to receive technical data from licensees and maintain a database of transmitter locations and operational parameters;
2. Knowledge of or experience with wireless telemetry;
3. Knowledge of or experience with space launch and aerospace transmissions;
4. Technical expertise in analyzing and avoiding interference between licensees/operators in various frequency bands;
5. Knowledge of frequency coordination processes;
6. Willingness and capability to complete coordination using machine-to-machine interface with any NTIA automated coordination process, and the ability to promptly notify the licensee of the response from the automated coordination process;
7. Ability to address requests for operation at launch sites that potentially could be located anywhere in the United States and its territories; and
8. Experience analyzing and interpreting FCC rules and policies.

The Bureau seeks comment on the above proposals and any alternatives to the proposed selection mechanism and minimum qualifying criteria.

Federal Communications Commission.

Amy Brett,

Acting Chief of Staff, Wireless Telecommunications Bureau.

[FR Doc. 2024–30244 Filed 12–20–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 26

[ET Docket No. 13–115; DA 24–1232; RIN 3060–AL44; FRS 268468]

Wireless Telecommunications Bureau Seeks Comment on Licensing and Coordination Procedures for the Space Launch Service

AGENCY: Federal Communications Commission.

ACTION: Notification.

SUMMARY: In this Public Notice, the Wireless Telecommunications Bureau (Bureau) makes proposals and seeks comment on issues related to the

Federal Communications Commission's (Commission) Space Launch Service. In particular, it proposes licensing and frequency coordination procedures and data requirements for Space Launch Service licensees seeking Commission authorization to perform non-Federal space launch operations in the 2025–2110 MHz, 2200–2290 MHz, and 2360–2395 MHz bands. Filers responding to this Public Notice should submit comments in ET Docket No. 13–115.

DATES: Interested parties may file comments on or before January 22, 2025.

ADDRESSES: You may submit comments, identified by ET Docket No. 13–115, by any of the following methods:

- Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).
 - *Electronic Filers:* Comments may be filed electronically using the internet by accessing ECFS: <https://www.fcc.gov/ecfs/>.
 - *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
 - Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by First-Class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8 a.m. and 4 p.m. at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight deliveries (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service First-Class, Express, and Priority mail must be addressed to Secretary, Federal Communications Commission, 45 L St. NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mark DeSantis, Wireless Telecommunications Bureau, Mobility Division, (202) 418–0678 or mark.desantis@fcc.gov. For information regarding the PRA information collection requirements, contact Cathy Williams, Office of Managing Director, at 202–418–2918 or Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the WTB Public Notice, ET

Docket No. 13–115; DA 24–1232, released on December 6, 2024. The released, formatted version of this document is available at <https://docs.fcc.gov/public/attachments/DA-24-1232A1.pdf>. Text and Microsoft Word formats are also available (replace “.pdf” in the link with “.txt” or “.docx”, respectively). Alternative formats are available for people with disabilities (braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or call the Commission’s Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Providing Accountability Through Transparency Act

Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this Public Notice will be available on <https://www.fcc.gov/proposed-rulemakings>.

Ex Parte Rules

The proceeding this document initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b) of the Commission’s rules. In proceedings governed by § 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations

and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Supplemental Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” If an agency files a certification with a rulemaking, the certification must contain a statement that provides a factual basis for its conclusion that there will not be significant economic impact on a substantial number of small entities. Accordingly, the Commission has prepared an Initial Regulatory Flexibility Certification (IRFC) certifying that any rules subject to the RFA that may be contained in this Public Notice will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Analysis

This Public Notice may contain proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in this Public Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

By this Public Notice, as directed by the Commission in the *Second Report and Order* in this proceeding (89 FR 63296–01, August 5, 2024), the Wireless Telecommunications Bureau (Bureau) proposes and seeks comment on certain licensing and coordination procedures for the new commercial Space Launch Service. As detailed below, these include: the technical data to be

provided to the Commission for purposes of registering launch sites, corresponding stations, and coordinated launches under a non-exclusive, nationwide space launch license; and the required procedures and data submissions for space launch operators to coordinate each individual launch with both Federal and non-Federal users via a third-party frequency coordinator to be selected at a later date. The Bureau issues this Public Notice at this time as part of an effort to meet the statutorily mandated deadlines set forth in the Launch Communications Act.

I. Background

In the *Second Report and Order*, the Commission adopted a secondary allocation in the 2025–2110 MHz band for non-Federal Space Operation and, with respect to the 2200–2290 MHz band, lifted a prior restriction limiting such operations to four sub-bands, thus making the entire band available on a secondary basis for non-Federal Space Operation. These allocations are subject to various conditions, including being limited to pre-launch testing and space launch operations. The Commission also adopted a licensing framework for these two bands under a new part 26 Space Launch Service. Through that framework, eligible space launch operators seeking authorization in either band will: (1) apply for and obtain a non-exclusive nationwide license via the Commission’s Universal Licensing System (ULS); (2) register in ULS their launch sites and operational parameters, space launch vehicle stations, and each corresponding station (fixed, base, itinerant, or mobile) needed to support a launch; (3) complete a frequency coordination process using a third-party frequency coordinator; and (4) following successful coordination, register in ULS the technical and operating parameters associated with each specific coordinated launch prior to commencing operations.

The Launch Communications Act. Following the Commission’s adoption of the *Second Report and Order*, Congress enacted the Launch Communications Act (LCA) on September 26, 2024. The LCA requires Commission action with respect to three frequency bands: the 2025–2110 MHz and 2200–2290 MHz bands that were the subject of the *Second Report and Order*, and the 2360–2395 MHz band, upon which the Commission sought comment in the *Second Further Notice* (89 FR 6488–01, February 1, 2024). The LCA first requires the Commission, within 90 days of the LCA’s enactment, to allocate each of these bands on a secondary basis for commercial space launches and

reentries and to complete any proceeding in effect related to the adoption of service rules for these three bands. The Commission also must issue, within 180 days of the LCA's enactment, new regulations to streamline the process for granting authorizations for access to these three bands. These new regulations must provide for, among other things: (1) authorizations that include multiple uses of the frequencies for multiple launches and reentries from one or more private and Federal launch and reentry sites; (2) electronic filing and processing of applications for access to such frequencies for commercial space launches and reentries; and (3) improved coordination with the National Telecommunications and Information Administration (NTIA) to increase the speed of review of applications for authorizations to access frequencies for space launch and reentry through increased automation similar to an approach currently used for the 70/80/90 GHz bands.

In the *Second Report and Order*, the Commission delegated authority to the Bureau to issue a public notice proposing and seeking comment on issues related to the licensing framework for the Space Launch Service to refine the application process and accommodate frequency coordination, including required information for license registrations and frequency coordination requests. Accordingly, below we propose application and frequency coordination procedures for the Space Launch Service, which at present includes the 2025–2110 and 2200–2290 MHz bands, two of the three frequency bands identified in the LCA. Given the LCA's requirement, however, that the Commission “complete a proceeding in effect” within 90 days of enactment, the Bureau anticipates that the Commission would benefit from development of a record that includes the issues included in this Public Notice. We therefore propose in this Public Notice procedures that would apply not only to the 2025–2110 MHz and 2200–2290 MHz bands, but also to the 2360–2395 MHz band, to the extent the Commission reallocates the 2360–2395 MHz band on a secondary basis for Space Operation and incorporates it into the part 26 space launch licensing framework. This proposed approach is intended to increase administrative efficiency and provide regulatory certainty for Space Launch Service applicants and licensees regarding statutorily required implementation of the LCA for space launch and re-entry operations. We clarify that the proposals in this Public Notice, and any final

action taken through subsequent Bureau public notice(s) following review of the record, are subject to Commission action taken pursuant to the LCA's requirements, including any additional Commission delegation of authority to the Bureau to clarify and establish procedures regarding the 2360–2395 MHz band.

II. Licensing Process

A. Application for Nationwide License

In the *Second Report and Order*, the Commission adopted rules requiring a space launch provider seeking authorization to first file an application in ULS for a nationwide, non-exclusive license. The Commission determined that eligible space launch operators interested in obtaining a nationwide, non-exclusive license can do so on the condition that they will cooperate with and avoid harmful interference to co-frequency entities and complete coordination efforts to avoid in-band interference. Applicant qualification for these non-exclusive nationwide licenses will be assessed in accordance with FCC Form 601 and the Commission's rules. The grant of a nationwide license will serve as a prerequisite for a licensee to register launch sites and individual stations in ULS.

For purposes of applying for this nationwide license, the Commission determined that a space launch operator would only need to provide administrative information using FCC Form 601. An applicant for a nationwide, non-exclusive license is required to use ULS to file FCC Form 601 electronically. Detailed instructions for submitting license applications in ULS will be announced in a subsequent public notice.

B. Launch Site and Station Registrations

Once a space launch operator has obtained a nationwide, non-exclusive license, the next step towards authorizing a particular launch is for the licensee, prior to seeking frequency coordination, to electronically register launch sites and individual fixed, base, itinerant, and mobile stations associated with a specific launch in ULS. We propose that launch vehicles will be registered as mobile stations, but with additional technical details required beyond those required for terrestrial mobile stations, as outlined below. We seek comment below on the appropriate data to be required for each launch and station site in an initial station registration.

1. Data for Initial Registration

Pursuant to the Bureau's delegated authority to seek comment on and refine the application process, we propose and seek comment on the specific data to be collected as part of initial registration of launch sites and individual stations. The Bureau proposes that a licensee would include the following data:

1. Launch site details:
 - a. Launch site name and launch designation (if applicable);
 - b. Geographic coordinates referenced to NAD83 (*i.e.*, lat/long);
 - c. Address; and
 - d. Whether the site is an FAA-licensed commercial site or Federal site;
2. Itinerant and mobile station details:
 - a. Description of station, including its overall purpose within the proposed launch operation and specific function (*e.g.*, transmit/receive, command/telemetry);
 - b. Radius of operation and geographic coordinates of the transmit location referenced to NAD83;
 - c. Antenna details:
 - i. Frequency band;
 - ii. Output power/Effective Isotropic Radiated Power (EIRP);
 - iii. Type of antenna (*e.g.*, directional);
 - iv. Width of beam in degrees at the half-power point;
 - v. Frequency tolerance;
 - vi. Emission designator;
 - vii. Emission bandwidth and justification for greater than 5 megahertz bandwidth, if applicable;
 - viii. Digital modulation rate and type; and
 - ix. Antenna gain;
3. Launch vehicles as mobile stations:
 - a. Name of launch vehicle;
 - b. Geographic coordinates of the launch site referenced to NAD83;
 - c. Location of transmitter on launch vehicle or payload (*e.g.*, first stage, second stage); and
 - d. Antenna details:
 - i. Frequency band;
 - ii. Output power/EIRP;
 - iii. Type of antenna (*e.g.*, blade, parabolic);
 - iv. Width of beam in degrees at the half-power point;
 - v. Frequency tolerance;
 - vi. Emission designator;
 - vii. Emission bandwidth and justification for greater than 5 megahertz bandwidth, if applicable;
 - viii. Digital modulation rate and type; and
 - ix. Antenna gain;
4. Fixed and base station details:
 - a. Description of station, including its overall purpose within the proposed launch operation and specific function (*e.g.*, transmit/receive, command/telemetry);

- b. Antenna azimuth (if the antenna is tracking, state “tracking”);
- c. Antenna elevation angle (if the antenna is tracking, state “tracking”);
- d. Height above ground level to the highest point of the supporting structure only;
- e. Overall height above ground to tip of antenna in meters;
- f. Elevation of ground at antenna site above mean sea level in meters;
- g. Support structure type;
- h. Geographic coordinates of the transmit location referenced to NAD83 (i.e. lat/long); and
- i. Antenna details:
 - i. Frequency band;
 - ii. Output power/EIRP;
 - iii. Type of antenna (e.g., directional);
 - iv. Width of beam in degrees at the half-power point;
 - v. Frequency tolerance;
 - vi. Emission designator;
 - vii. Emission bandwidth and justification for greater than 5 megahertz bandwidth, if applicable; and
 - viii. Digital modulation rate and type; and
 - ix. Antenna gain;
 - j. Address.

We seek comment on the above proposed data requirements for an initial registration. Should additional information be required as part of the launch site and station location registration process?

2. Requests for Bandwidth in Excess of 5 Megahertz

In the *Second Report and Order*, the Commission afforded a space launch licensee the flexibility to choose its own bandwidth, up to 5 megahertz. However, a licensee may exceed the 5 megahertz bandwidth where it can demonstrate, on a case-by-case basis, why a larger bandwidth is necessary for the specific telemetry, tracking, and control space launch operation, including an explanation of why the licensee’s requirements cannot be satisfied using a bandwidth of 5 megahertz or less. As required in the *Second Report and Order*, a licensee seeking to operate in excess of 5 megahertz bandwidth must submit its justification as part of the initial registration in ULS for a specific launch. We remind licensees that the Commission stated it would not routinely grant such requests and noted that, given the heavy usage of these bands, it may be difficult to successfully coordinate operations involving requests for bandwidth greater than 5 megahertz.

C. Frequency Coordination

In the *Second Report and Order*, the Commission adopted a post-license

grant coordination regime to be facilitated by a third-party space launch frequency coordinator. The Commission delegated authority to the Bureau to develop procedures that the space launch frequency coordinator will use to ensure compliance with the coordination requirements for space launch operations. As noted, the LCA also requires the Commission to improve coordination with NTIA within 180 days of enactment, including coordination to increase automation similar to the automation described in our service rules for the 70/80/90 GHz service, which we address herein and in a companion Public Notice released today regarding selection of a space launch frequency coordinator whose duties would include receiving all coordination requests and interfacing with an automated system to be developed by NTIA.

1. Data Requirements for Frequency Coordination Requests

In delegating authority to the Bureau to specify data collection requirements for the coordination process and to seek stakeholder input on the required data, the Commission stated that it anticipated that a licensee would identify: (1) the specific coordinates of fixed, base, and itinerant stations (e.g., latitude and longitude); (2) frequency channels; (3) launch trajectories; (4) launch window or planned launch date; and (5) any other technical and operational information (e.g., antenna characteristics, power levels, emission designators) needed by a third-party frequency coordinator to submit the frequency coordination request to the relevant non-Federal and Federal entities. The Commission noted that other information could include coordinates and operational parameters of each station (fixed, base, itinerant or mobile) needed to support a launch, including whether the sites are Federal or FAA-licensed commercial spaceports or non-Federal launch sites. The *Second Report and Order* specified that this data would be used by the space launch frequency coordinator to coordinate with NTIA regarding protection of Federal operations, as well as local frequency coordinators to protect non-Federal operations in the 2025–2110 MHz band.

The 2360–2395 MHz band is used primarily for aeronautical mobile telemetry and telecommand operations for aircraft and missile flight testing. The LCA requires the Commission to allocate this band on a secondary basis for space launch operations and to complete any proceeding in effect and adopt service rules and coordination

procedures. Given the requirements of the LCA, to the extent the Commission reallocates the 2360–2395 MHz band on a secondary basis for Space Operation and incorporates it into the part 26 space launch licensing framework, frequency coordination of non-Federal space launch operations will be necessary to protect primary flight test users. Under current part 87 rules, the frequency advisory committee is required to coordinate all requests concerning flight test frequencies with applicable Federal government area frequency coordinators (AFCs) and to consider all non-Federal stations operating within 320 kilometers (200 miles) of the proposed area of operation. Further, the part 87 frequency advisory committee requires, at a minimum, the following data for coordination requests concerning flight test frequencies: launch location; reentry landing zone (where applicable); date(s), time(s), and duration(s) of launch and reentry window(s); trajectory (azimuth, heading) of the launch and, where applicable, expected reentry coordinates and the landing trajectory (from the reentry point) of reusable launch vehicles and boosters; maximum heights above ground level and above sea level for both launch and reentry activity; requested frequencies used for launch and reentry; maximum power and EIRP; and operational contact information. These data points largely overlap with the data we believe necessary for coordinating Federal operations in the 2025–2110 and 2200–2290 MHz bands, and non-Federal operations in the 2025–2110 MHz band. Accordingly, we propose to incorporate these data points into the below data requirements for space launch frequency coordination requests and seek comment.

We propose to require licensees to provide the following data to the third-party frequency coordinator for coordination requests, much of which will be readily available from the initial post-licensing registration in ULS, as well as additional technical information needed to ensure proper coordination for a specific launch and thereby reduce the potential for harmful interference:

1. Licensee details:
 - a. Name of licensee;
 - b. Call sign; and
 - c. Primary and alternate point of contact for questions (name, title, email, and business phone number);
2. Previously registered launch site where launch will take place and corresponding site details;
3. Previously registered itinerant and mobile stations to be used in the launch and corresponding details;

4. Previously registered fixed and base stations to be used in the launch and corresponding details;

5. Transmitter characteristics for each transmit station (center frequency):

- a. Transmitter make/model;
- b. Output power;
- c. Antenna type (e.g., blade, parabolic);
- d. Number of antennas deployed;
- e. Antenna gain;
- f. Width of beam in degrees at half-power point;
- g. Frequency tolerance;
- h. Orientation in horizontal/vertical planes (if the antenna is tracking state "tracking");
- i. Antenna polarization;
- j. EIRP (per individual antenna);
- k. Total EIRP (from all radiating sources using a specific location); and
- l. Emission designator.

6. Emission details for each designator of each transmitter:

- a. Emission bandwidth;
- b. Modulating signal:
 - i. Modulation type (e.g., BPSK, QPSK, APK, FSK, Analog);
 - ii. if it is a digital signal, the final symbol rate in symbols/second after all overhead encoding or the final bit rate in bits/second after all overhead encoding;
 - iii. if FSK, include the type of FSK and the peak-to-peak frequency deviation as well as the final symbol rate or final bit rate; and
 - iv. indicate whether the signal has subcarriers and, if so, which ones are used;

c. RF fundamental emission data (two-sided) including a minimum of -3 dB, -20 dB, and -60 dB bandwidth data points; and

d. Description of any signal filtering techniques employed;

e. If bandwidth exceeds 5 megahertz, an explanation of why the requested bandwidth is necessary for specific space launch operations, including an explanation of why the applicant's operations cannot be satisfied using a bandwidth of 5 megahertz or less;

7. Additional launch site technical information:

- a. Elevation of ground at antenna site above mean sea level in meters;
- b. Overall height above ground to tip of antenna in meters;
- c. Distance to nearest aircraft landing area in kilometers; and
- d. Natural formations or existing man-made structures (hills, trees, water tanks, towers, etc.) which would tend to shield the antenna from aircraft.

8. Launch details:

- a. Name of launch vehicle;
- b. Launch mission name and/or designator number;

c. Launch and reentry date/time window (primary and backup), including launch window open time, and the duration of each window;

d. List of objects to achieve orbit during launch operation;

e. Total elapsed time from launch to end of transmission;

f. Requested frequencies used for launch and reentry, including required center frequency(ies);

g. Orbital location (orbit insertion);

h. Mean launch azimuth (degrees, clockwise from the North);

i. Ground track from lift-off until end of transmission;

j. ECF Cartesian Vectors Format (position and velocity vs. time or position, velocity, and acceleration vs. time) in one minute time steps (at least) for each phase of launch through the end of transmission;

k. A plot image of the two-dimensional ground track of the launch vehicle including demarcations for important mission events (e.g., main engine cut-off (MECO), stage separation, payload jettison, passivation);

l. Duration of transmission(s), to include on/off time (nominal and maximum durations) for each transmitter and receiving station(s) corresponding to the on/off times;

m. Reentry landing zone;

n. If applicable, expected reentry coordinates and the landing trajectory (from the reentry point) of reusable launch vehicles and boosters;

o. Maximum heights above ground level and above sea level for both launch and reentry activity; and

p. Operational contact information, including name, email address, and telephone number.

9. Additional station details:

a. Name and location of each relay satellite station supporting launch operation;

b. Ground receiver sensitivity and selectivity; and

c. Antenna gain to noise temperature ratio (G/T) for each ground station used for reception of launch vehicle telemetry.

The data requirements proposed above are consistent with those required in the Special Temporary Authority (STA) process currently used to authorize space launch communications and the part 87 frequency advisory committee flight test coordination process. We seek comment on this proposal. Is there additional data that should be required for coordination requests submitted to the third-party frequency coordinator? Is any of the proposed data not necessary for anticipated launches? Do these data requirements provide a third-party

space launch frequency coordinator with sufficient information to coordinate launches with the Federal and non-Federal users sharing the 2025–2110 MHz and 2200–2290 MHz bands? Is there additional data that should be required for coordinating space launches with AMT flight test operations in the 2360–2395 MHz band? We also note that detailed instructions for submitting the required information to the space launch frequency coordinator, including format, will be announced in the final Bureau licensing procedures public notice.

2. Coordination Procedures

In the *Second Report and Order*, the Commission required commercial space launch operators to undertake a two-part process for purposes of frequency coordination: (1) for the 2025–2110 MHz band, a site-specific coordination of the operator's stations and launch parameters with Broadcast Auxiliary Service (BAS) operations; and (2) for both the 2200–2290 and 2025–2110 MHz bands, coordination on a per-launch basis with NTIA. The Commission specified that the coordination process was to be initiated through the space launch frequency coordinator after the licensee first registers its sites and stations in ULS. In addition, given the Commission's required action per the LCA regarding the 2360–2395 MHz band that includes adoption of a secondary allocation for space launch and reentry in this band, we anticipate that coordination will be required with primary Federal and non-Federal AMT operations, through both NTIA and the part 87 frequency advisory committee. We propose that, with respect to requests to conduct a specific launch with a bandwidth greater than 5 megahertz in any of the three bands subject to the LCA, the Space Launch Frequency Coordinator will not be required to coordinate such requests unless the Commission first indicates to the Space Launch Frequency Coordinator that a licensee's justification provided with a registration for a specific launch is complete and provides the fulsome explanation required pursuant to rule § 26.301. We seek comment on this proposal.

a. Non-Federal Coordination in the 2025–2110 MHz Band

As set forth in the *Second Report and Order*, for non-Federal coordination in the 2025–2110 MHz band, a space launch operator will first register its site and station information and will submit its coordination request to the third-party space launch frequency coordinator. The coordinator will verify

that the operator is licensed and that the request is consistent with the Commission's rules. The coordinator will then contact the Society of Broadcast Engineers (SBE) Frequency Coordination Manager and the relevant SBE local market coordinator to initiate coordination for the requested launch site.

Alternatively, the launch operator may provide a showing to the frequency coordinator that: (a) it has previously coordinated its proposed operations with the SBE Frequency Coordination Manager; (b) it has ascertained that its proposal will not constrain, preclude, or interfere with incumbents in the band, including BAS, Cable Television Relay Service (CARS) and Local Television Transmission Service (LTTS) licensees; and (c) it has demonstrated in a technical showing that its proposed operation will not create more than 0.5 dB increase in the noise threshold of a receiver at a fixed or temporary fixed electronic news gathering receive site. The Commission found there is no need to conduct per-launch coordination with non-Federal users in the 2025–2110 MHz band if the launch operator can demonstrate its proposed uplink operations meet this protection criteria.

We propose that the local SBE frequency coordinator receive coordination requests at least 60 days prior to launch to ensure adequate time for coordination, with a response due back to the coordinator 15 days following the local SBE frequency coordinator's receipt of the request. Does this proposed timeframe ensure adequate time for completing non-Federal frequency coordination? Are there any circumstances in which space launch operators would be seeking clearance to conduct a launch less than 60 days in the future? Once the frequency coordinator has completed non-Federal coordination, we propose that the coordinator respond to the licensee in writing with the results of the coordination, including any conditions, restrictions, or other limitations, and seek comment on this proposal.

b. Non-Federal Coordination in the 2360–2395 MHz Band

As noted above, part 87 governs AMT for flight test operations and the part 87 frequency advisory committee is required to coordinate requests for such frequencies and provide recommendations regarding operating parameters, including providing comment on the frequencies requested and the probable interference to flight test stations, and recommending frequencies resulting in the minimum

interference. Under part 87 rules, the frequency advisory committee is required to consider all non-Federal stations operating on the frequencies requested or assigned within 320 kilometers (200 miles) of the proposed area of operation and all prior coordinations and assignments on the proposed frequencies. We believe that part 87 procedures provide guidance for the space launch frequency coordinator in ensuring that space launch operations in the 2360–2395 MHz band will not cause harmful interference to incumbent flight test operations. We anticipate that the space launch frequency coordinator, in coordinating with the part 87 frequency advisory committee, will consider stations within the 320 kilometers (200 miles) metric, but we propose that the space launch frequency coordinator have the ability to expand that radius at its discretion if necessary in analyzing interference potential. After considering all such stations and coordinating with the part 87 frequency advisory committee, we propose that the space launch frequency coordinator would then propose necessary changes in technical parameters to minimize the risk of harmful interference to non-Federal flight test stations. To maintain consistency with current flight test coordination procedures, we propose that space launch licensees, following coordination and parameter registration in ULS as described below, provide pre-launch notification to both the space launch frequency coordinator and the part 87 frequency advisory committee 96 hours in advance of the commencement of the registered launch window. We seek comment on this proposal, including whether this timeframe provides sufficient notice to ensure protection against interference for flight test operators. We clarify that this proposed notification requirement is separate from, and in addition to, the Commission rule § 26.202 pre-launch coordination requirement.

c. Federal Coordination

For Federal coordination in the Space Launch Service, coordination is required on a per-launch basis, to be initiated after the launch operator has registered its applicable site and station information in ULS. Once the third-party coordinator verifies that the operator is licensed and that the request is consistent with the Commission's rules, it will initiate coordination with NTIA. To assist NTIA's review, the third-party frequency coordinator may provide a showing that the operational and technical parameters of a proposed launch are consistent with a prior successful coordination and that the

space launch licensee continues to comply with any conditions or agreements resulting from such prior coordination, or that its proposed launch is covered by an applicable coordination agreement with co-frequency entities.

The LCA requires the Commission to improve NTIA coordination to increase the speed of review of space launch applications for authorization in the 2025–2110 MHz, 2200–2290 MHz, and 2360–2395 MHz bands, including automation similar to that required in the service rules for the 70/80/90 GHz service. Accordingly, we propose to require the space launch frequency coordinator to complete Federal coordination in all three LCA bands using the automated coordination mechanism to be developed by NTIA. This proposed requirement is reflected in the Bureau's companion Public Notice released today regarding a mechanism and criteria for selecting the space launch frequency coordinator. However, until an automated mechanism becomes available, we propose an interim process for completing Federal coordination. For coordination requests in the 2025–2110 MHz and/or 2200–2290 MHz bands, we propose requiring that the frequency coordinator submit frequency coordination requests at least 60 days prior to launch to the NTIA Office of Spectrum Management's Frequency Assignment Branch. For coordination requests in the 2360–2395 MHz band, we propose that the space launch frequency coordinator submit coordination requests at least 60 days prior to launch to the applicable Area Frequency Coordinator (AFC) listed in Annex D, Table 2 of NTIA's Manual of Regulations and Procedures for Federal Radio Frequency Management. We seek comment on whether the proposed timeframe allows for completion of Federal frequency coordination. We also recognize that some space launch Federal frequency coordination requests might combine 2360–2395 MHz with 2025–2110 MHz and/or 2200–2290 MHz, which could require routing to different destinations. We therefore seek comment on whether, in those instances, Federal coordination requests should be directly submitted to NTIA's Office of Spectrum Management's Frequency Assignment Branch within the same 60-day timeframe. Would such an approach prevent unnecessary delays in Federal coordination and improve administrative efficiencies? What are the costs of such an approach? Further, once the space launch frequency coordinator has completed Federal

coordination, we propose that it respond to the licensee in writing with the results of the coordination, including any conditions or limitations. We seek comment on this proposal.

d. Changes To Launch Parameters

In the *Second Report and Order*, the Commission stated that any changes to the technical and operational parameters for a launch that occur after completion of post-grant frequency coordination also require coordination, and that these changes must be provided to the third-party frequency coordinator to initiate an updated coordination. We seek comment on procedures for licensees that seek to change launch parameters close in time to a scheduled launch date. Should we establish a cut-off date for licensees to change launch parameters that have previously been coordinated? What timeframe is appropriate, given that a cut-off date would need to afford sufficient time for re-coordination of a launch? Should we consider establishing a separate cut-off for changes solely related to the launch date/time, potentially to accommodate weather or technical delays, that seek no changes to technical parameters, and could therefore qualify for an accelerated coordination of the date/time change versus requiring a new coordination request? In the STA process currently used to authorize spectrum for space launches, how frequently have space launch operators needed to adjust launch and technical parameters following coordination of a launch, and how much time has typically been required to re-coordinate those launches? We seek comment on these issues.

D. Post-Frequency Coordination Launch Registrations

In the *Second Report and Order*, the Commission adopted rules requiring space launch licensees to register the technical and operating parameters of a launch after it has successfully coordinated that launch with NTIA and other non-Federal users through a third-party frequency coordinator. The Commission stated that licensees would not have authorization to commence operations until after completing these post-coordination launch registrations. We propose that, once accepted in ULS, the parameters in the post-coordination launch registration reflect the binding operational parameters for a given launch, and that a licensee will be authorized to commence launch operations thereunder. We also propose that the licensee must update the launch registration in ULS, if already

completed, to reflect any re-coordinated parameter changes, and that such an updated registration must be accepted in ULS to be authorized to launch under the revised parameters.

For purposes of the post-coordination launch registration, we propose that licensees provide the following relevant data from their approved coordination requests:

1. Purpose of operation;
2. Operation start date and time;
3. Operation end date and time;
4. Stations to be used;
5. Launch site to be used;
6. Transmission characteristics including frequency, emission designator, output power and EIRP; and
7. Response from the third-party frequency coordinator regarding outcome of coordination, including conditions and limitations, and a list of entities with which it coordinated.

We seek comment generally on this proposal. We note that, in part II.C.1 of this Public Notice, we propose requiring licensees to share their launch trajectory for purposes of frequency coordination. We seek comment on whether we should require the launch trajectory for registration in ULS. Is there any other launch data that should be made publicly available in ULS?

Federal Communications Commission.

Amy Brett,
Chief of Staff, Wireless Telecommunications Bureau.

[FR Doc. 2024–29833 Filed 12–20–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 211

[Docket No. FRA–2024–0033, Notice No. 2]

RIN 2130–AC97

Federal Railroad Administration's Procedures for Waivers and Safety-Related Proceedings

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: On October 29, 2024, FRA published an NPRM proposing to update FRA's procedures for waivers and safety-related proceedings to define the two components of the statutory waiver and suspension standard, "in the public interest" and "consistent with railroad safety." By this notice, FRA is extending the NPRM's comment period by 15 days.

DATES: The comment period for the NPRM published on October 29, 2024, 89 FR 85895, is extended until January 15, 2025.

ADDRESSES:

Comments: Comments related to Docket No. FRA–2024–0033 may be submitted by going to www.regulations.gov and following the online instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. All comments received will be posted without change to www.regulations.gov; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Veronica Chittim, Senior Attorney, Office of the Chief Counsel, at veronica.chittim@dot.gov, 202–480–3410; or Lucinda Henriksen, Senior Advisor, Office of Railroad Safety, at lucinda.henriksen@dot.gov, 202–657–2842.

SUPPLEMENTARY INFORMATION: In a November 13, 2024, letter, the American Short Line and Regional Railroad Association (ASLRRRA) requested a 60-day extension of the NPRM's comment period.¹ ASLRRRA stated it needs additional time to thoroughly review the NPRM and "consult with its member railroads on the feasibility of the process changes proposed in the NPRM for small businesses."

In a November 25, 2024, letter, the Association of American Railroads (AAR) petitioned for a 60-day extension of the NPRM's comment period.² AAR noted that it must "address four proposed rules at the same time while operating under resource constraints due to holiday travel schedules that prevent them from giving any of the four NPRMs the attention that they deserve."

The comment period for this NPRM is scheduled to close on December 30, 2024.³ As FRA is granting an extension

¹ <https://www.regulations.gov/document/FRA-2024-0033-0002>.

² <https://www.regulations.gov/document/FRA-2024-0033-0004>.

³ <https://www.federalregister.gov/documents/2024/10/29/2024-24586/federal-railroad->

for 15 days in response to ASLRRA's and AAR's requests, the comment period is now extended to January 15, 2025.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 U.S.C. 20103, 20107, 20114, 20306, 20502–20504, and 49 CFR 1.89.

Issued in Washington, DC.

Allison Ishihara Fultz,
Chief Counsel.

[FR Doc. 2024–30596 Filed 12–20–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. FRA–2024–0032]

RIN 2130–AC96

Track Geometry Measurement System (TGMS) Inspections; Extension of Comment Period

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: On October 24, 2024, FRA published an NPRM proposing to revise its regulations governing the minimum safety requirements for railroad track. The proposed changes would require all Class I and II railroads, as well as intercity passenger railroads and commuter railroads, to operate a

qualifying Track Geometry Measurement System (TGMS), a type of automated track inspection (ATI) technology, at specified frequencies on all Class 1 through 5 mainline and controlled siding track that transports: annual tonnage greater than 10 million gross tons (MGT), regularly scheduled passenger rail service, or trains containing hazardous materials. FRA also proposed increasing the required frequency of TGMS inspections on Class 6 track. By this notification, FRA is extending the NPRM's comment period, which will close on December 23, 2024, by 15 days.

DATES: The comment period for the NPRM published on October 24, 2024, at 89 FR 84845, is extended. Comments should be received on or before January 7, 2025.

ADDRESSES:

Comments: Comments related to Docket No. FRA–2024–0032 may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket name, and docket number or Regulatory Identification Number (RIN) for this rulemaking (2130–AC96). Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading in the SUPPLEMENTARY INFORMATION section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Yu-Jiang Zhang, Staff Director, Track and Structures Division, Office of Railroad Safety, Federal Railroad Administration, 1200 New Jersey Avenue SE, W33–302, Washington, DC 20590, telephone: 202–493–6460; or Aaron Moore, Senior Attorney, Office of the Chief Counsel, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone: 202–853–4784.

SUPPLEMENTARY INFORMATION: In a November 13, 2024, letter, the American Short Line and Regional Railroad Association (ASLRRA) requested a 60-day extension of the NPRM's comment

period.¹ ASLRRA stated it needs additional time to consult with members regarding the potential impact of the proposed rule. ASLRRA's letter cited the fact that FRA issued three NPRMs² during a short timeframe, did not consult with Railroad Safety Advisory Committee regarding the proposed rules, and that the publication of the NPRMs and the comment deadlines are impacted by the fall and winter holiday season.

In a November 25, 2024, letter, the Association of American Railroad (AAR) made a similar request, also seeking a 60-day extension. AAR's letter cited similar concerns as ASLRRA's letter.

The comment period for this NPRM is scheduled to close on December 23, 2024. As FRA is granting an extension in response to the requests from ASLRRA and AAR, the comment period is now extended to January 7, 2025, which is a total of 15 days. Although ASLRRA and AAR requested a 60-day extension, FRA believes that a 15-day extension will provide sufficient time for ASLRRA, AAR, and other interested parties to review the NPRM.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL–14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 U.S.C. 20102–20114 and 20142; 28 U.S.C. 2461 note; and 49 CFR 1.89.

Issued in Washington, DC.

Allison Ishihara Fultz,
Chief Counsel.

[FR Doc. 2024–30595 Filed 12–20–24; 8:45 am]

BILLING CODE 4910–06–P

¹ 89 FR 84845 (Oct. 24, 2024).

² 89 FR 84845 (Oct. 24, 2024); 89 FR 85462 (Oct. 28, 2024); 89 FR 85895 (Oct. 29, 2024).

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****49 CFR Part 236**

[Docket No. FRA–2023–0064, Notice No. 2]

RIN 2130–AC95

Positive Train Control Systems

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: On October 28, 2024, FRA published an NPRM proposing to amend certain regulations governing positive train control (PTC) systems. Through oversight and continued engagement with the industry, FRA has found that its existing PTC regulations do not adequately address temporary situations during which PTC technology is not enabled, including after certain initialization failures or in cases where a PTC system needs to be temporarily disabled to facilitate repair, maintenance, infrastructure upgrades, or capital projects. FRA expects PTC systems to be reliable and robust, further reducing the occurrence of initialization failures and outages. The NPRM proposes to establish strict parameters and operating restrictions under which railroads may continue to operate safely in certain necessary scenarios when PTC technology is temporarily not governing rail operations. By this notice, FRA is extending the NPRM's comment period, which will close on December 27, 2024, by 15 days.

DATES: The comment period for the proposed rule published October 28, 2024, at 89 FR 85462, is extended. Comments should be received on or before January 11, 2025.

ADDRESSES:

Comments: Comments related to Docket No. FRA–2023–0064, Notice No. 1, may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket name, and docket number or Regulatory Identification Number (RIN) for this rulemaking (2130–AC95). Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT:

Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: Gabe.Neal@dot.gov; or Senya Waas, Senior Attorney Adviser, telephone: 202–875–4158, email: Senya.Waas@dot.gov.

SUPPLEMENTARY INFORMATION: In a November 13, 2024, letter, the American Short Line and Regional Railroad Association (ASLRRA) requested a 60-day extension of the NPRM's comment period.¹ ASLRRA stated it needed sufficient time to review the proposed rule and its impact on its member railroads that are directly and indirectly subject to the PTC mandate. In addition, in a November 25, 2024, letter, the Association of American Railroads

(AAR) also requested a 60-day extension of the NPRM's comment period, in order for its members to have adequate time to review the proposed rule.

The comment period for this NPRM is scheduled to close on December 27, 2024. As FRA is granting an extension in response to ASLRRA's and AAR's requests, the comment period is now extended to January 11, 2024, which is a total of 15 days. Although ASLRRA and AAR each requested a 60-day extension, FRA believes that a 15-day extension will provide sufficient time for ASLRRA, AAR, and other interested parties to review the NPRM.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL–14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Authority: 49 U.S.C. 20103, 20107, 20133, 20141, 20302–20303, 20306, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.89.

Issued in Washington, DC.

Allison Ishihara Fultz,
Chief Counsel.

[FR Doc. 2024–30594 Filed 12–20–24; 8:45 am]

BILLING CODE 4910–06–P

¹ 89 FR 85462 (Oct. 28, 2024).

Notices

Federal Register

Vol. 89, No. 246

Monday, December 23, 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

Agricultural Marketing Service

[Doc. No. AMS-FGIS-24-0041]

Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the Agricultural Marketing Service's (AMS) intention to request that the Office of Management and Budget (OMB) approve a 3-year extension of a currently approved information collection for the "Reporting and Recordkeeping Requirements under the United States Grain Standards Act (USGSA) and under the Agricultural Marketing Act of 1946 (AMA)." This approval is required under the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments on this notice must be received by February 21, 2025 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by using the electronic process available at <https://www.regulations.gov>. All comments should reference the docket number (same number as above assigned by Originating Program), the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, at <https://www.regulations.gov> and will be included in the record and made available to the public.

FOR FURTHER INFORMATION CONTACT: Contact Gregory J. Giese USDA AMS; telephone: (816) 702-3926; email: Gregory.J.Giese@usda.gov.

SUPPLEMENTARY INFORMATION: Congress enacted the United States Grain Standards Act (USGSA) (7 U.S.C. 71-87k) and the Agricultural Marketing Act of 1946 (AMA) (7 U.S.C. 1621-1627) to facilitate the marketing of grain, oilseeds, pulses, rice, and related commodities. These statutes provide for the establishment of standards and terms which accurately and consistently measure the quality of grain and related products, provide for uniform official inspection and weighing, provide regulatory and service responsibilities, and furnish the framework for commodity quality improvement incentives to both domestic and foreign buyers. AMS's Federal Grain Inspection Service (FGIS) establishes policies, guidelines, and regulations to carry out the objectives of the USGSA and the AMA. Regulations appear at 7 CFR parts 800 through 802 for the USGSA and 7 CFR part 868 for the AMA.

The USGSA, with few exceptions, requires official inspection of export grain sold by grade. Official services are provided, upon request, for grain in domestic commerce. The AMA authorizes similar inspection and weighing services, upon request, for rice, pulses, flour, corn meal, and certain other agricultural products. Conversely, the regulations promulgated under the USGSA and the AMA require specific information collection and recordkeeping necessary to carry out requests for official services. Applicants for official services must specify the kind and level of service, the identification of the product, the location, the amount, and other pertinent information in order that official personnel can efficiently respond to their needs.

Official services under the USGSA are provided through FGIS field offices and delegated and/or designated State and private agencies. Delegated agencies are State agencies delegated authority under the USGSA to provide official inspection service, Class X or Class Y weighing services, or both, at one or more export port locations in the State. Designated agencies are State or local governmental agencies or persons designated under the USGSA to provide official inspection services, Class X or Class Y weighing services, or both, at locations other than export port locations. State and private agencies, as a requirement for delegation and/or

designation, must comply with all regulations, procedures, and instructions in accordance with provisions established under the USGSA. FGIS field offices oversee the performance of these agencies and provide technical guidance as needed.

Official services under the AMA are performed, upon request, on a fee basis for domestic and export shipments either by FGIS employees, individual contractors, or cooperators. Contractors are persons who enter into a contract with FGIS to perform specified sampling and inspection services. Cooperators are agencies or departments of the Federal Government which have an interagency agreement, State agencies, or other entities which have a reimbursable agreement with FGIS.

Title: Reporting and Recordkeeping Requirements (United States Grain Standards Act and Agricultural Marketing Act of 1946).

OMB Number: 0581-0309.

Expiration Date of Approval: March 31, 2025.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The USGSA and the AMA authorize USDA to inspect, certify and identify the class, quality, quantity and condition of agricultural products shipped or received in interstate and foreign commerce.

Estimate of Burden: Public reporting and record keeping burden for this collection of information is estimated to average 0.13 hours per response.

Respondents: Grain producers, buyers, and sellers, elevator operators, grain merchandisers, and official grain inspection agencies.

Estimated Number of Respondents: 9,910.

Estimated Number of Responses per Respondent: 126.

Estimated Total Annual Burden on Respondents: 162,259 hours.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be

collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–30546 Filed 12–20–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–DA–23–0064]

Notice of Request for Approval of an Existing Information Collection in Use Without an OMB Control Number

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intent to request approval from the Office of Management and Budget (OMB) of an existing information collection in use without an OMB control number for Dairy Market News pursuant to Section 203(g) of the Agricultural Marketing Act of 1946, as amended.

DATES: Comments on this notice must be received by February 21, 2025 to be considered.

ADDRESSES: Interested persons are invited to submit comments by using the electronic process available at <https://www.regulations.gov> or sent to Lorie Cashman, Director, Economics Division, AMS Dairy Program, 4600 American Parkway, STE 106, Madison, WI 53718. All comments should reference the docket number (AMS–DA–23–0064), the date, and page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided at <https://www.regulations.gov> and will be included in the record and made available to the public. Please do not include personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed.

Comments may be submitted anonymously.

FOR FURTHER INFORMATION CONTACT:

Lorie Cashman, Director, Economics Division, AMS Dairy Program, by telephone: (202) 720–4405, or by email: Lorie.Cashman@usda.gov.

SUPPLEMENTARY INFORMATION: Dairy Market News (DMN) covers supply, demand, and pricing on a regional, national, and international basis for milk, butter, cheese, and dry and fluid milk products. The DMN goal is to provide timely and unbiased market insight that helps American farmers and businesses understand market trends and make informed decisions about the marketing, sale, and delivery of their products. The Agricultural Marketing Service (AMS) administers programs that provide information to facilitate domestic and international marketing opportunities for U.S. producers of food, fiber, and specialty crops. Within that AMS framework, the DMN program focuses on providing domestic and international market information on various dairy commodities.

Title: Dairy Market News.

OMB Number: 0581–NEW.

Expiration Date of Approval: Three years from approval date.

Type of Request: Existing Information Collection in use without an OMB Control Number.

Abstract: Section 203(g) of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), authorizes the Secretary of Agriculture to collect and disseminate marketing information on a market-area basis for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and bringing about a balance between production and utilization of agricultural products by providing timely coverage of prices, supply, demands, trends, movement, and other pertinent information affecting the trading of milk and dairy products. The market reports compiled and disseminated by the AMS Dairy Program's DMN provide current, unbiased, and factual information to all stakeholders in the U.S. agricultural industry. DMN reports assist producers, processors, wholesalers, retailers, and others to make informed production, purchasing, and sales decisions. DMN reports also promote orderly marketing by fostering a more equitable relationship between buyers and sellers.

DMN reporters communicate with buyers and sellers of fluid milk and manufactured dairy products about their respective commodities generally on a weekly basis to accomplish the DMN

mission. These communications are voluntary. Participants are members of dairy industry businesses and trade organizations with whom DMN has established connections. Conversations typically last less than 5 minutes on a weekly basis. This communication and information gathering is accomplished through the use of telephone conversations, face-to-face and/or virtual meetings, and email messages. The information provided by respondents facilitates DMN reporting, which must be timely, accurate, unbiased, and continuous if it is to be meaningful to the industry. DMN collects information on price, supply, demand, trends, movement, and other information of milk and dairy products from the respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .083 hours per response.

Respondents: Processors, brokers, traders, and farms.

Estimated Number of Respondents: 120.

Estimated Total Annual Responses: 6,240.

Estimated Number of Responses per Respondent: 52 (rounded).

Estimated Total Annual Burden on Respondents: 518 hours (rounded).

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

AMS developed the estimates of burden and cost to the industry using publicly available listings of dairy manufacturers, brokers, and traders. Phone calls occur weekly with each participant and last about 5 minutes. Labor costs are derived from tables on the Bureau of Labor Statistics website for private industry workers' wages as well as for average employer costs per hour for benefits.

All comments on this notice will be summarized and included in the submission for OMB approval and will become a matter of public record.

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.

A 60-day comment period is provided to allow interested persons to respond to the notice.

Authority: 44 U.S.C. chapter 35.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–30497 Filed 12–20–24; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by January 22, 2025 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

Forest Service

Title: Special Use Administration.
OMB Control Number: 0596–0082.

Summary of Collection: This information collection is used by the Forest Service to evaluate and ensure that authorized uses of National Forest System (NFS) lands are in the public interest and are compatible with the agency's mission. The information helps the agency identify environmental and social impacts of special uses for purposes of compliance with the National Environmental Policy Act (NEPA) and program administration. In addition, the agency uses the information to ascertain whether the land use fee being charged for special use authorizations is based on market value. The information is collected through application forms and terms and conditions in special use authorizations and operating plans. Ongoing uses must be monitored to ensure compliance with the terms of the corresponding authorizations. In certain situations, information from the authorization holder is the only way the Forest Service can verify compliance with the terms of an authorization.

Need and Use of the Information: The information collected is evaluated by the FS to ensure that authorized uses of NFS lands are in the public interest and are compatible with the agency's mission. The information helps each agency identify environmental and social impacts of special uses for purposes of compliance with the National Environmental Policy Act and program administration. Information is collected under six categories: (1) information required from proponents and applicants to evaluate proposals and applications to use or occupy NFS lands; (2) information required from applicants to complete special use authorizations; (3) annual financial information required from holders to determine land use fees; (4) information required from holders to prepare and update operating plans; (5) information required from holders to prepare and update maintenance plans; and (6) information required from holders to complete compliance reports and information updates.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 80,684.

Frequency of Responses: Reporting: Annually, On occasion.

Total Burden Hours: 77,653.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–30622 Filed 12–20–24; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Request for Information: Child Nutrition Programs Tribal Pilot Projects

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice; request for information.

SUMMARY: This is a Request for Information to inform the U.S. Department of Agriculture's (USDA's) development of the Child Nutrition Programs Tribal Pilot Projects, as authorized in the Consolidated Appropriations Act, 2024. The Act authorized USDA to conduct pilot projects to allow one or more Tribes or Tribal organizations to administer one or more Child Nutrition Programs, assuming the roles and responsibilities typically held by State agencies. USDA will use comments received in response to this Request for Information to inform the application process, and eligibility and selection criteria, for the Child Nutrition Tribal Pilot Projects. USDA invites feedback from Tribes; Tribal organizations, leaders, representatives, and associations; State agencies that administer the Child Nutrition Programs; and others interested in opportunities to promote Tribal sovereignty in the operation of the Child Nutrition Programs. This notice is not a request for proposals and does not commit the Government to issue a solicitation, make an award, or pay any costs associated with responding to this announcement. All submitted information will remain with the Government and will not be returned.

DATES: Written comments must be received on or before March 24, 2025.

ADDRESSES: USDA invites the submission of the requested information through one of the following methods:

- *Federal eRulemaking Portal (preferred method):* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Send written comments to the Child Nutrition Programs, USDA Food and Nutrition Service, Braddock Metro Center II, 1320 Braddock Place, Alexandria, VA 22314.

All comments submitted in response to this Request for Information will be

included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. All responses will become part of the public record and will not be held confidential. USDA will make the comments publicly available via <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Heather Hopwood, School Meals Policy Division, Child Nutrition Programs, USDA Food and Nutrition Service, 703–305–2054.

SUPPLEMENTARY INFORMATION:

Child Nutrition Programs Administration

Federal Child Nutrition Programs are administered by the U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) and help to ensure that participants have access to nutritious meals and snacks in schools, summer programs, child and adult care centers, family day care homes, and afterschool programs.

Administering the Child Nutrition Programs requires partnership at many levels. The Richard B. Russell National School Lunch Act specifies that the Federal Government enters into agreements with State agencies to administer the Child Nutrition Programs within each State.¹ USDA provides administrative funds to State agencies that administer the Child Nutrition Programs.² State agencies, in turn, establish agreements with local Program operators, such as school districts and community organizations, which operate the Child Nutrition Programs and serve meals to child and adult participants in their communities. State agencies establish statewide policies and procedures for administering the Child Nutrition Programs, consistent with Federal requirements; provide policy guidance, training, and technical assistance to local Program operators; monitor key aspects of performance by conducting comprehensive reviews; and report consolidated meal counts to FNS for reimbursement funds. FNS provides reimbursement to the State agencies, and State agencies are responsible for paying the Federal reimbursement to each local Program operator, including Tribal Program operators. In some States, more than one State agency

administers the Child Nutrition Programs. For example, in a single State, one State agency may administer the National School Lunch Program, while another State agency administers the Child and Adult Care Food Program. Nationwide, there are 70 State agencies that administer the Child Nutrition Programs. Under the Tribal Pilot Projects, Tribes and/or Tribal organizations will directly administer one or more Child Nutrition Programs, assuming the roles and responsibilities typically held by State agencies.

Child Nutrition Tribal Pilot Projects

Section 758 of the Consolidated Appropriations Act, 2024, Public Law 118–42 (“The Act”), provided \$2 million for Tribal Pilot Projects that will permit Indian Tribes and/or Tribal organizations to administer Child Nutrition Programs, assuming the roles and responsibilities typically held by State agencies.³ The Act authorized a maximum of 10 Tribal Pilot Projects, to operate for up to two years, with grants ranging from \$10,000–\$100,000 per school year. The Act specifies that the following entities may operate Tribal Pilot Projects:

- an Indian Tribe, as defined by section 4 of the Indian Self-Determination and Assistance Act (25 U.S.C. 5304);
- a Tribal organization approved by an Indian Tribe;
- a Tribal educational agency;
- a consortium of Indian Tribes; or
- a partnership between an Indian Tribe and either:
 - a State educational agency,
 - a local educational agency,
 - a Tribal educational agency, or
 - the Bureau of Indian Education.

Grantees may administer one or more of the following Child Nutrition Programs:

- National School Lunch Program, as authorized by the Richard B. Russell National School Lunch Act (42 U.S.C. 1769, “NSLA”);
- School Breakfast Program, established by the Child Nutrition Act of 1966 (42 U.S.C. 1773);
- Child and Adult Care Food Program, as established under section 17 of the NSLA (42 U.S.C. 1766); and/or
- Summer Food Service Program, as established under section 13 of the NSLA (42 U.S.C. 1761).

Finally, grantees may administer Child Nutrition Programs in the following locations:

- a school funded by the Bureau of Indian Affairs (as defined in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021));⁴
- a school (as defined in section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)) that is on or near an Indian reservation; or
- an early child care and education facility.

Input From Tribal Communities

Tribal input is critical to ensure that the Tribal Pilot Projects reflect the needs of grantees and the communities they serve. In June 2024, FNS engaged in Nation-to-Nation consultation with Tribal leaders to gather input on the Tribal Pilot Projects. This input also helped to develop this Request for Information.⁵ To gather additional input, FNS will organize meetings and listening sessions with Tribes, groups that represent Tribal food sovereignty, Tribal Child Nutrition Program operators, and State agencies that administer Child Nutrition Programs in States that share boundaries with present-day reservations.

FNS will use information gathered in response to this request to develop a process under which eligible Tribes and/or Tribal organizations may apply to operate a Tribal Pilot Project. This Request for Information will also help FNS understand what (if any) support eligible Tribes and Tribal organizations may need to successfully operate a Tribal Pilot Project, and to determine how the Tribal Pilot Projects will be evaluated.

Maximizing the Value of Public Feedback

USDA invites commenters to respond to any or all of the questions below. Responses to the questions below will be especially helpful to FNS as the Agency works to implement the Child Nutrition Tribal Pilot Projects.⁶ FNS

⁴ The Education Amendments of 1978 (25 U.S.C. 2021) defines the term “Bureau-funded school” to mean (A) a Bureau school; (B) a contract or grant school; or (C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 *et seq.*].

⁵ FNS participated in a Nation-to-Nation Consultation with Tribal leaders on Self-Determination in Food on June 5, 2024, at the National Congress of American Indians’ Mid-Year Convention in Cherokee, North Carolina. Additional information is available at: <https://www.usda.gov/sites/default/files/documents/usda-food-self-determination-framing-paper.pdf>.

⁶ Section 758 of the Consolidated Appropriations Act, 2024, Public Law 118–42 provides \$2 million for pilot projects to Tribes and/or Tribal organizations to operate Child Nutrition Programs as State agencies. The Act authorized a maximum of 10 pilot projects, to operate for up to two years, in Bureau of Indian Education-funded schools,

¹ For more information, see the Richard B. Russell National School Lunch Act, 42 U.S.C. 1756.

² For more information about State Administrative Expense Funds, see 7 CFR part 235, available at: <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-II/subchapter-A/part-235>.

³ “Indian Tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

encourages public comment on these questions and seeks any other information relevant to the Child Nutrition Tribal Pilot Projects. FNS seeks public input to ensure that the Tribal Pilot Projects support Tribal sovereignty and nutrition security and best serve the communities in which they will operate. With these general interests in mind, FNS seeks input on the following questions:

Questions for Commenters

1. The Consolidated Appropriations Act, 2024, identifies the entities that may operate and implement the Tribal Pilot Projects. What, if any, additional criteria should be established for a Tribe and/or Tribal organization to be considered eligible to participate in the pilot projects?

2. Are there any specific criteria that should be prioritized in the selection process? For example, should FNS give priority to a Tribe or Tribal organization with experience operating a Child Nutrition Program, or other FNS nutrition assistance program, or to a pilot project that is implemented by a group of Tribes or Tribal organizations?

3. A Tribe or Tribal organization may partner with a State educational agency, a local educational agency, a tribal educational agency, or the Bureau of Indian Education to administer Child Nutrition Programs.

a. How might Tribes or Tribal organizations partner with each of these entities?

b. Should FNS consider any criteria or parameters regarding partnerships?

4. Considering the State agency roles and responsibilities referenced in the Child Nutrition Programs Administration section of this Request for Information, what support (if any) might Tribes and Tribal organizations need to implement the Tribal Pilot Projects and administer one or more Child Nutrition Programs?

5. Given the amount of funding available and timeframe for implementation, should FNS:

a. Limit grantees to administering only one Child Nutrition Program?

b. Permit grantees to administer only part of a Child Nutrition Program? If yes, what opportunities or challenges might partial administration present?

6. How can FNS best ensure that Tribes or Tribal organizations have access to staff, technology, and financial support needed to successfully administer Child Nutrition Programs?

7. Should FNS fund as many pilot projects as possible (up to 10) in the first

year? Or should FNS fund a limited number of projects in the first year, with future projects funded in subsequent years, to incorporate best practices and lessons learned as pilot projects evolve?

8. What outcomes should FNS measure to evaluate the Tribal Pilot Projects? How should FNS measure sustainability or feasibility of long-term implementation?

9. Is there anything else FNS should consider when implementing the Tribal Pilot Projects?

Disclaimers: This is a Request for Information. This is not a Request for Proposals or a Request for Applications and is not to be construed as a commitment by the U.S. Government to issue any solicitation or Notice of Funding Opportunity, or ultimately award a contract or assistance agreement based on this Request for Information, or to pay for any information voluntarily submitted as a result of this request. The USDA posts its competitive business opportunities on www.grants.gov. It is the potential offeror's/applicant's responsibility to monitor these sites for announcements of new opportunities. Please note that responding to this Request for Information will not give any advantage to any organization or individual in any subsequent competition. Responses may be used by USDA without restriction or limitation, therefore proprietary information should not be sent.

Collection of Information Requirements: This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. However, this document does contain a general solicitation of comments in the form of a Request for Information. In accordance with implementing regulations of the Paperwork Reduction Act of 1995, specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the Paperwork Reduction Act. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter other than that necessary for self-identification, as a condition of the Agency's full consideration, are not generally considered information.

Tameka Owens,

Acting Administrator and Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2024–30577 Filed 12–20–24; 8:45 am]

BILLING CODE 3410–30–P

CIVIL RIGHTS COMMISSION

Sunshine Act Meetings

AGENCY: U.S. Commission on the Social Status of Black Men and Boys (CSSBMB), U.S. Commission on Civil Rights (USCCR).

ACTION: Notice of CSSBMB public business meeting.

DATES: Friday, December 20 11 a.m.–12:30 p.m. EDT.

ADDRESSES: Meeting to take place virtually and is open to the public via livestream on United States Commission on Civil Rights' official YouTube channel.

FOR FURTHER INFORMATION CONTACT: Diamond Newman, 202–339–2371, dnewman@usccr.gov.

SUPPLEMENTARY INFORMATION: In accordance with Public Law 116–156, 1134 Stat. 700 (2020), the U.S. Commission on the Social Status of Black Men and Boys (CSSBMB) will hold its first quarter business meeting and briefing to discuss CSSBMB business and 2025 goals and objectives, theme highlights on Black male education and disrupting the school-to-prison pipeline, disproportionate suspensions of Black male students, and the mental health crisis affecting Black men and boys. The meeting is open to the public via livestream on United States Commission on Civil Rights' official YouTube channel. (*Streaming information subject to change.*) Public participation is available for the event with view access, along with an audio option for listening. Computer assisted real-time transcription (CART) will be provided. The web link to access CART (in English) on December 20 is <https://youtube.com/live/WaF2uln4h14>. Please note that CART is text-only translation that occurs in real time during the meeting and is not an exact transcript.

* Date and meeting details are subject to change. For more information on the CSSBMB or the upcoming public briefing, please visit CSSBMB.gov and CSSBMB's *Instagram*, *Facebook*, and *X*.

Agenda

- * Welcome and Call to Order (11:00 a.m.–11:03 a.m.)
- * Chair's Opening Remarks and Acknowledgment of Commissioners' Service (11:03 a.m.–11:10 a.m.)
- * The Chair will thank Commissioners for their dedication and service.
- * Business Meeting (11:10 a.m.–11:35 a.m.)
- * Quorum Confirmation (11:10 a.m.–

schools on or near Indian reservations, or in early child care and education facilities. Grants from \$10,000–\$100,000 per school year are authorized.

- 11:12 a.m.)
- * Adoption of Agenda (11:12 a.m.–11:15 a.m.)
 - * Reports from Director and Staff (11:15 a.m.–11:35 a.m.)
 - * Updates on Current Initiatives (Annual Report, White Papers, Briefings, Social Media)
 - * Future Planning for 2024 (Summits, Education Programs, Outreach Initiatives)
 - * Commissioners' Reflections and Remarks (11:35 a.m.–11:50 a.m.)
 - * Commissioners will have the opportunity to share thoughts and reflections.
 - * Chair Comments and Closing Remarks (11:50 a.m.–12:00 p.m.)
 - * Adjourn Meeting (12:00 p.m.)
 - * Briefing Agenda

Dated: December 19, 2024.

Zakee Martin,

CSSBMB Deputy Director, Office of the Staff Director, USCCR.

[FR Doc. 2024–30827 Filed 12–19–24; 4:15 pm]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; License Transfer

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 October 2, 2024, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Bureau of Industry and Security, Commerce.

Title: License Transfer.

OMB Control Number: 0694–0126.

Form Number(s): None.

Type of Request: Regular submission, extension of a current information collection.

Number of Respondents: 25.

Average Hours per Response: 66 minutes.

Burden Hours: 28 hours.

Needs and Uses: Export licenses approved by BIS are granted to only those persons who certify on the application that they are subject to the jurisdiction of the United States and that they will be strictly accountable for the use of the license in accordance with the EAR. Certain circumstances such as company mergers, company takeovers, etc., necessitate the transfer of an active export license from one party to another. When a licensee transfers an unexpired license to another party, there must be assurances that the other party, the transferee, will also be accountable for the proper use of the license. The required information collected from both parties provides assurances that the balance of the shipments will not be diverted or used for purposes contrary to the authorized use of the approved license.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Section 4812 and 4813 of the Export Control Reform Act (ECRA).

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the collection or the OMB Control Number 0694–0126.

Sheleen Dumas,

Departmental PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–30618 Filed 12–20–24; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–109]

Ceramic Tile From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty (CVD) order on ceramic tile from the People's Republic of China (China) covering the period of review (POR) January 1, 2023, through December 31, 2023, because, as explained below, there are no reviewable suspended entries for the one company subject to this review.

DATES: Applicable December 23, 2024.

FOR FURTHER INFORMATION CONTACT:

Harrison Tanchuck, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7421.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2024, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the CVD order on ceramic tile from China.¹ Commerce received a timely request for review of the *Order* from a U.S. importer of subject merchandise, Akua BPAC, LLC (Akua), requesting a review of exporter Cayenne Corporation Ltd. (Cayenne).² We received no other requests of review.

On July 29, 2024, Commerce published in the **Federal Register** a notice of initiation of an administrative review with respect to Cayenne, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).³ On August 6, 2024, Commerce released a memorandum indicating that there were no reviewable entries of subject merchandise during the POR based on a U.S. Customs and Border Protection (CBP) entry data query.⁴ Commerce provided parties an opportunity to submit comments on the data query results.⁵ No party submitted comments to Commerce.

On August 7, 2024, Commerce notified all interested parties of its intent to rescind this review in full because there were no suspended

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Joint Annual Inquiry Service List*, 89 FR 47518, 47520 (June 3, 2024); see also *Ceramic Tile from the People's Republic of China: Countervailing Duty Order*, 85 FR 33119 (June 1, 2020) (*Order*).

² See Akua's Letter, “Request for Administrative Review,” dated June 28, 2024.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 60871, 60877 (July 29, 2024).

⁴ See Memorandum, “Release of U.S. Customs and Border Protection Import Data,” dated August 6, 2024.

⁵ *Id.*

entries of subject merchandise by any company subject to this review during the POR and invited interested parties to comment.⁶ The petitioner⁷ submitted comments on Commerce's notice of intent to rescind this review, agreeing that Commerce should rescind this review.⁸

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of a CVD order where Commerce concludes that there were no reviewable entries of subject merchandise during the POR.⁹ Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate for the review period.¹⁰ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the calculated CVD assessment rate for the review period.¹¹ As noted above, CBP data showed that there were no entries of subject merchandise from Cayenne during the POR. Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we are rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Cash Deposit Requirements

As Commerce has proceeded to a final rescission of this administrative review, no cash deposit rates will change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

Assessment Rates

Commerce will instruct CBP to assess countervailing duties on all appropriate entries. Countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of

publication of this rescission notice in the **Federal Register**.

Administrative Protective Order (APO)

This notice 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 or destruction of the APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with regulations and terms of an APO is a violation, which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: December 18, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–30592 Filed 12–20–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–822–804, A–570–860, A–560–811, A–449–804, A–841–804, A–455–803, and A–823–809]

Steel Concrete Reinforcing Bars From Belarus, the People's Republic of China, Indonesia, Latvia, Moldova, Poland, and Ukraine: Continuation of Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) orders steel concrete reinforcing bars (rebar) from Belarus, the People's Republic of China (China), Indonesia, Latvia, Moldova, Poland, and Ukraine would likely lead to the continuation or recurrence of dumping, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD orders.

DATES: Applicable December 13, 2024.

FOR FURTHER INFORMATION CONTACT: Jinny Ahn, AD/CVD Operations, Office VI, Enforcement and Compliance,

International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0339.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2001, Commerce published in the **Federal Register** the AD orders on rebar from Belarus, China, Indonesia, Latvia, Moldova, Poland, and Ukraine.¹ On November 1, 2023, the ITC instituted,² and Commerce initiated,³ the fourth sunset review of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping, and therefore, notified the ITC of the magnitude of the margins of dumping likely to prevail should the *Orders* be revoked.⁴

On December 13, 2024, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

Scope of the Orders

The scope of these *Orders* covers all steel concrete reinforcing bars sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7214.20.00, 7228.30.8050, 7222.11.0050, 7222.30.0000, 7228.60.6000, 7228.20.1000, or any other tariff item number. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth bars) and rebar that

¹ See *Antidumping Duty Orders: Steel Concrete Reinforcing Bars from Belarus, Indonesia, Latvia, Moldova, People's Republic of China, Poland, Republic of Korea and Ukraine*, 66 FR 46777 (September 7, 2001) (collectively, *Orders*). On August 9, 2007, Commerce revoked the AD order on rebar from the Republic of Korea. See *Steel Concrete Reinforcing Bars from South Korea: Revocation of Antidumping Duty Order*, 72 FR 44830 (August 9, 2007).

² See *Steel Concrete Reinforcing Bar from Belarus, China, Indonesia, Latvia, Moldova, Poland, and Ukraine: Institution of Five-Year Reviews*, 88 FR 75033 (November 1, 2023).

³ See *Initiation of Five-Year (Sunset) Reviews*, 88 FR 74977 (November 1, 2023).

⁴ See *Steel Concrete Reinforcing Bars from Belarus, the People's Republic of China, Indonesia, Latvia, Moldova, Poland, and Ukraine: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Orders*, 89 FR 16529 (March 7, 2024), and accompanying Issues and Decision Memorandum (IDM).

⁵ See *Steel Concrete Reinforcing Bar (Rebar) from Belarus, China, Indonesia, Latvia, Moldova, Poland, and Ukraine*, 89 FR 101050 (December 13, 2024) (*ITC Final Determination*).

⁶ See Memorandum, "Notice of Intent to Rescind Review," dated August 7, 2024.

⁷ The petitioner in this proceeding is Coalition for Fair Trade in Ceramic Tile.

⁸ See Petitioner's Letter, "Comments on Notice of Intent to Rescind Review," dated August 21, 2024.

⁹ See, e.g., *Certain Softwood Lumber Products from Canada: Final Results and Final Rescission, in Part, of the Countervailing Duty Administrative Review*, 2020, 87 FR 48455 (August 9, 2022); see also *Certain Non-Refillable Steel Cylinders from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2020–2021*, 87 FR 64008 (October 21, 2022).

¹⁰ See 19 CFR 351.212(b)(2).

¹¹ See 19 CFR 351.213(d)(3).

has been further processed through bending or coating.

HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the *Orders* is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders*. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be December 13, 2024.⁶ Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to fifth anniversary of the date of the last determination by the ITC.

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 or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act, and published in accordance with section 777(i) of the Act and 19 CFR 351.218(f)(4).

Dated: December 17, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2024–30533 Filed 12–20–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No.: 241217–0330]

Minority Business Enterprises Advisory Council Meeting

AGENCY: Minority Business Development Agency (MBDA), Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The Minority Business Enterprises Advisory Council (MBEAC) will hold a meeting to discuss the work of its four subcommittees as well as to have a topical discussion on issues pertinent to the MBEAC's mission.

DATES: The meeting will be held on Tuesday, January 14, 2025, from 9:30 a.m. to 12:30 p.m. eastern time (ET).

ADDRESSES: This meeting will be held in a hybrid format at the Herbert Clark Hoover Building of the U.S. Department of Commerce, located at 1401 Constitution Avenue NW, Washington, DC 20230. A virtual meeting link will be provided to attendees who wish to attend virtually and who register in advance by the registration deadline.

FOR FURTHER INFORMATION CONTACT: Joann J. Hill, Designated Federal Officer (DFO), Minority Business Development Agency, U.S. Department of Commerce at (202) 482–4826; email: jhill@mbda.gov.

SUPPLEMENTARY INFORMATION:

Additional Detail: The Minority Business Enterprises Advisory Council (MBEAC) will hold a meeting to provide a briefing on policy recommendations from the four MBEAC Sub-Committees including Access to Contracts, Access to Capital, Access to Global Markets, and Data Repository. Additionally, the MBEAC will provide feedback on ideas and recommendations that relate to barriers to entrepreneurship, ways to overcome those barriers, and opportunities to expand access to resources to grow and scale MBEs.

Background: The MBEAC is a non-discretionary advisory committee established pursuant to 15 U.S.C. 9571–73 and in accordance with the Federal Advisory Committee Act, 5 U.S.C. chapter 10. The MBEAC's objective is to provide the Under Secretary of Commerce for Minority Business Development with consensus advice on a range of policy issues that affect socially or economically disadvantaged businesses, with duties including, but not limited to: identifying barriers to entrepreneurship and business growth; providing insight to relevant data,

research, and policy alternatives; and serving as a source of knowledge and information on developments in areas of the economic and social life of the United States that affect socially or economically disadvantaged businesses.

Agenda: The agenda for Tuesday, January 14, 2025, MBEAC meeting is as follows:

1. Welcome and introduction of council members.
2. Discussion of MBEAC priorities.
3. Discussion and Vote by MBEAC of the Subcommittee Recommendations.
4. Public comment period.

The meeting is open to the public. Public seating is limited and available on a first-come, first-served basis. Members of the public wishing to attend the meeting in-person must notify Nikia Young at nyoung@mbda.gov by 5 p.m. ET on Thursday, January 9, 2025, to preregister for clearance into the building. Members of the public who wish to attend virtually must also register by this date. A virtual meeting link will be shared by email to those attendees who have registered. Requests for reasonable accommodation should be made to Nikia Young at nyoung@mbda.gov at least five (5) business days in advance of the meeting. Last-minute requests will be accepted but may not be possible to fulfill. A designated amount of time, from 12 p.m.–12:30 p.m., will be available for pertinent brief oral comments from members of the public who are attending the meeting either in-person or virtually. Any member of the public may submit pertinent written comments concerning the MBEAC's activities at <http://www.mbda.gov/main/MBEAC-submit-comments>. Any written comments received by 5 p.m. ET on Tuesday, January 7, 2025, will be transmitted to the Council prior to the meeting. Comments received after that date will be distributed to the members on a rolling basis.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joann J. Hill, at (202) 482–4826, or jhill@mbda.gov, at least five (5) days before the meeting date. Copies of the MBEAC meeting minutes will be posted to the MBEAC website and are also available to the public upon request.

Dated: December 17, 2024.

Eric J. Morrisette,

Deputy Under Secretary of Commerce for Minority Business Development, Performing the delegated duties of the Under Secretary, Minority Business Development Agency, U.S. Department of Commerce.

[FR Doc. 2024–30537 Filed 12–20–24; 8:45 am]

BILLING CODE 3510–21–P

⁶ See ITC Final Determination.

**U.S. INTERNATIONAL DEVELOPMENT
FINANCE CORPORATION****[DFC-008]****Submission for OMB Review;
Comments Request****AGENCY:** U.S. International Development Finance Corporation (DFC).**ACTION:** Notice of information collection; request for comment.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is modifying an existing approved information collection for OMB review and approval and requests public review and comment on the submission. The agencies received no comments in response to the sixty (60) day notice. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of the burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received by January 22, 2025.**ADDRESSES:** Comments and requests for copies of the subject information collection may be sent by any of the following methods:

- *Mail:* Deborah Papadopoulos, Agency Submitting Officer, U.S. International Development Finance Corporation, 1100 New York Avenue NW, Washington, DC 20527.

- *Email:* fedreg@dfc.gov.

Instructions: All submissions received must include the agency name and agency form number or OMB form number for this information collection. Electronic submissions must include the agency form number in the subject line to ensure proper routing. Please note that all written comments received in response to this notice will be considered public records.

FOR FURTHER INFORMATION CONTACT: Agency Submitting Officer: Deborah Papadopoulos, (202) 357-3979.**SUPPLEMENTARY INFORMATION:** The agency received no comments in response to the sixty (60) day notice published in **Federal Register** at 89 FR 83467 on October 16, 2024. Upon publication of this notice, DFC will submit to OMB a request for approval of the following information collection.**Summary Form Under Review***Title of Collection:* Development Outcomes Survey (DOS).*Type of Review:* Revision of a currently approved information collection.*Agency Form Number:* DFC-008.*OMB Form Number:* 3015-0015.*Frequency:* Once per investor per project per year.*Affected Public:* Business or other for-profit; not-for-profit institutions; individuals.*Total Estimated Number of Annual Number of Respondents:* 650.*Estimated Time per Respondent:* 2 hours.*Total Estimated Number of Annual Burden Hours:* 1,300 hours.

Abstract: The Development Outcomes Survey (DOS) is the principal document used by DFC to review development performance and monitor projects supported by DFC. It is a comprehensive survey that is also used to monitor the project's compliance with environmental, labor, and economic policies, as consistent with DFC's authorizing legislation.

Lisa Wischkaemper,*Administrative Counsel, Office of the General Counsel.*

[FR Doc. 2024-30591 Filed 12-20-24; 8:45 am]

BILLING CODE 3210-02-P**DEPARTMENT OF DEFENSE****Office of the Secretary****[Docket ID: DoD-2024-OS-0136]****Privacy Act of 1974; System of Records****AGENCY:** Department of Defense (DoD).**ACTION:** Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the DoD is establishing a new Department-wide system of records titled, "Military Corrections and Parole Board Records" DoD-0023. This system of records describes DoD's collection, use, and maintenance of records covering military Service members confined in a correctional facility for violation of the Uniform Code of Military Justice. Additionally, DoD is issuing a notice of proposed rulemaking, which proposes to exempt this system of records from certain provisions of the Privacy Act, elsewhere in this issue of the **Federal Register**.

DATES: This system of records is effective upon publication; however,

comments on the Routine Uses will be accepted on or before January 22, 2025. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

- * *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 05F16, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Rahwa Keleta, Privacy and Civil Liberties Directorate, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Department of Defense, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350-1700; OSD.DPCLTD@mail.mil; (703) 571-0070.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD is establishing the "Military Corrections and Parole Board Records," DoD-0023, as a DoD-wide Privacy Act system of records. A DoD-wide system of records notice (SORN) supports multiple DoD paper or electronic recordkeeping systems operated by more than one DoD component that maintain the same kind of information about individuals for the same purpose. The establishment of DoD-wide SORNs helps DoD standardize the rules governing the collection, maintenance, use, and sharing of personal information in key areas across the enterprise. DoD-wide SORNs also reduce duplicative and overlapping SORNs published by separate DoD components. The creation of DoD-wide SORNs is expected to make locating relevant SORNs easier for DoD personnel and the public and create efficiencies in the operation of the DoD privacy program.

This system of records describes DoD's collection, use, and maintenance of records covering military Service

members confined for violation of the Uniform Code of Military Justice. These records include information on prisoner's confinement, health assessment, and disciplinary actions while in confinement, observations by confinement staff and United States probation officers, and confinement utilization assessments such as basis for correctional treatment and education programs. The records also include information used for clemency and parole decisions conducted by the military Departments' Clemency and Parole Boards. The DoD is also issuing a Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act elsewhere in today's issue of the **Federal Register**.

DoD SORNs have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Privacy and Civil Liberties Directorate website at <https://dpcl.d.defense.gov/privacy>.

II. Privacy Act

Under the Privacy Act, a "system of records" is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A-108, DoD has provided a report of this system of records to the OMB and to Congress.

Dated: December 11, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Military Corrections and Parole Board Records, DoD-0023.

SECURITY CLASSIFICATION:

Classified, Unclassified.

SYSTEM LOCATION:

Department of Defense (Department or DoD), located at 1000 Defense Pentagon, Washington, DC 20301-1000, and other Department installations, offices, or mission locations. Information may also be stored within a government-certified cloud, implemented, and overseen by the Department's Chief Information Officer (CIO), 6000 Defense Pentagon, Washington, DC 20301-6000.

SYSTEM MANAGER(S):

The system managers are as follows:

A. Office of Legal Policy, Office of the Under Secretary of Defense for Personnel and Readiness, (OUSD(P&R)), 4000 Defense Pentagon, Washington, DC 20301-4000.

B. Director, Air Force Confinement and Corrections, Department of the Air Force, 1517 Billy Mitchell Boulevard, Lackland, TX 78236-0119.

C. Office of the Provost Marshal General, Department of the Army, 2800 Army Pentagon, Washington, DC 20310-2800; Army Corrections Command, 150 Army Pentagon, Washington, DC 20310-0150.

D. Commander, Navy Personnel Command (PERS-00D), Department of the Navy, 5720 Integrity Drive, Millington, TN 38054.

E. Commandant of the Marine Corps (DC I&L, MCICOM G-3/5), Headquarters, U.S. Marine Corps, 3000 Marine Corps Pentagon, Room 2E169, Washington, DC 20350-3000.

F. The Privacy Act responsibilities concerning access, amendment, and disclosure of the records within this system of records have been delegated to the DoD components. DoD components include the Military Departments of the Army, Air Force (including the U.S. Space Force), and Navy (including the U.S. Marine Corps), field operating agencies, major commands, field commands, installations, and activities. To obtain information on the system managers at the Military Departments, Combatant Commands, Defense Agencies, Field Activities, or other DoD components with oversight of the records, please visit www.FOIA.gov to contact the component's Freedom of Information Act (FOIA) office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 47 sections 801-946a, Uniform Code of Military Justice (UCMJ); 10 U.S.C. Chapter 48 Military Correctional Facilities; 10 U.S.C. 113, Secretary of Defense; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 7013, Secretary of the Army; 10 U.S.C. 8013, Secretary of the Navy; 10 U.S.C. 9013, Secretary of the Air Force; 10 U.S.C. 874, Remission and Suspension; 18 U.S.C. 3062, General Arrest Authority for Violation of Release Conditions; 18 U.S.C. 3563, Conditions of Probation; 18 U.S.C. 3603, Duties of Probation Officers; 34 U.S.C. 20101, Crime Victims Fund; 34 U.S.C. 20141, Services To Victims; and E.O. 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM:

A. To document the discipline and confinement of military offenders based

on sentence length, geographical location, and treatment programs; and to monitor offenders' movement from military correctional facilities, to other Federal, and State facilities.

B. To document military offenders' participation in educational, vocational, and rehabilitative training and work programs.

C. To track the movement of military prisoners, including those transferred to the Federal Bureau of Prison custody, under terms and conditions consistent with the needs of society, the rights and interests of victims, and the rehabilitation of the prisoner.

D. To support uniformity, effectiveness, and efficiency in military correctional programs, including clemency and supervised release programs, and military correctional facilities (MCF) operations.

E. To document requests and authorizations for supplies and communications with staff.

F. To assess confinement utilization factors such as basis for correctional treatment, population turnover, or relapse into crime, to enable audit and oversight of records collected.

G. To provide relevant information required for clemency and parole decisions that the Service Clemency and Parole Board makes on behalf of the Secretaries of the Military Department.

H. To provide appropriate notification to victims in accordance with Federal victim protection laws.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any military Service members confined at a military correctional facility, Federal Bureau Of Prison (FBOP), or approved civilian jails as a result of courts-martial or pending trial by courts-martial and under DoD control; military Service members and former Service members under community supervision once released from a DoD correctional facility and/or transferred to the FBOP; military Service members or former Service members whose cases have been or are being considered by a Clemency and Parole Board; and visitors to such facilities, victim/witnesses, and informants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing information related to the administration of individual prisoners in DoD confinement and correctional custody facilities such as:

A. Personal Information to include name and aliases; DoD ID number; Social Security Number (SSN); prisoner registration number; date of birth;

physical, mailing, and email addresses; phone numbers; place of birth; citizenship/immigration status; race/ethnicity; medical information/medical records; biometric data; fingerprints; driver's license number; vehicle registration information; marital status; gender/gender identification; biographical data; property information.

B. Employment Information such as: Position/title, rank/grade, duty station; work address, email address, supervisor's name and contact information; military records, personnel records, financial information, education, and training records.

C. Legal Information such as: trial transcripts, records of trial, charge sheets, exhibits (e.g. documents and recordings attached to records of trial), evidentiary data in any form (including papers, photographs, electronic recordings, electronic data, or video records that were obtained, seized, or otherwise lawfully acquired from any source,) pleadings, sentencing reports, court motions, correspondence, filings, and supporting documents; forms, evidentiary data, supporting documents, investigatory data associated with non-judicial punishment under Article 15 of the UCMJ and adverse actions or administrative actions; victim and witness statements; notifications, recordings, and elections of victim rights and investigative data (including investigative findings and reports); criminal history; parole and release information; information received from other governmental agencies, confidential sources and other sources pertaining to an investigation, as well as investigatory referrals from other agencies, tips, and leads pertaining to potential criminal activities.

D. Other information such as: Visitors logs, to include contact info, phone number, and affiliation, custody classification, progress reports, co-conspirator affiliation, disciplinary and observation records.

RECORD SOURCE CATEGORIES:

The DoD may receive information during the law enforcement activities described in this system of records from a wide range of sources. Sources of information include: individual, courts and tribunals, domestic and foreign governmental and quasi-governmental agencies and data systems, public records and other publicly available sources, subjects of investigation, victims, witnesses, confidential sources, attorneys and other legal personnel, DoD employees participating in disciplinary functions, investigators, law enforcement entities and other individuals or organizations that may

provide pertinent information about the prisoner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, all or a portion of the records or information contained herein may specifically be disclosed outside the DoD as a Routine Use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal government when necessary to accomplish an agency function related to this system of records.

B. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

C. To any component of the Department of Justice (DOJ) for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

E. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

G. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or

national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

I. To another Federal, State, or local agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or other review as authorized by the Inspector General Act of 1978, as amended.

J. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

K. To a Federal, state, local, tribal, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit, or if necessary to obtain information relevant to a DoD decision concerning the hiring or retention of an individual, the issuance of a security clearance, license, contract, grant, or other benefit.

L. To a public or professional licensing authority, organization, board, agency, or society (to include a medical or legal professional society, organization, or licensing authority), if such information is needed to perform functions related to licensing or professional standards monitoring or compliance, or when the information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

M. To the DOJ and other Federal, State, or local government prosecuting or litigating agencies, for the purpose of satisfying obligations under Giglio (405 U.S. 150 (1972)) and Henthorn (931 F.2d 29 (9th Cir. 1991)), as well as the DOJ United States Attorneys' Manual,

Section 9–5.100 and DoD IG Instruction 5500.1, DOJ Requirements for Potential Impeachment Information (Giglio Policy), or DoD OIG initiated notifications of similar information.

N. To foreign or international law enforcement, security, or investigatory authorities to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements, including those regulating the stationing and status in foreign countries of DoD military and civilian personnel.

O. To the Department of State when it requires information to consider and/or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about a pending legal action or prosecution with transnational implications.

P. To unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of the Federal labor-management program for the purpose of processing any corrective actions, or grievances, or conducting administrative hearings or appeals.

Q. To the Merit Systems Protection Board and the Office of the Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems; review of Office of Personnel Management (OPM) or component rules and regulations; investigation of alleged or possible prohibited personnel practices, including administrative proceedings involving any individual subject of a DoD investigation.

R. To state and local taxing authorities with which the Secretary of the Treasury has entered into agreements under 5 U.S.C. 5516, 5517, or 5520 and only to those state and local taxing authorities for which an employee or Service member is or was subject to tax, regardless of whether tax is or was withheld. The information to be disclosed is information normally contained in Internal Revenue Service (IRS) Form W–27.

S. To the Office of Personnel Management for the purpose of addressing civilian pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

T. To the general public to provide access to docket information, filings,

and records in compliance with Article 140a, UCMJ or other Federal statutes, and corresponding DoD or Service implementing guidance, regulations, or policies.

U. To confinement/correctional system agencies for use in the administration of correctional programs to include custody classification; employment, training, and educational assignments; treatment programs; clemency, restoration to duty, and parole actions; verifications concerning military offenders or military criminal records, employment records and social histories.

V. To the U.S. Department of Veterans Affairs (VA) to assist the Department in determining the individual's entitlement to benefits administered by the VA.

W. To other Federal, State, tribal, and local government law enforcement and regulatory agencies and foreign governments, individuals, and organizations during the course of an investigation or the processing of a matter, or during a proceeding within the purview of the local, state, federal or host-country specific laws, to elicit information required by the Department to carry out its functions and statutory mandates.

X. To state and local authorities for purposes of providing (1) notification that individuals, who have been convicted of a specified sex offense or an offense against a victim who is a minor, will be residing in the state upon release from military confinement and (2) information about the individual for inclusion in a state-operated sex offender registry.

Y. To victims and witnesses of a crime for the purpose of notifying them of date of parole or clemency hearing and other release-related activities.

Z. To the Department of Homeland Security, including U.S. Immigration and Customs Enforcement, to review records for possible deportation of a foreign national prisoner.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records may be stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records may be stored locally on digital media; in agency-owned cloud environments; or in vendor Cloud Service Offerings certified under the Federal Risk and Authorization Management Program (FedRAMP).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by individual's name, SSN, DoD ID

number, or prisoner registration number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained and disposed in accordance with National Archives and Records Administration Schedules. The Military Departments retain records in accordance with their individual Records and Information Management retention schedules. The retention period may be obtained by contacting the system manager for the Military Department.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DoD safeguards records in this system of records according to applicable rules, policies, and procedures, including all applicable DoD automated systems security and access policies. DoD policies require the use of controls to minimize the risk of compromise of personally identifiable information (PII) in paper and electronic form and to enforce access by those with a need to know and with appropriate clearances. Additionally, DoD has established security audit and accountability policies and procedures which support the safeguarding of PII and detection of potential PII incidents. DoD routinely employs safeguards such as the following to information systems and paper recordkeeping systems: Multifactor log-in authentication including Common Access Card (CAC) authentication and password; physical token as required; physical and technological access controls governing access to data; network encryption to protect data transmitted over the network; disk encryption securing disks storing data; key management services to safeguard encryption keys; masking of sensitive data as practicable; mandatory information assurance and privacy training for individuals who will have access; identification, marking, and safeguarding of PII; physical access safeguards including multifactor identification physical access controls, detection and electronic alert systems for access to servers and other network infrastructure; and electronic intrusion detection systems in DoD facilities.

RECORD ACCESS PROCEDURES:

Individuals seeking access to their records should follow the procedures in 32 CFR part 310. Individuals should address written inquiries to the DoD component with oversight of the records, as the component has Privacy Act responsibilities concerning access, amendment, and disclosure of the

records within this system of records. The public may identify the contact information for the appropriate DoD office through the following website: www.FOIA.gov. Signed written requests should contain the name and number of this system of records notice along with the full name, current address, email address of the individual, SSN and/or DoDI-ID number, dates of confinement, date of birth, and any details which may assist in locating the records. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the appropriate format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend or correct the content of records about them should follow the procedures in 32 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should follow the instructions for Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The DoD has exempted records maintained in this system from 5 U.S.C. 552a(c)(3) and (4), (d)(1), (2), (3), and (4); (e)(1), (2) (3), (4)(G)–(I), (5), and (8); (f) and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(1), (k)(2) and (j)(2), as applicable. An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), and (c), and published in 32 CFR part 310. In addition, when exempt records received from other systems of records become part of this system, the DoD also claims the same exemptions for those records that are claimed for the prior systems of records from which they were a part and claims any additional exemptions set forth here.

HISTORY:

None.

[FR Doc. 2024–29640 Filed 12–20–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0143]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, Department of Defense (DoD).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the DoD is modifying a system of records titled, "Joint Advertising, Market Research & Studies Recruiting Database (JAMRS)," DHRA 04. The JAMRS Recruiting Database compiles, processes, and distributes files of individuals, ages 16 to 18 years, to the Services to assist them in their direct marketing recruiting efforts. This system of records notice (SORN) is being updated to add two new DoD Standard routine uses (Routine Uses I and J) which authorize disclosures to allow for coordination with the Office of Inspector General and other disclosures mandated by Federal statute or treaty. The DoD is also modifying various other sections within the SORN to improve clarity or update information that has changed.

DATES: This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before January 22, 2025. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT:

Samuel Peterson, DHRA Component Privacy Officer, 400 Gigling Rd., Rm.

DODC–MB 7028, Seaside, CA 93955, dodhra.mc-alex.dhra-hq.mbx.privacy@mail.mil or 831–220–7330.

SUPPLEMENTARY INFORMATION:

I. Background

The JAMRS Recruiting Database serves as a centralized database used to compile, process, and distribute files of individuals, ages 16 to 18 years, to the Services to assist them in their direct marketing recruiting efforts. Subject to public comment the OSD is updating this SORN to add two new DoD Standard routine uses (Routine Uses I and J) which authorize disclosures to allow for coordination with the Office of Inspector General and other disclosures mandated by Federal statute or treaty. In addition to updating the routine use section, the other modifications are to the following sections: (1) System Location to update the address, (2) Authority for Maintenance of the System to update citation(s); (3) Purpose of the System to improve clarity; (4) Categories of Records to provide clarity; (5) Records Source Categories to add additional sources; (6) Policies and Practices for Storage of Records to account for the use of Government-validated Cloud Computing environments; (7) Policies and Practices For Retrieval of Records for clarity; (8) Administrative, Technical, and Physical Safeguards to update the description of safeguards protecting these records; (9) to the Record Access, Notification, and Contesting Record Procedures, to reflect the updated guidance for accessing records and to update the appropriate citation for contesting records. Furthermore, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

DoD SORNs have been published in the **Federal Register** and are available from the address in FOR FURTHER INFORMATION CONTACT or at the Privacy and Civil Liberties Directorate website at <https://dpclld.defense.gov/privacy>.

II. Privacy Act

Under the Privacy Act, a "system of records" is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A–108, OATSD(PCLT) has provided a report of

this system of records to the OMB and to Congress.

Dated: December 18, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Joint Advertising, Market Research & Studies Recruiting Database (JAMRS), DHRA 04.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of Defense (Department or DoD), located at 1000 Defense Pentagon, Washington, DC 20301-1000, and other Department installations, offices, or mission locations. Information may also be stored within a government-certified cloud, implemented and overseen by the Department's Chief Information Officer (CIO), 6000 Defense Pentagon, Washington, DC 20301-6000.

SYSTEM MANAGER(S):

Program Manager, Defense Personnel Analytics Center, Office of People Analytics, Joint Advertising, Market Research & Studies (JAMRS), Suite 06J25, 4800 Mark Center Drive, Alexandria, VA 22350-4000; email: info@jamrs.org.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503(a), Enlistments: recruiting campaigns; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 7013, Secretary of the Army; 10 U.S.C. 8013, Secretary of the Navy; 10 U.S.C. 9013, Secretary of the Air Force; and 14 U.S.C. 350 Coast Guard, and E.O. 9397 as amended.

PURPOSE(S) OF THE SYSTEM:

The Joint Advertising, Market Research & Studies (JAMRS) Recruiting Database is to compile, process and distribute files of individuals, ages 16 to 18 years, and to the Services to assist them in their direct marketing recruiting efforts. The system also provides JAMRS with the ability to measure effectiveness of list purchases through ongoing analysis and to remove the names of individuals who are current/former members of, or are enlisting in, the Armed Forces, and individuals who have asked to be removed from consideration as a participant in any future recruitment lists.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals aged 16 to 18; college students; Selective Service System registrants; individuals who have taken

the Armed Services Vocational Aptitude Battery (ASVAB) test; individuals who have responded to various paid/non-paid advertising campaigns seeking enlistment information; current military personnel who are on Active Duty or in the Reserves and prior service individuals who still have remaining Military Service Obligation; individuals who are in the process of enlisting.

B. Individuals who have asked to be removed from any future recruitment or marketing lists via direct request, enrollment in do not mail registries, or death. Opt-Out information:

Individuals, who are 15½ years old or older, or parents or legal guardians acting on behalf of individuals who are between the ages of 15½ and 18 years old, seeking to have their name or the name of their child or ward, as well as other identifying data, removed from this system of records (or removed in the future when such information is obtained) should address written Opt-Out requests to the Joint Advertising, Marketing Research & Studies (JAMRS), ATTN: Opt-Out, Suite 06J25, 4800 Mark Center Drive, Alexandria, VA 22350-4000. Such requests must contain the full name, date of birth, and current address of the individual. Opt-Out requests will be honored for ten years. However, because Opt-Out screening is based, in part, on the current address of the individual, any change in address will require the submission of a new Opt-Out request with the new address.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information may include, name, DoD ID number, date of birth, ethnicity, gender, email and mailing address, city, state, zip code, source code, telephone number, education level, military status, selective service registration method.

A. For individuals aged 16 to 18 years: high school name, graduation date, grade point average, education level, military interest, college intent, ethnicity, ASVAB test date, and ASVAB Armed Forces Qualifying Test Category Score.

B. For college students: college name, college location, college type, college competitive ranking, class year, and field of study.

C. Individuals who have responded to various paid/non-paid advertising campaigns seeking enlistment information: Service Code, and contact immediately flag.

D. For military personnel: application date, military service, and occupation information.

E. Opt-Out: For individuals who have asked to be removed from future

recruitment or marketing lists: reason code.

Note: Individuals who have submitted an opt-out request to JAMRS, the system maintains the individuals' information in suppression files. The suppression files ensure those individuals are not contacted.

RECORD SOURCE CATEGORIES:

Records and information stored in this system of records are obtained from: The Individual; State Department of Motor Vehicle offices; commercial information brokers/vendors; Selective Service System; Defense Manpower Data Center; United States Military Entrance Processing Command for individuals who have taken the ASVAB test; and the Military services, Congressional offices, and the Direct Marketing Association for individuals who have asked to be removed from any future recruitment lists.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, all or a portion of the records or information contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government when necessary to accomplish an agency function related to this system of records.

B. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

C. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator

determines the records to be relevant to the proceeding.

E. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

G. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

I. To another Federal, State or local agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or some other review as authorized by the Inspector General Act of 1987, as amended.

J. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

K. To the Department of Homeland Security to support outreach efforts targeted at prospective United States Coast Guard recruits.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records may be stored electronically in secure facilities behind a locked door. Electronic records may be stored locally on digital media; in agency-owned cloud environments; or in vendor Cloud Service Offerings certified under the

Federal Risk and Authorization Management Program (FedRAMP).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name, address, and date of birth.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Destroy three years from the date the information pertaining to the individual is first distributed to the Services or, or from the date on which the file has been inactive for one year, according to the mail usage dates, as appropriate. Contact information of individuals who wish to be removed (Opt-Out suppression files) is retained for ten (10) years from the date the information is added.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to information in the database is highly restricted and limited to those that require the records in the performance of their official duties. Personnel with access to the database have completed background security checks and have been provided Command Access Cards. The database complies with DoD cloud computing policy and procedural guidance as published. The database utilizes a layered approach of overlapping controls, monitoring, and authentication to ensure overall security of the data, network, and system resources. The use of information security continuous monitoring supports the maintenance of ongoing awareness of information security, vulnerabilities, and threats to support organizational risk management decisions. Sophisticated physical security, perimeter security (firewall, intrusion prevention), access control, authentication, encryption, data transfer, and monitoring solutions prevent unauthorized access from internal and external sources. The following administrative controls are also applied to restrict access to those who require the data in the performance of their official duties: periodic security audits; regular monitoring of users' security practices; methods to ensure only authorized personnel have access to personally identifiable information; encryption of backups containing sensitive data; and backups secured offsite.

RECORD ACCESS PROCEDURES:

Individuals seeking access to their records should follow the procedures in 32 CFR part 310. Parents and guardians of minor children must follow the procedures in 32 CFR 310.3(d) to obtain access to records of the child. These

procedures require the parent or legal guardian to establish: (1) The identity of the individual who is the subject of the record; (2) the parent/guardian's own identity; (3) that the requester is the parent or guardian of that individual, which may be proven by providing a copy of the individual's birth certificate showing parentage or a court order establishing the guardianship; and (4) that the parent or guardian is acting on behalf of the individual in making the request. Individuals should address written inquiries to the Office of the Secretary of Defense/Joint Staff, Freedom of Information Act Requester Service Center, Office of Freedom of Information, 1155 Defense Pentagon, Washington, DC 20301-1155. Signed, written requests should contain the name and number of this system of records notice and the name, date of birth, and current address of the individual. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the appropriate format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

CONTESTING RECORD PROCEDURES:

The DoD rules for accessing records, for contesting contents, and for appealing initial agency determinations are contained in 32 CFR part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should follow the instructions for Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

October 16, 2019, 84 FR 55292;
December 22, 2011, 76 FR 79663.

[FR Doc. 2024-30611 Filed 12-20-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE**Office of the Secretary****[Docket ID: DoD–2024–OS–0144]****Privacy Act of 1974; System of Records****AGENCY:** Office of the Secretary of Defense, Department of Defense (DoD).**ACTION:** Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the DoD is modifying and reissuing a current system of records titled, “Pentagon Facilities Parking Program,” DWHS D04. This system of records was originally established to manage the Pentagon Facilities Parking Program for DoD civilian, military, and contractor personnel applying for and in receipt of Pentagon parking permits. Records are also used to ensure DoD military personnel and civilians are not in receipt of both an issued parking pass and mass transit benefits. This system of records is being updated to expand the categories of records collected. DoD is also updating the System of Records Notice (SORN) to add the standard DoD routine uses (routine uses A through J). Lastly, the DoD is also modifying various other sections within the SORN to improve clarity or update information that has changed.

DATES: This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before January 22, 2025. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by either of the following methods:

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

* *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Jeanette Whiten, Privacy and Civil Liberties Officer, Records and Declassification Division, (571) 372–0937, 4800 Mark Center Drive, Suite 02F09–02, Alexandria, VA 22350, whs.mc-alex.rsrcmgmt.list.esd-osd-js-privacy-office-mbx@mail.mil.

SUPPLEMENTARY INFORMATION:**I. Background**

The Pentagon’s parking program is designed to manage the large number of vehicles belonging to employees, military personnel, and visitors who are authorized to park at the Pentagon Reservation (to include the Pentagon, Mark Center, and Suffolk Building). This system of records is being updated to expand the categories of records collected. Additionally, DoD is updating the SORN to add the standard DoD routine uses (routine uses A through J). Other sections of this SORN are being modified as follows: (1) System Manager and System Location sections to update the address and office name; (2) Authority for Maintenance of the System to update citation(s) and add additional authorities; (3) Categories of Records in the System to remove the social security number (SSN); (4) Policies and Practices for retrieval of Records to remove the SSN and add a data element; (5) Policies and Practices for Retention and Disposal of Records to update the retention period which the records are maintained; (6) Record Access Procedures to update the procedures for accessing the records; and (7) Contesting Record Procedures to update the appropriate citation for contesting records. Furthermore, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

DoD SORNs have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency (OATSD(PCLT)) website at <https://dpcl.d.defense.gov/privacy>.

II. Privacy Act

Under the Privacy Act, a “system of records” is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A–108,

OATSD(PCLT) has provided a report of this system of records to the OMB and to Congress.

Dated: December 18, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Pentagon Facilities Parking Program, DWHS D04.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of Defense (Department or DoD), located at 1000 Defense Pentagon, Washington, DC 20301–1000, and other Department installations, offices, or mission locations. Information may also be stored within a government-certified cloud, implemented and overseen by the Department’s Chief Information Officer (CIO), 6000 Defense Pentagon, Washington, DC 20301–6000.

SYSTEM MANAGER(S):

Chief, Parking Management Office, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; 10 U.S.C. 2674, Operation and Control of Pentagon Reservation and Defense Facilities in National Capital Region; DoD Directive 5105.53, Director of Administration and Management (DA&M); DoD Directive 5110.04, Washington Headquarters Services (WHS); Administrative Instruction 88, Pentagon Reservation Vehicle Parking Program.

PURPOSE(S) OF THE SYSTEM:

To manage the Pentagon Facilities Parking Program for DoD civilian, military, and contractor personnel applying for and in receipt of Pentagon parking permits. Records are also used to ensure DoD military personnel and civilians are not in receipt of both an issued parking pass and mass transit benefits.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DoD civilians, military, and contractors holding DoD parking permits, participating in DoD carpools, or are otherwise authorized to park at the Pentagon Reservation (to include the Pentagon, Mark Center, and Suffolk Building). This includes concessionaires and custodial workers who are authorized to park at Pentagon Facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full name, DoD ID Number, work email address, rank/grade, work location, work telephone number, home address, vehicle registration, vehicle identification number, organizational affiliation, vehicle license plate number, state, assigned system number, and parking permit number.

RECORD SOURCE CATEGORIES:

Individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, all or a portion of the records or information contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government when necessary to accomplish an agency function related to this system of records.

B. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

C. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

E. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

G. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

I. To another Federal, State or local agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or some other review as authorized by the Inspector General Act of 1978, as amended.

J. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper file folders and electronic storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Full name, assigned system number, work email address, parking permit number, and vehicle tag number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Temporary. Cut off and destroy upon immediate collection once the temporary credential or card is returned for potential reissuance due to nearing expiration or not to exceed 6 months from time of issuance or when individual no longer requires access, whichever is sooner.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are maintained in controlled areas accessible only to authorized DoD personnel, including system users,

system administrators, and authorized contractors who have a need-to-know in the performance of official duties and who are properly screened and cleared. Physical entry is restricted by the use of locks, guards, identification badges, key cards and closed-circuit TV. Paper records are stored in locked cabinets in secured offices. Access to personal information is further restricted by the use of Common Access Card and user ID/passwords, intrusion detection system, encryption, and firewalls. Administrative procedures include periodic security audits, regular monitoring of users' security practices, methods to ensure only authorized personnel access to Personally Identifiable Information (PII) and encryption of back-up and recovery Standard Operating Procedures.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Office of the Secretary of Defense/Joint Staff, Freedom of Information Requester Service Center, Office of Freedom of Information, 1155 Defense Pentagon, Washington, DC 20301-1155, Fax (571) 372-0500. FOIA website: <https://www.esd.whs.mil/FOID/Submit-Request>. Signed, written requests should include the name and number of this system of records notice, the case number (if available), date of request, title/subject of submitted document, or author's full name, current address, and email address of the individual. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the appropriate format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

CONTESTING RECORD PROCEDURES:

The DoD rules for accessing records, contesting contents, and appealing initial Component determinations are contained in 32 CFR part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves

is contained in this system of records should follow the instructions for Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:
None.

HISTORY:

October 20, 2010, 75 FR 64713;
February 11, 2016, 81 FR 7325.

[FR Doc. 2024–30615 Filed 12–20–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

Common Instructions for Applicants to Department of Education Discretionary Grant Programs

AGENCY: Office for Planning, Evaluation and Policy Development, Department of Education.

ACTION: Notice; revised common instructions.

SUMMARY: On December 7, 2022, the Department of Education (Department) published a revised set of common instructions for applicants seeking funds under a Department discretionary grant competition. In this notice, the Department is publishing a revised version of the common instructions that supersedes the version published on December 7, 2022.

FOR FURTHER INFORMATION CONTACT:

Kelly Terpak, U.S. Department of Education, 400 Maryland Avenue SW, room 4C212, Washington, DC 20202. Telephone: (202) 280–8472. Email: Kelly.Terpak@ed.gov.

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

SUPPLEMENTARY INFORMATION:

Background: This document is a centralized and up-to-date set of instructions for applying to the Department's discretionary grant programs. Notices inviting applications (NIAs) will reference this document instead of providing this series of instructions within each NIA. If in the rare circumstance exceptions to these instructions are necessary, they will be noted in an individual competition NIA.

Revised Common Instructions:

The Department is making changes to the revised common instructions for applicants that were published in the **Federal Register** on December 7, 2022 (87 FR 75045), to make them clearer and more direct. The Department has also added guidance on the usage of Artificial Intelligence when applying to grant competitions.

The revised common instructions are:

Common Set of Instructions for Applicants:

Application and Submission Information

1. *Where to Find the Application Package:* You can obtain an application package from the Department's website or [Grants.gov](https://grants.gov).

2. *Content and Formatting Requirements:* Requirements concerning the content and formatting of an application, together with the forms you must submit, are in the application package for the program located on [Grants.gov](https://grants.gov).

3. *Unique Entity Identifier, Taxpayer Identification Number, and System for Award Management:* To do business with the Department, and to submit your application electronically using [Grants.gov](https://grants.gov), you must—

a. Have a Unique Entity Identifier (UEI) and a Taxpayer Identification Number (TIN);

b. Be registered in the System for Award Management ([SAM.gov](https://sam.gov)), the Government's primary registrant database. Information about SAM is available at www.SAM.gov. To further assist you with registering in [SAM.gov](https://sam.gov) and getting a UEI or updating your existing SAM registration, see the Quick Start Guide for Grant Registrations and the Entity Registration Video at <https://sam.gov/content/entity-registration>;

c. Provide your UEI number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service (IRS). If you are an individual, you can obtain a TIN from the IRS or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process usually takes approximately 7 to 10 business days, but may take longer, depending on the completeness and accuracy of the data you enter into the [SAM.gov](https://sam.gov) database. The Department recommends that you register early, at least 10 to 14 business days before the application deadline. If you are unable to submit an application on [Grants.gov](https://grants.gov) by the application deadline because you do not have an active SAM registration, you will not be considered for funding.

Note: Once your [SAM.gov](https://sam.gov) registration is active, it may be 24 to 48 hours before you can access the information in, and

submit an application through, [Grants.gov](https://grants.gov).

If you are currently registered with [SAM.gov](https://sam.gov), you may not need to make any changes. However, please make certain that the TIN associated with your UEI is correct.

Note: You must update your SAM registration annually. This may take three or more business days.

e. (1) Register as an applicant using your UEI number and (2) be designated by your organization's E-Biz Point of Contact as an Authorized Organization Representative (AOR). Details on these steps are outlined at the following [Grants.gov](https://grants.gov) web page: <https://grants.gov/register>.

4. *Submission Instructions:*

a. *Electronic Submission of Applications.*

The Department is participating as a partner in the Government-wide [Grants.gov](https://grants.gov) site. Submit applications electronically using [Grants.gov](https://grants.gov). Do not email them unless explicitly allowed in a competition NIA.

You may access the electronic grant applications at www.grants.gov. You may search for the downloadable application package for the competition that you are interested in applying to by the Assistance Listing Number (ALN). Do not include the ALN's alpha suffix in your search (e.g., search for 84.184, not 84.184D).

A [Grants.gov](https://grants.gov) applicant must apply online using Workspace, a shared environment in [Grants.gov](https://grants.gov) where members of a grant team may simultaneously access and edit different web forms within an application. An applicant can create an individual Workspace for each application and establish, for that application, a collaborative application package that allows more than one person in the applicant's organization to work concurrently on an application. The [Grants.gov](https://grants.gov) system also enables the applicant to reuse forms from previous submissions, check forms in and out to complete them, and submit the application package. For further instructions on how to apply using [Grants.gov](https://grants.gov), refer to: <https://grants.gov/applicants/grant-applications/how-to-apply-for-grants>.

Please note the following:

- **Assistance:** Applicants needing assistance with [Grants.gov](https://grants.gov) may contact the [Grants.gov](https://grants.gov) Support Center either by calling 1–800–518–4726 or by sending an email to support@grants.gov. The [Grants.gov](https://grants.gov) Support Center is available 24 hours a day, seven days a week, except for Federal holidays. Applicants needing assistance from Principal Office staff with their applications should

contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section in the competition NIA prior to the application deadline date during normal business hours, and no later than 5:00 p.m., Eastern Time, on the application deadline date.

Further information about applying for discretionary grants can also be found on the ED.gov website: <https://www.ed.gov/grants-and-programs/apply-grant/getting-started-discretionary-grant-applications>.

- **Time to Submit an Application:** The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your internet connection. Therefore, the Department recommends that you leave yourself plenty of time to complete your submission.

- **Application Deadline, Date- and Time- Stamps:** Applications received by *Grants.gov* are date- and time-stamped upon submission. Your application must be fully uploaded and submitted, received, and date- and time-stamped by the *Grants.gov* system no later than 11:59:59 p.m., Eastern Time, on the application deadline date. Except as otherwise noted in this section, the Department will not accept your application if it is submitted, received, and date- and time-stamped by the *Grants.gov* system after 11:59:59 p.m., Eastern Time, on the application deadline date. The Department will not consider an application that does not comply with the deadline requirements. When the Department retrieves your application from *Grants.gov*, the Department will notify you if the Department is rejecting your application because it was late. Receipt of a date- and time-stamp from *Grants.gov* does not mean that your application meets program eligibility requirements described in the NIA.

- **Submission Procedures:** You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for the program to ensure that you submit your application on time. In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* website at: <https://grants.gov/applicants/grant-applications/how-to-apply-for-grants>.

- **Artificial Intelligence:** The Department recognizes the potential of artificial intelligence (AI) systems and generated content to support the mission of promoting student achievement and ensuring equal access. The use of AI in the development of

grant application materials is allowable. However, it should be noted that the use of AI may introduce significant risks (such as, but not limited to, bias, inaccuracy, falsification, and plagiarism), and applicants and grantees are responsible for ensuring the integrity of application materials. Applicants are fully responsible for the content of grant applications and will be held accountable if their project design, even if it was developed with the assistance of AI, has discriminatory or other adverse outcomes when implemented.

We encourage applicants and grantees to become familiar and align with the principles of responsible use discussed in Executive Order 14110, the Blueprint for an AI Bill of Rights, and the National Institute of Standards and Technology AI Risk Management Framework. These resources can be found at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence/>, <https://www.whitehouse.gov/ostp/ai-bill-of-rights/>, and <https://www.nist.gov/itl/ai-risk-management-framework>. For those applicants who are proposing AI in their grant applications to develop or implement new AI systems for use in educational settings, the Department highly encourages applicants to review the recent resources produced by the Department. These resources provide valuable insights that can guide the responsible development and implementation of AI-based tools and services intended to improve education outcomes. For more information on the use of AI in Education, please visit: The Department of Education, Office of Educational Technology at: tech.ed.gov.

Any questions related to an open grant competition may be directed to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section in the competition NIA.

- **Forms:** When you submit your application electronically, all documents must be submitted electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all Department-specific assurances and certifications.

- **File Type:** When you submit your application electronically, you must upload any narrative sections and all other attachments to your application as files in either Portable Document Format (PDF) or Microsoft Word. Although applicants have the option of

uploading any narrative sections and all other attachments to their application in either PDF or Microsoft Word, the Department recommends applicants submit all documents as read-only flattened PDFs, meaning any fillable PDF files must be saved and submitted as non-fillable PDF files and not as interactive or fillable PDF files, to better ensure applications are processed in a more timely, accurate, and efficient manner. If you choose to submit your application in Microsoft Word, you may do so using any version of Microsoft Word (*i.e.*, a document ending in a .doc or .docx extension). If you upload a file type other than PDF or Microsoft Word or if you submit a password-protected file, the Department will be unable to review that material. Please note that this will likely result in your application not being considered for funding. The Department will not convert material from other formats to PDF or Microsoft Word.

- **Notification of Receipt:** After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. *Grants.gov* will also notify you automatically by email if your application met all of the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative (AOR), issues with your UEI number, or inclusion of an attachment with a file name that contains special characters). If you discover that your submitted application was incomplete or included errors, you will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline date and time (11:59:59) for submission.

Email confirmations and receipts from *Grants.gov* do not indicate receipt by the Department, nor do they mean that your application is complete or has met all application requirements. While your application may have been successfully validated by *Grants.gov*, it also must be reviewed in accordance with the Department's application requirements as specified in the competition NIA and in these application instructions. It is your responsibility to ensure that your submitted application has met all of the Department's requirements. Additionally, the Department may request that you provide us with original signatures on forms at a later date.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with

a unique PR/Award number for your application.

• *Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System:* If you experience problems with *Grants.gov* while submitting your application, please contact the *Grants.gov* Support Desk immediately, toll-free, at 1-800-518-4726. The *Grants.gov* Support Center will provide you with a Support Desk Case Number documenting your communication. You must retain your Support Desk Case Number for future reference as proof of your communication with the Support Center. Please subsequently contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section in the competition NIA and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems within the *Grants.gov* system, the Department will grant you an extension until 11:59:59 p.m., Eastern Time, the following business day to enable you to transmit your application electronically, provided the Department can verify the technical issues that affected your ability to submit your application on time via your *Grants.gov* Support Desk Case Number.

Note: The extensions to which the Department refers in this section apply only to technical problems with the *Grants.gov* system. The Department will not grant you an extension if you failed to fully register in order to submit your application to *Grants.gov* (including with the required UEI number and TIN currently registered in SAM) before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

b. *Submission of Paper Applications.* The Department discourages paper applications, but if electronic submission is not possible (e.g., you do not have access to the internet), (1) you must provide a prior written notification that you intend to submit a paper application and (2) your paper application must be postmarked by the application deadline date.

The prior written notification may be submitted by email or by mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of the competition NIA. If you submit your notification by email, it must be received by the Department no later than 14 calendar days before the application deadline date. If you mail

your notification to the Department, it must be postmarked no later than 14 calendar days before the application deadline date.

If you submit a paper application, you must have, and include on your application, a UEI number and mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, OFO/G5 Functional Application Team, Mail Stop 2C124, Attention: (Assistance Listing Number + Suffix Letter), 400 Maryland Avenue SW, Washington, DC 20202

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, the Department does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

The Department will not consider applications postmarked after the application deadline date.

Note for Mail Delivery of Paper Applications: If you mail your

application to the Department—

(1) You must indicate on the envelope and in Item 11 of the SF 424 the ALN, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The G5 Functional Application Team will notify you of the Department's receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of the competition NIA.

Accommodations; Accessible Format: Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section in the competition NIA. If the

Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in the competition NIA.

On request to the person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other Department documents published in the **Federal Register**, in text or PDF. To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access Department documents published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Roberto Rodriguez,

Assistant Secretary for Planning, Evaluation and Policy Development.

[FR Doc. 2024-30488 Filed 12-20-24; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Record of Decision for DOE/EIS-0082-S-SA-01 Supplement Analysis for Defense Waste Processing Facility Failed Melter Aboveground Storage

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Record of decision (ROD).

SUMMARY: The U.S. Department of Energy (DOE) announces its decision to construct an interim aboveground storage facility for storage of two Defense Waste Processing Facility (DWPF) failed melters (Melter Nos. 1 and 2) in lieu of underground storage units. Moving Melter Nos. 1 and 2 from the Failed Equipment Storage Vaults (FESVs) to aboveground storage will allow space for storage of two melters

with a higher radiological nature to be stored in the FESVs. The potential environmental impacts of this decision were analyzed in DOE/EIS-0082-S-SA-01, "Supplement Analysis for Defense Waste Processing Facility Failed Melter Aboveground Storage" (the SA). The SA found that the proposed change and information discussed in this SA are not significant and therefore do not require a supplement to the Final Supplemental Environmental Impact Statement (Final SEIS) Defense Waste Processing Facility (DOE/EIS-0082-S).

ADDRESSES: This ROD and related information are available at the University of South Carolina—Aiken, Public Reading Room. The documents are posted on the DOE NEPA website at www.energy.gov/nepa.

FOR FURTHER INFORMATION CONTACT: Tracy Williams, NEPA Document Manager/NEPA Compliance Officer, U.S. Department of Energy, Savannah River Operations Office, ATTN: Tracy Williams, P.O. Box A, Building 730-B, Aiken, SC 29802-0151, Tracy.Williams@srs.gov, (803) 952-8278.

For general information on the DOE Office of Environmental Management NEPA process, contact: Bill Ostrum, EM NEPA Compliance Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; or email: william.ostrum@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 1982, DOE decided that failed equipment that could not be repaired was to be decontaminated, packaged, and transferred to the SRS burial facilities. However, DOE was concerned that melters, and possibly other equipment, potentially could not be decontaminated to levels that would allow them to be handled or even repaired without resulting in unacceptable radiation doses to workers. Therefore, DOE constructed two underground vaults in S-Area near the DWPF to provide safe interim storage of this equipment until a permanent disposal facility can be identified. Failed equipment is first placed into containers (e.g., Melter Storage Box) before being put into interim storage facilities.

Currently, two DWPF failed melters (Melter Nos. 1 and 2) are stored underground in two operational FESVs. For analysis, DOE assumed that a total of approximately 14 vaults would be required for underground storage of failed melters and other large equipment

due to their highly radiological nature. The life expectancy of the DWPF melters has been extended based on current performance. The current "Liquid Waste System Plan", SRMC-LWP-2023-0001, Revision 23-P, March 2023 assumes one melter changeout, which would be Melter No. 3 replaced by Melter No. 4. As such, storage for up to four melters is projected to be required for the life of DWPF, not fourteen. Storage for fourteen melters is no longer required. Construction of the aboveground storage facility should provide the required additional failed melter storage space for the life expectancy of DWPF. Actual radiation dose calculations for Melter Nos. 1 and 2 have been determined to be far lower than what was analyzed in the Final SEIS. Consequently, the low radiological nature of Melter Nos. 1 and 2 allow for properly constructed aboveground storage. Moving Melter Nos. 1 and 2 from the FESVs to aboveground storage will allow space for storage of two melters with a higher radiological nature to be stored in the FESVs.

The same design criteria outlined in the existing analysis has been applied to the design of the aboveground storage facility, and the size of the aboveground facilities will be like that of the underground facilities.

In accordance with DOE's NEPA implementing regulations, and consistent with the NEPA Recommendations for the Supplement Analysis Process, 2nd Edition, DOE prepared the DOE/EIS-0082-S-SA-01, "Supplement Analysis for Defense Waste Processing Facility Failed Melter Aboveground Storage", July 2024, to evaluate whether the aboveground storage of failed melters require supplementing the existing EIS or preparing a new EIS.

In the SA, DOE evaluated the impacts of this proposed change and new information since publication of the Final SEIS. This included potential change to impacts to geologic resources, groundwater, surface water, air resources, cultural resources, aesthetics and scenic resources, traffic and transportation, radiological health effects from normal operations, nonradiological health effects from normal operations, worker radiological and nonradiological health, accidents, chemical hazards, waste generation, decontamination and decommissioning, unavoidable adverse impacts, DWPF Organic Waste Treatment options, greenhouse gasses, noise, land use, biological resources, floodplains and wetlands, socioeconomic resources and

existing facilities, and cumulative impacts. In all cases, DOE identified no or negligible differences in potential impacts. DOE concluded that the proposed change and information discussed in the SA are not significant and therefore do not require a supplement to Final Supplemental Environmental Impact Statement Defense Waste Processing Facility (DOE/EIS-0082-S). No further NEPA documentation is required.

Decision

The DOE announces its decision to construct an interim aboveground storage facility for storage of two DWPF failed melters (Melter Nos. 1 and 2) in lieu of underground storage units, as described in the SA. In the SA, DOE concluded that the proposed change and information discussed in the SA are not significant and therefore do not require a supplement to Final Supplemental Environmental Impact Statement Defense Waste Processing Facility (DOE/EIS-0082-S). No further NEPA documentation is required.

Mitigation

Because the proposed activity circumstances are similar in nature to the existing potential impacts based on this analysis, DOE determined, consistent with the FEIS, that no additional mitigation measures are anticipated.

Signing Authority

This document of the Department of Energy was signed on December 2, 2024, by Candice Trummell, Senior Advisor for Environmental Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 18, 2024.

Jennifer Hartzell,

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

[FR Doc. 2024-30610 Filed 12-20-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 2459–000]****Lake Lynn Generation, LLC; Notice of Authorization for Continued Project Operation**

The license for the Lake Lynn Hydroelectric Project No. 2459 was issued for a period ending November 30, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the license may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2459 is issued to Lake Lynn Generation, LLC for a period effective December 1, 2024, through November 30, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before November 30, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Lake Lynn Generation, LLC is authorized to continue operation of the Lake Lynn Hydroelectric Project under the terms and conditions of the prior license until the issuance of a

subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: December 17, 2024.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2024–30564 Filed 12–20–24; 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: EC22–78–001.

Applicants: Digihost International Inc., Fortistar North Tonawanda LLC.

Description: Notice of Material Change in Circumstances of Fortistar North Tonawanda LLC.

Filed Date: 12/16/24.

Accession Number: 20241216–5324.

Comment Date: 5 p.m. ET 1/6/25.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG25–62–000.

Applicants: RE Papago PV LLC.

Description: RE Papago PV LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 12/17/24.

Accession Number: 20241217–5109.

Comment Date: 5 p.m. ET 1/7/25.

Docket Numbers: EG25–63–000.

Applicants: Ratts 1 Solar LLC.

Description: Ratts 1 Solar LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 12/17/24.

Accession Number: 20241217–5169.

Comment Date: 5 p.m. ET 1/7/25.

Docket Numbers: EG25–64–000.

Applicants: Ratts 1 Phase 2 Solar, LLC.

Description: Ratts 1 Phase 2 Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 12/17/24.

Accession Number: 20241217–5175.

Comment Date: 5 p.m. ET 1/7/25.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–79–013.

Applicants: Public Service Company of New Mexico.

Description: Compliance filing: Compliance Filing in Response to October 17, 2024, Order on Remand to be effective 12/17/2024.

Filed Date: 12/16/24.

Accession Number: 20241216–5297.

Comment Date: 5 p.m. ET 1/6/25.

Docket Numbers: ER24–2016–001.

Applicants: MATL LLP.

Description: Compliance filing: Second Compliance Filing Order No. 2023 (ER24–2016) to be effective 11/21/2024.

Filed Date: 12/17/24.

Accession Number: 20241217–5098.

Comment Date: 5 p.m. ET 1/7/25.

Docket Numbers: ER25–300–001.

Applicants: ITC Great Plains, LLC, Southwest Power Pool, Inc.

Description: Tariff Amendment: ITC Great Plains, LLC submits tariff filing per 35.17(b): ITC Great Plains, LLC Amendment to Formula Rate Revisions Filing to be effective 1/1/2025.

Filed Date: 12/17/24.

Accession Number: 20241217–5019.

Comment Date: 5 p.m. ET 12/23/24.

Docket Numbers: ER25–728–000.

Applicants: Puget Sound Energy, Inc.

Description: § 205(d) Rate Filing: Twin Falls Hydro Associates LGIA—SA–5122 to be effective 3/9/2025.

Filed Date: 12/16/24.

Accession Number: 20241216–5274.

Comment Date: 5 p.m. ET 1/6/25.

Docket Numbers: ER25–729–000.

Applicants: Jackson Generation, LLC.

Description: Jackson Generation, LLC requests a limited, one-time waiver of the 90-day notice requirement contained in Schedule 2 to the PJM Tariff.

Filed Date: 12/16/24.

Accession Number: 20241216–5322.

Comment Date: 5 p.m. ET 1/6/25.

Docket Numbers: ER25–732–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: UAMPS Construction Agreement Logan BTM (R.S. No. 792) to be effective 2/16/2025.

Filed Date: 12/17/24.

Accession Number: 20241217–5064.

Comment Date: 5 p.m. ET 1/7/25.

Docket Numbers: ER25–733–000.

Applicants: Northwest Ohio Wind, LLC.

Description: Northwest Ohio Wind, LLC requests a one-time, limited waiver of the 90-day prior notice requirement set forth in Schedule 2 to the PJM Interconnection, L.L.C. Open Access Transmission Tariff.

Filed Date: 12/16/24.

Accession Number: 20241216–5323.

Comment Date: 5 p.m. ET 1/6/25.

Docket Numbers: ER25–734–000.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: § 205(d) Rate Filing:

2024–12–17_SA 4412 Entergy Louisiana-Entergy Louisiana GIA (Nelson) to be effective 12/5/2024.

Filed Date: 12/17/24.

Accession Number: 20241217–5114.

Comment Date: 5 p.m. ET 1/7/25.

Docket Numbers: ER25–735–000.

Applicants: American Transmission Systems, Incorporated.

Description: § 205(d) Rate Filing: ATSI submits Construction Agreement, SA No. 6939 to be effective 2/16/2025.

Filed Date: 12/17/24.

Accession Number: 20241217–5116.

Comment Date: 5 p.m. ET 1/7/25.

Docket Numbers: ER25–736–000.

Applicants: UNS Electric, Inc.

Description: § 205(d) Rate Filing: Rate Schedule No. 11 to be effective 12/18/2024.

Filed Date: 12/17/24.

Accession Number: 20241217–5168.

Comment Date: 5 p.m. ET 1/7/25.

Docket Numbers: ER25–737–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): NYISO-National Grid Joint 205: Amended SGIA Dolan Solar SA2720 to be effective 12/3/2024.

Filed Date: 12/17/24.

Accession Number: 20241217–5178.

Comment Date: 5 p.m. ET 1/7/25.

Docket Numbers: ER25–738–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2024–12–17_SA 4414 Entergy Louisiana-Entergy Louisiana GIA (R1039) to be effective 12/10/2024.

Filed Date: 12/17/24.

Accession Number: 20241217–5240.

Comment Date: 5 p.m. ET 1/7/25.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18

CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <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: December 17, 2024.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2024–30565 Filed 12–20–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant

to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. Each filing may be viewed on the Commission's website at <https://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
<i>Prohibited:</i>		
1. P–2561–000	12–12–2024	FERC Staff. ¹
<i>Exempt:</i>		
1. CP23–516–000, CP23–516–001	12–5–2024	FERC Staff. ²
2. CP23–129–000, ...	12–11–2024	U.S. Senator Ted Cruz.
3. ER24–2007–000, ER24–2009–000	12–11–2024	FERC Staff. ³
4. EL25–20–000, ER24–2172–000, ER24–2888–000	12–12–2024	U.S. Representative Jay Obernolte.
5. EL25–20–000, ER24–2172–000, ER24–2888–000	12–12–2024	FERC Staff. ⁴

¹ Emailed communication dated 11/27/2024 with Peter Dawson from Show-Me Power Electric Cooperative.

² Meeting Notes of the 12/2/2024 phone conference with National Park Service et al.

³ Written communication dated 11/25/2024 with Heather Hunt from New England States Committee on Electricity.

⁴ U.S. Representatives John Joyce M.D., Jefferson Van Drew, Robert E. Latta.

Dated: December 17, 2024.

Carlos D. Clay,

Acting Deputy Secretary.

[FR Doc. 2024–30556 Filed 12–20–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP25–282–000.

Applicants: Ruby Pipeline, L.L.C.

Description: § 4(d) Rate Filing: RP 2024–12–16 Negotiated Rate Agreement Amendment to be effective 12/16/2024.

Filed Date: 12/16/24.

Accession Number: 20241216–5270.

Comment Date: 5 p.m. ET 12/30/24.

Docket Numbers: RP25–283–000.

Applicants: Hampshire Gas Company.

Description: Compliance filing:

Revisions to FERC NGA Gas Tariff to be effective 1/15/2025.

Filed Date: 12/16/24.

Accession Number: 20241216–5278.

Comment Date: 5 p.m. ET 12/30/24.

Docket Numbers: RP25–284–000.

Applicants: CenterPoint Energy Resources Corp., Delta Utilities NO. LA, LLC, Delta Utilities S. LA, LLC, Delta Utilities MS, LLC.

Description: Joint Petition for Limited Waivers of Capacity Release Regulations, et al. of Delta Utilities NO. LA, LLC, et al.

Filed Date: 12/16/24.

Accession Number: 20241216–5309.

Comment Date: 5 p.m. ET 12/30/24.

Docket Numbers: RP25–285–000.

Applicants: Transcontinental Gas Pipeline Company, LLC.

Description: Compliance filing: Rate Schedule S–2 OFO Refund Report December 2024 to be effective N/A.

Filed Date: 12/17/24.

Accession Number: 20241217–5054.

Comment Date: 5 p.m. ET 12/30/24.

Docket Numbers: RP25–286–000.

Applicants: NGO Transmission, Inc.

Description: § 4(d) Rate Filing:

Negotiated Rate Filing to be effective 1/1/2025.

Filed Date: 12/17/24.

Accession Number: 20241217–5059.

Comment Date: 5 p.m. ET 12/30/24.

Docket Numbers: RP25–287–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing:

Citadel/Vitol—SP396417/SP396415 to be effective 1/1/2025.

Filed Date: 12/17/24.

Accession Number: 20241217–5069.

Comment Date: 5 p.m. ET 12/30/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.asp>) by querying the docket number.

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Dated: December 17, 2024.

Carlos D. Clay,

Acting Deputy Secretary.

[FR Doc. 2024–30553 Filed 12–20–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–03–2025–0022CR; FRL 12511–01–R3]

Proposed CERCLA Cost Recovery Settlement for the A.I.W. Frank/Mid-County Mustang Site, Exton, Chester County, Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: In accordance with section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), notice is hereby given by the

U.S. Environmental Protection Agency (EPA), Region 3, of a proposed cost recovery settlement agreement (Settlement) pursuant to CERCLA with U.S. Home, LLC, d/b/a Lennar, and B&J Excavating, Inc. (Settling Parties) relating to the A.I.W. Frank/Mid-County Mustang Superfund Site (Site), located in Exton, Chester County, Pennsylvania.

DATES: Written comments must be received on or before January 22, 2025.

ADDRESSES: Requests for copies of the proposed Settlement and submission of comments must be via electronic mail to R3_ORC_Mailbox@epa.gov. Comments should reference the A.I.W. Frank/Mid-County Mustang Superfund Site, Exton, Chester County, Pennsylvania, Index No. CERCLA–03–2025–0022CR. For those unable to communicate via electronic mail, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT:

Christopher Minott, Assistant Regional Counsel, CERCLA Branch 1, U.S. Environmental Protection Agency, Region 3, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103. Email: minott.christopher@epa.gov. Telephone: 215–814–2484.

SUPPLEMENTARY INFORMATION: The Settling Parties will pay to the EPA \$178,818.46, plus interest on this total amount calculated from the date of the EPA's demand letters to the Settling Parties through the date of payment. The Settlement includes a covenant by the EPA not to sue or to take administrative action against Settling Parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to the EPA's past response costs as provided in the Settlement. For thirty (30) days following the date of publication of this notice, the EPA will receive written comments relating to the proposed Settlement. The EPA will consider all comments received and may modify or withdraw its consent to the proposed Settlement if comments received disclose facts or considerations that indicate that the proposed Settlement is inappropriate, improper, or inadequate.

The EPA's response to any comments received will be available for public inspection by request. Please see the **ADDRESSES** section of this document for instructions.

Paul Leonard,

Director, Superfund & Emergency Management Division, U.S. Environmental Protection Agency, Region 3.

[FR Doc. 2024–30748 Filed 12–20–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**[FRL-12519-01-OA]****Meeting of the Local Government Advisory Committee****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notification of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), the EPA hereby provides notice of a meeting of the Local Government Advisory Committee (LGAC) on the date and time described below. This meeting will be open to the public. For information on public attendance and participation, please see the registration information under **SUPPLEMENTARY INFORMATION**.

DATES: The LGAC will have a virtual meeting January 9th, from 2–3 p.m. Eastern Standard Time.

FOR FURTHER INFORMATION CONTACT: Frank Sylvester, Designated Federal Officer (DFO) of the Local Government Advisory Committee, at sylvester.frank.j@epa.gov or 202–564–1279.

Information on Accessibility: For information on access or services for individuals requiring accessibility accommodations, please send an email to LGAC@epa.gov. To request accommodation, please do so five (5) business days prior to the meeting, to give EPA as much time as possible to process your request.

SUPPLEMENTARY INFORMATION:

Content: The LGAC will discuss a welcome letter to the incoming administration, highlighting the committee's value to the Agency and where the committee can best help the Administration achieve its priorities. Meeting materials and recommendations will be posted online closer to the meeting dates.

Registration: Both meetings will be held virtually through Microsoft Teams. Members of the public who wish to participate should register by contacting Frank Sylvester, Designated Federal Officer (DFO) of the Local Government Advisory Committee, at sylvester.frank.j@epa.gov or 202–564–1279 at least 24 hours of the meeting start time. The agenda and other supportive meeting materials will be available online at <https://www.epa.gov/ocir/local-government-advisory-committee-lgac> and can be obtained by written request to the DFO. In the event of cancellation for unforeseen circumstances, please contact the DFO

or check the website above for reschedule information.

Francis Sylvester,*Designated Federal Officer, Office of Congressional and Intergovernmental Relations.*

[FR Doc. 2024–30752 Filed 12–20–24; 8:45 am]

BILLING CODE 6560–50–P**ENVIRONMENTAL PROTECTION AGENCY****[EPA-HQ-OAR-2024-0446; FRL-12501-01-OAR]****Notice of Approval for Other Use of Phosphogypsum**

AGENCY: Office of Air and Radiation, Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (the EPA or the Agency) has approved, subject to certain conditions, the request for a “Small-scale Road Pilot Project on Private Land in Florida” submitted by Mosaic Fertilizer, LLC in March 2022, and updated by the “Revised Request for Approval of Use of Phosphogypsum in Small-scale Pilot Project”, submitted in August 2023. The Agency’s review found that Mosaic’s request is complete per the requirements of EPA’s National Emissions Standards for Hazardous Air Pollutants under the Clean Air Act, and that the potential radiological risks from conducting the pilot project meet the regulatory requirement that the project is at least as protective of public health as maintaining the phosphogypsum in a stack. On October 9, 2024, the EPA issued a pending approval of the request and solicited public comments on the pending approval. While EPA received comments raising questions about the project, no comments were received which led EPA to change the results of its risk analyses for this proposed pilot project. This approval is only for the proposed pilot project, and EPA has placed conditions on the approval to make sure that the project remains within the scope of the application.

DATES: This decision is effective immediately.

FOR FURTHER INFORMATION CONTACT: Jonathan Walsh, Radiation Protection Division, Office of Radiation and Indoor Air, Mail Code 6608T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; 202–343–9238; Walsh.Jonathan@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

Phosphogypsum is the waste byproduct of wet acid phosphorous production. It contains elevated concentrations of the radionuclide radium, which decays to form radon gas. The EPA’s regulations under the Clean Air Act at 40 CFR part 61, subpart R (hereafter “Subpart R”) require that phosphogypsum must be disposed of in engineered piles, called stacks, to limit public exposure to its radioactive components. Subpart R allows the removal of phosphogypsum from stacks for outdoor agricultural purposes and indoor research and development, subject to conditions and restrictions. Any other use of phosphogypsum requires prior approval from the EPA. The EPA may approve a request for a specific use of phosphogypsum if it determines that the proposed use is at least as protective of public health as placement of phosphogypsum in a stack. The processes for requesting such an approval are described in 40 CFR 61.206.

Mosaic Fertilizer, LLC submitted a request for a Small-scale Road Pilot Project on Private Land in Florida in March 2022, and submitted a Revised Request for Approval of Use of Phosphogypsum in Small-scale Pilot Project in August 2023. Mosaic has proposed to construct a small-scale pilot project at its New Wales facility in Polk County, Florida. Mosaic’s plan is to construct four sections of test road having varying mixtures of phosphogypsum (PG) in the road base “to demonstrate the range of PG road construction designs that meet the Florida Standard Specifications for Road and Bridge construction” (Request for Approval of Additional Uses of Phosphogypsum Pursuant to 40 CFR 61.206, Small-scale Road Pilot Project on Private Land in Florida). The pilot project will be constructed in the place of an existing facility road near the phosphogypsum stack, and the study will be conducted in conjunction with researchers from the University of Florida.

The EPA performed a complete review of Mosaic’s request, documented in “Review of the Small-scale Road Pilot Project on Private Land in Florida Submitted by Mosaic Fertilizer, LLC” (www.regulations.gov, Docket ID No. EPA-HQ-OAR-2024-0446). The Agency’s review found that Mosaic’s request is complete per the requirements of 40 CFR 61.206(b). Further, the review found that Mosaic’s risk assessment is technically acceptable, and that the potential radiological risks from the proposed

project meet the regulatory requirements of 40 CFR 61.206(c); that is, the project is at least as protective of public health as maintaining the phosphogypsum in a stack. Therefore, the Agency issued an approval of the small-scale pilot project per 40 CFR 61.206, subject to terms and conditions which limit the project to the scope of the application. The terms and conditions are included in the approval letter to Mosaic, which is available in the public docket and on the EPA website, <https://www.epa.gov/radiation/phosphogypsum>. Approval by the Agency is specific to the pilot project as described in the Mosaic request and indicates only that this project meets the approval requirements of Subpart R.

II. Public Comments and Responses

The EPA's decision to approve or deny a request for other use under 40 CFR 61.206 is not a rulemaking. In December 2005, the EPA issued a guidance document, "Applying to EPA for Approval of Other Uses of Phosphogypsum: Preparing and Submitting a Complete Petition Under 40 CFR 61.206, A Workbook" (December 2005). Although this guidance is not binding, the EPA sought public comment on this pending approval using the procedure described in Section 2.4 of the Workbook. As outlined in the Workbook, the EPA published a notice of availability of this pending approval in the **Federal Register** on October 9, 2024, and opened a 30-day comment period, which was extended in response to public requests for an additional 15 days to close on November 23, 2024. Physical copies of the Mosaic request and the EPA's technical evaluation were placed for public review in the Mulberry Public Library, 905 NE 5th Street, Mulberry, FL 33860. The EPA also placed notices of public availability in local newspapers.

The EPA has reviewed all comments received for their relevance to the pending approval.

Many comments requested an extension of the 30-day comment period. The EPA extended the comment period in response to these requests.

The majority of comments were generally opposed to the use of phosphogypsum in public roads, and critical of the current state of phosphogypsum management; these comments were determined to be outside the scope of this action, which is specific to the small-scale pilot project as it is described in Mosaic's request. The EPA's approval applies only to the proposed pilot project and not any broader use. Any other use would require a separate application, risk assessment, and approval.

Comments related to EPA's management of phosphogypsum and its non-radiological contaminants under the Resource Conservation and Recovery Act and other statutes similarly fell outside the scope of the current decision. EPA has documented other regulatory issues in its supporting documents, but EPA's decision is only a determination of the permissibility of the project under the Clean Air Act National Emissions Standards for Hazardous Air Pollutants for Radionuclides. It does not imply any other regulatory approval or determinations of compliance. These must be obtained or made separately from this decision.

Some commenters indicated that EPA established a legal ban on the use of phosphogypsum in road construction by considering but not issuing a categorical approval in 1992. Road use is not prohibited by the regulation as amended in 1992 and is eligible to be considered as an "other use."

Commenters were critical of many aspects of the risk assessment. Commenters questioned the EPA's overall ability to perform radiological risk assessment, use of fatal radiogenic cancers as a health endpoint, selection of dose and risk coefficients, selection of models, and selection of exposure scenarios and whether current risk data was used. Specifically, several commenters believed that greater emphasis should be placed on the consideration of a future resident at the site of the pilot project. These comments represent disagreements with decisions that EPA has made in its evaluation of potential risks associated with the proposed pilot project, rather than new information that the Agency has not previously considered. After reviewing the comments, the EPA continues to believe that the risk assessments associated with this pilot project are consistent with current radiological risk assessment methodologies and precedent, and sufficient to evaluate the project per the requirements of 40 CFR 61.206. Results from multiple modeling efforts indicate that risks due to the proposed pilot project are low. EPA believes that for this existing site, it is most appropriate to consider the potential risk to site workers and the nearest residents to the site when determining whether the pilot project is as protective as leaving the phosphogypsum in the stack. No comments raised topics which EPA did not consider in its technical evaluation or lead to a concern for human health or environmental impacts not previously considered.

The Agency's response to comments document is available in the public docket¹ and on the EPA phosphogypsum website,² together with electronic copies of the application, the EPA's review, and relevant background materials.

Joseph Goffman,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2024–30508 Filed 12–20–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1155; FR ID 269133]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before February 21, 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 contact listed below as soon as possible.

¹ <https://www.regulations.gov>, Docket ID No. EPA–HQ–OAR–2024–0446.

² <https://www.epa.gov/radiation/phosphogypsum#aup>.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418-2991.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

OMB Control Number: 3060-1155.

Title: Sections 15.709, 15.713, 15.714, 15.715 15.717, 27.1320, TV White Space Broadcast Bands.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,510 respondents; 3,500 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4(i), 201, 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 302a, 303.

Total Annual Burden: 7,000 hours.

Total Annual Cost: \$151,000.

Needs and Uses: The Commission is submitting this information collection as an extension to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the full three year clearance. The white space database determines which frequencies are available for unlicensed devices and is the primary means to prevent white space devices from causing harmful interference to TV reception and other protected services.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024-30532 Filed 12-20-24; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL MARITIME COMMISSION

[DOCKET NO. 24-17]

Samsung Electronics America, Inc., Complainant, v. Orient Overseas Container Line Limited and OOCL (Europe) Limited, Respondents and Third-Party Complainants, v. Samsung Electronics Company, Ltd., Third-Party Respondent; Notice of Filing of Third-Party Complaint

Served: December 17, 2024.

Notice is given that third-party complaint has been filed with the Federal Maritime Commission (the "Commission") by Orient Overseas Container Line Limited and OOCL (Europe) Limited (the "Third-Party Complainants") against Samsung Electronics Company, Ltd. (the "Third-Party Respondent"). Third-Party Complainants state that the Commission has subject-matter jurisdiction over the complaint pursuant to the Shipping Act of 1984, as amended, 46 U.S.C. 40101 *et seq.*, and personal jurisdiction over Third-Party Respondent as a signatory to the service contracts that gave rise to the claims asserted by Samsung Electronics America, Inc. (the "Complainant") in this proceeding and within which it was designated as the shipper.

Third-Party Complainant Orient Overseas Container Line Limited is a corporation organized and existing under the laws of Hong Kong engaged in business as an ocean common carrier with a principal place of business in Wanchai, Hong Kong.

Third-Party Complainant OOCL (Europe) Limited is a corporation organized and existing under the laws of the United Kingdom engaged in business as an ocean common carrier with a principal place of business in Levington Suffolk, United Kingdom.

Third-Party Complainants identify Third-Party Respondent as a corporation organized and existing under the laws of South Korea engaged in the global electronics business with a principal place of business in Suwon, South Korea.

Third-Party Complainants allege that Third-Party Respondent violated 46 U.S.C. 41102(a). Third-Party Complainants allege this violation arose due to Third-Party Respondent's failure to exercise control over, and/or grant of permission to, its affiliate, Complainant, to engage in unjust or unfair devices or means to obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise apply by demanding refunds and waivers of future charges, and

bringing legal proceedings against ocean carriers.

An answer to the third-party complaint must be filed with the Commission within 25 days after the date of service.

The full text of the third-party complaint can be found in the Commission's electronic Reading Room at <https://www2.fmc.gov/readingroom/proceeding/24-17/>. The initial decision of the presiding judge shall be issued by March 28, 2025, and the final decision of the Commission shall be issued by October 14, 2025.

David Eng,
Secretary.

[FR Doc. 2024-30552 Filed 12-20-24; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD-4) and Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD-5; OMB No. 7100-0100).

DATES: Comments must be submitted on or before February 21, 2025.

ADDRESSES: You may submit comments, identified by FR 2436, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments, including attachments. *Preferred method.*

- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

- *Hand Delivery/Courier:* Same as mailing address.

- *Other Means:* publiccomments@frb.gov. You must include the OMB number or the FR number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments

received will be made available on the Board's website at <https://www.federalreserve.gov/apps/proposals/> without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would be not appropriate for public disclosure. Public comments may also be viewed electronically or in person in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/review/> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, Form MSD-4 or Form MSD-5. Final versions of these documents will be made available at <https://>

www.reginfo.gov/public/do/PRAMain, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collections, which are being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- Whether the proposed collections of information are necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- The accuracy of the Board's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, utility, and clarity of the information to be collected;
- Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collections

Collection titles: Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer and Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer.

Collection identifiers: Form MSD-4 and Form MSD-5.

OMB control number: 7100-0100.

General description of collections: Form MSD-4 and Form MSD-5 must be submitted in certain circumstances by a municipal security dealer (MSD) that is itself or is a subsidiary of a state member bank (SMB), a bank holding company (BHC), a savings and loan holding company (SLHC), or a foreign dealer bank, as defined below. Form MSD-4 collects information (such as personal history and professional qualifications) regarding an employee whom the MSD wishes to assume the

duties of municipal securities principal or representative. Form MSD-5 collects the date of, and reason for, termination of such an employee.

Frequency: Event-generated.

Respondents: The Form MSD-4 and Form MSD-5 panels comprise each MSD that is an SMB, BHC, or SLHC, certain subsidiaries of such firms, or a foreign dealer bank.

Total estimated number of respondents: 72.

Estimated average hours per response: Reporting—Form MSD-4, 1; Form MSD-5, 0.66; Recordkeeping—Form MSD-4 and Form MSD-5, 0.08.

Total estimated annual burden hours: 63.

Board of Governors of the Federal Reserve System, December 18, 2024.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024-30584 Filed 12-20-24; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Semiannual Report of Derivatives Activity (FR 2436; OMB No. 7100-0286).

DATES: Comments must be submitted on or before February 21, 2025.

ADDRESSES: You may submit comments, identified by FR 2436, by any of the following methods:

- Agency Website:** <https://www.federalreserve.gov/>. Follow the instructions for submitting comments, including attachments. *Preferred method.*

- Mail:** Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

- Hand Delivery/Courier:** Same as mailing address.

- Other Means:** publiccomments@frb.gov. You must include the OMB number or the FR number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board's website at <https://>

www.federalreserve.gov/apps/proposals/ without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would be not appropriate for public disclosure. Public comments may also be viewed electronically or in person in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/review/> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 2436. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Collection title: Semiannual Report of Derivatives Activity.

Collection identifier: FR 2436.

OMB control number: 7100-0286.

General description of collection: The FR 2436 collects derivatives market statistics from the eight largest U.S. dealers of over-the-counter (OTC) derivatives. Data are collected on the notional amounts and gross fair values of the volumes outstanding of broad categories of foreign exchange, interest rate, equity, commodity-linked, and credit default swap OTC derivatives contracts across a range of underlying currencies, interest rates, and equity markets. The FR 2436 is part of the U.S. portion of a global data collection conducted by central banks. The primary objective of the Board's participation in this collection is to obtain reasonably comprehensive and internationally consistent data on the size and structure of global OTC financial derivatives markets.

Frequency: Semiannually.

Respondents: U.S. dealers of OTC derivatives.

Total estimated number of respondents: 8.

Total estimated annual burden hours: 3,898.

Board of Governors of the Federal Reserve System, December 18, 2024.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024-30585 Filed 12-20-24; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Central Bank Survey of Foreign Exchange and Derivatives Market Activity (FR 3036; OMB No. 7100-0285).

DATES: Comments must be submitted on or before February 21, 2025.

ADDRESSES: You may submit comments, identified by FR 3036, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments, including attachments. *Preferred method.*

- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

- *Hand Delivery/Courier:* Same as mailing address.

- *Other Means:* publiccomments@frb.gov. You must include the OMB number or the FR number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board's website at <https://www.federalreserve.gov/apps/proposals/> without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would be not appropriate for public disclosure. Public comments may also be viewed electronically or in person in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 3036. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- The accuracy of the Board's estimate of the burden of the proposed

information collection, including the validity of the methodology and assumptions used;

- Ways to enhance the quality, utility, and clarity of the information to be collected;

- Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

- Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Collection title: Central Bank Survey of Foreign Exchange and Derivatives Market Activity.

Collection identifier: FR 3036.

OMB control number: 7100-0285.

General description of collection: The FR 3036 is a component of the U.S. portion of a global data collection that is conducted by central banks once every three years and captures information relating to the volume of foreign exchange (FX) transactions. The Bank for International Settlements (BIS), of which the Board is a member, compiles aggregate national data from each central bank to produce and publish global market statistics. More than 50 central banks plan to conduct this global data collection (the BIS survey) in 2025 (the 2025 Survey). Aggregated data from the FR 3036 is compiled and forwarded to the BIS, which uses the data to produce and publish these statistics.

Proposed revisions: The Board proposes to (1) provide clearer guidance on what is reportable turnover (explicit exclusion of intra-dealer trades), (2) add breakdown by currency totals (USD/EUR/JPY) and instrument (Forwards and Swaps) for 'o/w related party trades' in both Foreign Exchange Contracts and Interest Rate Derivatives in Tables A1, A2, A4, B1 and B2, and (3) add breakdown by currency totals (USD/EUR/JPY) for all instruments for 'o/w back-to-back trades' in both Foreign Exchange Contracts and Interest Rate Derivatives in Tables A1, A2, A4, A5, B1 and B2. Proposed revisions to the FR 3036 also include a more significant addition in the form of a revised Settlement of FX Transactions schedule (Table A7, Settlement of Foreign

Exchange Transactions) to collect information on FX settlement, including a breakdown by counterparty and settlement method. The Board proposes to revise the instructions to be more in alignment with the BIS's revamped 2025 Survey FX settlement guidelines.

Frequency: Triennially.

Respondents: Commercial banks, brokers and dealers, and U.S. offices of foreign banking offices with dealing operations in the U.S.

Total estimated number of respondents: 21.

Estimated average hours per response: Reporting dealers, 66; reporting dealers for FX settlements only, 75.

Total estimated change in burden: 93.

Total estimated annual burden hours: 1,458.

Board of Governors of the Federal Reserve System, December 18, 2024.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024-30587 Filed 12-20-24; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Basel II Interagency Pillar 2 Supervisory Guidance (FR 4199; OMB No. 7100-0320).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB

inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 4199.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Collection title: Basel II Interagency Pillar 2 Supervisory Guidance.

Collection identifier: FR 4199.

OMB control number: 7100-0320.

General description of collection: Advanced approaches banking organizations are required to use an internal ratings-based approach to calculate regulatory credit risk capital requirements and advanced measurement approaches to calculate regulatory operational risk capital requirements. Banking organizations are required to meet certain qualification requirements before they can use the advanced approaches framework for risk-based capital purposes. The Pillar 2 Guidance sets the expectation that such organizations maintain certain documentation as described in paragraphs 37, 41, 43, and 46 of this portion of the guidance.

Frequency: On occasion.

Respondents: State member banks and bank holding companies that use the advanced approaches framework.

Total estimated number of respondents: 15.

Total estimated annual burden hours: 6,300.

Current actions: On July 29, 2024, the Board published a notice in the **Federal Register** (89 FR 60895) requesting public comment for 60 days on the extension, without revision, of the FR 4199. The comment period for this notice expired on September 27, 2024. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, December 18, 2024.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024-30588 Filed 12-20-24; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Census of Finance Companies and Other Lenders and Survey of Finance Companies (FR 3033p and FR 3033s; OMB No. 7100-0277).

DATES: Comments must be submitted on or before February 21, 2025.

ADDRESSES: You may submit comments, identified by FR 3033p or FR 3033s, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments, including attachments. *Preferred method.*
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.
- *Hand Delivery/Courier:* Same as mailing address.
- *Other Means:* publiccomments@frb.gov. You must include the OMB number or the FR number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board's website at <https://www.federalreserve.gov/apps/proposals/> without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would be not appropriate for public disclosure. Public comments may also be viewed electronically or in person in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk

Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 3033p or FR 3033s. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collections, which are being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collections of information are necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collections

Collection title: Census of Finance Companies and Other Lenders and Survey of Finance Companies.

Collection identifier: FR 3033p and FR 3033s.

OMB control number: 7100–0277.

General description of collection: The FR 3033p is the first part of a two-stage survey series, which is a census survey designed to identify the universe of finance companies eligible for potential inclusion in the FR 3033s. It gathers limited information including total assets, areas of specialization, and information on the corporate structure of such companies. The second part of these information collections, the FR 3033s, collects balance sheet data on major categories of consumer and business credit receivables and major liabilities, along with income and expenses, and is used to gather information on the scope of a company's operations and loan and lease servicing activities. The data collected from this voluntary survey will be used for two purposes: to benchmark the consumer and business finance series collected on the Board's monthly Domestic Finance Company Report of Consolidated Assets and Liabilities (FR 2248; OMB No. 7100–0005) and to increase the Federal Reserve's understanding of an important part of the financial system.

Proposed revisions: The Board proposes to revise the FR 3033p by removing an opt-in option and mortgage companies from the respondent panel, revising the wording of several questions, and adding the request of RSSD ID and the Nationwide Multistate Licensing System & Registry ID, when applicable. There are no proposed revisions to the FR 3033s as part of this clearance.

Frequency: Quinquennially.

Respondents: Finance companies.

Total estimated number of respondents: 8,900.

Total estimated change in burden: (1,584).

Total estimated annual burden hours: 3,540.

Board of Governors of the Federal Reserve System, December 18, 2024.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024–30586 Filed 12–20–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Regulation Y for Minimum Requirements for Appraisal Management Companies (FR HY–5; OMB No. 7100–0370).

DATES: Comments must be submitted on or before February 21, 2025.

ADDRESSES: You may submit comments, identified by FR HY–5, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comment, including attachments. *Preferred method.*
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.
- *Hand Delivery/Courier:* Same as mailing address.
- *Other Means:* publiccomments@frb.gov. You must include the OMB number or the FR number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board's website at <https://www.federalreserve.gov/apps/proposals/> without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would be not appropriate for public disclosure. Public comments may also

be viewed electronically or in person in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452–3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR HY–5. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper

performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Collection Title: Recordkeeping and Disclosure Requirements Associated with Regulation Y for Minimum Requirements for Appraisal Management Companies.

Collection Identifier: FR HY-5.

OMB Control Number: 7100-0370.

General description of collection: The Board's recordkeeping and disclosure requirements associated with the minimum requirements for Appraisal Management Companies (AMCs) are found in sections 225.192, 225.193, and 225.195 of the Board's Regulation Y, subpart M.

Section 225.192(b) provides that an appraiser in an AMC's network or panel is deemed to remain a part of the AMC's appraiser panel until the AMC (1) sends a written notice to the appraiser removing the appraiser with an explanation or (2) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser.

Pursuant to section 225.193(a), each participating state must establish and maintain within its appraiser certifying and licensing agency a registration and supervision program with the legal authority and mechanisms to, among other things, review and approve or deny an AMC's application for initial registration; require AMCs to submit reports, information, and documents; and report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the Appraisal Subcommittee (ASC) of

the Federal Financial Institutions Examination Council.

Section 225.193(b) requires each participating state to require AMCs that are not owned and controlled by an insured depository institution and not regulated by a Federal financial institutions regulatory agency to register with the state appraiser certifying and licensing agency.

Section 225.195(c) requires a federally regulated AMC to report to the state or states in which it operates the information required to be submitted by the state pursuant to the ASC's policies regarding the determination of the AMC National Registry fee, including information relating to certain ownership limitations in the regulation.

Frequency: Event-generated; ongoing.

Respondents: The FR HY-5 panel comprises Federal and state regulated AMCs and U.S. states, except that AMCs that oversee 15 or fewer appraisers in a state or less than 25 appraisers in two or more states are exempt from these recordkeeping and disclosure requirements.

Total estimated number of respondents: Section 225.192(b), 8,481; Section 225.193(a), 1; Section 225.193(b), 1,206; Section 225.195(c), 38.

Estimated average hours per response: Section 225.192(b), 5 minutes; Section 225.193(a), 40; Section 225.193(b), 1; Section 225.195(c), 1.

Total estimated annual burden hours: 1,991.

Board of Governors of the Federal Reserve System, December 18, 2024.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024-30589 Filed 12-20-24; 8:45 am]

BILLING CODE 6210-01-P

GENERAL SERVICES ADMINISTRATION

[Notice-Q-2024-08; Docket No. 2024-0002; Sequence No. 58]

Federal Secure Cloud Advisory Committee Notification of Upcoming Meeting

AGENCY: Federal Acquisition Service (Q), General Services Administration (GSA).

ACTION: Meeting notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act (FACA), as amended, GSA is hereby giving notice of two (2) open public meetings of the Federal Secure Cloud Advisory Committee (FSCAC). Information on attending and providing public

comment is under the **SUPPLEMENTARY INFORMATION** section.

DATES: The open public meetings will be held virtually on Wednesday, February 26, 2025, from 12 p.m. to 5 p.m., eastern time (ET), and Thursday, February 27, 2025, from 12 p.m. to 4 p.m., eastern time (ET). The meeting materials, registration information, and agendas for the meetings will be made available prior to the meeting online at <https://gsa.gov/fscac>. Additional information can be found under the *Supplementary Information* section of this notice. Both meetings will be open to the public for the entire time.

ADDRESSES: The meetings will be accessible via webcast. Registration is required for attending each meeting and will be made available prior to the meetings online at <https://gsa.gov/fscac>, by selecting the "Federal Secure Cloud Advisory Committee meetings" tab on the left, and then selecting the "February 26 & 27, 2025—Virtual" meeting accordion in order to view all meeting materials, agendas, and registration information. Registrants will receive the webcast information before the meetings.

FOR FURTHER INFORMATION CONTACT: Michelle White, Designated Federal Officer (DFO), FSCAC, GSA, 703-489-4160, fscac@gsa.gov.

SUPPLEMENTARY INFORMATION:

Background

GSA, in compliance with the FedRAMP Authorization Act of 2022 (the Act), established the FSCAC, a statutory advisory committee in accordance with the provisions of FACA, as amended (5 U.S.C. 1001 *et seq.*). The Federal Risk and Authorization Management Program (FedRAMP) within GSA is responsible for providing a standardized, reusable approach to security assessment and authorization for cloud computing products and services that process unclassified information used by agencies.

The FSCAC will provide advice and recommendations to the Administrator of GSA, the FedRAMP Board, and agencies on technical, financial, programmatic, and operational matters regarding the secure adoption of cloud computing products and services. The FSCAC will ensure effective and ongoing coordination of agency adoption, use, authorization, monitoring, acquisition, and security of cloud computing products and services to enable agency mission and administrative priorities. The purposes of the Committee are:

- To examine the operations of FedRAMP and determine ways that authorization processes can continuously be improved, including the following:
 - Measures to increase agency reuse of FedRAMP authorizations.
 - Proposed actions that can be adopted to reduce the burden, confusion, and cost associated with FedRAMP authorizations for cloud service providers.
 - Measures to increase the number of FedRAMP authorizations for cloud computing products and services offered by small businesses concerns (as defined by section 3(a) of the Small Business Act (15 U.S.C. 632(a)).
 - Proposed actions that can be adopted to reduce the burden and cost of FedRAMP authorizations for agencies.
- Collect information and feedback on agency compliance with, and implementation of, FedRAMP requirements.
- Serve as a forum that facilitates communication and collaboration among the FedRAMP stakeholder community.

The FSCAC will meet no fewer than three (3) times a calendar year. Meetings shall occur as frequently as needed, called, and approved by the DFO.

Purpose of the Meeting and Agenda

The February 26, 2025 public meeting will include two presentations by FedRAMP on their roadmap as well as commercial and federal framework reciprocity, and the meeting will also include several panel discussions on the topics of the current FedRAMP authorization process experience, the current state of Open Security Controls Assessment Language (OSCAL), and Federal framework reciprocity.

The February 27, 2025 public meeting will be dedicated to continued deliberations in order to finalize recommendations to the GSA Administrator on their initial two (2) priority initiatives of 1) identifying and documenting top challenges and proposing solutions around the barrier to entry for Cloud Service Providers (CSPs) with a focus on small businesses, third party assessment organizations (3PAOs), and small & large agencies, and 2) identifying and documenting ways to expedite the authorization process for Cloud Service Offerings (CSOs), such as exploring agile authorizations and other potential cost reductions, both labor and financial, with a focus on small businesses.

Additionally, the committee will begin deliberations to develop their initial recommendations on their last

two (2) priority initiatives of 3) identifying best practices and recommendations on how FedRAMP can make progress with commercial reciprocity using different security frameworks, and 4) identifying what is needed to support OSCAL adoption and if there are any barriers to OSCAL interoperability within the CSP and agency GRC ecosystem that need to be addressed.

Members of the public will have the opportunity to provide oral public comments during each meeting, and may also submit public comments in writing prior to this meeting by completing the public comment form on our website, <https://gsa.gov/fscac>. The meeting agendas will be posted on <https://gsa.gov/fscac> prior to each meeting and can be accessed by selecting the “Federal Secure Cloud Advisory Committee meetings” tab on the left, and then selecting the “February 26 & 27, 2025—Virtual” meeting accordion in order to view all meeting materials, agendas, and registration information.

Meeting Attendance

The virtual meeting is open to the public. The meeting materials, registration information, and agenda will be made available prior to the meeting online at <https://gsa.gov/fscac>, by selecting the “Federal Secure Cloud Advisory Committee meetings” tab on the left, and then selecting the “February 26 & 27, 2025—Virtual” meeting accordion. Registration for attending the virtual meeting is highly encouraged by 5 p.m. EST, on Friday, February 21, 2025. After registration, individuals will receive instructions on how to attend the meetings via email.

For information on services for individuals with disabilities, or to request accommodation for a disability, please email the FSCAC staff at FSCAC@gsa.gov at least 10 days prior to the meeting date. Live captioning may be provided virtually.

Public Comment

Members of the public attending will have the opportunity to provide oral public comment during the FSCAC meeting. Written public comments can be submitted at any time by completing the public comment form on our website, <https://gsa.gov/fscac>, located under the “Get Involved” section. All written public comments will be provided to FSCAC members in advance

of the meeting if received by Tuesday, February 18, 2025.

Margaret Dugan,

Service-Level Liaison, Federal Acquisition Service, General Services Administration.

[FR Doc. 2024–30489 Filed 12–20–24; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Matching Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of a new matching program.

SUMMARY: In accordance with subsection (e)(12) of the Privacy Act of 1974, as amended, the Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) is providing notice of a new matching program between CMS and the Department of the Treasury (Treasury), Internal Revenue Service (IRS), “Verification of Household Income and Family Size for Insurance Affordability Programs and Exemptions.” The new matching program will commence under a new agreement when the agreement for the existing matching program expires in April 2025.

DATES: The deadline for comments on this notice is January 22, 2025. The new matching program will commence not sooner than 30 days after publication of this notice, provided no comments are received that warrant a change to this notice. The matching program will be conducted for an initial term of 18 months (from April 5, 2025 to October 4, 2026) and within 3 months of expiration may be renewed for up to one additional year if the parties make no change to the matching program and certify that the program has been conducted in compliance with the matching agreement.

ADDRESSES: Interested parties may submit comments on this notice to the CMS Privacy Act Officer by mail at: Division of Security, Privacy Policy & Governance, Information Security & Privacy Group, Office of Information Technology, Centers for Medicare & Medicaid Services, Location: N1–14–56, 7500 Security Blvd., Baltimore, MD 21244–1850, or by email to Barbara.Demopulos@cms.hhs.gov.

FOR FURTHER INFORMATION CONTACT: If you have questions about the matching

program, you may contact Anne Pesto, Senior Advisor, Marketplace Eligibility and Enrollment Group, Center for Consumer Information and Insurance Oversight, Centers for Medicare & Medicaid Services, at 667–290–9486, by email at anne.pesto@cms.hhs.gov, or by mail at 7500 Security Blvd., Baltimore, MD 21244.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended (5 U.S.C. 552a) provides certain protections for individuals applying for and receiving Federal benefits. The law governs the use of computer matching by Federal agencies when records in a system of records (meaning, Federal agency records about individuals retrieved by name or other personal identifier) are matched with records of other Federal or non-Federal agencies. The Privacy Act requires agencies involved in a matching program to:

1. Enter into a written agreement, which must be prepared in accordance with the Privacy Act, approved by the Data Integrity Board of each source and recipient Federal agency, provided to Congress and the Office of Management and Budget (OMB), and made available to the public, as required by 5 U.S.C. 552a(o), (u)(3)(A), and (u)(4).

2. Notify the individuals whose information will be used in the matching program that the information they provide is subject to verification through matching, as required by 5 U.S.C. 552a(o)(1)(D).

3. Verify match findings before suspending, terminating, reducing, or making a final denial of an individual's benefits or payments or taking other adverse action against the individual, as required by 5 U.S.C. 552a(p).

4. Report the matching program to Congress and the OMB, in advance and annually, as required by 5 U.S.C. 552a(o) (2)(A)(i), (r), and (u)(3)(D).

5. Publish advance notice of the matching program in the **Federal Register** as required by 5 U.S.C. 552a(e)(12).

This matching program meets these requirements.

Barbara Demopulos,

Privacy Act Officer, Division of Security, Privacy Policy and Governance, Office of Information Technology, Centers for Medicare & Medicaid Services.

Participating Agencies

The Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) is the recipient agency, and the Department of the Treasury (Treasury), Internal Revenue Service (IRS) is the source agency.

Authority for Conducting the Matching Program

The authority for the matching program is 42 U.S.C. 18001, *et seq.*

Purpose(s)

The purpose of the matching program is to provide CMS with IRS Federal tax information which CMS and State-based administering entities (AEs) will use to verify household income and family size for applicants and enrollees receiving eligibility determinations and redeterminations for benefits under the Patient Protection and Affordable Care Act (PPACA), including: enrollment in a Qualified Health Plan (QHP) or a State's Basic Health Plan (BHP) through the federally-facilitated Exchange (FFE) or a State-based Exchange (SBE); advance payments of the premium tax credit (APTC); a cost sharing reduction (CSR); enrollment in Medicaid and the Children's Health Insurance Program (CHIP); and certain certificates of exemption.

Categories of Individuals

The individuals whose information will be used in the matching program are consumers (applicants and enrollees) who receive the eligibility determinations and redeterminations described in the preceding Purpose(s) section (in particular, taxpayers whose Federal tax information is requested from IRS to verify an applicant's or enrollee's household income and family size).

Categories of Records

The categories of records used in the matching program are identity information and Federal tax information (specifically, household income and family size information). To request Federal tax information from IRS, CMS will provide IRS with the relevant taxpayer's name, social security number (SSN), and relationship to the applicant(s) or enrollee(s) (*i.e.*, primary, spouse, or dependent). When IRS is able to match the SSN and name provided by CMS and Federal tax information is available, IRS will disclose to CMS the following items of Federal tax information with respect to that taxpayer:

1. SSN;
2. family size;
3. filing status;
4. modified adjusted gross income (MAGI);
5. taxable Social Security benefits;
6. adjusted gross income (AGI) for adjusted tax returns;
7. taxable year with respect to which the preceding information relates or, if

applicable, the fact that such information is not available; and

8. any other specified item of Federal tax information (FTI) authorized pursuant to 26 U.S.C. 6103(1)(21) and its implementing regulations.

System(s) of Records

The records used in this matching program will be disclosed from the following systems of records, as authorized by routine uses published in the System of Records Notices (SORNs) cited below:

A. System of Records Maintained by CMS

- CMS Health Insurance Exchanges System (HIX), CMS System No. 09–70–0560, last published in full at 78 FR 63211 (Oct. 23, 2013), as amended at 83 FR 6591 (Feb. 14, 2018).

B. System of Records Maintained by IRS

- FTI Treasury/IRS 24.030, published at 80 FR 54064 (Sept. 8, 2015).

[FR Doc. 2024–30522 Filed 12–20–24; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10630 and CMS–10798]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and

clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by February 21, 2025.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection’s supporting statement and associated materials (see **ADDRESSES**).

CMS-10630 The PACE Organization (PO) Monitoring and Audit Process
CMS-10798 Application for Part B Immunosuppressive Drug Coverage (Part B-ID)

Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is

defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Revision of a currently approved information collection; *Title of Information Collection:* The PACE Organization (PO) Monitoring and Audit Process; *Use:* Sections 1894(e)(4) and 1934(e)(4) of the Act and the implementing regulations at 42 CFR 460.190 and 460.192 mandate that CMS, in conjunction with the SAA, audit POs annually for the first 3 years (during the trial period), and then on an ongoing basis following the trial period. The information gathered during this audit will be used by the Medicare Parts C and D Oversight and Enforcement Group (MOEG) within the Center for Medicare (CM), as well as the SAA, to assess POs’ compliance with PACE program requirements. If outliers or other data anomalies are detected, other offices within CMS will work in collaboration with MOEG for follow-up and resolution. Additionally, POs will receive the audit results and will be required to implement corrective action to correct any identified deficiencies.

Information collected from the POs for use in the audit is obtained electronically through the Health Plan Management System (HPMS). HPMS is a system that was developed and is maintained by CMS and is used to securely transmit information between CMS and POs. All POs have access to HPMS, and users create and maintain a secure user id and password that is used each time HPMS is accessed. *Form Number:* CMS-10630 (OMB control number: 0938-1327); *Frequency:* Annually; *Affected Public:* Private Sector, State, Local, or Tribal Governments, Business or other for-profits, Not-for-profits institutions; *Number of Respondents:* 40; *Total Annual Responses:* 43; *Total Annual Hours:* 31,200. (For policy questions

regarding this collection contact Katrina Hoadley at 410-786-8480 or katrina.hoadley@cms.hhs.gov).

2. *Type of Information Collection Request:* Revision of a currently approved information collection; *Title:* Application for Part B Immunosuppressive Drug Coverage (Part B-ID); *Use:* Sections 226A, 1836(b) and 1837(n) of the Act provide the statutory authority for this new, limited Medicare entitlement program. It is stated in § 407.1(a)(6) that, sections 1836(b) and 1837(n) of the Act provide for coverage of immunosuppressive drugs as described in section 1861(s)(2)(J) of the Act under Part B beginning on or after January 1, 2023, for eligible individuals whose benefits under Medicare Part A and eligibility to enroll in Part B on the basis of ESRD would otherwise end with the 36th month after the month in which the individual receives a kidney transplant by reason of section 226A(b)(2) of the Act.

The CMS-10798 provides the necessary information to determine eligibility and to process the beneficiary’s request for enrollment for in Part B-ID coverage. This form is only used for enrollment by beneficiaries whose Medicare entitlement based on ESRD would otherwise end after a successful kidney transplant to continue enrollment under Medicare Part B only for the coverage of immunosuppressive drugs who already have Part A, but not Part B.

Form CMS-10798 is completed by the individual or is completed by an SSA representative using information provided by the Medicare enrollee during a telephone interview. The form is owned by CMS, but not completed by CMS staff. SSA processes Medicare enrollments on behalf of CMS. *Form Number:* CMS-10798 (OMB control number: 0938-1428); *Frequency:* Once; *Affected Public:* Individuals and Households, State, Local, or Tribal Governments; *Number of Respondents:* 1,019; *Total Annual Responses:* 1,019; *Total Annual Hours:* 173. (For policy questions regarding this collection contact Tyrissa Woods at 410-786-0286 or Tyrissa.woods@cms.hhs.gov.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024-30620 Filed 12-20-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services****[Document Identifier: CMS–10913]****Agency Information Collection Activities: Submission for OMB Review; Comment Request****AGENCY:** Centers for Medicare & Medicaid Services, Health and Human Services (HHS).**ACTION:** Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by January 22, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Medicare Part C Utilization Management Annual Data Submission and Audit Protocol Data Request; *Use:* Section 1857(d) of the Act, added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and implementing regulations at 42 CFR 422.503 and 422.504 state that CMS must oversee an MA organization's continued compliance with the requirements for a MA organization. Additionally, per § 422.516(a), MA organizations are required to compile and report to CMS information related to the utilization of services, and other matters as CMS may require.

The information gathered during this annual data collection and audit will be used by the Medicare Parts C and D Oversight and Enforcement Group (MOEG) within the Center for Medicare (CM) to assess Sponsoring organizations' compliance with Medicare UM requirements. CMS will utilize the data submitted during the annual data submission to assess the number of items and services that have associated internal coverage criteria, and to develop a landscape of items and services across the nation to assess trends related to the development and utilization of internal coverage criteria. Additionally, CMS will use the annual submission to select a number of Sponsoring organizations to undergo UM audits each year, and to select

specific items and services to audit. Annual UM data submissions, for all Sponsoring organizations, will be due to CMS by January 31 of each calendar year. *Form Number:* CMS–10913 (OMB control number: 0938–new); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other for-profits, Not-for-profits institutions; *Number of Respondents:* 179; *Total Annual Responses:* 179; *Total Annual Hours:* 19,180. (For policy questions regarding this collection contact Caroline Zeman at 410–786–1564).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–30619 Filed 12–20–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services****[Document Identifiers: CMS–R–52]****Agency Information Collection Activities: Proposed Collection; Comment Request**

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by February 21, 2025.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection’s supporting statement and associated materials (see **ADDRESSES**).

CMS–R–52 End Stage Renal Disease (ESRD) Conditions for Coverage and Supporting Regulations
CMS–10901 Expanding Access to Women’s Health Grant

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before

submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* End Stage Renal Disease (ESRD) Conditions for Coverage and Supporting Regulations; *Use:* The Centers for Medicare and Medicaid Services (CMS) is requesting reinstatement of OMB Control number 0938–0386 (CMS–R–52) in compliance with the Paperwork Reduction Act (PRA). This package applies to existing Medicare End-stage Renal Disease (ESRD) conditions for coverage (CfCs) at 42 CFR 494. Section 299I of the Social Security Amendments of 1972 (Pub. L. 92–603) originally extended Medicare coverage to insured individuals, their spouses, and their dependent children with ESRD who require dialysis or transplantation. Subsequently, the ESRD Amendments of 1978 (Pub. L. 95–292) amended title XVIII of the Social Security Act (the Act) by adding section 1881. Section 1881(b)(1) of the Act authorizes the Secretary to prescribe health and safety requirements (known as conditions for coverage) that a facility providing dialysis and transplantation services to patients must meet to qualify for Medicare reimbursement. Final regulations were published June 3, 1976. Subsequent to the publication of the final regulations, the ESRD Amendments of 1978 were enacted to amend title XVIII of the Act to include section 1881(c). This section establishes ESRD network areas and Network organizations to assure the effective and efficient administration of ESRD program benefits. The requirements from section 1881(b) and (c) are implemented in regulations at 42 CFR part 405, subpart U, Conditions for Coverage for dialysis facilities.

On April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1975 (COBRA) (Pub. L. 99–272) was enacted which requires the Secretary to maintain renal disease Network organizations as authorized under section 1881(c) of the Act, and not merge the Network organizations into other organizations or entities. On April 15, 1986, we published a notice of proposed rulemaking to implement section 9214 of Public Law 99–272. A final rule (HSQ–115) was published August 26, 1986 which included information collection requirements at § 405.2112(e). This rule revised the requirements in regulations pertaining to the ESRD networks and organizations

and establishes new, more efficient Network organizations.

Revisions resulting from two additional rules: HSQ–137—ESRD: Responsibilities of Network Organizations, published January 21, 1988; and BERC–434—Medicare Program: Standards for the Reuse of Hemodialyzer Filters and Other Dialysis Supplies, published October 2, 1987, are also included. HSQ–137—ESRD approved information collection requirements at §§ 405.2112(f) and (j). BERC–434 approved information collection requirements stemming from the following historical sections of the CFR including §§ 405.2136(b), 405.2138(a), 405.2139(a), and 405.2140(b) and (c).

Major revisions to the CFR established new ESRD CfCs at 42 CFR 494 issued in a final rule, “*Medicare and Medicaid Programs; Conditions for Coverage for End-Stage Renal Disease Facilities*,” published on April 15, 2008 (CMS–3818–F). This rule modified, removed, added, and redesigned CfCs that dialysis facilities must meet to be certified under the Medicare program. This rule approved information collection requirements at §§ 494.30, 494.40, 494.50, 494.60, 494.70, 494.80, 494.90, 494.100, 494.110, 494.120, 494.150, 494.170, and 494.180.

An additional revision to the ESRD CfCs at 42 CFR 494 was precipitated by CMS–3818–F at 414.330(a)(2)(iii)(C). The burden to ESRD home dialysis suppliers associated with this requirement would be the time and effort necessary to collect all data for each patient receiving home dialysis care with respect to services and items furnished. However, the payment method that covered these suppliers was eliminated in 2011 and there are no longer any such entities. See 42 CFR parts 410, 413 and 414 Medicare Program; End-Stage Renal Disease Prospective Payment System; Final Rule and Proposed Rule at the following link **Federal Register** <https://www.govinfo.gov/content/pkg/FR-2010-08-12/pdf/2010-18466.pdf>.

Therefore, there are no actual costs associated with this requirement; we removed it from this package.

An additional revision to the ESRD CfCs at 42 CFR part 494 was precipitated by interim final rule, “*Medicare Program; Conditions for Coverage for End-Stage Renal Disease Facilities-Third Party Payment*,” published on December 14, 2016 (CMS–3337–IFC). This rule established new requirements for Medicare-certified dialysis facilities that make payments of premiums for individual market health plans. This interim final rule

established additional burden associated with §§ 494.70(c) and 494.180(k); these were quantified in the preceding information collection which expired in 2024 (OMB Control Number 0938–0386). Since these regulations were not finalized due to litigation, they are no longer in effect. Therefore, we took out these sections from this package as they do not impose any burden.

An additional revision to the ESRD CfCs at 42 CFR 494 was precipitated by final rule, “*Medicare and Medicaid Programs; Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers*,” published September 16, 2016 (CMS–3178–F). This rule established the creation and maintenance of an Emergency Preparedness Plan at 494.62(a), an Emergency Preparedness Policies and Procedures document at 494.62(b), an Emergency Preparedness Communication Plan at 494.62(c), a training program 494.62(d), and documentation of training exercises 494.62(e). These information collections are in separate package, OMB Control number 0938–1325.

On July 5, 2024, revisions to the CfC were proposed in “*Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals with Acute Kidney Injury, Conditions for Coverage for End-Stage Renal Disease Facilities, End-Stage Renal Disease Quality Incentive Program, and End-Stage Renal Disease Treatment Choices Model*,” (CMS–1805–P). This rule proposed to expand coverage of home dialysis services to patients with acute kidney injury (AKI). Since the ESRD CfCs apply to dialysis facilities, not to people with ESRD, this rule proposes to revise language in the CfCs to allow beneficiaries with AKI to utilize home dialysis. Specifically, we refer to facilities abiding by the ESRD CfCs as ‘dialysis facilities’ opposed to ‘ESRD facilities and all patients seeking services from dialysis facilities as ‘patients’ rather than ‘ESRD patients.’ There is no ICR burden associated with these changes however we made confirming changes to the language in this package.

The CfCs are used by Federal (CMS), State surveyors (employed by State survey agencies), or CMS authorized accrediting organizations as a basis for determining whether a dialysis facility qualifies for approval or re-approval under Medicare. Surveyors make an in-person visit to the dialysis facility to perform the complete survey.

The preceding information collection, which expired on March 31, 2024, estimated the total annual hourly burden as 1,260,491 hours at a cost of \$64,839,657. We revise this to 800,621 hours at a cost of \$49,638,502. The reduction in hours and cost is largely due to removing the burden estimates that no longer apply. *Form Number:* CMS–R–52 (OMB Control Number: 0938–0386); *Frequency:* Annually; *Affected Public:* Private sector—Business or other for-profit; *Number of Respondents:* 8,048; *Total Annual Responses:* 215,591; *Total Annual Hours:* 800,621 (For policy questions regarding this collection contact Claudia Molinar at 410–786–8445.)

2. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of information Collection:* Expanding Access to Women’s Health Grant; *Use:* On March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act (PPACA), and on March 30, 2010, the Health Care and Education Reconciliation Act of 2010 was also signed into law (collectively referred to as the “ACA”). The ACA includes a number of provisions that reform the health insurance markets and provide Federal consumer protections through amendments to title XXVII of the Public Health Service Act (PHS Act) and corresponding amendments to the Employee Retirement Income Security Act and the Internal Revenue Code. The ACA also includes significant grant funding for States to work with the Federal Government to implement the Federal market reforms and consumer protections.

Section 1003 of the ACA adds a new section 2794 to the PHS Act entitled, “Ensuring That Consumers Get Value for Their Dollars.” Specifically, section 2794(a) requires the Secretary of the Department of Health and Human Services (the Secretary) (HHS), in conjunction with the States, to establish a process for the annual review of health insurance premiums to protect consumers from unreasonable rate increases. Section 2794(c) directs the Secretary to carry out a program to award grants to States. The data collection (quarterly and final reports) are a source of information on the State’s progress with meeting CMS expectations for the Expanding Access to Women’s Health Grant. The reports describe significant advancements towards the State’s goal of enhancing and expanding access to reproductive and maternal health coverage and services from the beginning of the grant period through the completion of the grant period. The data collection is

imperative to CMS being able to assess the State’s progress, barriers, and updates on measurable objectives. Without the data collection, CMS will be unable to efficiently monitor the State’s progress. It will also inhibit CMS’ ability to support and share opportunities of best practices with other States. *Form Number:* CMS–10901 (OMB control number 0938–NEW); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 15; *Total Annual Responses:* 68; *Total Annual Hours:* 840. (For policy questions regarding this collection contact Jim Taing at James.Taing@cms.hhs.gov.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–30502 Filed 12–20–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration’s (FDA), Center for Drug Evaluation and Research (CDER), Office of Medical Policy (OMP) has modified their organizational structure. The new organizational structure was approved by the Secretary of Health and Human Services on November 19, 2024.

FOR FURTHER INFORMATION CONTACT: Jennifer Wade, Acting Director, Division of Reorganizations and Delegations of Authority, Office of Budget, Office of Finance, Budget, and Acquisitions, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 240–731–0192.

SUPPLEMENTARY INFORMATION:

I. Introduction

Part D, Chapter D–B, (Food and Drug Administration), the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, 60 FR 56606, November 9, 1995, 64 FR 36361, July 6, 1999, 72 FR 50112, August 30, 2007, 74 FR 41713, August 18, 2009, 76 FR 45270, July 28, 2011, and 84 FR 22854, May 20, 2019) is revised to reflect the FDA’s reorganization of the CDER, OMP.

The reorganization will improve FDA's ability to carry out its public health mission by realigning and dedicating resources within the organization to modernize clinical trials. The clinical trial innovation work tracks will place DCI at the forefront to robustly meet policy development, implementation, and analysis needs in areas such as Artificial Intelligence (AI), Digital Health Technologies (DHTs), Real-World Evidence (RWE), and other rapidly advancing sectors in the dynamic clinical trial ecosystem.

The CDER, OMP, Office of Medical Policy Initiatives retitled the Division of Clinical Trial Quality to the Division of Clinical Innovations.

The reorganization will enhance the office's ability to attract and retain a diverse workforce representative of our nation and bring like scientists and policy experts together from across the organization, thereby facilitating collaboration and efficient use of shared resources while advancing key innovations in drug development. By developing responsive policies, the Division of Clinical Innovations will modernize the policy environment to ensure that CDER is providing the needed regulatory perspective to guide the appropriate use of such tools and technologies.

The FDA's CDER, OMP has been restructured as follows:

DCDH ORGANIZATION. The CDER OMP (DCDH) is headed by the Director, OMP and includes the following:
Office of Medical Policy (DCDH)
Office of Prescription Drug Promotion (DCDHA)
Division of Advertising and Promotion Review II (DCDHAA)
Division of Advertising and Promotion Review I (DCDHAB)
Division of Promotion Policy, Research and Operations (DCDHAC)
Office of Medical Policy Initiatives (DCDHB)
Division of Medical Policy Development (DCDHBA)
Division of Medical Policy Programs (DCDHBB)
Division of Clinical Innovations (DCDHBC)

II. Delegations of Authority

Pending further delegation, directives, or orders by the Commissioner of Food and Drugs, all delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

III. Electronic Access

This reorganization is reflected in FDA's Staff Manual Guide (SMG). Persons interested in seeing the complete Staff Manual Guide can find it on FDA's website at: <https://www.fda.gov/AboutFDA/ReportsManualsForms/StaffManualGuides/default.htm>.

Authority: 44 U.S.C. 3101.

Xavier Becerra,

Secretary of Health and Human Services.

[FR Doc. 2024–30333 Filed 12–20–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council on Blood Stem Cell Transplantation

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Secretary's Advisory Council on Blood Stem Cell Transplantation (ACBSCT or Council) has scheduled a public meeting. Information about ACBSCT and the agenda for the meeting can be found on the ACBSCT website at <https://bloodstemcell.hrsa.gov/about/advisory-council>.

DATES: Thursday, January 23, 2025, 3:00 p.m.–5:00 p.m. Eastern Standard Time.

ADDRESSES: This meeting will be held virtually by webinar. A link to register and join the meeting will be posted at least 10 days prior to the meeting at <https://bloodstemcell.hrsa.gov/about/advisory-council>.

FOR FURTHER INFORMATION CONTACT: Shelley Tims Grant, Designated Federal Official, Division of Transplantation, Health Systems Bureau, HRSA, 5600 Fishers Lane, 8W–67, Rockville, Maryland 20857; 301–443–8036; or ACBSCTHRSA@hrsa.gov.

SUPPLEMENTARY INFORMATION: ACBSCT provides advice and recommendations to the Secretary of HHS (Secretary) on policy, program development, and other matters of significance concerning the activities under the authority of 42 U.S.C. 274k (Section 379 of the Public Health Service Act), Public Law 109–129, as amended. The Council may transmit its recommendations through the Administrator of HRSA on matters related to the activities of the C.W. Bill

Young Cell Transplantation Program and National Cord Blood Inventory.

The agenda for the January 23, 2025, meeting is being finalized and may include the following topics: graft versus host disease and late effects, strategies for selecting cord blood units for transplantation, HHS' approach for reviewing the state of the science and recommendations on the appropriateness of the inclusion of adult stem cells and birthing tissues as new types of therapies in the C.W. Bill Young Cell Transplantation Program, and other areas to increase blood stem cell donation and transplantation. Agenda items are subject to change as priorities dictate. Refer to ACBSCT's website for any updated information concerning the meeting. Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meetings; oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to ACBSCT should be sent to Shelley Tims Grant, using the contact information above at least 3 business days prior to the meeting. Individuals who plan to attend and need special assistance or other reasonable accommodations should notify ACBSCT at the address and phone number listed above at least 10 business days prior to the meeting.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–30604 Filed 12–20–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 60 Day Notice for Extension of Fast Track Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery: Indian Health Service Customer Service Satisfaction and Similar Surveys

AGENCY: Indian Health Service, HHS.

ACTION: Notice and request for comments. Request for extension of approval.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Indian Health Service (IHS) invites the general public to take this opportunity to comment on the information collection Office of Management and Budget (OMB) Control Number 0917–

0036, "Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery." This notice announces our intent to submit this previously approved information collection, which expires February 28, 2025, to the OMB for approval of an extension and solicit comments on specific aspects for the proposed information collection.

DATES: Consideration will be given to all comments received by February 21, 2025.

ADDRESSES: Submit comments to Patricia Lawton by email at Patricia.Lawton@ihs.gov.

Comments submitted in response to this notice will be made available to the public by publishing them in the 30-day **Federal Register** Notice for this information collection. For this reason, please do not include information of a confidential nature, such as sensitive personal information or proprietary information. If comments are submitted via email, the email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

A copy of the draft supporting statement is available at www.regulations.gov (see Docket ID IHS_FRDOC_0001).

SUPPLEMENTARY INFORMATION: The IHS is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995, as amended, and its implementing regulations. This notice is soliciting comments from members of the public and affected agencies as required by 44 U.S.C. 3506(c)(2)(A) and 5 CFR 1320.8(d) concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery: Indian Health Service Customer Service Satisfaction and Similar Surveys.

Type of Information Collection

Request: Three year extension approval of this information collection.

OMB Control Number: 0917-0036.

Abstract: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. Qualitative feedback is information that provides useful insights on perceptions and opinions, but is 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 Agency 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:

- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the Agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions;
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study;

- 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 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; and
- With the exception of information needed to provide remuneration for participants of focus groups and cognitive laboratory studies, personally identifiable information (PII) is collected only to the extent necessary and is not retained.

Feedback collected under this generic clearance provides useful information, but it does 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 non-response 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 submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Current Actions: Extension of approval for a collection of information.

Type of Review: Extension.

Affected Public: Individuals and households, businesses and organizations, and Tribal governments.

Estimated Number of Respondents: 105,000.

Below are projected annual average estimates for the next 3 years:
Average Expected Annual Number of activities: 100.

Average number of Respondents per Activity: 1050.

Annual responses: 105,000.

Frequency of Response: Once per request.

Average minutes per response: 10.

Burden hours: 17,500.

There are no direct costs to respondents to report.

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.

Comment Due Date: Your comments regarding this information collection are best assured of having full effect if received within 60-days of the date of this publication.

Roselyn Tso,

Director, Indian Health Service.

[FR Doc. 2024–30541 Filed 12–20–24; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Role of tau in non-neuronal dysfunction in Alzheimer's Disease (AD) and Related Disorders (RD).

Date: February 5, 2025.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Nesar Uddin Akanda, M.D., Ph.D., Scientific Review Officer, National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Room 2E405, Rockville, MD 20852, (301) 594–8984, nesar.akanda@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–30560 Filed 12–20–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Mechanisms of the age-related changes in gait biomechanics and the impact on the increased metabolic cost of walking.

Date: February 20, 2025.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Nesar Uddin Akanda, M.D., Ph.D., Scientific Review Officer, National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Room 2E405, Rockville, MD 20852, (301) 594–8984, nesar.akanda@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–30558 Filed 12–20–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Inequities in Digital Health for Older Adults with Cognitive Decline and AD/DR.

Date: February 21, 2025.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Rajasri Roy, Ph.D., MPH, Scientific Review Officer, National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Room 100, Rockville, MD 20852, (301) 496–9666, rajasri.roy@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–30563 Filed 12–20–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Maximizing Investigators' Research Award (R35).

Date: January 14, 2025.

Time: 10:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Mufeng Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 507-9155, mufeng.li@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 17, 2024.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30499 Filed 12-20-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; AD and ADRD Research in LMIC's.

Date: February 14, 2025.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20852.

Meeting Format: Virtual Meeting.

Contact Person: Thomas John O'Farrell, Ph.D., Scientific Review Officer National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Suite 8B, Rockville, MD 20852, (301) 402-8559, tom.ofarrell@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30566 Filed 12-20-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Alpha Herpes Viruses and Alzheimer's Disease.

Date: February 5, 2025.

Time: 12:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Ivan Tadeu Rebustini, Ph.D., Scientific Review Officer, National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Room 100, Rockville, MD 20892, (301) 555-1212, ivan.rebustini@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30554 Filed 12-20-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Pathogenesis and treatment of Alzheimer's Disease (AD).

Date: March 5, 2025.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Nesar Uddin Akanda, M.D., Ph.D., Scientific Review Officer National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Room 2E405, Rockville, MD 20852, (301) 594-8984, nesar.akanda@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30557 Filed 12-20-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Alzheimer's Disease Drug Development Program.

Date: January 23, 2025.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Mariel Jais, PharmD, Scientific Review Officer, National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Room 2E400, Rockville, MD 20852, (301) 594-2614, mariel.jais@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30555 Filed 12-20-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; R03 Medical Transition to Aging Research.

Date: February 18, 2025.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Ivan Tadeu Rebustini, Ph.D., Scientific Review Officer, National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Room 100,

Rockville, MD 20852, (301) 555-1212, ivan.rebustini@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30559 Filed 12-20-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; SWAN.

Date: February 28, 2025.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Rajasri Roy, Ph.D., MPH, Scientific Review Officer, National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Room 100, Rockville, MD 20852, (301) 496-9666, rajasri.roy@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30562 Filed 12-20-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be held as a virtual meeting and is open to the public, as indicated below. Individuals who plan to view the virtual meeting and need special assistance such as sign language interpretation or other reasonable accommodations to view the meeting, should notify Dr. Gillian Acca via email at gillian.acca@nih.gov five days in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<http://videocast.nih.gov/>).

A portion of the meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The intramural programs and projects as well as the grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with intramural programs and projects as well as the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Drug Abuse.

Date: February 4, 2025.

Closed: 10:30 a.m. to 11:45 a.m.

Agenda: To review and evaluate grant applications.

Closed: 11:45 a.m. to 12:15 p.m.

Agenda: Report to Council from the NIDA Board of Scientific Counselors (BSC).

Open: 1:00 p.m. to 5:00 p.m.

Agenda: Presentations and other business of the Council.

Address: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Susan R.B. Weiss, Ph.D., Director, Division of Extramural Research, Office of the Director, National Institute on Drug Abuse, NIH, Three White Flint North, RM 09D08, 11601 Landsdown Street, Bethesda, MD 20852, 301-443-6480, sweiss@nida.nih.gov.

Contact Person: Gillian Acca, Ph.D., Health Science Policy Analyst, Division of Extramural Research, Office of Extramural Policy, National Institute on Drug Abuse, NIH, Three White Flint North, RM 09C70,

11601 Landsdown Street, Bethesda, MD 20852, 301-827-5863, gillian.acca@nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to Dr. Gillian Acca via email at gillian.acca@nih.gov. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: www.drugabuse.gov/NACDA/NACDAHome.html, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: December 18, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30570 Filed 12-20-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Factors influencing Cognitive Impairment.

Date: February 20, 2025.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20852.

Meeting Format: Virtual Meeting.

Contact Person: Thomas John O'Farrell, Ph.D., Scientific Review Officer National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Suite 8B, Rockville, MD 20852, (301) 402-8559, tom.ofarrell@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30561 Filed 12-20-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; NIA IMPACT Collaboratory.

Date: February 3, 2025.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institute on Aging, 5601 Fishers Lane, Suite 8B, Rockville, MD 20852.

Meeting Format: Virtual Meeting.

Contact Person: Sandhya Sanghi, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 5601 Fishers Lane, 2N230, Rockville, MD 20852, (301) 496-2879, sandhya.sanghi@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 17, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30567 Filed 12-20-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Partnerships for the Development of Tools to Advance Therapeutic Discovery for Select Antibiotic-Resistant Gram-Negative Bacteria (R01 Clinical Trial Not Allowed).

Date: January 28, 2025.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F21B, Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Maryam Feili-Hariri, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F21B, Rockville, MD 20892, 240-669-5026, haririmf@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 18, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-30569 Filed 12-20-24; 8:45 am]

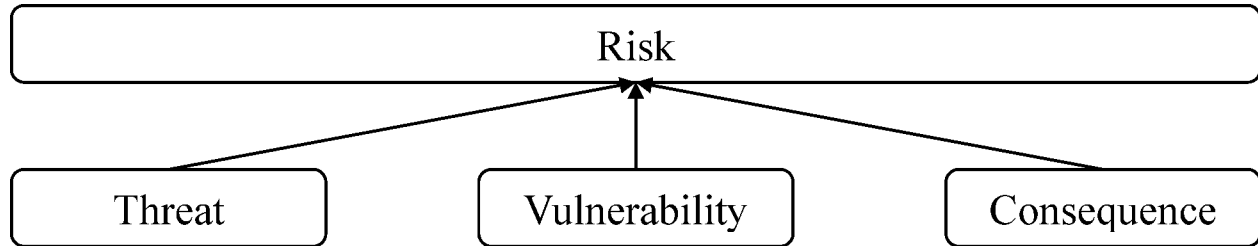
BILLING CODE 4140-01-P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES****Administration for Strategic
Preparedness and Response****Request for Information on Hospital
Preparedness Program Funding
Formula***Correction*

In Notice document 2024–28740,
appearing on pages 97014–97015 in the

issue of Friday, December 6, 2024, make
the following correction:

On page 97015, the figure is corrected
to appear as set forth below:



[FR Doc. C1–2024–28740 Filed 12–20–24; 8:45 am]
BILLING CODE 0099–10–P

**DEPARTMENT OF HOMELAND
SECURITY****U.S. Customs and Border Protection**

[OMB Control Number 1651–0050]

**Agency Information Collection
Activities; Revision; Importation Bond**

AGENCY: U.S. Customs and Border
Protection (CBP), Department of
Homeland Security.

ACTION: 60-Day notice and request for
comments.

SUMMARY: The Department of Homeland
Security, U.S. Customs and Border
Protection (CBP) 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 (PRA). The
information collection is published in
the **Federal Register** to obtain comments
from the public and affected agencies.

DATES: Comments are encouraged and
must be submitted (no later than
February 21, 2025) to be assured of
consideration.

ADDRESSES: Written comments and/or
suggestions regarding the item(s)
contained in this notice must include
the OMB Control Number 1651–0050 in
the subject line and the agency name.
Please submit written comments and/or
suggestions in English. Please use the
following method to submit comments:

Email. Submit comments to: *CBP_PRA@
cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information
should be directed to Seth Renkema,
Chief, Economic Impact Analysis
Branch, U.S. Customs and Border
Protection, Office of Trade, Regulations
and Rulings, 90 K Street NE, 10th Floor,
Washington, DC 20229–1177, telephone
number 202–325–0056 or via email
CBP_PRA@cbp.dhs.gov. Please note that
the contact information provided here is
solely for questions regarding this
notice. Individuals seeking information
about other CBP programs should
contact the CBP National Customer
Service Center at 877–227–5511, (TTY)
1–800–877–8339, or CBP website at
<https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP
invites the general public and other
Federal agencies to comment on the
proposed and/or continuing information
collections pursuant to the Paperwork
Reduction Act of 1995 (44 U.S.C. 3501
et seq.). This process is conducted in
accordance with 5 CFR 1320.8. Written
comments and suggestions from the
public and affected agencies should
address one or more of the following
four points: (1) whether the proposed
collection of information is necessary
for the proper performance of the
functions of the agency, including
whether the information will have
practical utility; (2) the accuracy of the
agency's estimate of the burden of the
proposed collection of information,
including the validity of the
methodology and assumptions used; (3)
suggestions to enhance the quality,

utility, and clarity of the information to
be collected; and (4) suggestions to
minimize the burden of the collection of
information on those who are to
respond, including through the use of
appropriate automated, electronic,
mechanical, or other technological
collection techniques or other forms of
information technology, *e.g.*, permitting
electronic submission of responses. The
comments that are submitted will be
summarized and included in the request
for approval. All comments will become
a matter of public record.

**Overview of This Information
Collection**

Title: Importation Bond.

OMB Number: 1651–0050.

Form Number: 301 & 5297.

Current Actions: Revision.

Type of Review: Revision.

Affected Public: Businesses.

Abstract: CBP proposes to update the
CBP Form 301 instructions to add
reference to a new collection, under
activity code 21, for a Low Value
Shipment Safekeeping (LVSS) bond.
The LVSS bond will be required by the
Commissioner and Notice of Specific
Instruction will be published in the
Customs Bulletin. The CBP Form 301
will not be used to collect the bond
information, however the instructions
will point the public to the Customs
Bulletin where they can find the
approved bond terms, conditions, and
form.

All arriving air carriers and parties
who currently or who seek to operate a
facility other than an Express
Consignment Carrier Facilities that is or
will be used to process shipments for

which the Section 321 exemption is claimed, either through the submission of Type 86 entries or for entry by presenting the manifest under 19 CFR 143.23(j)(3) and 143.26(b), are required to have an LVSS bond on file in the Automated Commercial Environment (ACE). This bond also will be a requirement for all applicants for newly established facilities used to process shipments for which the Section 321 exemption is claimed.

The bond will be transmitted to CBP electronically, via email, to the Office of Finance—Revenue Division and be manually entered into ACE eBond.

There are no changes being made to the CBP Form 5297.

Type of Information Collection: 5297 Power of Attorney.

Estimated Number of Respondents: 500.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 500.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 125.

Type of Information Collection: 301 Customs Bond.

Estimated Number of Respondents: 609,392.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 609,392.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 152,348.

Type of Information Collection: LVSS Specific Instruction Bond.

Estimated Number of Respondents: 700.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 700.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 175.

Dated: December 18, 2024.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2024–30614 Filed 12–20–24; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0157]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Online Request to be a Supporter and Declaration of Financial Support

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until February 21, 2025.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0157 in the body of the letter, the agency name and Docket ID USCIS–2023–0004. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS–2023–0004.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS–2023–0004 in the search box. Comments must be submitted in English, or an English translation must be provided. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Online Request to be a Supporter and Declaration of Financial Support.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–134A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. USCIS uses Form I-134A to determine whether certain U.S.-based individuals have sufficient financial resources and access to those funds to support the beneficiary named on the Form I-134A for the duration of their temporary stay in the United States, as well as to obtain information concerning whether the beneficiary merits a favorable exercise of discretion and whether parole of the beneficiary would serve urgent humanitarian reasons or significant public benefit under the statutory parole standard. Currently, Form I-134A is used for the Uniting for Ukraine (U4U) process; the processes for Cubans, Haitians, Nicaraguans, and Venezuelans (CHNV); and the Cuban, Colombian, Ecuadorian, Guatemalan, Haitian, Honduran, and Salvadoran family reunification parole (FRP) processes.

Form I-134A is filed by a U.S.-based individual (the potential supporter) to request to be a supporter, agree to provide financial support to the beneficiary named on the form during the beneficiary's period of stay in the United States, and to provide information concerning why the beneficiary warrants a discretionary grant of parole. Form I-134A is filed online.

USCIS will require the submission of biometrics from all potential supporters and co-supporters filing the Form I-134A, to verify the potential supporter's identity, obtain new or updated background checks, and produce any necessary documentation related to the supporter's support of the beneficiary.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I-134A is 1,373,600 and the estimated hour burden per response is 2.60 hours; the estimated total number of respondents for the information collection Biometrics services is 1,288,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 5,078,320 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$0.00.

Dated: December 19, 2024.

Samantha L. Deshommes,
Chief, Regulatory Coordination Division,
Office of Policy and Strategy, U.S. Citizenship
and Immigration Services, Department of
Homeland Security.

[FR Doc. 2024-30732 Filed 12-20-24; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7092-N-36]

Privacy Act of 1974; System of Records

AGENCY: Office of Multifamily Housing, HUD.

ACTION: Rescindment of a system of records notice.

SUMMARY: The Department of Housing and Urban Development (HUD) is issuing a public notice of its intent to rescind the Application Submission and Processing System (ASAP). During a routine review of the Office of Multifamily Housing (MFH) system of records notices, it was determined that this system of records is no longer necessary because the ASAP development project was terminated, and it was never implemented into production.

DATES: December 23, 2024. This proposed action will be effective immediately upon publication.

ADDRESSES: You may submit comments, identified by docket number by one of the following methods:

Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions provided on that site to submit comments electronically.

Fax: 202-619-8365.

Email: www.privacy@hud.gov.

Mail: Attention: Privacy Office; LaDonne White, Chief Privacy Officer; The Executive Secretariat; 451 Seventh Street SW, Room 10139; Washington, DC 20410-0001.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

LaDonne White, The Privacy Office, 451 Seventh Street SW, Room 10139; Washington, DC 20410-0001; telephone number (202) 708-3054 (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>.

SUPPLEMENTARY INFORMATION: The Application Submission and Processing System (ASAP) was being developed to provide an automated underwriting solution to support application processing, to track MFH insurance applications from initial endorsement through final closing, and to replace the MFH Development Application Processing System (DAP). The Deputy Assistant Secretary for Multifamily Housing Programs, Office of Housing/Federal Housing Administration, Department of Housing and Urban Development, presents the rescindment of the ASAP Privacy Act System of Records Notice (SORN), due to the termination of the system development, modernization and enhancement (DME) project. Records are no longer maintained by MFH and have run the record retention period. All tests and other data containing PII used in development have been deleted in accordance with the NARA records schedule.

SYSTEM NAME AND NUMBER:

Application Submission and Processing System (ASAP), HUD/MFH-02

HISTORY:

[Docket Number FR-5763-N-08], on September 17, 2014, at 72 FR 55824.

LaDonne White,

Chief Privacy Officer, Office of Administration.

[FR Doc. 2024-30490 Filed 12-20-24; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7086-N-30]

60-Day Notice of Proposed Information Collection: Request for Prepayment of Section 202 or 202/8 Project; OMB Control No.: 2502-0554

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection

described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* February 21, 2025.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to www.regulations.gov. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and can be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; telephone (202) 402–3400. (this is not a toll-free number) or email at Colette.Pollard@hud.gov for a copy of the proposed forms or other available information.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette.Pollard@hud.gov or telephone (202) 402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Request for Prepayment of Section 202 or 202/8 Project. *OMB Approval Number:* 2502–0554.

Type of Request: Extension of a Currently Approved Collection *Form Number:* HUD–9808.

Description of the need for the information and proposed use: The Owner must execute the Section 202 Prepayment Use Agreement provided as Attachment 1 to this Notice that will

ensure the continued operation of the project until at least 20 years following the maturity date of the original loan under terms at least as advantageous to existing and future tenants as the terms required by the original loan agreement. The Use Agreement must be executed by the Owner and the Department and recorded upon HUD's approval of the prepayment transaction.

Respondents: Business, not for profit institutions.

Estimated Number of Respondents: 1,566.

Estimated Number of Responses: 1,566.

Frequency of Response: Varies.

Average Hours per Response: 2 hours.

Total Estimated Burdens: 3,132.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Jeffrey D. Little,

General Deputy Assistant Secretary, Office of Housing.

[FR Doc. 2024–30538 Filed 12–20–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CA_FRN_MO4500159291]

Public Meetings: Northern California District Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

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) Northern California District Resource Advisory Council (RAC) will meet as follows.

DATES: The Northern California District RAC will meet virtually February 5, 2025, from 9 a.m. to 2 p.m. Pacific time (PT); participate in a field tour on May 14, 2025, from 10 a.m. to 4 p.m. PT and meet on May 15, 2025, from 8 a.m. to 2 p.m. PT; and participate in a field tour on September 17, 2025, from 10 a.m. to 4 p.m. PT and meet on September 18, 2025, from 8 a.m. to 2 p.m. PT. The May and September 2025 meetings will be held in-person, and a virtual participation option will be available.

ADDRESSES: The May 14, 2025, field tour will commence and conclude, and the May 15, 2025, meeting will be held, at the BLM Northern California District Office, 6640 Lockheed Drive, Redding, CA 96002. The September 17, 2025, field tour will commence and conclude, and the September 18, 2025, meeting will be held, at Harbor Lights Lodge, 120 N Harbor Drive, Fort Bragg, CA 95437. Meeting links and virtual participation instructions for the February 5, 2025, the May 15, 2025, and the September 18, 2025, meetings will be provided to the public via online announcement, social media posts, and on the RAC's web page at blm.gov/get-involved/rac/California/northern-california-rac, and through personal contact two weeks prior to the meetings. Written comments pertaining to the meetings should be marked Attention: RAC meeting comments and can be sent to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT:

Public Affairs Officer, Joseph J. Fontana, telephone: 530–260–0189; email: jfontana@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 contact Mr. Fontana in the United States.

SUPPLEMENTARY INFORMATION: The 15-member RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with BLM-managed

public lands in northern California and far northwest Nevada. For the February 5, 2025, virtual meeting, agenda items will include a presentation from the U.S. Forest Service on Federal Lands Recreation Enhancement Act administration, Northwest California Integrated Resource Management Plan (NCIP) implementation, land tenure status, recent acquisitions, wild horse management, and wild horse adoption suggestions. The May 14, 2025, field tour will be a river float trip along the Sacramento River Bend Area of Critical Environmental Concern. Participants will stop at various segments of the river to discuss management considerations. For the May 15, 2025, meeting, agenda topics will include discussions on U.S. Forest Service business plans, BLM wild horse management, NCIP implementation, and land acquisitions. The September 17, 2025, field tour will include a drive to the Lost Coast Redwoods property with discussions on BLM management options. For the September 18, 2025, meeting, agenda topics will include U.S. Forest Service business plans, management considerations for Lost Coast Redwoods, status of district land acquisitions, status of wild horse management in Applegate Field Office, and continued discussions about increasing wild horse adoptions. Members of the public are welcome on field tours but must provide their own transportation and meals. All meetings are open to the public. Public comments will be accepted at 11 a.m. PT on each business meeting day. Depending on the number of persons wishing to speak and the time available, the amount of time for oral comments may be limited. All comments received will be provided to the RAC.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Requests for Accommodations

Please make requests in advance for sign language interpreter services, assistive listening devices, language translation services, or other reasonable accommodations. We ask that you 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.

Detailed meeting minutes for the RAC meetings will be maintained in the Northern California District Office. Minutes will also be posted to the California RAC web page.

Authority: 43 CFR 1784.4–2.

Erica St. Michel,

Deputy State Director, Communications.

[FR Doc. 2024–30514 Filed 12–20–24; 8:45 am]

BILLING CODE 4331–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–726 and 731–TA–1694 (Final)]

High Chrome Cast Iron Grinding Media From 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–726 and 731–TA–1694 (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 high chrome cast iron grinding media from India, provided for in subheading 7325.91.00 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: December 6, 2024.

FOR FURTHER INFORMATION CONTACT: Peter Stebbins ((202) 205–2039), 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 “chrome cast iron grinding media in spherical (ball) or ovoid shape, with an alloy composition of seven percent or more (≥ 7 percent of total mass) chromium (Cr) content and produced through the casting method, with a nominal diameter of up to 127 millimeters (mm) and tolerance of plus or minus 10 mm. The products covered by the scope are currently classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 7325.91.0000. This HTSUS subheading is provided for convenience and U.S. Customs purposes only. The written description of the scope 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 India of high chrome cast iron grinding media, 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 April 26, 2024, by Magotteaux Inc., Franklin, Tennessee.

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 April 10, 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 Thursday, April 24, 2025. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Thursday, April 17, 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 investigation, 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 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 Monday, April 21, 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 Wednesday, April 23, 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 April 17, 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 May 1, 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 May 1, 2025. On May 15, 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 May 19, 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: December 18, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–30613 Filed 12–20–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–748–749 and 731–TA–1726–1727 (Preliminary)]

Float Glass Products From China and Malaysia; Revised Schedule for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: December 17, 2024.

FOR FURTHER INFORMATION CONTACT:

Kristina Lara (202–205–3386), 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: On November 21, 2024, the Commission

established a schedule for the conduct of the preliminary phase of the subject investigations (89 FR 93651, November 27, 2024). Subsequently, the Department of Commerce (“Commerce”) extended the deadline for its initiation determinations from December 11, 2024 to December 31, 2024 (89 FR 102113, December 17, 2024). The Commission, therefore, is revising its schedule to conform with Commerce’s new schedule.

The Commission must reach preliminary determinations by January 27, 2025, and the Commission’s views must be transmitted to Commerce within five business days thereafter, or by February 3, 2025.

For further information concerning this proceeding, see the Commission’s notice cited above and the Commission’s Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

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: December 17, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–30487 Filed 12–20–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Summary of Commission Practice Relating to Administrative Protective Orders

AGENCY: U.S. International Trade Commission.

ACTION: Summary of Commission practice relating to administrative protective orders.

SUMMARY: Since February 1991, the U.S. International Trade Commission (“Commission”) has published in the **Federal Register** reports on the status of its practice with respect to breaches of its administrative protective orders (“APOs”) under title VII of the Tariff Act of 1930 in response to a direction contained in the Conference Report to the Customs and Trade Act of 1990. Over time, the Commission has added to its report discussions of APO breaches in Commission proceedings other than under title VII and violations of the Commission’s rules, including the rule on bracketing business proprietary information (the “24-hour rule”) title 19 of the Code of Federal Regulations. This

notice provides a summary of APO breach investigations completed during fiscal year 2024. This summary addresses APO breach investigations related to proceedings under both title VII and section 337 of the Tariff Act of 1930. The Commission intends for this summary to inform representatives of parties to Commission proceedings of the specific types of APO breaches before the Commission and the corresponding types of actions that the Commission has taken.

FOR FURTHER INFORMATION CONTACT: Lisa Barton, Secretary to the Commission, U.S. International Trade Commission, telephone (202) 205–2786. Hearing-impaired individuals may obtain information on this matter by contacting the Commission’s TDD terminal at (202) 205–1810. General information concerning the Commission is available on its website at <https://www.usitc.gov>.

SUPPLEMENTARY INFORMATION: Statutory authorities for Commission investigations provide for the release of business proprietary information (“BPI”) or confidential business information (“CBI”) to certain authorized representatives in accordance with requirements set forth in the Commission’s Rules of Practice and Procedure. Such statutory and regulatory authorities include: 19 U.S.C. 1677f; 19 CFR 207.7; 19 U.S.C. 1337(n); 19 CFR 210.5, 210.34; 19 U.S.C. 2252(i); 19 CFR 206.17; 19 U.S.C. 4572(f); 19 CFR 208.22; 19 U.S.C. 1516a(g)(7)(A); and 19 CFR 207.100–207.120. The term “CBI” is defined in 19 CFR 201.6(a) and includes the term “proprietary information” within the meaning of 19 U.S.C. 1677f(b). The discussion below describes APO breach investigations that the Commission completed during fiscal year 2024, including descriptions of actions taken in response to any breaches.

Since 1991, the Commission has published annually a summary of its actions in response to violations of Commission APOs and rule violations. See 88 FR 85303 (Dec. 7, 2023); 87 FR 69331 (Nov. 18, 2022); 86 FR 71916 (Dec. 20, 2021); 85 FR 7589 (Feb. 10, 2020); 83 FR 42140 (Aug. 20, 2018); 83 FR 17843 (Apr. 24, 2018); 82 FR 29322 (June 28, 2017); 81 FR 17200 (Mar. 28, 2016); 80 FR 1664 (Jan. 13, 2015); 78 FR 79481 (Dec. 30, 2013); 77 FR 76518 (Dec. 28, 2012); 76 FR 78945 (Dec. 20, 2011); 75 FR 66127 (Oct. 27, 2010); 74 FR 54071 (Oct. 21, 2009); 73 FR 51843 (Sept. 5, 2008); 72 FR 50119 (Aug. 30, 2007); 71 FR 39355 (July 12, 2006); 70 FR 42382 (July 22, 2005); 69 FR 29972 (May 26, 2004); 68 FR 28256 (May 23, 2003); 67 FR 39425 (June 7, 2002); 66 FR

27685 (May 18, 2001); 65 FR 30434 (May 11, 2000); 64 FR 23355 (Apr. 30, 1999); 63 FR 25064 (May 6, 1998); 62 FR 13164 (Mar. 19, 1997); 61 FR 21203 (May 9, 1996); 60 FR 24880 (May 10, 1995); 59 FR 16834 (Apr. 8, 1994); 58 FR 21991 (Apr. 26, 1993); 57 FR 12335 (Apr. 9, 1992); and 56 FR 4846 (Feb. 6, 1991). This report does not provide an exhaustive list of conduct that will be deemed to be a breach of the Commission’s APOs. The Commission considers APO breach investigations on a case-by-case basis.

As part of the Commission’s efforts to educate practitioners about the Commission’s current APO practice, the Secretary to the Commission (“Secretary”) issued in January 2022 a sixth edition of *An Introduction to Administrative Protective Order Practice in Import Injury Investigations* (Pub. No. 5280). This document is available on the Commission’s website at <https://www.usitc.gov>.

I. In General

A. Antidumping and Countervailing Duty Investigations

The current APO application form for antidumping and countervailing duty investigations, which the Commission revised in July 2024, requires an APO applicant to agree to:

(1) Not divulge any of the BPI disclosed under this APO or otherwise obtained in this investigation and not otherwise available to him or her, to any person other than—

(i) Personnel of the Commission concerned with the investigation,

(ii) The person or agency from whom the BPI was obtained,

(iii) A person whose application for disclosure of BPI under this APO has been granted by the Secretary, and

(iv) Other persons, such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decision making for an interested party which is a party to the investigation; and (d) have signed the acknowledgment for clerical personnel in the form attached hereto (the authorized applicant shall also sign such acknowledgment and will be deemed responsible for such persons’ compliance with this APO);

(2) Use such BPI solely for the purposes of the above-captioned Commission investigation or for U.S. judicial or review pursuant to the

United State-Mexico-Canada Agreement (USMCA) the determination resulting from such investigation of such Commission investigation;

(3) Not consult with any person not described in paragraph (1) concerning BPI disclosed under this APO or otherwise obtained in this investigation without first having received the written consent of the Secretary and the party or the representative of the party from whom such BPI was obtained;

(4) Whenever documents and materials (e.g., word processing or computer discs) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: [S]torage of BPI on so-called hard disk computer media or similar media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of this APO);

(5) Not enter BPI into a shared computing resource (e.g., database, network file share, cloud environment) unless access to the resource is restricted to persons authorized to receive the BPI;

(6) Serve all materials containing BPI disclosed under this APO as directed by the Secretary and pursuant to section 207.7(f) of the Commission's rules;

(7) Transmit each document containing BPI disclosed under this APO:

- (i) Via secure electronic means, as authorized by the Secretary, or
- (ii) With a cover sheet identifying the document as containing BPI,
- (iii) With all BPI enclosed in brackets and each page warning that the document contains BPI, and
- (iv) Within two envelopes, the inner one sealed and marked "Business Proprietary Information—To be opened only by [name of recipient]", and the outer one sealed and not marked as containing BPI;

(8) Comply with the provision of this APO and section 207.7 of the Commission's rules;

(9) Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (e.g., change in personnel assigned to the investigation);

(10) Report promptly and confirm in writing to the Secretary any possible breach of this APO;

(11) Acknowledge that breach of this APO may subject the authorized applicant and other persons to such sanctions or other actions as the

Commission deems appropriate, including the administrative sanctions and actions set out in this APO; and

(12) Whenever an authorized applicant is representing parties in any litigation or dispute settlement regarding the same, similar, or related matter, or other matter that otherwise encompasses the same information, as the relevant investigations, proactively disclose representation(s) as follows:

(i) Indicate the proceeding and name the parties to it (including whomever the authorized applicant represents) on the antidumping/countervailing duty APO application;

(ii) Acknowledge that failure to provide this information may result in denial, modification, and/or revocation of APO access; and

(iii) During the period of APO access, acknowledge continuing obligation to notify the Secretary of any changes to the information provided in the application.

The APO form for antidumping and countervailing duty investigations also provides for the return or destruction of the BPI obtained under the APO on the order of the Secretary, at the conclusion of the investigation, or at the completion of judicial review. The BPI disclosed to an authorized applicant under an APO during the preliminary phase of the investigation generally may remain in the applicant's possession during the final phase of the investigation.

The APO further provides that breach of an APO may subject an applicant to:

(1) Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association;

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of, or striking from the record any information or briefs submitted by, or on behalf of, such person or the party he represents; denial of further access to business proprietary information in the current or any future investigations before the Commission, and issuance of a public or private letter of reprimand; and

(5) Such other actions, including but not limited to, a warning letter, as the Commission determines to be appropriate.

APOs issued in cross-border long-haul trucking ("LHT") investigations, conducted under the USMCA Implementation Act, 19 U.S.C. 4571–4574 (19 U.S.C. 4501 note), and safeguard investigations, conducted under the statutory authorities listed in 19 CFR 206.1 and 206.31, contain similar (though not identical) provisions.

B. Section 337 Investigations

APOs in section 337 investigations differ from those in title VII investigations: There is no set form as with the title VII APO application, and provisions of individual APOs may differ depending on the investigation and the presiding administrative law judge. However, in practice, the provisions are often similar in scope and applied quite similarly. Any person seeking access to CBI during a section 337 investigation (including, for example, outside counsel for parties to the investigation and technical experts and their staff who are employed for the purposes of the investigation) is required to read the APO, file a letter with the Secretary indicating agreement to be bound by the terms of the APO, agree not to reveal CBI to anyone other than another person permitted access by the APO, and agree to utilize the CBI solely for the purposes of that investigation.

In general, an APO in a section 337 investigation will define what kind of information is CBI and direct how CBI is to be designated and protected. The APO will state which persons may have access to CBI and which of those persons must sign onto the APO. The APO will provide instructions on how CBI is to be maintained and protected by labeling documents and filing transcripts under seal. It will provide protections for the suppliers of CBI by notifying them of a Freedom of Information Act request for the CBI and providing a procedure for the supplier to seek to prevent the release of the information. There are provisions for disputing the designation of CBI and a procedure for resolving such disputes. Under the APO, suppliers of CBI are given the opportunity to object to the release of the CBI to a proposed expert. The APO requires a person who discloses CBI, other than in a manner authorized by the APO, to provide all pertinent facts to the supplier of the CBI and to the administrative law judge and to make every effort to prevent further disclosure. Under Commission practice, if the underlying investigation is before the Commission at the time of the alleged breach or if the underlying investigation has been terminated, a

person who discloses CBI, other than in a manner authorized by the APO, should report the disclosure to the Secretary. *See* 19 CFR 210.25, 210.34(c). Upon final termination of an investigation, the APO requires all signatories to the APO to either return to the suppliers or, with the written consent of the CBI supplier, destroy the originals and all copies of the CBI obtained during the investigation.

Commission Rule 210.34(d) requires APO signatories to report in writing to the Commission immediately upon learning that CBI obtained through an APO is the subject of (1) a subpoena; (2) a court or an administrative order (other than an order of a court reviewing a Commission decision); (3) a discovery request; (4) an agreement; or (5) any other written request, if the request or order seeks disclosure, by the APO signatory or any other person, of the subject CBI to a person who is not, or may not be, permitted access to that information pursuant to an APO or Commission Rule. Individuals who willfully fail to comply with this requirement may be subject to sanctions in accordance with Commission Rule 210.34(e).

The Commission's regulations provide for the imposition of certain sanctions if a person subject to the APO violates its restrictions. The Commission keeps the names of the persons being investigated for violating an APO confidential unless the Commission issues a public sanction or in other circumstances where the Commission determines that such disclosure is necessary. 19 CFR 210.34(c)(1). The possible sanctions are:

- (1) An official reprimand by the Commission.
- (2) Disqualification from or limitation of further participation in a pending investigation.
- (3) Temporary or permanent disqualification from practicing in any capacity before the Commission pursuant to 19 CFR 201.15(a).
- (4) Referral of the facts underlying the violation to the appropriate licensing authority in the jurisdiction in which the individual is licensed to practice.
- (5) Making adverse inferences and rulings against a party involved in the violation of the APO or such other action that may be appropriate. 19 CFR 210.34(c)(3).

Commission employees are not signatories to the Commission's APOs and do not obtain access to BPI or CBI through APO procedures. Consequently, they are not subject to the requirements of the APO with respect to the handling of BPI and CBI. However, Commission employees are subject to strict statutory

and regulatory constraints concerning BPI and CBI, and they face potentially severe penalties for noncompliance. *See* 18 U.S.C. 1905; title 5, U.S. Code; and Commission personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. 552a) limits the Commission's authority to disclose any personnel action against agency employees, this should not lead the public to conclude that no such actions have been taken.

II. Investigations of Alleged APO Breaches

The Commission conducts APO breach investigations for potential breaches that occur in title VII, safeguard, and LHT investigations, as well as for potential breaches in section 337 investigations that are before the Commission or have been terminated.¹ Administrative law judges handle potential APO breaches in section 337 investigations when the breach occurred and is discovered while the underlying investigation is before the administrative law judge. The Commission may review any decision that the administrative law judge makes on sanctions in accordance with Commission regulations. *See* 19 CFR 210.25, 210.34(c).

For Commission APO breach investigations, upon finding evidence of an APO breach or receiving information that there is reason to believe that one has occurred, the Secretary notifies relevant Commission offices that the Secretary has opened an APO breach file and that the Commission has commenced an APO breach investigation. The Commission then notifies the alleged breaching parties of the alleged breach and provides them with the voluntary option to proceed under a one- or two-step investigatory process. Under the two-step process, which was the Commission's historic practice, the Commission determines first whether a breach has occurred and, if so, who is responsible for it. This is done after the alleged breaching parties have been provided an opportunity to present their views on the matter. The breach investigation may conclude after this first step if: (1) the Commission determines that no breach occurred and issues a letter so stating; or (2) the Commission finds that a breach

occurred but concludes that no further action is warranted and issues a warning letter. If the Commission determines that a breach occurred that may warrant further action, the Commission will then determine what sanction, if any, to impose. Before making this determination, the Commission provides the breaching parties with an opportunity to present their views on the appropriate sanction and any mitigating circumstances. The Commission can decide as part of either the first or second step to issue a warning letter. A warning letter is not a sanction, but the Commission will consider a warning letter as part of any subsequent APO breach investigation.

The Commission recognizes that the two-step process can result in duplicative work for the alleged breaching party and Commission staff in some APO breach investigations. For example, parties who self-report their own breach often address mitigating circumstances and sanctions in their initial response to the Commission's letter of inquiry on the breach. But, under the Commission's two-step process, they must await a Commission decision on breach and then submit again their views on mitigating circumstances and sanctions. To streamline this process and accelerate processing times, the Commission offers alleged breaching parties the option to voluntarily elect a one-step APO breach investigation process. Under this process, the Commission will determine simultaneously whether a breach occurred and, if so, the appropriate sanction to impose, if any. Under either process, the alleged breaching party has the opportunity to submit affidavits reciting the facts concerning the alleged breach and mitigating factors pertaining to the appropriate response if a breach is found.

Sanctions for APO violations serve three basic interests: (a) preserving the confidence of submitters of BPI/CBI that the Commission is a reliable protector of BPI/CBI; (b) disciplining breachers; and (c) deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed: "[T]he effective enforcement of limited disclosure under [APO] depends in part on the extent to which private parties have confidence that there are effective sanctions against violation." H.R. Conf. Rep. 100-576, at 623 (1988).

The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate response. In determining the appropriate response, the

¹ Procedures for investigations to determine whether a prohibited act, such as a breach, has occurred and for imposing sanctions for violation of the provisions of a protective order issued during a North American Free Trade Agreement or USMCA panel or committee proceedings are set out in 19 CFR 207.100-207.120. The Commission's Office of Unfair Import Investigations conducts the initial inquiry.

Commission generally considers mitigating factors such as the unintentional nature of the breach, the lack of prior breaches committed by the breaching party, the corrective measures taken by the breaching party, and the promptness with which the breaching party reported the violation to the Commission. The Commission also considers aggravating circumstances, especially whether persons not authorized under the APO had access to and viewed the BPI/CBI. The Commission considers whether there have been prior breaches by the same person or persons in other investigations and whether there have been multiple breaches by the same person or persons in the same investigation.

The Commission's rules permit an economist or consultant to obtain access to BPI/CBI under the APO in a title VII, safeguard, or LHT investigation if the economist or consultant is under the direction and control of an attorney under the APO, or if the economist or consultant appears regularly before the Commission and represents an interested party who is a party to the investigation. See 19 CFR 207.7(a)(3)(i)(B) and (C); 19 CFR 206.17(a)(3)(i)(B) and (C); and 19 CFR 208.22(a)(3)(i)(B) and (C). Economists and consultants who obtain access to BPI/CBI under the APO under the direction and control of an attorney nonetheless remain individually responsible for complying with the APO. In appropriate circumstances, for example, an economist under the direction and control of an attorney may be held responsible for a breach of the APO by failing to redact APO information from a document that is subsequently filed with the Commission and served as a public document, or for retaining BPI/CBI without consent of the submitter after the termination of an investigation. This is so even though the Commission may also hold the attorney exercising direction or control over the economist or consultant responsible for the APO breach. In section 337 investigations, technical experts and their staff who are employed for the purposes of the investigation are required to sign onto the APO and agree to comply with its provisions.

The records of Commission investigations of alleged APO breaches in antidumping and countervailing duty cases, section 337 investigations, safeguard investigations, and LHT investigations are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552. See, e.g., 19 U.S.C. 1677f(g); 19 U.S.C. 1333(h); 19 CFR 210.34(c).

The two types of breaches most frequently investigated by the Commission involve: (1) the APO's prohibition on the dissemination or exposure of BPI or CBI to unauthorized persons; and (2) the APO's requirement that the materials received under the APO be returned or destroyed and that a certificate be filed with the Commission indicating what actions were taken after the termination of the investigation or any subsequent appeals of the Commission's determination. The dissemination of BPI/CBI usually occurs as the result of failure to delete BPI/CBI from public versions of documents filed with the Commission or transmission of proprietary versions of documents to unauthorized recipients. Other breaches have included the failure to bracket properly BPI/CBI in proprietary documents filed with the Commission, the failure to report immediately known or suspected violations of an APO, and the failure to adequately supervise non-lawyers in the handling of BPI/CBI.

Occasionally, the Commission conducts APO breach investigations that involve members of a law firm or consultants working with a firm who were granted access to APO materials by the firm although they were not APO signatories. In many of these cases, the firm and the person using the BPI/CBI mistakenly believed an APO application had been filed for that person. The Commission has determined in all of these cases that the person who was a non-signatory, and therefore did not agree to be bound by the APO, could not be found to have breached the APO. However, under Commission rule 201.15 (19 CFR 201.15), the Commission may take action against these persons for good cause shown. In all cases in which the Commission has taken such action, it decided that the non-signatory appeared regularly before the Commission, was aware of the requirements and limitations related to APO access, and should have verified their APO status before obtaining access to and using the BPI/CBI. The Commission notes that section 201.15 may also be available to issue sanctions to attorneys or agents in different factual circumstances in which they did not technically breach the APO, but their action or inaction did not demonstrate diligent care of the APO materials, even though they appeared regularly before the Commission and were aware of the importance that the Commission places on the proper care of APO materials.

The Commission has held routinely that the disclosure of BPI/CBI through recoverable metadata or hidden text constitutes a breach of the APO even when the BPI/CBI is not immediately

visible without further manipulation of the document. In such cases, breaching parties have transmitted documents that appear to be public documents in which the parties have removed or redacted all BPI/CBI. However, further inspection of the document reveals that confidential information is actually retrievable by manipulating codes in software or through the recovery of hidden text or metadata. In such instances, the Commission has found that the electronic transmission of a public document with BPI/CBI in a recoverable form was a breach of the APO.

The Commission has cautioned counsel to ensure that each authorized applicant files with the Commission within 60 days of the completion of an import injury investigation or at the conclusion of judicial or binational review of the Commission's determination, a certificate stating that, to the signatory's knowledge and belief, all copies of BPI/CBI have been returned or destroyed, and no copies of such materials have been made available to any person to whom disclosure was not specifically authorized. This requirement applies to each attorney, consultant, or expert in a firm who has access to BPI/CBI. One firm-wide certificate is insufficient.

Attorneys who are signatories to the APO in a section 337 investigation should inform the administrative law judge and the Secretary if there are any changes to the information that was provided in the application for access to the CBI. This is similar to the requirement to update an applicant's information in title VII investigations.

In addition, attorneys who are signatories to the APO in a section 337 investigation should send a notice to the Commission if they stop participating in the investigation or the subsequent appeal of the Commission's determination. The notice should inform the Commission about the disposition of CBI obtained under the APO that was in their possession, or the Commission could hold them responsible for any failure of their former firm to return or destroy the CBI in an appropriate manner.

III. Specific APO Breach Investigations

Case 1. The Commission determined that two attorneys from different law firms who collaborated on a joint brief filed with the Court of International Trade in connection with a title VII investigation each breached the APO. Both attorneys breached the APO by publicly filing a brief that contained unredacted BPI, and then one of the attorneys breached the APO a second time by failing to completely redact the

BPI from the corrected version of the brief.

The first breach occurred when two law firms filed a joint public brief before the Court of International Trade that contained unredacted BPI in a footnote. Neither law firm identified the BPI as confidential or redacted it from the public brief during the review process. One of the law firms then filed the brief through the Court of International Trade's electronic filing system, where it remained publicly available until the next day. The second law firm identified the breach and notified the first law firm, which requested the brief's removal.

A second breach occurred when the first law firm electronically filed a corrected, second version of the brief. In the corrected version, the BPI was identified as such, but the redaction process failed to completely remove the BPI from the document, thereby leaving it retrievable by electronic means. The corrected version was also uploaded to the Court of International Trade's electronic filing system, where the document remained available for six days. One of the law firms also distributed the corrected version to five individuals employed by its client. The second law firm discovered that the BPI was improperly redacted, and the first law firm notified the Court of International Trade of the error, resulting in the removal of the corrected version. The Commission determined to hold both law firms responsible for the first breach and to hold the first law firm responsible for the second breach, given its role in preparing the corrected version of the brief and its responsibility for properly removing the BPI.

In determining whether to issue a sanction for the breach, the Commission considered the following mitigating factors: (1) both breaches were inadvertent and unintentional; (2) one of the law firms discovered both breaches; (3) after discovering the second breach, the breaching parties took prompt action to remedy it and prevent further dissemination of BPI; (4) the breaching parties implemented new procedures to prevent future similar breaches; and (5) the attorneys involved had not previously breached an APO in the two-year period preceding the dates of these breaches. The Commission also considered the following aggravating factors: (1) unauthorized individuals had access to and presumably viewed the BPI; (2) one of the breaching parties violated the APO in two different ways; and (3) one of the breaching parties failed to follow firm procedures for protecting BPI in the second breach.

The Commission issued a private letter of reprimand to one attorney from the first law firm, who was found to bear the ultimate responsibility for both breaches. The Commission also issued a warning letter to an attorney from the second law firm who assisted in the preparation of the brief. The Commission found that a warning letter was appropriate because that attorney had an opportunity to review the footnote while drafting the brief and to flag the BPI for redaction and removal.

Case 2. The Commission determined that three individuals breached the APO issued in a title VII investigation when they publicly filed and served to unauthorized parties a public version of a brief that contained unredacted BPI.

The law firm responsible for the breach filed an original and revised confidential version of its brief on the Commission's Electronic Document Information System ("EDIS"). The revised confidential version of the brief contained bracketing changes to BPI, including the complete redaction of two tables that contained BPI. The firm then filed a public version of the original confidential brief that did not include the redactions to the tables. The firm also served that public version of the brief to all parties on the public service list. Approximately two hours later, counsel from another law firm notified the breaching parties that the public version of the brief contained unredacted BPI. Upon receiving that notification, the breaching parties contacted the parties on the public service list and requested confirmation of destruction of the public version of the brief. The next day, the breaching parties contacted the Commission to request removal of the public version of the brief from EDIS. The breaching parties later filed a corrected public version of the brief, with the BPI redacted.

In determining whether to issue a sanction for the breach, the Commission considered the following mitigating factors: (1) the breach was unintentional and inadvertent; and (2) the breaching parties took prompt action to remedy the breach and prevent further dissemination of BPI; (3) the law firm promptly reported the breach to the Commission; and (4) the individuals involved had not previously breached an APO in the two-year period preceding the date of this breach. The Commission also considered as an aggravating factor that unauthorized individuals had access to and presumably viewed the BPI.

The Commission determined to issue a private letter of reprimand to the supervisory attorney who reviewed and

approved the filing of the original public version of the brief and failed to ensure that legal support staff complied with the APO. The Commission also determined to issue a private letter of reprimand to an office manager and a warning letter to a legal assistant for their respective roles in preparing the brief and contributing to the breach.

Case 3. The Commission determined that a law firm breached the APO issued in a section 337 investigation when it filed on EDIS and served to its clients a public version of a document that contained CBI from another party.

Two attorneys at the law firm were responsible for reviewing the public document for CBI. One of the attorneys received opposing counsel's proposed redactions to the document, but the receiving attorney reportedly failed to provide those redactions to the legal secretary who was assisting with preparing the document for filing. Thereafter, the attorney forwarded the document that the legal secretary prepared to a second attorney for review, along with opposing counsel's requested redactions. After the second attorney completed a review for CBI, the first attorney reviewed the document one more time before instructing the legal secretary to file the public document. The attorney also sent the finalized version to the law firm's clients. The next day, opposing counsel notified the attorney that the document contained unredacted CBI. The attorney instructed a firm paralegal to contact the Commission to request that the document be removed from EDIS. The attorney also contacted the clients who received a copy of the document to request its destruction.

In determining whether to issue a sanction for the breach, the Commission considered the following mitigating factors: (1) the breach was inadvertent and unintentional; (2) the law firm took prompt corrective action to investigate the breach and prevent further dissemination of CBI; (3) the law firm promptly self-reported the breach; (4) the law firm implemented new procedures to prevent against similar breaches in the future; and (5) the individuals involved had not been found to have breached an APO in the two years preceding the date of the breach. The Commission also considered the following aggravating factors: (1) the law firm did not discover its own breach; and (2) the breach resulted in exposure of CBI to unauthorized individuals.

The Commission issued a private letter of reprimand to both attorneys: one who reviewed and redacted the document, approved the public version

for filing, and served it on the firm's clients, and the other who reviewed and redacted the document but failed to protect the other party's CBI.

Case 4. The Commission determined that an economic consultant breached the APO in a title VII investigation by making BPI available to unauthorized parties on three separate occasions.

The document that was the subject of all three breaches was a presentation slide prepared by the consultant's firm. The slide at issue contained unredacted BPI that revealed information in a chart about pricing data. The first breach occurred when copies of the slide were distributed during a meeting that included individuals who were not authorized under the APO to receive BPI. The second breach occurred at a second meeting, to additional unauthorized individuals who were not present at the first meeting. The third breach occurred at a public Commission hearing when the economic consulting firm displayed the slide in question on a large screen and distributed paper copies. At the conclusion of the presentation, a Commission employee approached the economic consultant to express concerns that the slide had exposed BPI. At the conclusion of the hearing, the economic consultant attempted to retrieve the paper copies from the recipients, which the Commission then collected.

In determining whether to issue a sanction for the breach, the Commission considered the following mitigating factors: (1) all three breaches were inadvertent and unintentional; (2) the breaching party took prompt action to remedy the third breach and prevent further dissemination of BPI; (3) the breaching party implemented new procedures to prevent against similar breaches in the future; and (4) the individual involved had not previously breached an APO in the two-year period preceding the dates of these breaches. The Commission also considered the following aggravating factors: (1) all three breaches resulted in the exposure of BPI to unauthorized individuals; (2) the breaching party violated the APO on three occasions; and (3) the breaching party did not discover the breaches.

The Commission issued a private letter of reprimand to the economic consultant responsible for creating, reviewing, and disseminating the slide to unauthorized individuals.

By order of the Commission.

Issued: December 17, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024-30518 Filed 12-20-24; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On December 17, 2024, the United States lodged a proposed Consent Decree and Environmental Settlement Agreement with the United States Bankruptcy Court for the Southern District of Texas in the Chapter 11 bankruptcy cases filed by Vertex Energy, Inc., as Lead Debtor, and its Affiliated Debtors in the case captioned *In re Vertex Energy, Inc., et al.*, Case No. 24–90507–CML.

The proposed Consent Decree requires the Debtors, and after the effective date of the Debtors' plan of reorganization, the Reorganized Debtors, to retire over 18.7 million renewable identification number credits, currently estimated to cost approximately \$15 million, to satisfy the Debtors' 2023 and 2024 renewable volume obligations by March 31, 2025.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In re Vertex Energy, Inc., et al.*, D.J. Ref. No. 90–5–2–1–13141. All comments must be submitted no later than ten (10) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the proposed Consent Decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Patricia McKenna,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024-30505 Filed 12-20-24; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement with change of the "Contingent Work Supplement (CWS) to the Current Population Survey (CPS)" to be conducted in May 2025. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before February 21, 2025.

ADDRESSES: Send comments to Erin Good, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, by email to BLS_PRA_Public@bls.gov.

FOR FURTHER INFORMATION CONTACT: Erin Good, BLS Clearance Officer, at 202–691–7628 (this is not a toll-free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this request for review is for the Bureau of Labor Statistics (BLS) to obtain clearance for a reinstatement with change for the Contingent Work Supplement (CWS) to the Current Population Survey (CPS), which was last conducted in July 2023. The proposed CWS questions focus on people with contingent jobs—those that people do not expect to last or that are temporary—and workers in alternative employment arrangements, such as independent contractors, on-call

workers, temporary help agency workers, and workers provided by contract firms. There are also questions to identify digital labor platform workers, those who obtain work or pick tasks by using a digital labor platform mobile application (app) or website to directly connect them with customers or clients and arrange payment for the tasks.

Because this supplement is part of the CPS, the same detailed demographic information collected in the CPS will be available on respondents to the supplement. Comparisons will be possible across characteristics such as sex, race and ethnicity, age, and educational attainment of the respondent.

The CWS will provide information on the number and characteristics of workers in contingent jobs and alternative employment arrangements and those using digital labor platforms. The CWS was fielded periodically 5 times from 1995 to 2005 and then in May 2017 and July 2023. There is interest in more regular collection of these data to show how the number and characteristics of these workers are changing over time. The May 2025 CWS will allow researchers and policy makers to evaluate how the number and characteristics of these workers has evolved. Policy makers also can use these data to inform the design of regulations for different types of workers.

BLS is proposing modest changes to the May 2025 supplement, with the addition of three new questions about digital labor platform work. These questions will provide more information about the platforms, including whether the app controls the price or pay and how the app is used to get work.

II. Current Action

Office of Management and Budget clearance is being sought for the Contingent Work Supplement to the CPS. A reinstatement with change of this previously approved collection, for which approval has expired, is needed to provide the Nation with timely information about contingent and alternative work arrangements.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Title of Collection: Contingent Work Supplement (CWS) to the Current Population Survey (CPS).

OMB Number: 1220–0153.

Type of Review: Reinstatement, with change.

Affected Public: Households.

Total Number of Respondents: 48,000.

Frequency: Once.

Total Responses: 48,000.

Average Time per Response: 3 minutes.

Estimated Total Burden Hours: 2,400 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed on December 17, 2024.

Eric Molina,

*Chief, Division of Management Systems,
Branch of Policy Analysis.*

[FR Doc. 2024–30510 Filed 12–20–24; 8:45 am]

BILLING CODE 4510–24–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0212]

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 January 22, 2025. A request for a hearing or petitions for leave to intervene must be filed by February 21, 2025. This monthly notice includes all amendments issued, or proposed to be issued from November 7, 2024, to December 5, 2024. The last monthly notice was published on November 25, 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–2024–0212. 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:

Shirley Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5411; email: Shirley.Rohrer@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0212, 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–2024–0212.

• *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 ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *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-2024-0212, 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.

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 REQUEST(S)

Omaha Public Power District; Fort Calhoun Station, Unit No. 1; Washington County, NE

Docket No	50-285.
Application date	June 18, 2024, as supplemented by letter dated October 2, 2024.
ADAMS Accession No	ML24177A132, ML24276A217.
Location in Application of NSHC	Pages 9-10 of Attachment 1.
Brief Description of Amendment	The proposed amendment would revise the approved License Termination Plan (LTP) by revising the dose calculation for the auxiliary building basement, the requirements for remediation, and the survey methodologies in the LTP.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Stephen M. Bruckner, Attorney, Fraser Stryker PC LLO, 500 Energy Plaza, 409 South 17th Street, Omaha, NE 68102.
NRC Project Manager, Telephone Number	Jack Parrott, 301-415-6634.

LICENSE AMENDMENT REQUEST(S)—Continued

Constellation Energy Generation, LLC; Limerick Generating Station, Units 1 and 2; Montgomery County, PA

Docket No(s)	50–352, 50–353.
Application date	August 28, 2024, as supplemented by letter dated October 25, 2024.
ADAMS Accession No	ML24241A195, ML24299A264.
Location in Application of NSHC	Pages 6–8 of attachment 1.
Brief Description of Amendment(s)	The proposed amendments would modify the technical specifications (TSs) regarding the main steam isolation valve (MSIV) system leakage rate requirements. Currently, the TSs require verification of the leak rate through each MSIV. This amendment would change the local leak rate testing to verify leak rates through each main steam line. The amendment also includes editorial changes for expired footnotes.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jason Zorn, Associate General Counsel, Constellation Energy Generation, LLC, 101 Constitution Ave. NW, Suite 400 East, Washington, DC 20001.
NRC Project Manager, Telephone Number	Rachael Davis, 301–415–0805.

Entergy Operations, Inc.; Arkansas Nuclear One, Unit 1; Pope County, AR

Docket No	50–313.
Application date	July 2, 2024.
ADAMS Accession No	ML24184B775.
Location in Application of NSHC	Pages 12–14 of the Enclosure.
Brief Description of Amendment	The proposed amendment would modify the Arkansas Nuclear One, Unit 1 (ANO–1) Safety Analysis Report and the Confirmatory Order dated January 2, 1980 (ML021220215), to implement all “Category A” lessons learned requirements by January 31, 1980, for ANO–1. The proposed changes would address manual actions outside the control room to restore emergency power to the pressurizer heaters. These actions are required due to the plant’s design.
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	Mahesh Chawla, 301–415–8371.

Florida Power & Light Company, et al.; St. Lucie Plant, Unit Nos. 1 and 2; St. Lucie County, FL; Florida Power & Light Company; Turkey Point Nuclear Generating Unit Nos. 3 and 4; Miami-Dade County, FL; NextEra Energy Point Beach, LLC; Point Beach Nuclear Plant, Units 1 and 2; Manitowoc County, WI

Docket No(s)	50–250, 50–251, 50–335, 50–389, 50–266, 50–301.
Application date	October 8, 2024.
ADAMS Accession No	ML24282A904.
Location in Application of NSHC	Pages 5–7 of Enclosure 1.
Brief Description of Amendment(s)	The proposed amendments would revise the technical specifications for Point Beach Nuclear Plant, Units 1 and 2, St. Lucie, Units 1 and 2, and Turkey Point, Units 3 and 4, to relocate the staff qualification requirements to the Florida Power and Light Company and NextEra Energy quality assurance topical report.
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	Michael L. Marshall, Jr., 301–415–2871.

Northern States Power Company; Monticello Nuclear Generating Plant; Wright County, MN

Docket No	50–263.
Application date	September 26, 2024.
ADAMS Accession No	ML24270A102.
Location in Application of NSHC	Pages 3–4 to Enclosure.
Brief Description of Amendment	The proposed amendment would adopt Technical Specifications Task Force Traveler–554, Revision 1, “Revise Reactor Coolant Leakage Requirements,” which is an approved change to the Standard Technical Specifications, into the Monticello Nuclear Generating Plant Technical Specifications.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Peter M. Glass, Assistant General Counsel, Xcel Energy, 414 Nicollet Mall—401–8, Minneapolis, MN 55401.
NRC Project Manager, Telephone Number	Brent Ballard, 301–415–0680.

Northern States Power Company; Prairie Island Nuclear Generating Plant, Units 1 and 2; Goodhue County, MN

Docket No(s)	50–282, 50–306.
Application date	October 21, 2024.
ADAMS Accession No	ML24297A403.
Location in Application of NSHC	Pages 1–3 to Enclosure.

LICENSE AMENDMENT REQUEST(S)—Continued

Brief Description of Amendment(s)	The proposed amendments would modify the Prairie Island Nuclear Generating Plant, Units 1 and 2, technical specifications (TSs) to adopt Technical Specifications Task Force (TSTF)–591, “Revise Risk Informed Completion Time (RICT) Program.” TSTF–591 revises TS section 5.5 program, “Risk Informed Completion Time Program,” to reference Regulatory Guide 1.200, Revision 3, instead of Revision 2, and to make other changes. Also, a new report would be added to TS section 5.6 “Reporting Requirements,” to inform the NRC of newly developed methods used to calculate a RICT.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Peter M. Glass, Assistant General Counsel, Xcel Energy, 414 Nicollet Mall—401–8, Minneapolis, MN 55401.
NRC Project Manager, Telephone Number	Brent Ballard, 301–415–0680.

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 3 and 4; Burke County, GA

Docket No(s)	52–025, 52–026.
Application date	November 1, 2024.
ADAMS Accession No	ML24306A131.
Location in Application of NSHC	Pages E–6 through E–8 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would modify Vogtle Electric Generating Plant, Units 3 and 4, Combined Operating Licenses to remove the Mode 2 applicability for the Source Range Neutron Flux Doubling instrumentation as required by Technical Specification 3.3.8, “Engineered Safety Feature Actuation System (ESFAS) Instrumentation,” Table 3.3.8–1, Function 17, in addition to making an administrative change on Table 3.3.8–1.
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 415–6303.

Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Hamilton County, TN

Docket No(s)	50–327, 50–328.
Application date	November 26, 2024.
ADAMS Accession No	ML24331A178.
Location in Application of NSHC	Pages 9–10 to Enclosure.
Brief Description of Amendment(s)	The proposed amendments would revise Technical Specification Surveillance Requirement 3.4.14.1, “Reactor Coolant System (RCS) Pressure Isolation Valve (PIV) Leakage,” to only reference the Inservice Testing Program for the Frequency.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A–K, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Perry Buckberg, 301–415–1383.

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Coffey County, KS

Docket No	50–482.
Application date	December 2, 2024.
ADAMS Accession No	ML24337A123.
Location in Application of NSHC	Pages 5–6 of Attachment I.
Brief Description of Amendment	The proposed amendment would provide an additional year for implementation of License Amendment No. 237, which allows the use of portable lighting in the fire protection program.
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.

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 ISSUANCE(S)

Constellation Energy Generation, LLC; Limerick Generating Station, Units 1 and 2; Montgomery County, PA

Docket No(s)	50–352, 50–353.
Amendment Date	October 31, 2024.
ADAMS Accession No	ML24151A384.
Amendment No(s)	264 (Unit 1), 226 (Unit 2).
Brief Description of Amendment(s)	The amendments made changes to technical specifications (TSs) related to postulated accidents during cold shutdown and refueling operations and made temporary changes to the TSs related to anticipated transients without scram mitigation systems during power production operation for a period of 30 days.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Constellation FitzPatrick, LLC and Constellation Energy Generation, LLC; James A. FitzPatrick Nuclear Power Plant; Oswego County, NY

Docket No	50–333.
Amendment Date	November 19, 2024.
ADAMS Accession No	ML24313A147.
Amendment No)	358.
Brief Description of Amendment	The amendment revised Technical Specification 3.3.2.1, “Control Rod Block Instrumentation,” Required Action C.2.1.2 to temporarily permit reactor startup with the rod worth minimizer inoperable while compensatory measures are implemented. This temporary allowance expires December 31, 2024.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Dominion Energy Nuclear Connecticut, Inc.; Millstone Power Station, Unit No. 3; New London County, CT

Docket No)	50–423.
Amendment Date	November 19, 2024.
ADAMS Accession No	ML24296B235.
Amendment No	291.
Brief Description of Amendment	The amendment revised the Millstone Power Station (MPS3), Unit 3, technical specifications (TSs) to support the implementation of Framatome GAIA fuel, which is currently scheduled for insertion into the MPS3 reactor during the spring 2025 refueling outage. Specifically, the TS changes include updating the reactor core safety limits (TS 2.1.1.1), reducing the Reactor Trip System Instrumentation Trip Setpoint for the P–8 Interlock (TS table 2.2–1, Item 18.c), and adding to the list of approved methodologies for the Core Operating Limits Report (TS 6.9.1.6.b). Additionally, the amendment approves mixed-core departure from nucleate boiling (DNB) penalties for application to retained DNB margin, the use of design basis limits for a fission product barrier associated with MPS3, and specific application of methods needed to support GAIA fuel implementation.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

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; Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; St. Charles Parish, LA

Docket No(s)	50–416, 50–458, 50–382.
Amendment Date	November 8, 2024.
ADAMS Accession No	ML24289A031.
Amendment No(s)	236 (Grand Gulf), 216 (River Bend), and 272 (Waterford 3).
Brief Description of Amendment(s)	The amendments removed License Condition 2.F, which requires Grand Gulf Nuclear Station, Unit 1; River Bend Station, Unit 1; and Waterford Steam Electric Station, Unit 3 to report certain violations of Renewed Facility Operating License Section 2.C within 24 hours to the NRC Operations Center via the emergency notification system with a written follow-up at a later date. This change is consistent with the notice published in the Federal Register on November 4, 2005 (70 FR 67202), as part of the consolidated line-item improvement process.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Nebraska Public Power District; Cooper Nuclear Station; Nemaha County, NE

Docket No	50–298.
Amendment Date	November 25, 2024.
ADAMS Accession No	ML24289A233.
Amendment No	279.

LICENSE AMENDMENT ISSUANCE(S)—Continued

Brief Description of Amendment	The amendment revised the allowable value for Cooper Nuclear Station Technical Specification (TS) 3.3.5.1, "Emergency Core Cooling System (ECCS) Instrumentation," table 3.3.5.1-1, "Emergency Core Cooling System Instrumentation," function 3.f, "High Pressure Coolant Injection Pump Discharge Flow—Low (Bypass)," from greater than or equal to ($\geq$) 490 gallons per minute (gpm) to $\geq$ 523 gpm.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
NextEra Energy Point Beach, LLC; Point Beach Nuclear Plant, Units 1 and 2; Manitowoc County, WI	
Docket No(s)	50-266, 50-301.
Amendment Date	November 21, 2024.
ADAMS Accession No	ML24303A340.
Amendment No(s)	275 (Unit 1); 277 (Unit 2).
Brief Description of Amendment(s)	The amendments revised Technical Specification (TS) 3.6.5, "Containment Air Temperature," by specifying a single containment average air temperature limit and deleting current TS limiting condition for operation 3.6.5a, 3.6.5b, and 3.6.5c.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Dated: December 18, 2024.

For the Nuclear Regulatory Commission.

Jamie Pelton,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2024-30551 Filed 12-20-24; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0031]

Information Collection: Requests for Reasonable Accommodations From Non-Federal Entities

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on this proposed information collection. The information collection is entitled, "Requests for Reasonable Accommodations from Non-Federal Entities."

DATES: Submit comments by February 21, 2025. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2022-0031. 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:* David Cullison, Office of the Chief Information Officer, Mail Stop: T-6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

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:

David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: *Infocollects.Resource@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2022-0031 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-2022-0031.
- *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 supporting statement and NRC Form 726 are available in ADAMS under Accession Nos. ML22271A874 and ML24180A075, respectively.

- *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.

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: *Infocollects.Resource@nrc.gov*.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2022-0031, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC is requesting public comment on its intention to request the Office of Management and Budget (OMB) approval for the information collection summarized as follows.

1. *The title of the information collection:* Requests for Reasonable Accommodations from Non-Federal Entities.
2. *OMB approval number:* An OMB control number has not yet been assigned to this proposed information collection.
3. *Type of submission:* New.
4. *The form number, if applicable:* NRC Form 726.
5. *How often the collection is required or requested:* On Occasion.
6. *Who will be required or asked to respond:* Non-Federal applicants for employment.
7. *The estimated number of annual responses:* 10.
8. *The estimated number of annual respondents:* 10.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 30.
10. *Abstract:* This clearance is being requested to collect information from the requestor: (1) describing the accommodation(s) desired; (2) providing the relevant basis for the request; (3) describing the connection between the basis for request and the accommodation; and, if necessary, (4) subsequently collect medical documentation to support the request.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.
2. Is the estimate of the burden of the information collection accurate? Please explain your answer.
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents

be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: December 18, 2024.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2024–30545 Filed 12–20–24; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2025–845 and K2025–846; MC2025–869 and K2025–870; MC2025–870 and K2025–871; MC2025–871 and K2025–872; MC2025–872 and K2025–873; MC2025–873 and K2025–874; MC2025–874 and K2025–875; MC2025–875 and K2025–876; MC2025–876 and K2025–877; MC2025–877 and K2025–878; MC2025–878 and K2025–879; MC2025–879 and K2025–880; MC2025–881 and K2025–882; MC2025–887 and K2025–888; MC2025–888 and K2025–889; MC2025–889 and K2025–890; MC2025–890 and K2025–891; MC2025–891 and K2025–892; MC2025–892 and K2025–893; MC2025–893 and K2025–894; MC2025–894 and K2025–895; MC2025–895 and K2025–896; MC2025–896 and K2025–897; MC2025–897 and K2025–898; MC2025–898 and K2025–899; MC2025–899 and K2025–900; MC2025–900 and K2025–901; MC2025–901 and K2025–902; MC2025–902 and K2025–903; MC2025–903 and K2025–904; MC2025–904 and K2025–905; MC2025–905 and K2025–906; MC2025–906 and K2025–907]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 26, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Public Proceeding(s)

III. Summary Proceeding(s)

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 (<https://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).

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).

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)*: MC2025–845 and K2025–846; *Filing Title*: USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 54 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Katalin Clendenin; *Comments Due*: December 26, 2024.

2. *Docket No(s)*: MC2025–869 and K2025–870; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1094 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Maxine Bradley; *Comments Due*: December 26, 2024.

3. *Docket No(s)*: MC2025–870 and K2025–871; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1095 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Maxine Bradley; *Comments Due*: December 26, 2024.

4. *Docket No(s)*: MC2025–871 and K2025–872; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1096 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Maxine Bradley; *Comments Due*: December 26, 2024.

5. *Docket No(s)*: MC2025–872 and K2025–873; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1097 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public*

Representative: Maxine Bradley; *Comments Due*: December 26, 2024.

6. *Docket No(s)*: MC2025–873 and K2025–874; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1098 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Maxine Bradley; *Comments Due*: December 26, 2024.

7. *Docket No(s)*: MC2025–874 and K2025–875; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1099 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Arif Hafiz; *Comments Due*: December 26, 2024.

8. *Docket No(s)*: MC2025–875 and K2025–876; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1100 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Christopher Mohr; *Comments Due*: December 26, 2024.

9. *Docket No(s)*: MC2025–876 and K2025–877; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1101 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Christopher Mohr; *Comments Due*: December 26, 2024.

10. *Docket No(s)*: MC2025–877 and K2025–878; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1102 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Jennaca Upperman; *Comments Due*: December 26, 2024.

11. *Docket No(s)*: MC2025–878 and K2025–879; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1103 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance*

Date: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Christopher Mohr; *Comments Due*: December 26, 2024.

12. *Docket No(s)*: MC2025–879 and K2025–880; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1104 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Jennaca Upperman; *Comments Due*: December 26, 2024.

13. *Docket No(s)*: MC2025–881 and K2025–882; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1106 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Christopher Mohr; *Comments Due*: December 26, 2024.

14. *Docket No(s)*: MC2025–887 and K2025–888; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1108 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Maxine Bradley; *Comments Due*: December 26, 2024.

15. *Docket No(s)*: MC2025–888 and K2025–889; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1109 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Arif Hafiz; *Comments Due*: December 26, 2024.

16. *Docket No(s)*: MC2025–889 and K2025–890; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1110 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Arif Hafiz; *Comments Due*: December 26, 2024.

17. *Docket No(s)*: MC2025–890 and K2025–891; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2024–30609 Filed 12–20–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101945; File No. SR–DTC–2024–012]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update the ClaimConnect™ Service Guide

December 17, 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 December 5, 2024, The Depository Trust Company (“DTC”) 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 clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act ³ and Rule 19b–4(f)(4) thereunder. ⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change ⁵ consists of amendments to the DTC ClaimConnect™ Service Guide (“ClaimConnect Guide”) ⁶ to (i) enable ClaimConnect users (“Users”) to submit and affirm multiple claims at once (*i.e.*, the “Claim Upload” function), and (ii) make clarifying, technical, and ministerial changes, as described in greater detail below.

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change will update the ClaimConnect Guide to (i) enable Users to submit and affirm multiple claims at once (*i.e.*, the “Claim Upload” function), and (ii) make clarifying, technical, and ministerial changes, as more fully described below.

Background

ClaimConnect is a service available to all Participants. The service enables Participants to bilaterally match and settle cash claim transactions at DTC.

With respect to ClaimConnect, a cash claim or cash claim transaction is a cash entitlement (*i.e.*, a request for cash) from one Participant to another Participant. Typically, cash claims arise as a result of trading exceptions from a Corporate Action event, where a cash entitlement needs to be delivered from one holder to another.

ClaimConnect is a validation and matching engine that continually monitors claims throughout their lifecycle in order to settle and close claims through DTC’s settlement process. This continuous processing allows for both the manual matching of claims (*i.e.*, affirmation) by Users and systematic matching of two like claims by ClaimConnect based on the alignment of certain data elements (*i.e.*, auto-matching). ⁷

Proposed Rule Change

Claim Processing via Claim Upload

Currently, for a User to submit a claim via the ClaimConnect web application, the User must manually submit each claim individually. This individual, manual process can be arduous and time consuming for Participants who

need to submit multiple claims.

Therefore, pursuant to the proposed rule change, a function will be added to ClaimConnect (*i.e.*, the “Claim Upload” function”) to enable Users to submit and affirm multiple claims, at once, via the ClaimConnect web application located in the MyDTCC portal, by uploading a type of file specified in the ClaimConnect web application (*e.g.*, a comma separated value file).

Before a Claim Upload submission is processed, the system will perform a validation check to ensure all field values for each claim included are accurate. Claims that fail validation are flagged and rejected and will need to be corrected and resubmitted manually. Users will have the option to either reject all claims included in the uploaded file, even claims that passed validation, and upload a new file, or the User can continue with the claims that passed validation and then, separately, upload a new file containing only the claims that needed to be corrected. However, since Claim Upload does not offer an automated modification function, Users are only able to submit and affirm claims, and any modifications or cancellations of previously submitted claims must be made manually.

In further support of the new Claim Upload function, the proposed rule change will (i) add a “Claim Upload” definition to mean “a claim-submission option, via the ClaimConnect web application in the MyDTCC portal, for Users to submit and affirm multiple claims at one time by uploading a type of file specified in the ClaimConnect web application,” (ii) explain that claims can be submitted and affirmed manually, either individually or in bulk via Claim Upload, and (iii) direct Users to the DTCC Learning Center page to obtain more information about Claim Upload.

Technical and Clarifying Changes

Additionally, the proposed rule change will make clarifying, technical, and ministerial changes to the ClaimConnect Guide to (i) update the copyright date, (ii) remove a broken URL address for the DTCC Learning Center, and (iii) clarify that certain references to the MyDTCC portal are, more specifically, references to the ClaimConnect web application in the portal.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires that the rules of the clearing agency be designed, *inter alia*, to promote the prompt and accurate clearance and settlement of securities

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b–4(f)(4).

⁵ Each capitalized term not otherwise defined herein has its respective meaning as set forth the Rules, By-Laws and Organization Certificate of DTC (the “Rules”) available at www.dtcc.com/legal/rules-and-procedures.aspx or the DTC ClaimConnect™ Service Guide, available at www.dtcc.com/-/media/Files/Downloads/legal/service-guides/ClaimConnect.pdf.

⁶ ClaimConnect Guide, *supra* note 5.

⁷ For more information about ClaimConnect, see Securities Exchange Act Release No. 90481 (Nov. 23, 2020), 85 FR 76640 (Nov. 30, 2020) (SR–DTC–2020–012).

transactions.⁸ DTC believes that the proposed rule change is consistent with the Section 17A(b)(3)(F) of the Act, as cited above.

As described above, the proposed rule change will update the ClaimConnect Guide to (i) add the Claim Upload function and (ii) make clarifying, technical, and ministerial changes.

Collectively, the proposed changes are intended to streamline and enhance claim processing related to trading exceptions from Corporate Action events associated with securities maintained by DTC by enabling easier submission and affirmation of multiple claims and ensuring the ClaimConnect Guide is clear, accurate, and current. By improving the claim management process for securities held at DTC for its Participants, DTC believes that the proposed rule change would help promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F) of the Act, cited above.

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition because, as described above, the proposed rule change simply updates the ClaimConnect Guide to add the Claim Upload function and make clarifying, technical, and ministerial changes to better describe the service and ensure the Guide is current, none of which should have any competitive impact on Participants or their use of DTC services.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, DTC will amend this filing to publicly file such comments as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting written comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their

name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on *How to Submit Comments*, available at www.sec.gov/regulatory-actions/how-to-submit-comments. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

DTC reserves the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)⁹ of the Act and paragraph (f)¹⁰ of Rule 19b-4 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.

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-DTC-2024-012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.
- All submissions should refer to file number SR-DTC-2024-012. 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 DTC and on DTCC's website (dtcc.com/legal/sec-rule-filings). 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-DTC-2024-012 and should be submitted on or before January 13, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-30529 Filed 12-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101946; File No. SR-DTC-2024-014]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Clearing Agency Operational Risk Management Framework

December 17, 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 December 11, 2024, The Depository Trust Company ("DTC") 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 clearing agency. DTC filed the proposed rule change pursuant to

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f).

Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(4) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Clearing Agency Operational Risk Management Framework ("ORM Framework" or "Framework") of DTC and its affiliates National Securities Clearing Corporation ("NSCC") and Fixed Income Clearing Corporation ("FICC," and together with NSCC and DTC, the "Clearing Agencies") in order to reflect recent changes to group names and make other nonmaterial clarifying edits.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Clearing Agencies adopted the ORM Framework⁵ to provide an outline for how each of the Clearing Agencies manages its operational risks. In this way, the Framework supports the Clearing Agencies' compliance with Rule 17ad-22(e)(17) under the Act,⁶ as described in the Initial Filing. In addition to setting forth the way each of the Clearing Agencies addresses these requirements, the ORM Framework also contains a section titled "Framework Ownership and Change Management" that, among other matters, describes the Framework ownership and the required governance process for review and approval of changes to the Framework.

In connection with the annual review and approval of the Framework by the

Board of Directors of each of the Clearing Agencies, the Clearing Agencies are proposing to make certain revisions to the Framework. Such proposed changes would include updating the ORM Framework to reflect recent changes to group names and making other nonmaterial clarifying edits. The proposed changes are described in greater detail below.

i. Proposed Amendments To Update Organizational Name Changes

The Framework is owned and managed by an officer within the Operational Risk group within the Group Chief Risk Office of DTCC,⁷ who works with the Technology Risk Management group within the Group Chief Risk Office in administration of the Framework. The Technology Risk Management group's name has changed to the Cyber Security & Technology Risk Management group. The proposed changes to the Framework would reflect the recent organizational name change.

ii. Proposed Changes To Make Nonmaterial Clarifying Edits

The proposed rule change would make additional immaterial edits to the Framework that include (a) the removal of a defined term not used in the Framework and therefore unnecessary, and (b) adding additional context in Section 6 related to data centers. The proposed changes to Section 6 add context around data centers, specifically the out-of-region centers, to allow for greater understanding of configurations, parameters, and limitations. This proposed change also provides consistency across the Clearing Agencies disclosures. These immaterial changes do not alter how the Clearing Agencies comply with the applicable requirements of Rule 17ad-22(e)(17) under the Act.⁸

2. Statutory Basis

The Clearing Agencies believe that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act⁹ for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is

responsible.¹⁰ The proposed changes to update the ORM Framework to reflect recent changes to group names and making other nonmaterial clarifying edits would update and clarify the Framework and would make it more comprehensive in how it describes the methods and tools currently used by the Clearing Agencies to manage operational risks and therefore comply with Section 17A(b)(3)(F) of the Act.¹¹ By creating clearer, updated and more comprehensive descriptions, the Clearing Agencies believe the proposed changes would make the ORM Framework more effective in providing an overview of the important risk management activities described therein. Therefore, the Clearing Agencies believe that the proposed changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act.¹²

(B) Clearing Agency's Statement on Burden on Competition

The Clearing Agencies do not believe that the proposed changes to the ORM Framework described above would have any impact, or impose any burden, on competition. The proposed changes would enhance the Framework by providing additional clarity and accuracy concerning the Clearing Agencies' operational risk management processes. The proposed changes to the Framework would not advantage or disadvantage any participant or user of the Clearing Agencies' services or unfairly inhibit access to the Clearing Agencies' services. As such, the Clearing Agencies do not believe that the proposed rule changes would have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Clearing Agencies have not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(4).

⁵ See Securities Exchange Act Release No. 81745 (Sept. 28, 2017), 82 FR 46332 (Oct. 4, 2017) (SR-DTC-2017-014; SR-NSCC-2017-013; SR-FICC-2017-017) ("Initial Filing").

⁶ 17 CFR 240.17ad-22(e)(17).

⁷ The Depository Trust & Clearing Corporation ("DTCC") is the parent company of the Clearing Agencies.

⁸ 17 CFR 240.17ad-22(e)(17).

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at <https://www.sec.gov/regulatory-actions/how-to-submitcomments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

The Clearing Agencies reserve the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) ¹³ of the Act and paragraph (f) ¹⁴ of Rule 19b-4 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-DTC-2024-014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR-DTC-2024-014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use

only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's website (dtcc.com/legal/sec-rule-filings). 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-DTC-2024-014 and should be submitted on or before January 13, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-30528 Filed 12-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101939; File No. SR-NYSEARCA-2024-87]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt New NYSE Arca Rule 8.800-E To Provide for the Listing and Trading of Commodity- and/or Digital Asset-Based Investment Interests and To List and Trade Shares of the Grayscale Digital Large Cap Fund LLC

December 17, 2024.

On October 15, 2024, NYSE Arca, Inc. 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 new NYSE Arca Rule 8.800-E to provide for the listing and trading of Commodity- and Digital Asset-Based Investment Interests and to list and trade shares of the Grayscale Digital Large Cap Fund LLC under proposed NYSE Arca Rule 8.800-E. The proposed rule change was published for comment in the **Federal Register** on November 4, 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 December 19, 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 February 2, 2025, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NYSEARCA-2024-87).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-30523 Filed 12-20-24; 8:45 am]

BILLING CODE 8011-01-P

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 101470 (Oct. 29, 2024), 89 FR 87681.

⁴ 15 U.S.C. 78s(b)(2).

⁵ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30-3(a)(31).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f).

¹⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101949; File No. SR–NSCC–2024–011]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Addendum A (Fee Structure)

December 17, 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 December 9, 2024, National Securities Clearing Corporation (“NSCC”) 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 clearing agency. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b–4(f)(2) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

NSCC is filing the proposed rule change to modify Addendum A (Fee Structure) (“Addendum A”) of NSCC’s Rules & Procedures (“Rules”) to modify the Clearing Fund Maintenance Fee, as described below.⁵

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Addendum A (Fee Structure) of the Rules to modify NSCC’s Clearing Fund Maintenance Fee effective January 1, 2025. The proposed fee change is discussed in detail below.

Background

NSCC’s Clearing Fund Maintenance Fee was implemented in 2016 in order to (i) diversify NSCC’s revenue sources, mitigating NSCC’s dependence on revenues driven by trading volumes and (ii) add a stable revenue source that would contribute to NSCC’s operating margin by offsetting increasing costs and expenses.⁶ The fee is charged to all NSCC Members that are required to make deposits to the NSCC Clearing Fund in proportion to the Member’s average monthly cash deposit to the Clearing Fund.

In June 2022, NSCC launched its Securities Financing Transaction (“SFT”) clearing service.⁷ The SFT clearing service provides central clearing for SFTs, which are, broadly speaking, transactions where members borrow or lend eligible securities versus cash and simultaneously agree to exchange the same securities and cash, plus or minus a rate payment, on a future date. NSCC novates the on leg of SFT trades as a central counterparty and risk manages the outstanding SFTs through maturity. The SFT clearing service allows Members to clear SFTs for their own proprietary accounts and established new membership categories and account types for Sponsoring Members, Sponsored Members and Agent Clearing Members.⁸

SFT Members are required to make contributions to the Clearing Fund (“Required Fund Deposits”)⁹ for each

applicable SFT Account¹⁰ that they maintain for the SFT Clearing Service.¹¹ The cash deposits made to satisfy Required Fund Deposits for SFT Accounts are currently subject to the Clearing Fund Maintenance Fee. SFT Members also pay Trade Clearance Fees that include: (i) a fee of \$1.00 per side of each new SFT submitted (excluding any Linked SFT and Sponsored Member Transactions) and (ii) a fee of \$0.14 per million of outstanding SFT notional balance.¹²

Proposed Fee Change

Pursuant to Section V.F of Addendum A, NSCC charges a Clearing Fund Maintenance Fee, which is a monthly fee calculated, in arrears, as the product of (A) 0.35% and (B) the average of each Member’s cash deposit balance in the Clearing Fund, as of the end of each day, for the month, multiplied by the number of days for that month and divided by 360.

NSCC has evaluated the application of the Clearing Fund Maintenance Fee to cash deposits in SFT Accounts and determined to exclude SFT Accounts from the Clearing Fund Maintenance Fee. In the current bilateral market for this activity, which is not cleared, SFTs are generally subject to standard haircuts regardless of the instrument or its volatility. In the NSCC SFT clearing service, NSCC utilizes a Value-at-Risk (“VaR”) model designed to specifically manage the market and volatility risk of the underlying assets. NSCC’s VaR charge for SFTs is typically greater than the standard haircut generally used in the bilateral market and therefore raises the costs of clearing such activity. Specifically, the margin requirements associated with SFTs in the SFT clearing service increase the amount of capital necessary to participate in the service. SFT Member profit margins are traditionally slim as lenders must pass a large portion of their profits back to the beneficial owners of the underlying securities. The additional 35 basis point fee charged via the NSCC Clearance Fund Maintenance Fee may therefore create a negative return for certain

definition of Required Fund Deposit in Rule 1, *supra* note 5.

¹⁰ SFT Account is defined to include an SFT Member’s SFT Account for proprietary activity as well as any Agent Clearing Member Customer Omnibus Account and any Sponsored Member Sub-Account. *See* definition of SFT Account in Rule 1, *supra* note 5.

¹¹ *See* Section 12 of NSCC Rule 56 for Required SFT Deposit generally, Section 7 of NSCC Rule 2C for Sponsoring Member Required Fund Deposit, and Section 6 of NSCC Rule 2D for Agent Clearing Member Required Fund Deposit, *supra* note 5.

¹² *See* Section II.A.2. of Addendum A of the NSCC Rules, *supra* note 5.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b–4(f)(2).

⁵ Capitalized terms not defined herein are defined in the Rules, available at www.dtcc.com/legal/rules-and-procedures.

⁶ *See* Securities Exchange Act Release No. 78525 (Aug. 9, 2016), 81 FR 54146 (Aug. 15, 2016) (SR–NSCC–2016–002).

⁷ *See* Securities Exchange Act Release No. 95011 (May 31, 2022), 87 FR 34339 (June 6, 2022) (SR–NSCC–2022–003) (Order Approving Proposed Rule Change to Introduce Central Clearing for Securities Financing Transaction Clearing Service). NSCC also filed the proposal as advance notice SR–NSCC–2022–801. *See* Securities Exchange Act Release No. 94998 (May 27, 2022), 87 FR 33528 (June 2, 2022) (SR–NSCC–2022–801) (Notice of No Objection to Advance Notice to Introduce Central Clearing for Securities Financing Transaction Clearing Service).

⁸ *See* NSCC Rule 2C for Sponsoring Member and Sponsored Member requirements and NSCC Rule 2D for Agent Clearing Member requirements, *supra* note 5.

⁹ Required Fund Deposit is generally defined to include the Sponsoring Member Required Fund Deposit, the Agent Clearing Member Required Fund Deposit and the Required SFT Deposit. *See*

Members attempting to use the SFT clearing service and may also serve to discourage broader participation, volumes, and liquidity in the SFT clearing service. NSCC also notes that SFTs are currently subject to Trade Clearance Fees that include: (i) a fee of \$1.00 per side of each new SFT submitted (excluding any Linked SFT and Sponsored Member Transactions) and (ii) a fee of \$0.14 per million of outstanding SFT notional balance, which are intended to cover the necessary costs of maintaining the service.¹³

To effectuate the proposed fee change, NSCC would amend Section V.F. of Addendum A concerning the Clearing Fund Maintenance Fee by inserting a parenthetical statement to clarify that the calculation of the average of each Member's cash deposit balance in the Clearing Fund would exclude cash deposit balances in any SFT Accounts.

Expected Impact

The proposed fee change would have a minimal impact on Members and on NSCC's overall revenues. Based on an analysis of NSCC's SFT Account cash deposits and year-to-date revenues, the impact of the proposed fee change would be significantly less than one percent of NSCC's overall revenues and would result in only slightly lower Clearing Fund Maintenance Fees for NSCC Members participating in the SFT clearing service.

Member Outreach

NSCC will perform outreach to those Members with SFT Accounts to notify them of the change. The Commission will be notified of any written comments received.

Implementation Timeframe

NSCC would implement this proposal on January 1, 2025. As proposed, a legend would be added to Addendum A stating there are changes that became effective upon filing with the Commission but have not yet been implemented. The proposed legend also would include the date on which such changes would be implemented and the file number of this proposal, and state

that, once this proposal is implemented, the legend would automatically be removed.

2. Statutory Basis

NSCC believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, NSCC believes the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act¹⁴ and Rule 17ad-22(e)(23)(ii)¹⁵ thereunder for the reasons set forth below.

Section 17A(b)(3)(D) of the Act¹⁶ requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. NSCC believes the proposed fee change is reasonable and would be allocated equitably among its full-service Members. Members participating in the SFT clearing service are already subject to the Clearing Fund Maintenance Fee for all cash balances in their primary full-service accounts, which constitute the vast majority of NSCC's Clearing Fund cash balances, similar to all other full-service Members. Moreover, the SFT Trade Clearance Fees, and not the Clearance Fund Maintenance Fee, are primarily intended to cover the costs of maintaining the SFT clearing service. Any Member that wishes to join the SFT clearing service in the future would receive the same treatment on their SFT Account cash balances. As a result, NSCC believes the proposed change to the Clearing Fund Maintenance Fee is equitable.

NSCC also believes that the proposed change to the Clearing Fund Maintenance Fee is reasonable. As described above, the application of the Clearance Fund Maintenance Fee can create negative returns for certain Members attempting to use the SFT clearing service and may also serve to discourage broader participation, volumes, and liquidity in the SFT clearing service. Moreover, as noted above, the Trade Clearance Fees, and not the Clearance Fund Maintenance Fee, are primarily intended to cover the cost of the SFT clearing service. Additionally, Members participating in the SFT clearing service are already subject to the Clearance Fund Maintenance Fee for all cash balances in their primary full-service accounts, similar to all other full-service Members. The proposed change is designed to reduce economic burdens

on SFT clearing and promote greater access to the service for NSCC's Members. For this reason, NSCC believes the proposed change to the Clearing Fund Maintenance Fee is reasonable.

Rule 17ad-22(e)(23)(ii) under the Act¹⁷ requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. The proposed fees would be clearly and transparently published in Addendum A of the Rules, which are available on a public website,¹⁸ thereby enabling Members to identify the fees and costs associated with participating in NSCC. As such, NSCC believes the proposed rule change is consistent with Rule 17ad-22(e)(23)(ii) under the Act.¹⁹

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act²⁰ requires that the rules of the clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the Act. NSCC does not believe that the proposed change to the Clearing Fund Maintenance Fee would impose any burden on competition. The proposed rule change would result in a reduction of fees to Members using NSCC's SFT clearing service and would apply to any Member using or desiring the use the SFT clearing service. NSCC believes the proposed fee change would not unfairly inhibit access to NSCC's services by any Member, and in fact, is designed to reduce burdens on SFT clearing and promote greater access to the service for NSCC's Members. NSCC therefore believes the proposed rule change would have a minimal impact on Members and would not impose any burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has conducted outreach to Members to provide them with notice of the proposed fees.

NSCC has not received or solicited any written comments relating to this proposal. If any written comments are received, NSCC will amend this filing to

¹³ NSCC's fees are cost-based plus a markup as approved by the Board of Directors or management (pursuant to authority delegated by the Board), as applicable. This markup is applied to recover development costs and operating expenses and to accumulate capital sufficient to meet regulatory and economic requirements. NSCC maintains procedures to control costs and regularly review pricing levels against costs of operation. See NSCC Disclosure Framework for Covered Clearing Agencies and Financial Market Infrastructures, available at www.dtcc.com/legal/policy-and-compliance.

¹⁴ 15 U.S.C. 78q-1(b)(3)(D).

¹⁵ 17 CFR 240.17ad-22(e)(23)(ii).

¹⁶ 15 U.S.C. 78q-1(b)(3)(D).

¹⁷ 17 CFR 240.17ad-22(e)(23)(ii).

¹⁸ See *supra* note 5.

¹⁹ 17 CFR 240.17ad-22(e)(23)(ii).

²⁰ 15 U.S.C. 78q-1(b)(3)(I).

publicly file such comments as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at www.sec.gov/regulatory-actions/how-to-submit-comments. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

NSCC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) ²¹ of the Act and paragraph (f) ²² of Rule 19b-4 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NSCC-2024-011 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR-NSCC-2024-011. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (www.dtcc.com/legal/sec-rule-filings). 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-NSCC-2024-011 and should be submitted on or before January 13, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-30527 Filed 12-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101943; File No. SR-NASDAQ-2024-081]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 3

December 17, 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 December 3, 2024, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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 increase the Exchange's port pricing in The Nasdaq Options Market LLC ("NOM") Rules at Options 7, Section 3 for the Specialized Quote Feed ("SQF")³ Ports and SQF Purge Ports.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2025.⁴

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ "Specialized Quote Feed" or "SQF" is an interface that allows Market Makers to connect, send, and receive messages related to quotes and Immediate-or-Cancel Orders into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; and (8) opening imbalance messages. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, Market Order Spread Protection, or Size Limitation in Options 3, Section 15(a)(1) and (a)(2), and (b)(2), respectively. See Options 3, Section 7(e)(1)(B).

⁴ The Exchange initially filed this fee proposal as SR-NASDAQ-2024-063 on October 18, 2024. On December 3, 2024, the Exchange withdrew SR-NASDAQ-2024-063 and replaced it with this fee change.

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f).

²³ 17 CFR 200.30-3(a)(12).

office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Options 7, Section 9, B to increase the Exchange's SQF Port Fee and SQF Purge Port Fees by 10%.

Options 7, Section 9, B includes the Exchange's fees that relate to SQF Ports and SQF Purge Ports that Market Makers⁵ use to connect to the Exchange to send quotes. Today, NOM assesses SQF Ports and SQF Purge Ports a per port, per month fee based on a tiered fee schedule. Specifically, NOM assesses an SQF Port and an SQF Purge Port Fee of \$1,500 per port, per month for the first 5 ports (1–5), a \$1,000 per port, per month fee for the next 15 ports (6–20), and a \$500 per port, per month fee for all ports over 20 ports (21 and above). With this proposal, NOM would assess Market Makers the following SQF Port and an SQF Purge Port Fees: \$1,650 per port, per month for the first 5 ports (1–5), a \$1,100 per port, per month fee for the next 15 ports (6–20), and a \$550 per port, per month fee for all ports over 20 ports (21 and above). The fees represent a 10% increase from the current tiered fees.

The proposed SQF Port Fee and SQF Purge Port Fee increases would enable the Exchange to maintain and improve its market technology and services to remain competitive with its peers. Over the years, customer demand for risk protections and capacity has increased. The Exchange continues to invest in

maintaining, improving, and enhancing its port protocols like SQF Ports and SQF Purge Ports—for the benefit and often at the behest of its customers. Such enhancements include refreshing hardware, upgrading risk protections and information security, and offering customers additional capacity. Nevertheless, the Exchange has not increased NOM's SQF Port Fee since 2016,⁶ and has not increased its SQF Purge Port Fee since 2018⁷ where inflation has been roughly 10% since 2016 and 9% since 2018 as measured using the metric described below. As such, the Exchange proposes to increase its SQF Port Fee and SQF Purge Port Fees by 10% with respect to inflation that has occurred since 2016 and since 2018 to align with the foregoing fee increases.

As discussed below, the Exchange proposes to adjust its pricing by an industry- and product-specific inflationary measure. It is reasonable and consistent with the Act for the Exchange to recoup its investments, at least in part, by adjusting its pricing. Continuing to operate at pricing frozen at 2016 and 2018 levels, respectively, impacts the Exchange's ability to enhance its offerings and the interests of market participants and investors.

The pricing increases the Exchange proposes are based on an industry-specific Producer Price Index ("PPI"), which is a tailored measure of inflation.⁸ As a general matter, the Producer Price Index is a family of indexes that measures the average change over time in selling prices received by domestic producers of goods and services. PPI measures price change from the perspective of the seller. This contrasts with other metrics, such as the Consumer Price Index ("CPI"), that measure price change from the purchaser's perspective.⁹ About 10,000 PPIs for individual products and groups of products are tracked and released each month.¹⁰ PPIs are available for the output of nearly all industries in the goods-producing sectors of the U.S. economy—mining, manufacturing, agriculture, fishing, and forestry—as well as natural gas, electricity, and construction, among others. The PPI program covers approximately 69 percent of the service

sector's output, as measured by revenue reported in the 2017 Economic Census.

For purposes of this proposal, the relevant industry-specific PPI is the Data Processing and Related Services PPI ("Data PPI"), which is an industry net-output PPI that measures the average change in selling prices received by companies that provide data processing services. The Data PPI was introduced in January 2002 by the Bureau of Labor Statistics ("BLS") as part of an ongoing effort to expand Producer Price Index coverage of the services sector of the U.S. economy and is identified as NAICS–518210 in the North American Industry Classification System.¹¹ According to the BLS "[t]he primary output of NAICS 518210 is the provision of electronic data processing services. In the broadest sense, computer services companies help their customers efficiently use technology. The processing services market consists of vendors who use their own computer systems—often utilizing proprietary software—to process customers' transactions and data. Companies that offer processing services collect, organize, and store a customer's transactions and other data for record-keeping purposes. Price movements for the NAICS 518210 index are based on changes in the revenue received by companies that provide data processing services. Each month, companies provide net transaction prices for a specified service. The transaction is an actual contract selected by probability, where the price-determining characteristics are held constant while the service is repriced. The prices used in index calculation are the actual prices billed for the selected service contract."¹²

The Exchange believes the Data PPI is an appropriate measure to be considered in the context of the proposed pricing changes because the Exchange uses its "own computer systems" and "proprietary software," i.e., its own data center and proprietary matching engine software, respectively, to collect, organize, store and report customers' transactions in U.S. options securities on the Exchange's proprietary trading platform. In other words, the Exchange is in the business of data processing and related services via its data center and proprietary matching engine software.

For purposes of this proposed rule change, with respect to the SQF Port Fee, the Exchange examined the Data

⁶ See Securities Exchange Act Release No. 79619 (December 20, 2016), 81 FR 95250 (December 27, 2016) (SR–NASDAQ–2016–178).

⁷ See Securities Exchange Act Release No. 83193 (May 9, 2018), 83 FR 22539 (May 15, 2018) (SR–NASDAQ–2018–036).

⁸ See <https://fred.stlouisfed.org/seriesBeta/PCU51825182#0>.

⁹ See <https://www.bls.gov/ppi/overview.htm>.

¹⁰ See *id.*

¹¹ NAICS appears in table 5 of the PPI Detailed Report and is available at <https://data.bls.gov/timeseries/PCU518210518210>.

¹² See <https://www.bls.gov/ppi/factsheets/producer-price-index-for-the-data-processing-and-related-servicesindustry-naics-518210.htm>.

⁵ The term "NOM Market Maker" or ("M") is a Participant that has registered as a Market Maker on NOM pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security. See Options 7, Section 1(a).

PPI value for the period from December 2016 to October 2024 (when the subject pricing was adopted). The Data PPI had a starting value of 105.600 in December 2016 and an ending value of 115.902 in October 2024, a 10.30% increase. For purposes of this proposed rule change, with respect to the SQF Purge Port Fee, the Exchange examined the Data PPI value for the period from May 2018 to October 2024 when the subject pricing was adopted). The Data PPI had a starting value of 107.000 in May 2018 and an ending value of 115.902 in October 2024, a 8.90% increase. This data indicates that companies who are also in the data storage and processing business have generally increased prices for a specified service covered under NAICS 518210 by an average of 10.30% and 8.90%, respectively, during the periods noted above. The Exchange notes that averaging the 10.30% and 8.90% yields a percentage of 9.60%. The pricing for SQF Ports and SQF Purge Ports are intertwined so the Exchange is averaging the percentage to arrive at 10%. Based on that percentage change, the Exchange proposes to make a one-time fee increase of 10% for the SQF Ports and the SQF Purge Ports, which reflects an increase covering the entire period since the last price adjustments to the SQF Port Fee and the SQF Purge Port Fee were made.

The Exchange further believes the Data PPI is an appropriate measure for purposes of the proposed rule change on the basis that it is a stable metric with limited volatility, unlike other consumer-side inflation metrics. In fact, the Data PPI has not experienced a greater than 2.16% increase for any one calendar year period since Data PPI was introduced into the PPI in January 2002. The average calendar year change from January 2002 to December 2023 was .62%, with a cumulative increase of 15.67% over this 21-year period. The Exchange believes the Data PPI is considerably less volatile than other inflation metrics such as CPI, which has had individual calendar-year increases of more than 6.5%, and a cumulative increase of over 73% over the same period.¹³

The Exchange believes the Data PPI, and significant investments into, and enhanced performance of, the Exchange support the reasonableness of the proposed pricing increases.¹⁴

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

This belief is based on two factors. First, the current pricing does not properly reflect the quality of the SQF Ports and SQF Purge Ports, as the pricing for these port offerings have been static in nominal terms, and therefore falling in real terms due to inflation. Second, the Exchange believes that investments made in enhancing the risk protections and capacity of SQF Ports and SQF Purge Ports has increased the performance of these port offerings.

The Proposed Rule Change Is Reasonable

As noted above, the Exchange has not increased any of the fees included in the proposal since 2016 and 2018, respectively. However, in the years following the last fee increases, the Exchange has made significant investments in upgrades to its SQF Ports and SQF Purge Ports, enhancing the quality of its services, as measured by, among other things, increased capacity. In other words, Exchange customers have greatly benefitted, while the Exchange's ability to recoup its investments has been hampered. Between 2016 and 2024, the inflation rate is 3.48% per year, on average, producing a cumulative inflation rate of 31.52%.¹⁷ Also, between 2018 and 2024, the inflation rate is 3.88% per year, on average, producing a cumulative inflation rate of 25.65%.¹⁸ Using the more targeted inflation number of Data PPI, the cumulative inflation rate was 10.30% between 2016 and 2024, and 8.90% between 2018 and 2024. The Exchange believes the Data PPI is a reasonable metric to base this fee increase on because it is targeted to producer-side increases in the data processing industry.

Notwithstanding inflation, as noted above, the Exchange has not increased

its pricing of these port fees for over eight and six years, respectively, for the subject services. The proposed SQF Port Fee and SQF Purge Port Fee represent a modest increase from the current SQF Port Fee and SQF Purge Port Fee. The Exchange believes the proposed SQF Port Fee and SQF Purge Port Fee increases are reasonable in light of the Exchange's continued expenditure in maintaining a robust technology ecosystem. Furthermore, the Exchange continues to invest in maintaining and enhancing its port products—for the benefit and often at the behest of its customers and global investors. Such enhancements include refreshing several aspects of the technology ecosystem including software, hardware, and network while introducing new and innovative products. The goal of the enhancements discussed above, among other things, is to provide more modern connectivity to the match engine. Accordingly, the Exchange continues to expend resources to innovate and modernize its technology so that it may benefit its Participants in offering SQF Ports and SQF Purge Ports.

The Proposed Fees Are Equitably Allocated and Not Unfairly Discriminatory

The Exchange believes that the proposal represents an equitable allocation of reasonable dues, fees and other charges because the Exchange pricing has fallen in real terms during the relevant period. The Exchange also believes that the proposed pricing increases are equitably allocated and not unfairly discriminatory because they would apply uniformly to all Market Makers that subscribe to the SQF Ports and SQF Purge Ports to quote on the Exchange. Market Makers are the only market participants that are assessed the SQF Port Fee and SQF Purge Port Fee because they are the only market participants that are permitted to quote on the Exchange.¹⁹ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to the Exchange on a continuous basis. SQF Ports and SQF Purge Ports are only utilized in a Market Maker's assigned options series.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed pricing changes will impose any burden on competition not

¹³ See <https://www.usinflationcalculator.com/>.

¹⁴ See *supra* discussion of SQF Port and SQF Purge Port enhancements. Additionally, other exchanges have filed for increases in certain fees, based in part on comparisons to inflation. See, e.g., Securities Exchange Act Release Nos. 34–100994 (September 10, 2024), 89 FR 75612 (September 16, 2024) (SR–NYSEARCA–2024–79); and 34–101519

(November 5, 2024), 89 FR 89071 (November 12, 2024) (SR–CboeBYX–2024–039).

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4) and (5).

¹⁷ See <https://www.officialdata.org/us/inflation/2015?amount=1>.

¹⁸ See <https://www.officialdata.org/us/inflation/2015?amount=1>.

¹⁹ Unlike other market participants, Market Makers are subject to market making and quoting obligations. See Options 2, Sections 4 and 5.

necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange believes that the proposed pricing does not put any market participants at a relative disadvantage compared to other market participants. As noted above, the Exchange would apply the proposed 10% increase to the SQF Port and the SQF Purge Port fee to all Market Makers uniformly. Market Makers are the only market participants that are assessed an SQF Port Fee and an SQF Purge Port Fee because they are the only market participants that are permitted to quote on the Exchange.²⁰ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to the Exchange on a continuous basis. SQF Ports and SQF Purge Ports are only utilized in a Market Maker's assigned options series.

Intermarket Competition

The Exchange believes that the proposed pricing does not impose an undue burden on intermarket competition or on other SROs that is not necessary or appropriate. In determining the proposed pricing, the Exchange utilized an objective and stable metric with limited volatility. Utilizing Data PPI over a specified period of time is a reasonable means of recouping the Exchange's investment in maintaining and enhancing its port offerings such as the SQF Ports and SQF Purge Ports. The Exchange believes utilizing Data PPI, a tailored measure of inflation, to increase the fees for the SQF Port and SQF Purge Port to recoup the Exchange's investment in maintaining and enhancing such offerings does not impose a burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2024-081 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-2024-081. 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-2024-081 and should be submitted on or before January 13, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-30521 Filed 12-20-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101942; File No. SR-BX-2024-056]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BX Options 7, Section 3

December 17, 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 December 3, 2024, Nasdaq BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to increase the Exchange's port pricing in Options 7, Section 3 for the Specialized Quote Feed ("SQF")³ Ports and SQF Purge Ports.

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ "Specialized Quote Feed" or "SQF" is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, Market Order Spread Protection,

Continued

²⁰ Unlike other market participants, Market Makers are subject to market making and quoting obligations. See Options 2, Sections 4 and 5.

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2025.⁴

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/bx/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Options 7, Section 3 to increase the Exchange's SQF Port Fee by 10% and SQF Purge Port Fee by 9%.

Options 7, Section 3 includes the Exchange's fees that relate to the SQF Ports and SQF Purge Ports that Market Makers⁵ use to connect to the Exchange to send quotes. Today, BX assesses an SQF Port Fee and an SQF Purge Port Fee of \$500 per port, per month fee. With this proposal, BX would assess Market Makers an SQF Port Fee of \$550 per port, per month (a 10% increase from \$500), and an SQF Purge Port Fee of \$545 per port, per month (a 9% increase from \$500).

The proposed SQF Port Fee and SQF Purge Port Fee increases would enable the Exchange to maintain and improve

its market technology and services to remain competitive with its peers. Over the years, customer demand for risk protections and capacity has increased. The Exchange continues to invest in maintaining, improving, and enhancing its port protocols like SQF Ports and SQF Purge Ports—for the benefit and often at the behest of its customers. Such enhancements include refreshing hardware, upgrading risk protections and information security, and offering customers additional capacity. Nevertheless, the Exchange has not increased BX's SQF Port Fee since 2016,⁶ and has not increased its SQF Purge Port Fee since 2018⁷ where inflation has been roughly 13% since 2016 and 9% since 2018, respectively, as measured using the metric described below. As such, the Exchange proposes to increase its SQF Port Fee by 10%, with respect to inflation that has occurred since 2016, and its SQF Purge Port Fee by 9%, with respect to inflation that has occurred since 2018, to align with the foregoing fee increases.

As discussed below, the Exchange proposes to adjust its pricing by an industry- and product-specific inflationary measure. It is reasonable and consistent with the Act for the Exchange to recoup its investments, at least in part, by adjusting its pricing. Continuing to operate at pricing frozen at 2016 and 2018 levels, respectively, impacts the Exchange's ability to enhance its offerings and the interests of market participants and investors.

The pricing increases the Exchange proposes are based on an industry-specific Producer Price Index ("PPI"), which is a tailored measure of inflation.⁸ As a general matter, the Producer Price Index is a family of indexes that measures the average change over time in selling prices received by domestic producers of goods and services. PPI measures price change from the perspective of the seller. This contrasts with other metrics, such as the Consumer Price Index ("CPI"), that measure price change from the purchaser's perspective.⁹ About 10,000 PPIs for individual products and groups of products are tracked and released each month.¹⁰ PPIs are available for the output of nearly all industries in the goods-producing

sectors of the U.S. economy—mining, manufacturing, agriculture, fishing, and forestry—as well as natural gas, electricity, and construction, among others. The PPI program covers approximately 69 percent of the service sector's output, as measured by revenue reported in the 2017 Economic Census.

For purposes of this proposal, the relevant industry-specific PPI is the Data Processing and Related Services PPI ("Data PPI"), which is an industry net-output PPI that measures the average change in selling prices received by companies that provide data processing services. The Data PPI was introduced in January 2002 by the Bureau of Labor Statistics ("BLS") as part of an ongoing effort to expand Producer Price Index coverage of the services sector of the U.S. economy and is identified as NAICS—518210 in the North American Industry Classification System.¹¹ According to the BLS "[t]he primary output of NAICS 518210 is the provision of electronic data processing services. In the broadest sense, computer services companies help their customers efficiently use technology. The processing services market consists of vendors who use their own computer systems—often utilizing proprietary software—to process customers' transactions and data. Companies that offer processing services collect, organize, and store a customer's transactions and other data for record-keeping purposes. Price movements for the NAICS 518210 index are based on changes in the revenue received by companies that provide data processing services. Each month, companies provide net transaction prices for a specified service. The transaction is an actual contract selected by probability, where the price-determining characteristics are held constant while the service is repriced. The prices used in index calculation are the actual prices billed for the selected service contract."¹²

The Exchange believes the Data PPI is an appropriate measure to be considered in the context of the proposed pricing changes because the Exchange uses its "own computer systems" and "proprietary software," i.e., its own data center and proprietary matching engine software, respectively, to collect, organize, store and report customers' transactions in U.S. options securities on the Exchange's proprietary trading platform. In other words, the Exchange

or Size Limitation Protection in Options 3, Section 15(a)(1), (a)(2), and (b)(2) respectively. See Options 3, Section 7(e)(1)(B).

⁴ The Exchange initially filed this fee proposal as SR-BX-2024-044 on October 18, 2024. On December 3, 2024, the Exchange withdrew SR-BX-2024-044 and replaced it with this fee change.

⁵ The term "BX Options Market Maker" or ("M") is a Participant that has registered as a Market Maker on BX Options pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security. See Options 7, Section 1(a).

⁶ See Securities Exchange Act Release No. 76952 (January 21, 2016), 81 FR 4721 (January 27, 2016) (SR-BX-2016-003).

⁷ See Securities Exchange Act Release No. 83192 (May 9, 2018), 83 FR 22563 (May 15, 2018) (SR-BX-2018-017).

⁸ See <https://fred.stlouisfed.org/seriesBeta/PCU51825182#0>.

⁹ See <https://www.bls.gov/ppi/overview.htm>.

¹⁰ See *id.*

¹¹ NAICS appears in table 5 of the PPI Detailed Report and is available at <https://data.bls.gov/timeseries/PCU518210518210>.

¹² See <https://www.bls.gov/ppi/factsheets/producer-price-index-for-the-data-processing-and-related-servicesindustry-naics-518210.htm>.

is in the business of data processing and related services via its data center and proprietary matching engine software.

For purposes of this proposed rule change, with respect to the SQF Port Fee, the Exchange examined the Data PPI value for the period from January 2016 to October 2024 (when the subject pricing was adopted). The Data PPI had a starting value of 103.300 in January 2016 and an ending value of 115.902 in October 2024, a 12.60% increase. For purposes of this proposed rule change, with respect to the SQF Purge Port Fee, the Exchange examined the Data PPI value for the period from May 2018 to October 2024 (when the subject pricing was adopted). The Data PPI had a starting value of 107.000 in May 2018 and an ending value of 115.902 in October 2024, a 8.90% increase. This data indicates that companies who are also in the data storage and processing business have generally increased prices for a specified service covered under NAICS 518210 by an average of 12.60% and 8.90%, respectively, during the periods noted above. Based on that percentage change, the Exchange proposes to make a one-time fee increase of 10% for the SQF Ports and a one-time fee increase of 9% for the SQF Purge Ports, which reflects an increase covering the entire period since the last price adjustments to the SQF Port Fee and the SQF Purge Port Fee were made.

The Exchange further believes the Data PPI is an appropriate measure for purposes of the proposed rule change on the basis that it is a stable metric with limited volatility, unlike other consumer-side inflation metrics. In fact, the Data PPI has not experienced a greater than 2.16% increase for any one calendar year period since Data PPI was introduced into the PPI in January 2002. The average calendar year change from January 2002 to December 2023 was .62%, with a cumulative increase of 15.67% over this 21-year period. The Exchange believes the Data PPI is considerably less volatile than other inflation metrics such as CPI, which has had individual calendar-year increases of more than 6.5%, and a cumulative increase of over 73% over the same period.¹³

The Exchange believes the Data PPI, and significant investments into, and enhanced performance of, the Exchange support the reasonableness of the proposed pricing increases.¹⁴

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

This belief is based on two factors. First, the current pricing does not properly reflect the quality of the SQF Ports and SQF Purge Ports, as pricing for these port offerings have been static in nominal terms, and therefore falling in real terms due to inflation. Second, the Exchange believes that investments made in enhancing the risk protections and capacity of SQF Ports and SQF Purge Ports has increased the performance of these port offerings.

The Proposed Rule Change Is Reasonable

As noted above, the Exchange has not increased any of the fees included in the proposal since 2016 and 2018, respectively. However, in the years following the last fee increases, the Exchange has made significant investments in upgrades to its SQF Ports and SQF Purge Ports, enhancing the quality of its services, as measured by, among other things, increased capacity. In other words, Exchange customers have greatly benefitted, while the Exchange's ability to recoup its investments has been hampered. Between 2016 and 2024, the inflation rate is 3.48% per year, on average, producing a cumulative inflation rate of 31.52%.¹⁷ Also, between 2018 and 2024, the inflation rate is 3.88% per year, on average, producing a cumulative inflation rate of 25.65%.¹⁸ Using the more targeted inflation number of Data PPI, the cumulative inflation rate was 12.60% and 8.90%, respectively. The Exchange believes the Data PPI is a reasonable metric to base this fee increase on because it is targeted to producer-side increases in the data processing industry.

Securities Exchange Act Release Nos. 34–100994 (September 10, 2024), 89 FR 75612 (September 16, 2024) (SR–NYSEARCA–2024–79); and 34–101519 (November 5, 2024), 89 FR 89071 (November 12, 2024) (SR–CboeBYX–2024–039).

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4) and (5).

¹⁷ See <https://www.officialdata.org/us/inflation/2015?amount=1>.

¹⁸ See <https://www.officialdata.org/us/inflation/2015?amount=1>.

Notwithstanding inflation, as noted above, the Exchange has not increased its pricing of these port fees for over eight and six years, respectively, for the subject services. The proposed SQF Port Fee and SQF Purge Port Fee represent a modest increase from the current SQF Port Fee and SQF Purge Port Fee. The Exchange believes the proposed SQF Port Fee and SQF Purge Port Fee increases are reasonable in light of the Exchange's continued expenditure in maintaining a robust technology ecosystem. Furthermore, the Exchange continues to invest in maintaining and enhancing its port products—for the benefit and often at the behest of its customers and global investors. Such enhancements include refreshing several aspects of the technology ecosystem including software, hardware, and network while introducing new and innovative products. The goal of the enhancements discussed above, among other things, is to provide more modern connectivity to the match engine. Accordingly, the Exchange continues to expend resources to innovate and modernize its technology so that it may benefit its Participants in offering SQF Ports and SQF Purge Ports.

The Proposed Fees Are Equitably Allocated and Not Unfairly Discriminatory

The Exchange believes that the proposal represents an equitable allocation of reasonable dues, fees and other charges because the Exchange pricing has fallen in real terms during the relevant period. The Exchange also believes that the proposed pricing increases are equitably allocated and not unfairly discriminatory because they would apply uniformly to all Market Makers that subscribe to the SQF Ports and SQF Purge Ports to quote on the Exchange. Market Makers are the only market participants that are assessed the SQF Port Fee and SQF Purge Port Fee because they are the only market participants that are permitted to quote on the Exchange.¹⁹ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to the Exchange on a continuous basis. SQF Ports and SQF Purge Ports are only utilized in a Market Maker's assigned options series.

¹⁹ Unlike other market participants, Market Makers are subject to market making and quoting obligations. See Options 2, Sections 4 and 5.

¹³ See <https://www.usinflationcalculator.com/>.

¹⁴ See *supra* discussion of SQF Port and SQF Purge Port enhancements. Additionally, other exchanges have filed for increases in certain fees, based in part on comparisons to inflation. See, e.g.,

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed pricing changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange believes that the proposed pricing does not put any market participants at a relative disadvantage compared to other market participants. As noted above, the Exchange would apply the proposed 10% increase to the SQF Port and the proposed increase of 9% to the SQF Purge Port to all Market Makers uniformly. Market Makers are the only market participants that are assessed an SQF Port Fee and an SQF Purge Port Fee because they are the only market participants that are permitted to quote on the Exchange.²⁰ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to the Exchange on a continuous basis. SQF Ports and SQF Purge Ports are only utilized in a Market Maker's assigned options series.

Intermarket Competition

The Exchange believes that the proposed pricing does not impose an undue burden on intermarket competition or on other SROs that is not necessary or appropriate. In determining the proposed pricing, the Exchange utilized an objective and stable metric with limited volatility. Utilizing Data PPI over a specified period of time is a reasonable means of recouping the Exchange's investment in maintaining and enhancing its port offerings such as the SQF Ports and SQF Purge Ports. The Exchange believes utilizing Data PPI, a tailored measure of inflation, to increase the fees for the SQF Port and the SQF Purge Port to recoup the Exchange's investment in maintaining and enhancing such offerings does not impose a burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

²⁰ Unlike other market participants, Market Makers are subject to market making and quoting obligations. See Options 2, Sections 4 and 5.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-BX-2024-056 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-BX-2024-056. 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,

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

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-BX-2024-056 and should be submitted on or before January 13, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-30525 Filed 12-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101948; File No. SR-NASDAQ-2024-082]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify All-Inclusive Annual Fees for Certain Companies

December 17, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 3, 2024, The Nasdaq Stock Market LLC ("Nasdaq" or "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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify all-inclusive annual fees for certain companies, as described below. While the changes proposed herein are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2025.

The text of the proposed rule change is available on the Exchange's website at

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

<https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to modify the Exchange's all-inclusive annual listing fees for certain

domestic and foreign companies listing equity securities on the Nasdaq Global Select, Global and Capital Markets.³ While these changes are effective upon filing, Nasdaq has designated the proposed amendments to be operative on January 1, 2025.

Currently, for companies listed on the Capital Market, other than Acquisition Companies (*i.e.*, companies whose business plan is to complete an initial public offering and engage in a merger or acquisition with one or more unidentified companies within a specific period of time, as described in IM-5101-2), ADRs, Closed-end Funds and Limited Partnerships, the all-inclusive annual fee described in Listing Rule 5920 ranges from \$49,500 to \$85,000; for Acquisition Companies listing on the Capital Market the all-inclusive annual fee is \$81,000; for ADRs listed on the Capital Market the all-inclusive annual fee ranges from \$49,500 to \$59,500; and for Limited Partnerships listed on the Capital Market the all-inclusive annual fee ranges from \$34,500 to \$42,000. On the Global and Global Select Markets, the all-inclusive annual fee described in

Listing Rule 5910 for companies other than Acquisition Companies, ADRs, Closed-end Funds and Limited Partnerships ranges from \$52,500 to \$182,500; for Acquisition Companies on the Global and Global Select Markets the all-inclusive annual fee is \$81,000; for ADRs the all-inclusive annual fee ranges from \$52,500 to \$94,000; and for Limited Partnerships the all-inclusive annual fee ranges from \$42,000 to \$87,000. On the Global Market, the all-inclusive annual fee described in Listing Rule 5930 for SEEDS and Other Securities ranges from \$15,000 to \$30,000.⁴ The all-inclusive annual fee for Closed-end Funds listed on any market tier ranges from \$34,500 to \$112,000. In each case, except for Acquisition Companies, a company's all-inclusive annual fee is based on its total shares outstanding.⁵

Nasdaq proposes to amend the all-inclusive annual fee for certain domestic and foreign companies listing equity securities on the Nasdaq Global Select, Global and Capital Markets to the following amounts,⁶ effective January 1, 2025:

Global/Global Select Markets

	Total shares outstanding	Annual fee before the proposed change	Annual Fee effective January 1, 2025
Equity securities other than, in part, Acquisition Companies, ADRs, Closed-end Funds and Limited Partnerships.	Up to 10 million shares	\$52,500	\$56,000
	10+ to 50 million shares	65,500	70,000
	50+ to 75 million shares	85,000	86,000
	75+ to 100 million shares	113,500	115,000
	100+ to 125 million shares	141,500	143,000
	125+ to 150 million shares	157,500	164,000
	Over 150 million shares	182,500	193,000
ADRs	Up to 10 million ADRs and other listed equity securities.	52,500	56,000
	10+ to 50 million ADRs and other listed equity securities.	59,500	63,500
	50+ to 75 million ADRs and other listed equity securities.	70,500	75,500
	Over 75 million ADRs and other listed equity securities.	94,000	100,500
Closed-end Funds	Up to 50 million shares	34,500	36,500
	50+ to 100 million shares	56,500	59,500
	100+ to 250 million shares	84,000	88,500
	Over 250 million shares	112,000	118,000
Limited Partnerships	Up to 75 million shares	42,000	44,500
	75+ to 100 million shares	56,500	59,500

³ The Exchange initially filed the proposed pricing change on November 19, 2024 (SR-NASDAQ-2024-072). On December 3, 2024, the Exchange withdrew that filing and replaced it with SR-NASDAQ-2024-082.

⁴ Rule 5940 sets forth the all-inclusive annual listing fees applicable to Exchange Traded Products that are listed on the Nasdaq Global Market. Nasdaq is not proposing to amend this rule.

⁵ REITs are subject to the same fee schedule as other equity securities; however for the purpose of determining the total shares outstanding, shares outstanding of all members in a REIT Family listed on the same Nasdaq market tier may be aggregated.

Similarly, for the purpose of determining the total shares outstanding, fund sponsors may aggregate shares outstanding of all Closed-End Funds in the same fund family listed on the Nasdaq Global Market or the Nasdaq Capital Market. See Listing Rules 5910(b)(2) and 5920(b)(2).

⁶ In establishing the fee changes described in this rule filing, Nasdaq considered various factors that distinguish companies, including market tier, shares outstanding, and security type, as well as pricing for similar securities on other national securities exchanges. Nasdaq's also intends over time to transition to a fee structure whereby the all-inclusive annual fee is calculated on a per-share

basis (subject to a minimum and maximum fee), instead of one based on tiers. In setting the proposed fees Nasdaq therefore also considered, in part, the resulting per-share fee range of companies in the current tiers and attempted to minimize the eventual impact of any future change to a per-share fee. As a result of this, and the other factors noted above, some tiers will have a higher percentage increase than other tiers. Nasdaq believes that the ever-shifting market share among the exchanges with respect to new listings and the transfer of existing listings between competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes.

	Total shares outstanding	Annual fee before the proposed change	Annual Fee effective January 1, 2025
SEEDS and Other Securities *	100+ to 125 million shares	69,500	73,000
	125+ to 150 million shares	75,500	79,500
	Over 150 million shares	87,000	91,500
	Up to 5 million shares	15,000	16,000
	5+ to 10 million shares	17,500	18,500
	10+ to 25 million shares	20,000	21,000
	25+ to 50 million shares	22,500	24,000
	Over 50 million shares	30,000	31,500

* Rule 5930 sets forth the all-inclusive annual listing fees applicable to SEEDS and Other Securities qualified under Rule 5715 or 5730 for listing on the Nasdaq Global Market.

Capital Market

	Total shares outstanding	Annual fee before the proposed change	Annual fee effective January 1, 2025
Equity securities other than Acquisition Companies, ADRs, Closed-end Funds and Limited Partnerships.	Up to 10 million shares	\$49,500	\$53,000
ADRs	10+ to 50 million shares	65,500	70,000
	Over 50 million shares	85,000	86,000
	Up to 10 million ADRs and other listed equity securities.	49,500	53,000
Closed-end Funds	Over 10 million ADRs and other listed equity securities.	59,500	63,500
	Up to 50 million shares	34,500	36,500
	50+ to 100 million shares	56,500	59,500
Limited Partnerships	100+ to 250 million shares	84,000	88,500
	Over 250 million shares	112,000	118,000
	Up to 75 million shares	34,500	36,500
	Over 75 million shares	42,000	44,500

Nasdaq also proposes to amend the all-inclusive annual fee for Acquisition companies. Nasdaq currently charges a flat all-inclusive annual listing fee of \$81,000 for Acquisition Companies listed on the Nasdaq Capital, Global and Global Select Markets.⁷ Nasdaq is proposing to increase the all-inclusive annual listing fee for these companies from \$81,000 to \$85,000 to better align its fees with the value of the listing to Acquisition Companies.

Finally, Nasdaq proposes to update amounts in examples in Listing Rules 5910(b)(3)(D) and 5920(b)(3)(D), clarifying the application of the rules for companies transferring between Nasdaq tiers, to align the fee amounts with the fees applicable in year 2025.

Nasdaq proposes to make the aforementioned fee increases to better reflect the Exchange's costs related to listing equity securities, such as from the ongoing remodeling of a portion of the New York Headquarters used for company events, including market opening and closing bells, conducting the required associated regulatory oversight, and Nasdaq's advocacy efforts

on behalf of listed companies, and the corresponding value of such listing to companies. In establishing these fee changes Nasdaq also considered the competitive atmosphere in which the Exchange operates.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a preliminary matter, Nasdaq notes that the Exchange operates in a highly competitive marketplace for the listing of companies.¹⁰ The Commission has

repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. The Exchange believes that the ever-shifting market share among exchanges with respect to new listings and the transfer of existing listings between competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes. Moreover, new competitors can enter the space, including existing exchanges without listing programs.¹¹ Accordingly, competitive forces constrain the Exchange's listing fees and changes to the listing fees can have a direct effect on the ability of Nasdaq to

http://www.justice.gov/atr/public/press_releases/2011/271214.htm.

¹¹ In that regard, Nasdaq notes that CBOE BZX has announced a new listing offering. See "Cboe Launches New Global Listing Offering for Companies and ETFs of the Purpose-Driven Innovation Economy" (June 2, 2023), available at <https://ir.cboe.com/news/news-details/2023/Cboe-Launches-New-Global-Listing-Offering-for-Companies-and-ETFs-of-the-Purpose-Driven-Innovation-Economy-06-02-2023/default.aspx>. Similarly, the Texas Stock Exchange announced its plans to be a fully electronic national securities exchange providing a venue to list and trade public companies and the exchange-traded products, available at <https://www.txse.com/about-us>.

⁷ See Listing Rules 5910(b)(2)(F) and 5920(b)(2)(G).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4) and (5).

¹⁰ The Justice Department has noted the intense competitive environment for exchange listings. See "NASDAQ OMX Group Inc. and Intercontinental Exchange Inc. Abandon Their Proposed Acquisition Of NYSE Euronext After Justice Department Threatens Lawsuit" (May 16, 2011), available at

compete for new listings and retain existing listings.

Nasdaq believes that the proposed amendments to Listing Rules 5910(b)(2), 5920(b)(2), and 5930 to increase the all-inclusive annual listing fees as set forth above are reasonable because of the increased costs incurred by Nasdaq, including due to price inflation. In that regard, the Exchange notes that its general costs to support listed companies and conduct the required associated regulatory oversight have increased. The Exchange also continues to expand and improve the services it provides to listed companies, the technology to deliver those services and the customer experience at the Nasdaq MarketSite. These improvements include the remodeling and expansion of a portion of Nasdaq's New York Headquarters used for company events, including market opening and closing bells, and the investment in technology to support ongoing trading. Nasdaq also continued its advocacy efforts on behalf of listed companies.

The Exchange also believes that the proposed amendments to the annual fees for equity securities are equitable because they do not change the existing framework for such fees, but simply increase the amount of certain of the fees to reflect increases in operating costs and the perceived value of a listing, including as a result of Nasdaq's advocacy efforts on behalf of listed companies.¹² Similarly, as the fee structure remains effectively unchanged apart from increases in the rates paid by certain issuers, as described above, the changes to annual fees for equity securities neither target nor will they have a disparate impact on any particular category of issuer of equity securities.

The Exchange believes that the proposal to increase annual fees is not unfairly discriminatory because Nasdaq will maintain the current fee structure, based on shares outstanding, except for fees applicable to Acquisition Companies as described above, and the same fee schedule will apply to all such issuers. While the Exchange does not propose to increase the minimum annual fees charged for securities covered by Rule 5935 (that sets forth the all-inclusive annual listing fees applicable to Non-Convertible Bonds) and Rule 5940 (that sets forth the all-inclusive annual listing fees applicable to Exchange Traded Products), the Exchange believes that this is not unfairly discriminatory because the benefits the issuers of those other types of securities receive in connection with

their listings are consistent with the current fee levels paid by those issuers. Pricing for similar securities on other national securities exchanges was also considered, and Nasdaq believes that a proposed all-inclusive annual listing fee is reasonable given the competitive landscape.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The market for listing services is extremely competitive and listed companies may freely choose alternative venues, both within the U.S. and internationally. For this reason, Nasdaq does not believe that the proposed rule change will result in any burden on competition for listings. The Exchange also does not believe that the proposed rule change will have any meaningful impact on competition among listed companies because all similarly situated companies will be charged the same fee.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹³ and Rule 19b-4(f)(2)¹⁴ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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-NASDAQ-2024-082 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-2024-082. 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-2024-082 and should be submitted on or before January 13, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-30524 Filed 12-20-24; 8:45 am]

BILLING CODE 8011-01-P

¹² See also footnote 6, above.

¹³ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁴ 17 CFR 240.19b-4(f)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Securities Act of 1933 Release No. 11345/ December 18, 2024; Securities Exchange Act of 1934 Release No. 101950/December 18, 2024]

Order Approving Public Company Accounting Oversight Board Budget and Annual Accounting Support Fee for Calendar Year 2025

The Sarbanes-Oxley Act of 2002, as amended (the “Sarbanes-Oxley Act”),¹ established the Public Company Accounting Oversight Board (“PCAOB”) to oversee the audits of companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports. Section 982 of the Dodd-Frank Wall Street Reform and Consumer Protection Act² amended the Sarbanes-Oxley Act to provide the PCAOB with explicit authority to oversee auditors of broker-dealers registered with the Securities and Exchange Commission (the “Commission”). The PCAOB accomplishes these investor protection and public interest goals through the registration of public accounting firms, standard setting, inspections, and investigation and disciplinary programs. The PCAOB is subject to the comprehensive oversight of the Commission.

Section 109 of the Sarbanes-Oxley Act provides that the PCAOB shall establish a reasonable annual accounting support fee, as may be necessary or appropriate to establish and maintain the PCAOB. Under Section 109(f) of the Sarbanes-Oxley Act, the aggregate annual accounting support fee shall not exceed the PCAOB’s aggregate “recoverable budget expenses,” which may include operating, capital, and accrued items. The PCAOB’s annual budget and accounting support fee are subject to approval by the Commission. In addition, the PCAOB must allocate the annual accounting support fee among issuers and registered brokers and dealers.

Section 109(b) of the Sarbanes-Oxley Act directs the PCAOB to establish a budget for each fiscal year in accordance with the PCAOB’s internal procedures, subject to approval by the Commission. Rule 190 of Regulation P (the “Budget Rule”) governs the Commission’s review and approval of PCAOB budgets and annual accounting support fees.³ The

Budget Rule provides, among other things, a timetable for the preparation and submission of the PCAOB budget and for Commission actions related to each budget, a description of the information that should be included in each budget submission, limits on the PCAOB’s ability to incur expenses and obligations except as provided in the approved budget, procedures relating to supplemental budget requests, requirements for the PCAOB to provide on a quarterly basis certain budget-related information, and a list of definitions that apply to the rule and to general discussions of PCAOB budget matters.

In accordance with the Budget Rule, in March 2024 the PCAOB provided the Commission with a narrative description of its program issues and outlook for the 2025 budget year. In response, the Commission provided the PCAOB with general budgetary guidance for the 2025 budget year. The PCAOB subsequently delivered a preliminary budget and budget justification to the Commission. Staff from the Commission’s Office of the Chief Accountant and Office of Financial Management dedicated a substantial amount of time to the review and analysis of the PCAOB’s programs, projects, and budget estimates and participated in a number of meetings with staff of the PCAOB to further develop an understanding of the PCAOB’s budget and operations. During the course of this review, Commission staff relied upon representations and supporting documentation from the PCAOB. Based on this review, the Commission issued a “passback” letter to the PCAOB on October 30, 2024. On November 21, 2024, the PCAOB adopted its 2025 budget and accounting support fee during an open meeting, and subsequently submitted that budget to the Commission for approval.

After considering the above, the Commission did not identify any proposed disbursements in the 2025 budget adopted by the PCAOB that are not properly recoverable through the annual accounting support fee, and the Commission believes that the aggregate proposed 2025 annual accounting support fee does not exceed the PCAOB’s aggregate recoverable budget expenses for 2025.

The Commission continues to emphasize the importance of the PCAOB’s identification of efficiencies and process improvements. Accordingly, the Commission requests that the PCAOB continue to evaluate its operational efficiency, improvements, and budgetary needs and submit such

assessments to the Commission in connection with the 2026 budget cycle.

Coordination between the Commission and PCAOB continues to be important. The Commission directs the PCAOB during 2025 to continue to hold quarterly meetings, as necessary, with the Commission’s staff to discuss important policy initiatives, changes related to program areas, and significant impacts to the PCAOB’s 2025 budget, including significant differences between actual and budgeted amounts and anticipated cost-savings. Separately, the Commission directs the PCAOB to continue its written quarterly updates on recent activities, including strategic initiatives. The Commission expects the PCAOB to make itself available to meet with individual Commissioners on these and other topics. Further, the Commission requests that the PCAOB submit its 2024 annual report to the Commission by March 31, 2025.

The Commission understands that the Office of Management and Budget (“OMB”) has determined that the 2025 budget of the PCAOB is subject to sequestration under the Budget Control Act of 2011.⁴ For 2024, the PCAOB sequestered \$21.9 million. That amount will become available in 2025. For 2025, the sequestration amount will be 5.7% or \$22.8 million. Consequently, we expect the PCAOB will have approximately \$0.9 million less funds available from the 2024 sequestration for spending in 2025. Accordingly, the PCAOB should submit a revised spending plan for 2025 reflecting a \$0.9 million reduction to budgeted expenditures as a result of the increase in sequestration amount from 2024 to 2025.

The Commission has determined that the PCAOB’s 2025 budget and annual accounting support fee are consistent with Section 109 of the Sarbanes-Oxley Act. Accordingly,

It is ordered, pursuant to Section 109 of the Sarbanes-Oxley Act, that the PCAOB budget and annual accounting support fee for calendar year 2025 are approved.

By the Commission.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–30600 Filed 12–20–24; 8:45 am]

BILLING CODE 8011–01–P

⁴ OMB Report to the Congress on the BBEDCA 251A Sequestration for Fiscal Year 2025 (Mar. 11, 2024), available at https://www.whitehouse.gov/wp-content/uploads/2024/03/BBEDCA_251A_Sequestration_Report_FY2025.pdf.

¹ 15 U.S.C. 7201 *et seq.*

² Public Law 111–203, 124 Stat. 1376 (2010).

³ 17 CFR 202.190.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101947; File No. SR–FICC–2024–012]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Clearing Fund Maintenance Fee of MBSD and GSD

December 17, 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 December 9, 2024, Fixed Income Clearing Corporation (“FICC”) 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 clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b–4(f)(2) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the FICC Mortgage-Backed Securities Division (“MBSD”) Clearing Rules (“MBSD Rules”) and Government Securities Division (“GSD”) Rulebook (“GSD Rules” and together with the MBSD Rules, the “Rules”) in order to modify the respective Clearing Fund Maintenance Fee (“Maintenance Fee”) of GSD and MBSD, effective January 1, 2025, as described in greater detail below.⁵

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B,

and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FICC is proposing to amend the MBSD Rules and the GSD Rules to modify the respective Maintenance Fee of GSD and MBSD, effective January 1, 2025, as described in greater detail below.

(i) Background

FICC implemented the Maintenance Fee in 2016 in order to (i) diversify FICC’s revenue sources, mitigating its dependence on revenues driven by trading volumes, and (ii) add a stable revenue source that would contribute to FICC’s operating margin by offsetting increasing costs and expenses.⁶ The Maintenance Fees for MBSD and GSD are charged to MBSD Clearing Members and GSD Netting Members (collectively, “Members”) in proportion to the Member’s cash deposit in their respective MBSD or GSD Clearing Fund (collectively, “Clearing Fund”), as described below.

The Maintenance Fee is calculated monthly, in arrears, as the product of (A) 0.25% and (B) the average of the Member’s cash deposit balance in the Clearing Fund as of the end of each day, for the month, multiplied by the number of days in that month and divided by 360. FICC operates a cost plus low margin pricing model. Specifically, FICC’s fees are cost-based plus a markup or “low margin.”

(ii) Proposed Changes

Proposed Modification to the Maintenance Fee

As part of FICC’s annual pricing review process and budgeting for 2025, FICC identified opportunities to better align fees and costs for FICC and potentially diversify its liquidity resources. In furtherance of these objectives, FICC is proposing to change the current methodology of the Clearing Fund Maintenance Fee for both MBSD and GSD.

As currently calculated, the Maintenance Fee effectively disincentivizes Member’s from posting excess cash as part of a Members Required Fund Deposit by imposing a 0.25% fee on a Member’s cash deposit balance in the Clearing Fund. FICC is proposing to change the methodology of the Maintenance Fee to apply the fee to

the total Required Fund Deposit instead of the cash deposit balance.⁷ The proposed change would also reduce the Maintenance Fee percentage from 0.25% to 0.085%. This change will ideally remove the disincentive to Members posting excess cash in the Clearing Fund, resulting in an increase in cash deposits at FICC.

In addition, FICC continually evaluates the composition and sufficiency of its liquidity resources in line with its liquidity risk management strategy and objective. An increase in cash deposits to the clearing fund would result in additional liquidity resources for FICC, thereby improving FICC’s ability to manage its liquidity risks. Members would be required to continue depositing cash as part of its Required Fund Deposit, which is currently charged a 0.25% fee, however, pursuant to the proposed changes, FICC would now collect the Maintenance Fee, in a manner that does not disincentivize excess cash deposits and would continue to achieve the Maintenance Fee’s purpose of diversifying FICC’s liquidity sources and maintaining a stable revenue source that would contribute to FICC’s operating margins.

To effectuate the proposed fee change described above, for MBSD, the terms “0.25%” and “cash deposit balance” would be changed to “0.085%” and “Required Fund Deposit,” respectively, in (i) the Clearing Fund Maintenance Fee in Section I (Fees) of the Schedule of Charges Broker Account Group in the MBSD Rules, and (ii) the Clearing Fund Maintenance Fee of Section I (Fees) of the Schedule of Charges Dealer Account Group in the MBSD Rules. For GSD, the terms “0.25%” and “cash deposit balance” would be changed to “0.085%” and “Required Fund Deposit,” respectively, in Section XIII (Clearing Fund Maintenance Fee) of the Fee Structure in the GSD Rules.

Expected Member Impact

The proposed change is revenue neutral to FICC but not for FICC Members. Impact will vary across Members based on their risk profile and Required Fund Deposits. FICC projects that approximately 13% of Members will see a fee increase with only a small percentage of those Members seeing an increase over \$1 million, approximately 17% of Members seeing a fee reduction and 70% of Members remaining neutral.

⁷ The Maintenance Fee would not apply to amounts deposited as Segregated Customer Margin, which, under changes to the GSD Rules recently approved by the Commission, are separate from a Member’s Required Fund Deposit. See Securities Exchange Act Release No. 101695 (Nov. 21, 2024), 89 FR 93763 (Nov. 27, 2024) (SR–FICC–2024–007).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b–4(f)(2).

⁵ Capitalized terms not defined herein are defined in the GSD Rules and the MBSD Rules, as applicable, available at www.dtcc.com/legal/rules-and-procedures.

⁶ Securities Exchange Act Release No. 78529 (Aug. 10, 2016), 81 FR 54626 (Aug. 16, 2016) (SR–FICC–2016–004).

The proposed changes will take effect on January 1, 2025.

Member Outreach

FICC has conducted ongoing outreach to Members to provide them with notice of the proposed changes and the anticipated impact for the Member. As of the date of this filing, no written comments relating to the proposed changes have been received in response to this outreach. The Commission will be notified of any written comments received.

Implementation Timeframe

FICC would implement this proposal on January 1, 2025. As proposed, a legend would be added to the Rules stating there are changes that became effective upon filing with the Commission but have not yet been implemented. The proposed legend also would include the date on which such changes would be implemented and the file number of this proposal, and state that, once this proposal is implemented, the legend would automatically be removed.

2. Statutory Basis

FICC believes this proposal is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, FICC believes the proposed changes to modify the respective Maintenance Fee of GSD and MBSD is consistent with Section 17A(b)(3)(D) of the Act⁸ and Rule 17ad-22(e)(23)(ii)⁹ thereunder, for the reasons described below.

Section 17A(b)(3)(D) of the Act requires that the rules of a clearing agency, such as FICC, provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.¹⁰ FICC believes that the proposed changes to the Maintenance Fee are consistent with this provision of the Act.

FICC believes the fee would continue to be equitably allocated. More specifically, as mentioned above, the Maintenance Fee would be charged to all Members in proportion to the Member's total Required Fund Deposit. As such, and as is currently the case, Members that present greater risk to FICC would generally be subject to a larger Maintenance Fee because such Member would typically be required to maintain a larger Clearing Fund deposit pursuant to the respective MBSD Rules

or GSD Rules.¹¹ Conversely, Members that present less risk to FICC would generally be subject to a smaller Maintenance Fee because such Members would typically be required to maintain a smaller Clearing Fund deposit pursuant to the respective MBSD Rules or GSD Rules.¹² For this reason, FICC believes the Maintenance Fee would continue to be equitably allocated among Members.

FICC also believes the fee is reasonable because, as discussed above, the proposed fee change would remove an unnecessary disincentive for Members to post more cash as part of their Clearing Fund by modifying the Maintenance Fee to base the fee on the total Required Fund Deposit rather than basing it on the cash component only. By removing this disincentive, FICC believes Members may post more cash as part of their Required Total Fund Deposit, providing FICC with access to additional liquid resources. For this reason, FICC believes the Maintenance Fee would continue to be reasonable. Based on the foregoing, FICC believes the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act.¹³

Rule 17ad-22(e)(23)(ii) under the Act requires FICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. The proposed fees would be clearly and transparently published in Section I (Fees) of the Schedule of Charges Broker Account Group in the MBSD Rules, Section I (Fees) of the Schedule of Charges Dealer Account Group in the MBSD Rules, and Section XIII (Clearing Fund Maintenance Fee) of the Fee Structure in the GSD Rules, which are available on a public website,¹⁴ thereby enabling Members to identify the fees and costs associated with participating in FICC. As such, FICC believes the proposed rule change is consistent with Rule 17ad-22(e)(23)(ii) under the Act.¹⁵

(B) Clearing Agency's Statement on Burden on Competition

FICC believes that although Members may experience some impact from the proposed rule change to modify the Maintenance Fee calculation, FICC does not believe that the proposed rule

change would impose a burden on competition among its Members that is not necessary or appropriate in furtherance of the purposes of the Act.¹⁶ As described above, the Maintenance Fee is charged ratably based on the risk that each Member brings to FICC, as reflected in Members' total Required Fund Deposit. Thus, the fee is designed to be reflective of each Member's individual activity at FICC.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at* www.sec.gov/regulatory-actions/how-to-submit-comments. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

FICC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)¹⁷ of the Act and paragraph (f)¹⁸ of Rule 19b-4 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,

¹¹ See Rule 4, GSD Rules and Rule 4, MBSD Rules, *supra* note 5.

¹² *Id.*

¹³ 15 U.S.C. 78q-1(b)(3)(D).

¹⁴ See *supra* note 5.

¹⁵ 17 CFR 240.17ad-22(e)(23)(ii).

¹⁶ 15 U.S.C. 78q-1(b)(3)(D).

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f).

⁸ 15 U.S.C. 78q-1(b)(3)(D).

⁹ 17 CFR 17ad-22(e)(23)(ii).

¹⁰ 15 U.S.C. 78q-1(b)(3)(D).

or otherwise in furtherance of the purposes of the Act.

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 (www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-FICC-2024-012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR-FICC-2024-012. 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 (www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (www.dtcc.com/legal/sec-rule-filings). 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-FICC-2024-012 and should be submitted on or before January 13, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-30520 Filed 12-20-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-425, OMB Control No. 3235-0468]

Proposed Collection; Comment Request; Reinstatement Without Change: Rule 10A-1

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 collection of information provided for in Rule 10A-1 (17 CFR 240.10A-1), under the Securities Exchange Act of 1934 ("Act") (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for reinstatement and approval.

Rule 10A-1 (17 CFR 240.10A-1) implements the reporting requirements in Section 10A of the Exchange Act (15 U.S.C. 78j-1) which was enacted by Congress on December 22, 1995 as part of the Private Securities Litigation Reform Act of 1995, Public Law 104-67, 109 Stat 737. Under section 10A and Rule 10A-1, reporting occurs only if a registrant's board of directors receives a report from its auditor that (1) there is an illegal act material to the registrant's financial statements, (2) senior management and the board have not taken timely and appropriate remedial action, and (3) the failure to take such action is reasonably expected to warrant the auditor's modification of the audit report or resignation from the audit engagement. The board of directors must notify the Commission within one business day of receiving such a report. If the board fails to provide that notice, then the auditor, within the next business day, must provide the Commission with a copy of the report that it gave to the board.

Likely respondents are those registrants filing audited financial statements under the Securities

Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*) and the Investment Company Act of 1940 (15 U.S.C. 80a-1, *et seq.*).

This information collection requirement was previously approved by OMB, but the approval expired on June 30, 2021. Accordingly, the Commission will request a reinstatement of OMB's approval.

It is estimated that Rule 10A-1 results in an aggregate additional reporting burden of 5 hours per year. The estimated average burden hours are solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules or forms.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the 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.

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: December 17, 2024.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-30495 Filed 12-20-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101941; File No. SR-Phlx-2024-69]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 9

December 17, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

¹⁹ 17 CFR 200.30-3(a)(12).

(“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on December 3, 2024, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to increase the Exchange’s port pricing in Options 7, Section 9 for the Specialized Quote Feed (“SQF”) ³ Ports and SQF Purge Ports.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2025.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/phlx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.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

The purpose of the proposed rule change is to amend Options 7, Section 9, B to increase the Exchange’s SQF Port Fee, SQF Purge Port Fee and SQF Fee Cap (as defined below) by 10%.

Options 7, Section 9, B includes the Exchange’s fees that relate to the SQF Ports, SQF Purge Ports, and the SQF Fee Cap (as defined below) that Market Makers⁵ use to connect to the Exchange to send quotes. Today, Phlx assesses \$1,250 per port, per month up to a maximum of \$42,000 per month for an SQF Port that receives inbound quotes at any time within that month (“SQF Fee Cap”).⁶ Also, today, Phlx assesses \$500 per port, per month for each of the first 5 SQF Purge Ports and \$100 per port, per month for each port thereafter. With this proposal, Phlx would assess Market Makers \$1,375 per port, per month (a 10% increase from \$1,250) with an SQF Fee Cap of \$46,200 per month (a 10% increase from \$42,000). With this proposal, Phlx would assess Market Makers \$550 per port, per month for each of the first 5 SQF Purge Ports (a 10% increase from \$500) and \$110 per port, per month for each port thereafter (a 10% increase from \$100).⁷

The proposed SQF Port Fee and SQF Purge Port Fee increases would enable the Exchange to maintain and improve its market technology and services to remain competitive with its peers. Over the years, customer demand for risk protections and capacity has increased. The Exchange continues to invest in maintaining, improving, and enhancing

its port protocols like SQF Ports and SQF Purge Ports—for the benefit and often at the behest of its customers. Such enhancements include refreshing hardware, upgrading risk protections and information security, and offering customers additional capacity. Nevertheless, the Exchange has not increased Phlx’s SQF Port Fee since 2015,⁸ has not increased its SQF Purge Port Fee since 2016,⁹ and has not increased its SQF Fee Cap since 2014,¹⁰ where inflation has been roughly 12.10%, 10.40% and 12.40%, respectively, as measured using the metric described below. As such, the Exchange proposes to increase its SQF Port Fee by 10%, with respect to inflation that has occurred since 2015, its SQF Purge Port Fee by 10%, with respect to inflation that has occurred since 2016, and its SQF Fee Cap by 10%, with respect to inflation that has occurred since 2014, so as to align with the foregoing fee increases.

As discussed below, the Exchange proposes to adjust its pricing by an industry- and product-specific inflationary measure. It is reasonable and consistent with the Act for the Exchange to recoup its investments, at least in part, by adjusting its pricing. Continuing to operate at pricing frozen at 2014, 2015 and 2016 levels, respectively, impacts the Exchange’s ability to enhance its offerings and the interests of market participants and investors.

The pricing increases the Exchange proposes are based on an industry-specific Producer Price Index (“PPI”), which is a tailored measure of inflation.¹¹ As a general matter, the Producer Price Index is a family of indexes that measures the average change over time in selling prices received by domestic producers of goods and services. PPI measures price change from the perspective of the seller. This contrasts with other metrics, such as the Consumer Price Index (“CPI”), that measure price change from the purchaser’s perspective.¹² About 10,000 PPIs for individual products and groups of products are tracked and released each month.¹³ PPIs are available for the output of nearly all

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ “Specialized Quote Feed” or “SQF” is an interface that allows Lead Market Makers, Streaming Quote Traders (“SQTs”) and Remote Streaming Quote Traders (“RSQTs”) to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying and complex instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Lead Market Maker, SQT or RSQT. Lead Market Makers, SQTs and RSQTs may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, the Market Order Spread Protection, or Size Limitation in Options 3, Section 15(a)(1), (a)(2) and (b)(2), respectively. See Options 3, Section 7(a)(i)(B).

⁴ The Exchange initially filed this fee proposal as SR7–Phlx–2024–55 on October 18, 2024. On December 3, 2024, the Exchange withdrew SR-Phlx-2024–55 and replaced it with this fee change.

⁵ The term “Market Maker” is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. See Options 7, Section 1(c).

⁶ An active port shall mean that the port was utilized to submit a quote to the System during a given month. See Options 7, Section 9, B. Today, Market Makers are not assessed an active SQF Port Fee for additional ports acquired for ten business days for the purpose of transitioning technology. The member organization is required to provide the Exchange with written notification of the transition and all additional ports, provided at no cost, will be removed at the end of the ten business days. See Options 7, Section 9, B.

⁷ Phlx proposes to add commas between per port and per month on the Pricing Schedule for the SQF Purge Port Fee.

⁸ See Securities Exchange Act Release No. 74833 (April 29, 2015), 80 FR 25749 (May 5, 2015) (SR-Phlx–2015–36).

⁹ See Securities Exchange Act Release No. 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016) (SR-Phlx–2016–45).

¹⁰ See Securities Exchange Act Release No. 73687 (November 25, 2014), 79 FR 71485 (December 2, 2014) (SR-Phlx–2014–73).

¹¹ See <https://fred.stlouisfed.org/seriesBeta/PCU51825182#0>.

¹² See <https://www.bls.gov/ppi/overview.htm>.

¹³ See *id.*

industries in the goods-producing sectors of the U.S. economy—mining, manufacturing, agriculture, fishing, and forestry—as well as natural gas, electricity, and construction, among others. The PPI program covers approximately 69 percent of the service sector's output, as measured by revenue reported in the 2017 Economic Census.

For purposes of this proposal, the relevant industry-specific PPI is the Data Processing and Related Services PPI (“Data PPI”), which is an industry net-output PPI that measures the average change in selling prices received by companies that provide data processing services.

The Data PPI industry was introduced in January 2002 by the Bureau of Labor Statistics (“BLS”) as part of an ongoing effort to expand Producer Price Index coverage of the services sector of the U.S. economy and is identified as NAICS—518210 in the North American Industry Classification System.¹⁴ According to the BLS “[t]he primary output of NAICS 518210 is the provision of electronic data processing services. In the broadest sense, computer services companies help their customers efficiently use technology. The processing services market consists of vendors who use their own computer systems—often utilizing proprietary software—to process customers’ transactions and data. Companies that offer processing services collect, organize, and store a customer’s transactions and other data for record-keeping purposes. Price movements for the NAICS 518210 index are based on changes in the revenue received by companies that provide data processing services. Each month, companies provide net transaction prices for a specified service. The transaction is an actual contract selected by probability, where the price-determining characteristics are held constant while the service is repriced. The prices used in index calculation are the actual prices billed for the selected service contract.”¹⁵

The Exchange believes the Data PPI is an appropriate measure to be considered in the context of the proposed pricing changes because the Exchange uses its “own computer systems” and “proprietary software,” *i.e.*, its own data center and proprietary matching engine software, respectively, to collect, organize, store and report customers’ transactions in U.S. options securities

on the Exchange’s proprietary trading platform. In other words, the Exchange is in the business of data processing and related services via its data center and proprietary matching engine software.

For purposes of this proposed rule change, with respect to the SQF Port Fee, the Exchange examined the Data PPI value for the period from April 2015 to October 2024 (when the subject pricing was adopted). The Data PPI had a starting value of 103.800 in April 2015 and an ending value of 115.902 in October 2024, a 12.10% increase. For purposes of this proposed rule change, with respect to the SQF Purge Port Fee, the Exchange examined the Data PPI value for the period from April 2016 to October 2024 (when the subject pricing was adopted). The Data PPI had a starting value of 105.500 in April 2016 and an ending value of 115.902 in October 2024, a 10.40% increase. For purposes of this proposed rule change, with respect to the SQF Fee Cap, the Exchange examined the Data PPI value for the period from November 2014 to October 2024 (when the subject pricing was adopted). The Data PPI had a starting value of 103.500 in November 2014 and an ending value of 115.902 in October 2024, a 12.40% increase. This data indicates that companies who are also in the data storage and processing business have generally increased prices for a specified service covered under NAICS 518210 by an average of 12.10%, 10.40% and 12.40%, respectively, during the periods noted above. Based on that percentage change, the Exchange proposes to make a one-time fee increase of only 10%, which reflects an increase covering roughly the entire period since the last price adjustments were made to the SQF Port Fee, the SQF Purge Port Fee, and the related SQF Fee Cap.

The Exchange further believes the Data PPI is an appropriate measure for purposes of the proposed rule change on the basis that it is a stable metric with limited volatility, unlike other consumer-side inflation metrics. In fact, the Data PPI has not experienced a greater than 2.16% increase for any one calendar year period since Data PPI was introduced into the PPI in January 2002. The average calendar year change from January 2002 to December 2023 was .62%, with a cumulative increase of 15.67% over this 21-year period. The Exchange believes the Data PPI is considerably less volatile than other inflation metrics such as CPI, which has had individual calendar-year increases of more than 6.5%, and a cumulative

increase of over 73% over the same period.¹⁶

The Exchange believes the Data PPI, and significant investments into, and enhanced performance of, the Exchange support the reasonableness of the proposed pricing increases.¹⁷

As a technical amendment, the Exchange proposes to add the words “active port” in parenthesis at the end of the description of the SQF Port Fee to tie the definition of an active port to the description for the port.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

This belief is based on two factors.

First, the current pricing does not properly reflect the quality of the SQF Ports and SQF Purge Ports, as pricing for these port offerings have been static in nominal terms, and therefore falling in real terms due to inflation. Second, the Exchange believes that investments made in enhancing the risk protections and capacity of SQF Ports and SQF Purge Ports has increased the performance of these port offerings.

The Proposed Rule Change Is Reasonable

As noted above, the Exchange has not increased any of the fees included in the proposal since 2014, 2015 and 2016, respectively. However, in the years following the last fee increases, the Exchange has made significant investments in upgrades to its SQF Ports and SQF Purge Ports, enhancing the quality of its services, as measured by, among other things, increased capacity. In other words, Exchange customers have greatly benefitted, while the Exchange’s ability to recoup its investments has been hampered. Between 2014 and 2024, the inflation rate is 2.92% per year, on average,

¹⁶ See <https://www.usinflationcalculator.com/>.

¹⁷ See *supra* discussion of SQF Port and SQF Purge Port enhancements. Additionally, other exchanges have filed for increases in certain fees, based in part on comparisons to inflation. See, e.g., Securities Exchange Act Release Nos. 34–100994 (September 10, 2024), 89 FR 75612 (September 16, 2024) (SR–NYSEARCA–2024–79); and 34–101519 (November 5, 2024), 89 FR 89071 (November 12, 2024) (SR–CboeBYX–2024–039).

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(4) and (5).

¹⁴ NAICS appears in table 5 of the PPI Detailed Report and is available at <https://data.bls.gov/timeseries/PCU518210518210>.

¹⁵ See <https://www.bls.gov/ppi/factsheets/producer-price-index-for-the-data-processing-and-related-servicesindustry-naics-518210.htm>.

producing a cumulative inflation rate of 33.34%.²⁰ Between 2015 and 2024, the inflation rate is 3.24% per year, on average, producing a cumulative inflation rate of 33.18%.²¹ Also, between 2016 and 2024, the inflation rate is 3.48% per year, on average, producing a cumulative inflation rate of 31.52%.²² Using the more targeted inflation number of Data PPI, the cumulative inflation rate was 12.40% between 2014 and 2024, 12.10% between 2015 and 2024, and 10.40% between 2016 and 2024. The Exchange believes the Data PPI is a reasonable metric to base this fee increase on because it is targeted to producer-side increases in the data processing industry.

Notwithstanding inflation, as noted above, the Exchange has not increased its pricing of these port fees for over eight, nine, and ten years, respectively, for the SQF Port, the SQF Purge Port, or the corresponding SQF Fee Cap. The proposed SQF Port Fee and SQF Purge Port Fee represent a modest increase from the current SQF Port Fee and SQF Purge Port Fee. Further, the proposed increase to the SQF Fee Cap aligns with the increase to the port offerings. The Exchange believes the proposed SQF Port Fee, SQF Purge Port Fee, and SQF Fee Cap increases are reasonable in light of the Exchange's continued expenditure in maintaining a robust technology ecosystem. Furthermore, the Exchange continues to invest in maintaining and enhancing its port products—for the benefit and often at the behest of its customers and global investors. Such enhancements include refreshing several aspects of the technology ecosystem including software, hardware, and network while introducing new and innovative products. The goal of the enhancements discussed above, among other things, is to provide more modern connectivity to the match engine. Accordingly, the Exchange continues to expend resources to innovate and modernize its technology so that it may benefit its members in offering SQF Ports and SQF Purge Ports.

The Proposed Fees Are Equitably Allocated and Not Unfairly Discriminatory

The Exchange believes that the proposal represents an equitable allocation of reasonable dues, fees and other charges because the Exchange

pricing has fallen in real terms during the relevant period. The Exchange also believes that the proposed pricing increases are equitably allocated and not unfairly discriminatory because they would apply uniformly to all Market Makers that subscribe to the SQF Ports and SQF Purge Ports to quote on the Exchange. Market Makers are the only market participants that are assessed the SQF Port Fee and SQF Purge Port Fee (and subject to the related SQF Fee Cap) because they are the only market participants that are permitted to quote on the Exchange.²³ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to the Exchange on a continuous basis. SQF Ports and SQF Purge Ports are only utilized in a Market Maker's assigned options series.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed pricing changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intra-market Competition

The Exchange believes that the proposed pricing does not put any market participants at a relative disadvantage compared to other market participants. As noted above, the Exchange would apply the proposed 10% increase to the SQF Port, the SQF Purge Port fee (and related SQF Fee Cap) to all Market Makers uniformly. Market Makers are the only market participants that are assessed an SQF Port Fee and an SQF Purge Port Fee (and subject to the related SQF Fee Cap) because they are the only market participants that are permitted to quote on the Exchange.²⁴ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to the Exchange on a continuous basis. SQF Ports and SQF Purge Ports are only utilized in a Market Maker's assigned options series.

Intermarket Competition

The Exchange believes that the proposed pricing does not impose an undue burden on intermarket competition or on other SROs that is not necessary or appropriate. In determining the proposed pricing, the Exchange

utilized an objective and stable metric with limited volatility. Utilizing Data PPI over a specified period of time is a reasonable means of recouping the Exchange's investment in maintaining and enhancing its port offerings such as the SQF Ports and SQF Purge Ports. The Exchange believes utilizing Data PPI, a tailored measure of inflation, to increase the fees for the SQF Port and the SQF Purge Port (and the related SQF Fee Cap) to recoup the Exchange's investment in maintaining and enhancing such offerings does not impose a burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁵

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-Phlx-2024-69 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.

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁰ See <https://www.officialdata.org/us/inflation/2015?amount=1>.

²¹ See <https://www.officialdata.org/us/inflation/2015?amount=1>.

²² See <https://www.officialdata.org/us/inflation/2015?amount=1>.

²³ Unlike other market participants, Market Makers are subject to market making and quoting obligations. See Options 2, Sections 4 and 5.

²⁴ Unlike other market participants, Market Makers are subject to market making and quoting obligations. See Options 2, Sections 4 and 5.

All submissions should refer to file number SR-Phlx-2024-69. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-Phlx-2024-69 and should be submitted on or before January 13, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-30526 Filed 12-20-24; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval from the Office of Management and Budget (OMB) for a modification to the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB

and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: To ensure consideration, comments regarding this information collection must be received on or before February 21, 2025.

ADDRESSES: Send all comments by email to oii.policy@sba.gov, Paul Van Eyl, Policy Division, Office of Investment and Innovation, Small Business Administration.

FOR FURTHER INFORMATION CONTACT: Paul Van Eyl, Policy Division, 202-798-7537, oii.policy@sba.gov, or Curtis B. Rich, Agency Clearance Officer, 202-205-7030, curtis.rich@sba.gov.

SUPPLEMENTARY INFORMATION: To obtain the information needed to carry out its oversight and risk management responsibilities under the Small Business Investment Act of 1958, as amended (the Act), the SBA requires applicants to the Small Business Investment Company (SBIC) program to submit information necessary for SBA to make decisions regarding the approval or denial of an applicant for an SBIC license. SBA uses this information to assess an applicant's ability to successfully operate an SBIC within the scope of the Act.

Solicitation of Public Comments: SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its mission and functions with respect to the SBIC program; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control Number 3245-0063

Title: SBIC Management Assessment Questionnaire (MAQ) and License Application.

SBA Form Number: 2181 (Short Form, Long Form, and Subsequent Fund MAQ).

Description of Respondents: Small Business Investment Company Applicants.

Estimated Number of Respondents: 275.

Estimated Annual Responses: 275.

Estimated Annual Burden: 17,750.

Curtis Rich,
Agency Clearance Officer.

[FR Doc. 2024-30519 Filed 12-20-24; 8:45 am]

BILLING CODE 8026-09-P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2024-0041]

Rate for Assessment on Direct Payment of Fees to Representatives in 2025

AGENCY: Social Security Administration (SSA).

ACTION: Notice.

SUMMARY: We are announcing the assessment percentage rate under the Social Security Act (Act) is 6.3 percent for 2025.

FOR FURTHER INFORMATION CONTACT: Mona B. Ahmed, Associate General Counsel for Program Law, Office of the General Counsel, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401. Phone: (410) 965-0600, email Mona.Ahmed@ssa.gov.

SUPPLEMENTARY INFORMATION: A claimant may appoint a qualified individual as a representative to act on their behalf in matters before the Social Security Administration (SSA). If the claimant is entitled to past-due benefits and was represented either by an attorney or by a non-attorney representative who has met certain prerequisites, the Act provides that we shall withhold up to 25 percent of the past-due benefits and use that money to pay the representative's approved fee directly to the representative.

When we pay the representative's authorized fee directly to the representative, we must collect from that fee payment an assessment to recover the costs we incur in determining and paying representatives' fees. The Act provides that the assessment we collect will be the lesser of two amounts: a specified dollar limit; or the amount determined by multiplying the fee we are paying by the assessment percentage rate. (Sections 206(d), 206(e), and 1631(d)(2) of the Act, 42 U.S.C. 406(d), 406(e), and 1383(d)(2).)

The Act initially set the dollar limit at \$75 in 2004 and provides that the limit will be adjusted annually based on changes in the cost-of-living. (Sections 206(d)(2)(A) and 1631(d)(2)(C)(ii)(I) of the Act, 42 U.S.C. 406(d)(2)(A) and 1383(d)(2)(C)(ii)(I).) The maximum dollar limit for the assessment currently is \$120, as we announced in the **Federal Register** on October 25, 2024 (89 FR 85276).

The Act requires us each year to set the assessment percentage rate at the lesser of 6.3 percent or the percentage rate necessary to achieve full recovery of the costs we incur to determine and pay

²⁶ 17 CFR 200.30-3(a)(12).

representatives' fees. (Sections 206(d)(2)(B)(ii) and 1631(d)(2)(C)(ii)(II) of the Act, 42 U.S.C. 406(d)(2)(B)(ii) and 1383(d)(2)(C)(ii)(II).)

Based on the best available data, we have determined that the current rate of 6.3 percent will continue for 2025. We will continue to review our costs for these services on a yearly basis.

Sean Brune,

Deputy Commissioner, for Budget, Finance, and Management, Social Security Administration.

[FR Doc. 2024-30543 Filed 12-20-24; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF STATE

[Public Notice: 12611]

Advisory Committee on International Law; Meeting

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Department of State's Advisory Committee on International Law ("ACIL").

DATES: January 17, 2025, from 9:00 a.m. to 3:15 p.m.

ADDRESSES: The George Washington University Law School, Student Conference Center, 2023 G Street NW, Second Floor, Washington, DC. An option to join virtually will also be available.

FOR FURTHER INFORMATION CONTACT:

Members of the public who wish to attend should contact Shana Rogers, Office of the Legal Adviser, by January 8, 2025, at rogerssa2@state.gov or (771) 205-4995 and provide their name, professional affiliation (if any), email address, and phone number.

SUPPLEMENTARY INFORMATION: Legal Adviser Margaret L. Taylor will chair the meeting, which will be open to the public up to the capacity of the meeting room. Priority for in-person seating will be given to members of the Advisory Committee, and remaining seating will be reserved based upon when persons contact the Office of the Legal Adviser. Individuals who wish to attend virtually may request a link to the virtual meeting platform. Attendees who require reasonable accommodation should make their requests by January 8, 2025. Requests received after that date will be considered but might not be possible to accommodate. The meeting will include discussions on international law topics. These topics include: (1) jurisdictional issues related to crimes committed by private military and security companies (PMSCs), in light of ongoing work to

develop an international regulatory framework on the regulation, monitoring, and oversight of PMSCs; (2) the tension between the stated scope of the binding force of international tribunal decisions and the practice of giving broad effect to those decisions; and (3) the interplay between various bodies of international law in the context of naval operations.

Authority: 5 U.S.C. 1009 and 41 CFR 102-3.150.

Shana A. Rogers,

Attorney-Adviser, Office of the Legal Adviser, Department of State.

[FR Doc. 2024-30612 Filed 12-20-24; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF STATE

[Public Notice: 12609]

Private Sector Participation in Domestic and International Events on Spaceflight Safety, Sustainability, and Emerging Markets in Outer Space

ACTION: Notice.

SUMMARY: The U.S. Department of State seeks private sector participation in a series of domestic and international events promoting the safe and responsible exploration and use of outer space.

DATES: Participants will provide their perspectives on Department equities and/or serve as private sector advisors to U.S. delegations to one or more workshops, meetings, symposia, and other international events related to safety, sustainability, responsible behavior, and emerging markets in outer space until December 31, 2025.

ADDRESSES: Solicitations for private sector participation in specific events, including event dates and locations, will be posted at least 30 days prior to the event on <https://www.state.gov/remarks-and-releases-bureau-of-oceans-and-international-environmental-and-scientific-affairs/>.

FOR FURTHER INFORMATION CONTACT:

Ryan Guglietta, Lead Foreign Affairs Officer, Office of Space Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20522, email: gugliettart@state.gov, telephone: 1-202-485-6952.

SUPPLEMENTARY INFORMATION:

Participation of the commercial space sector, academia and other non-governmental organizations in these events will assist the Department of State in fulfilling its responsibilities pursuant to the 2020 National Space

Policy and the 2021 United States Space Priorities Framework. Participation from the U.S. private sector will also help inform the United States' international engagements and provide an opportunity for participants to better understand international perspectives on pressing outer space issues.

Events will vary in location and format, to include fully online, hybrid, and in-person activities. Short notice modification of plans may be required in response to unpredictable factors. Meetings may be stand alone or on the margins of related events, which may include, but are not limited to, the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) Scientific and Technical Subcommittee (STSC), the UNCOPUOS Legal Subcommittee (LSC), the UNCOPUOS plenary, events organized by the UN Office for Outer Space Affairs, and other engagements. There may also be additional opportunities to provide expert views related to domestic policies and U.S. positions in other international diplomatic fora. Please note the limited number of slots for non-USG participation in many events.

Participants should focus on the following:

Safety: Identify key safety issues for crewed and/or uncrewed outer space operations. Discuss current attempts to address these issues and suggest new challenges that may develop as private sector space activities advance and evolve.

Sustainability: Explore efforts to promote sustainable and responsible behavior in space. Examine best practices and guidelines aimed at safeguarding the outer space environment for future exploration and use. In particular, implementation of the 2019 UNCOPUOS Long-Term Sustainability (LTS) guidelines and the multi-nation Artemis Accords should be considered.

Emerging Markets: Discuss the challenges to an economically viable space industry and how these challenges relate to the domestic regulatory and international governance frameworks. Share recent advances within the commercial space sector and how they may develop in the future. Evaluate how an expanding commercial sector may affect equities like terrestrial based astronomy, planetary protection, orbital debris mitigation, space resource utilization, and other aspects of safe and sustainable operations in outer space.

Facilitating Private Sector Input: Suggest ways to enhance collaboration between the U.S. Government, foreign countries, and commercial space

industry in the development of international best practices and related mechanisms, including at the United Nations level. Provide advice on methods of improving information sharing and collaboration between industry stakeholders and the Department of State to improve bilateral, regional, and multilateral diplomacy related to commercial space. Share perspectives on the role of U.S. and foreign commercial actors in providing greater access to space for emerging spacefaring nations and enhancing economic prosperity.

Valda M. Vikmanis-Keller,

Director, Office of Space Affairs, Department of State.

[FR Doc. 2024–30503 Filed 12–20–24; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 12614]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Neue Sachlichkeit/New Objectivity” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Neue Sachlichkeit/New Objectivity” at the Neue Galerie New York, in New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999,

Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–30571 Filed 12–20–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12613]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Jose Maria Velasco” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition “Jose Maria Velasco” at the Minneapolis Institute of Art, Minneapolis, Minnesota, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of

Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–30572 Filed 12–20–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12612]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “The First Homosexuals” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “The First Homosexuals” by Alphawood Foundation, through its subsidiary Alphawood Exhibitions LLC, at the Wrightwood 659 Gallery, Chicago, Illinois, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–30573 Filed 12–20–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****[Docket No. FMCSA–2024–0204]****Agency Information Collection Activities; Renewal of a Currently Approved Collection: Driver Qualification Files****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. FMCSA requests approval to revise and renew an ICR titled “Driver Qualification Files,” OMB Control Number 2126–0004. The ICR estimates the burden commercial motor vehicle (CMV) drivers and motor carriers incur to comply with the reporting and recordkeeping tasks required for motor carriers to maintain driver qualification (DQ) files. The Agency’s regulations pertaining to maintaining DQ files are unchanged and impose no increased information collection (IC) burden on individual drivers and motor carriers. However, the Agency increases its estimate of the total IC burden of these regulations primarily because both the number of CMV drivers and the frequency of their hiring have increased since the Agency’s 2022 estimate of this burden.

DATES: Comments on this notice must be received on or before February 21, 2025.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2024–0204 using any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. 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 or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, 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.

- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlle Robinson, Driver and Carrier Operations Division, DOT, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; 202–366–4225; pearlie.robinson@dot.gov

SUPPLEMENTARY INFORMATION:**Instructions**

All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Public Participation and Request for Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2024–0204), indicate the specific section of this document to which the comment applies and provide a reason for suggestions or recommendations. 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 the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2024-0204> document, click on this notice, click “Comment,” and type your comment into the text box on the following screen.

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.

Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, 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 (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edits and are searchable by the name of the submitter.

Background

The Motor Carrier Safety Act of 1984 (Pub. L. 98–554, title II, 98 Stat. 2834 (Oct. 30, 1984)) requires the Secretary of Transportation to issue regulations pertaining to CMV safety. Part 391 of volume 49 of the Code of Federal Regulations (CFR) contains the minimum qualifications of drivers of CMVs in interstate commerce.

Motor carriers may not require or permit an unqualified driver to operate a CMV. The foremost proof of driver qualification is the information that part 391 requires be collected and maintained in the DQ file (49 CFR 391.51). Motor carriers must obtain this information from sources specified in the regulations, such as the driver, previous employers of the driver, and officials of the State of driver licensure. Motor carriers are not required to forward DQ information to FMCSA but must maintain the information in a DQ file and make it available to State and Federal safety investigators on demand.

Through this ICR, FMCSA is asking OMB’s approval to renew and revise its estimate of the paperwork burden imposed by its DQ file regulations. The regulations have not been amended; the IC burden imposed on individual drivers and motor carriers by the regulations is unchanged. The current IC burden estimate approved by OMB is 14.23 million hours. The Agency has increased its estimate of the total IC burden from 14.23 million hours to 18.39 million hours. The increase in burden hours is primarily the result of a larger driver population and a higher driver turnover rate, both of which affect the volume of documents produced and filed in DQ files. The draft supporting statement for this ICR is available in the docket.

Title: Driver Qualification Files.

OMB Control Number: 2126–0004.

Type of Request: Renewal of a currently approved information collection.

Respondents: CMV motor carriers and drivers.

Estimated Number of Respondents: 9.87 million (9.06 million drivers + 0.81 million motor carriers).

Expiration Date: May 31, 2025.

Frequency of Response: The information on some DQ documents is only provided one time, such as that furnished at the time the individual applies for employment as a driver. Other information must be obtained by the motor carrier within 30 days of the date the driver begins to drive a CMV for the employer. Other information, such as the driver's motor vehicle record, is only updated once a year.

Estimated Total Annual Burden: 18.39 million hours.

Definitions: N/A.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority delegated in 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator, Office of Research and Registration.

[FR Doc. 2024-30516 Filed 12-20-24; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2024-0178]

Agency Information Collection Activities; Renewal of an Approved Information Collection: Road Test Requirement

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. FMCSA requests approval to renew the ICR titled "Road Test Requirement." This ICR estimates the information burden incurred by motor carriers associated with the road test requirements in two circumstances. The

first is when the motor carrier hires a new driver. The second is when the road test is required for individuals physically qualified under the Agency's alternative vision standard for the first time. In each circumstance, motor carriers are required to rate the performance of the driver during the test on a road test form provided by the motor carrier. If the road test is successfully completed, the motor carrier completes a certificate of driver's road test and provides a copy to the driver. The motor carrier retains the original signed road test form and the original, or a copy, of the signed certificate in the driver qualification file.

DATES: Comments on this notice must be received on or before January 22, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlle Robinson, Driver and Carrier Operations Division, DOT, FMCSA, West Building, 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; 202-366-4225; pearlie.robinson@dot.gov.

SUPPLEMENTARY INFORMATION:

Title: Road Test Requirement.
OMB Control Number: 2126-0072.
Type of Request: Renewal of a currently approved collection.

Respondents: Motor carriers.
Estimated Number of Respondents: 3,187,668.

Estimated Time per Response: 33 minutes.

Expiration Date: March 31, 2025.
Frequency of Response: On occasion.
Estimated Total Annual Burden: 584,408.

Background

This ICR supports the DOT strategic goal of safety. Public interest in highway safety dictates that employers hire drivers who can safely operate CMVs amid the various physical and mental demands of truck and bus driving. Subject to some exceptions, 49 CFR 391.31 requires a motor carrier to conduct a road test when the motor carrier hires a new driver. The motor carrier is required to rate the performance of the driver during the test on a road test form provided by the motor carrier. If the road test is successfully completed, the motor

carrier completes a certificate of driver's road test and provides a copy to the driver. The motor carrier retains the original signed road test form and the original, or a copy, of the signed certificate in the driver qualification file. Motor carriers may maintain the required road test form and certificate electronically or via paper copy. The information collected by the motor carrier is needed to document the motor carrier conducted the road test as required and determined the driver can operate a CMV safely. The information also assists Federal and State safety investigators in determining that motor carriers fulfilled their regulatory requirements when deciding who may drive CMVs on their behalf and in assessing the qualifications of drivers.

The ICR estimates the information-collection (IC) burden incurred by motor carriers associated with the § 391.31 road test in two circumstances. The first is when the road test is required by § 391.31 (IC-1); the second is when the road test is required as part of the alternative vision standard in § 391.44 (IC-2). However, individuals are excepted from the road test requirement if they have 3 years of intrastate or specific excepted interstate CMV driving experience with the vision deficiency, hold a valid Federal vision exemption, or are medically certified under § 391.64(b). Most of the motor carrier burden hours and cost for the information collection relates to IC-1.

Renewal of This IC

The current burden estimate associated with this IC, approved by OMB on March 28, 2022, is 273,888 hours. The expiration date of the current ICR is March 31, 2025. Through this ICR renewal, the Agency requests an increase in the burden hours from 273,888 hours to 584,408 hours. The increase is the result of an increase in the estimated driver population as well as an increase in the expected industry growth rate for drivers from 2022 to 2032.

On September 13, 2024, FMCSA published a **Federal Register** notice allowing for a 60-day comment period on this ICR (89 FR 75011). The comment period closed on November 12, 2024. There were no comments submitted in response to that notice.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected

information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator, Office of Research and Registration.

[FR Doc. 2024-30517 Filed 12-20-24; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2010-0029]

The National Railroad Passenger Corporation's Request for Amendment to Its Positive Train Control Type Approval and System Certification

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that, on December 11, 2024, the National Railroad Passenger Corporation (Amtrak) submitted a request for amendment (RFA) to its Positive Train Control Type Approval and System Certification in order to add Amtrak AMT-27, which includes instructions for testing signal apparatuses and signal systems. As this RFA may involve a request for FRA's approval of proposed material modifications to an FRA-certified positive train control (PTC) system, FRA is publishing this notice and inviting public comment on Amtrak's RFA to its Positive Train Control Type Approval and System Certification.

DATES: FRA will consider comments received by January 13, 2025. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

ADDRESSES: *Comments:* Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA-2010-0029. For convenience, all active PTC dockets are hyperlinked on FRA's website at

<https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

FOR FURTHER INFORMATION CONTACT:

Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816-516-7168, email: Gabe.Neal@dot.gov.

SUPPLEMENTARY INFORMATION: In general, title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system complies with title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal or train control system. Accordingly, this notice informs the public that, on December 11, 2024, Amtrak submitted an RFA to its Positive Train Control Type Approval and System Certification in order to add Amtrak AMT-27, which includes instructions for testing signal apparatuses and signal systems. That RFA is available in Docket No. FRA-2010-0029.

Interested parties are invited to comment on Amtrak's RFA to its Positive Train Control Type Approval and System Certification by submitting written comments or data. During FRA's review of Amtrak's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov. To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC

John Karl Alexy,

Associate Administrator for Railroad Safety & Chief Safety Officer.

[FR Doc. 2024-30601 Filed 12-20-24; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the 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 December 17, 2024. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, 202-622-2420; or Assistant Director for Sanctions Compliance, 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 December 17, 2024, OFAC determined that the persons identified below meet one or more of the criteria

for the imposition of sanctions set forth in section 1(a)–(c) of Executive Order 14059 of December 15, 2021, “Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade,” 86 FR 71549 (December 17, 2021) (E.O. 14059). OFAC has selected to impose blocking sanctions pursuant to section 2(a)(i) of E.O. 14059 on the persons identified below.

Individuals

1. KARPAVICIUS, Rokas (a.k.a. KARPIS, Rokas), Lithuania; Santa Cruz de Tenerife, Spain; DOB 04 Jan 1980; POB Lithuania; nationality Lithuania; Gender Male (individual) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of contributing to, the international proliferation or illicit drugs or their means of production.

2. GRINEVICIUS, Arnas, Lithuania; DOB 07 Dec 1976; POB Lithuania; nationality Lithuania; Gender Male (individual) [ILLICIT-DRUGS-EO14059] (Linked To: DRAGON SECURE GMBH).

Designated pursuant to section 1(b)(ii) of E.O. 14059 for being or having been a leader or official of Dragon Secure GmbH, a person sanctioned pursuant to E.O. 14059.

3. KARPE, Jurga, Spain; DOB 29 Mar 1981; nationality Lithuania; Gender Female (individual) [ILLICIT-DRUGS-EO14059] (Linked To: KARPIS AG).

Designated pursuant to section 1(b)(ii) of E.O. 14059 for being or having been a leader or official of Karpis AG, a person sanctioned pursuant to E.O. 14059.

4. LABUTIS, Virginijus (a.k.a. LABUTIS, Victor), Lithuania; DOB 16 Feb 1972; POB Lithuania; nationality Lithuania; Gender Male (individual) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of contributing to, the international proliferation or illicit drugs or their means of production.

5. BETANCOURT ROSERO, Camilo Esteban, Colombia; DOB 28 Nov 1990; POB Tumaco, Colombia; nationality Colombia; Gender Male; Cedula No. 1126864728 (Colombia) (individual) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of contributing to, the international proliferation or illicit drugs or their means of production.

6. LEUNG, Ho Kai (a.k.a. LEUNG, Ho-Kar; a.k.a. “LEUNG, Jackie”), New Zealand; DOB 19 Aug 1978; nationality New Zealand; Gender Male (individual) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed

to, or pose a significant risk of contributing to, the international proliferation or illicit drugs or their means of production.

7. PERRILLA SANDOVAL, Allende, Colombia; DOB 25 Mar 1990; POB San Jose Del Guaviare, Guaviare, Colombia; nationality Colombia; Gender Male; Cedula No. 1061741639 (Colombia) (individual) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of contributing to, the international proliferation or illicit drugs or their means of production.

8. STASKUS, Saulius (a.k.a. STASKUS, Soulius; a.k.a. STAUSKAS, Soulius), Lithuania; DOB 09 Mar 1963; POB Lithuania; nationality Lithuania; Gender Male (individual) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of contributing to, the international proliferation or illicit drugs or their means of production.

9. THACKRAY, David Jonathan, Australia; DOB 08 Aug 1980; POB Australia; nationality Australia; Gender Male (individual) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of contributing to, the international proliferation or illicit drugs or their means of production.

10. CASARRUBIA POSADA, Elkin (a.k.a. “Cura”; a.k.a. “Joaquin”), Colombia; DOB 15 Jun 1968; POB Arboletes, Antioquia, Colombia; nationality Colombia; Gender Male; Cedula No. 78702064 (Colombia) (individual) [ILLICIT-DRUGS-EO14059] (Linked To: CLAN DEL GOLFO).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Clan Del Golfo, a person sanctioned pursuant to E.O. 14059.

11. OSTEN BLANCO, Orozman Orlando (a.k.a. “Rodrigo Flechas”), Colombia; DOB 11 Mar 1970; nationality Colombia; Gender Male; Cedula No. 98596602 (Colombia) (individual) [ILLICIT-DRUGS-EO14059] (Linked To: CLAN DEL GOLFO).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Clan Del Golfo, a person sanctioned pursuant to E.O. 14059.

12. PEREZ CASTANEDA, Luis Armando (Latin: PEREZ CASTANEDA, Luis Armando) (a.k.a. “Bruno”), Colombia; DOB 02 Oct 1991; POB Apartado, Antioquia, Colombia; nationality Colombia; Gender Male; Cedula No. 71941532 (Colombia) (individual) [ILLICIT-DRUGS-EO14059] (Linked To: CLAN DEL GOLFO).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly,

Clan Del Golfo, a person sanctioned pursuant to E.O. 14059.

Entities

1. ATIYA S A S, Calle 11 43B 50, Medellin, Antioquia, Colombia; Organization Established Date 28 May 2020; Organization Type: Real estate activities with own or leased property; NIT # 9013841731 (Colombia) [ILLICIT-DRUGS-EO14059] (Linked To: LABUTIS, Virginijus).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Virginijus Labutis, a person sanctioned pursuant to E.O. 14059.

2. DRAGON SECURE GMBH (a.k.a. “KRADEN”; a.k.a. “SKYDA”), Bahnhofstrasse 20, Zug 6300, Switzerland; website www.kraden.com; alt. Website Skyda.co; Organization Established Date 03 Mar 2022; Organization Type: Computer programming activities; alt. Organization Type: Wireless telecommunications activities; Tax ID No. 280091217 (Switzerland); Registration Number CH-170.4.019.396-6 (Switzerland) [ILLICIT-DRUGS-EO14059] (Linked To: KARPAVICIUS, Rokas).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Rokas Karpavicius, a person sanctioned pursuant to E.O. 14059.

3. KARPIS AG, Bahnhofstrasse 20, Zug 6300, Switzerland; Organization Established Date 14 Dec 2021; Organization Type: Other financial service activities, except insurance and pension funding activities, n.e.c.; Tax ID No. 181046704 (Switzerland); Legal Entity Number 875500KMMBZ815XS0H29; Registration Number CH-170.3.046.619-4 (Switzerland) [ILLICIT-DRUGS-EO14059] (Linked To: KARPAVICIUS, Rokas).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Rokas Karpavicius, a person sanctioned pursuant to E.O. 14059.

4. LAKE FOREST SP Z O O (a.k.a. LAKE FOREST SPOLKA Z OGRANICZONA ODPOWIEDZIALNOSCIA (Latin: LAKE FOREST SPOLKA Z OGRANICZONA ODPOWIEDZIALNOSCIA)), Ul. Solec 18, b21, Warsaw 00-410, Poland; Organization Established Date 12 May 2017; Organization Type: Wholesale and retail trade; Tax ID No. 5272808753 (Poland); Registration Number 367279905 (Poland) [ILLICIT-DRUGS-EO14059] (Linked To: KARPAVICIUS, Rokas).

Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Rokas Karpavicius, a person sanctioned pursuant to E.O. 14059.

5. MB PTERA (a.k.a. SB PTERA), Eduardo Andre G. 14-5, Vilnius 02232, Lithuania; Organization Established Date 16 Sep 2022; Organization Type: Computer programming activities; Registration Number 306147387 (Lithuania) [ILLICIT-DRUGS-EO14059] (Linked To: GRINEVICIUS, Arnas).

Designated pursuant to section (1)(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Arnas Grinevicius, a person sanctioned pursuant to E.O. 14059.

6. UAB FLAVOUR LABS, Eduardo Andre G. 14–5, Vilnius 02232, Lithuania; Organization Established Date 18 May 2021; Organization Type: Professional, scientific, and technical activities; Registration Number 305769920 (Lithuania) [ILLICIT–DRUGS–EO14059] (Linked To: GRINEVICIUS, Arnas).

Designated pursuant to section (1)(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Arnas Grinevicius, a person sanctioned pursuant to E.O. 14059.

7. JT TRADING LIMITED (a.k.a. JT TRADING LTD), 210b Marua Road, Mount Wellington, Auckland 1051, New Zealand; Organization Established Date 20 May 2016; Organization Type: Wholesale and retail trade; alt. Organization Type: Maintenance and repair of motor vehicles; Company Number 6002468 (New Zealand); Business Number 9429042364061 (New Zealand) [ILLICIT–DRUGS–EO14059] (Linked To: LEUNG, Ho Kai).

Designated pursuant to section (1)(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Ho Kai Leung, a person sanctioned pursuant to E.O. 14059.

8. TNK TRADING LIMITED, 1515/1 Courthouse Lane, Auckland, New Zealand;

Organization Established Date 15 Feb 2017; Organization Type: Sale of motor vehicles; Company Number 6230071 (New Zealand); Business Number 9429045946462 (New Zealand) [ILLICIT–DRUGS–EO14059] (Linked To: LEUNG, Ho Kai).

Designated pursuant to section (1)(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Ho Kai Leung, a person sanctioned pursuant to E.O. 14059.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2024–30512 Filed 12–20–24; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) is publishing the 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 December 18, 2024. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Sanctions Compliance, 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 December 18, 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 authority listed below.

BILLING CODE 4810–AL–P

Individuals:

1. ABEDININAJAFABADI, Mohammad (Arabic: محمد عابدینی نجف آبی) (a.k.a. ABEDINI NAJAFABADI, Mohammad), Tehran, Iran; Switzerland; DOB 14 Jan 1986; POB Ghom, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0386306796 (Iran) (individual) [NPWMD] [IRGC] [IFSR] (Linked To: SANAT DANESH RAHPUYAN AFLAK COMPANY LTD).

Designated pursuant to section 1(a)(iv) of Executive Order 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters," 70 FR 38567, 3 CFR, 2005 Comp., p. 170 (E.O. 13382), for acting or purporting to act for or on behalf of, directly or indirectly, SANAT DANESH RAHPUYAN AFLAK COMPANY LTD, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. MERAT, Kaveh (Arabic: کاوه مرآت), Tehran, Iran; DOB 22 Sep 1984; POB Kerman, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 2992928941 (Iran) (individual) [NPWMD] [IRGC] [IFSR] (Linked To: SANAT DANESH RAHPUYAN AFLAK COMPANY LTD).

Designated pursuant to section 1(a)(iv) of E.O. 13382, for acting or purporting to act for or on behalf of, directly or indirectly, SANAT DANESH RAHPUYAN AFLAK COMPANY LTD, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Entities

1. ILLUMOVE SA, Lausanne, Switzerland; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 26 Sep 2019; V.A.T. Number CHE-479.657.194 (Switzerland); Tax ID No. 479657194 (Switzerland); Registration Number CH-550.1.187.069-4 (Switzerland) [NPWMD] [IRGC] [IFSR] (Linked To: ABEDININAJAFABADI, Mohammad).

Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, ABEDININAJAFABADI, Mohammad, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. SANAT DANESH RAHPUYAN AFLAK COMPANY LTD (Arabic: شرکت صنعت و دانش راهپویان افلاک) (a.k.a. RAIPOOYAN AFLAK INDUSTRY AND KNOWLEDGE ENGINEERING COMPANY (Arabic: شرکت مهندسی صنعت و دانش راهپویان افلاک)), Ground Floor, No. 4, Payam Azadi cul-de-sac, Shahid Ahmad Ghasemi St., Timuri, Central Sector, Tehran City, Tehran Province, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 14 Nov 2011; National ID No. 10320701217 (Iran); Registration Number 418435 (Iran) [NPWMD] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS AEROSPACE FORCE SELF SUFFICIENCY JIHAD ORGANIZATION)

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, ISLAMIC REVOLUTIONARY GUARD CORPS AEROSPACE FORCE SELF SUFFICIENCY JIHAD ORGANIZATION, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Lisa M. Palluconi,
Acting Director, Office of Foreign Assets Control.
[FR Doc. 2024–30617 Filed 12–20–24; 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 December 18, 2024. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Sanctions Compliance, 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 December 18, 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 authority listed below.

BILLING CODE 4810–AL–P

Individuals

1. DOBRIC, Aleksandar (Cyrillic: ДОБРИЋ, Александар) (a.k.a. DOBRIC, Aco), Bosnia and Herzegovina; DOB 15 Jul 1991; nationality Bosnia and Herzegovina; Gender Male; Passport B0649514 (Bosnia and Herzegovina) expires 29 Dec 2025; National ID No. 531206222 (Bosnia and Herzegovina) (individual) [BALKANS-EO14033] (Linked To: DODIK, Igor).

Designated pursuant to section 1(a)(vii) of Executive Order 14033 of June 8, 2021, "Blocking Property and Suspending Entry into the United States of Certain Persons Contributing to the Destabilizing Situation in the Western Balkans," (E.O. 14033), 86 FR 31079 (June 10, 2021), 3 CFR 2021 Comp., p. 591, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Igor Dodik, a person whose property and interests in property are blocked pursuant to E.O. 14033.

2. DOBRIC, Mirko, Gradiska, Bosnia and Herzegovina; DOB 30 Aug 1968; POB Gradiska, Bosnia and Herzegovina; nationality Bosnia and Herzegovina; citizen Bosnia and Herzegovina; Gender Male; Passport B1140215 (Bosnia and Herzegovina); National ID No. 3008968101465 (Bosnia and Herzegovina) (individual) [BALKANS-EO14033] (Linked To: DODIK, Igor).

Designated pursuant to section 1(a)(vii) of E.O. 14033 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Igor Dodik, a person whose property and interests in property are blocked pursuant to E.O. 14033.

3. KOSARAC, Stasa (Cyrillic: КОШАРАЋ, Стаса), Bosnia and Herzegovina; DOB 19 Mar 1975; nationality Bosnia and Herzegovina; Gender Male; National ID No. 741506328 (Bosnia and Herzegovina) expires 02 Dec 2031 (individual) [BALKANS-EO14033] (Linked To: DODIK, Milorad).

Designated pursuant to section 1(a)(vii) of E.O. 14033 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Milorad Dodik, a person whose property and interests in property are blocked pursuant to E.O. 14033.

4. VUKOTIC, Vlatko, Bosnia and Herzegovina; DOB 03 Jun 1976; POB Slavonski Brod, Croatia; nationality Bosnia and Herzegovina; Gender Male; Passport B2628470 (Bosnia and Herzegovina) expires 26 May 2030 (individual) [BALKANS-EO14033] (Linked To: DODIK, Igor).

Designated pursuant to section 1(a)(vi) of E.O. 14033 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, Igor Dodik, a person whose property and interests in property are blocked pursuant to E.O. 14033.

Entities

1. BEST SERVICE D.O.O. BANJA LUKA (a.k.a. AGAPE BEST D.O.O. BANJA LUKA; a.k.a. NAJBOLJA USLUGA DRUSTVO SA OGRANICENOM ODGOVORNOSCU BANJA LUKA), Trg Krajine br. 2, Banja Luka 78000, Bosnia and Herzegovina;

Organization Established Date 27 Nov 2023; Organization Type: Restaurants and mobile food service activities; Tax ID No. 4405158280005 (Bosnia and Herzegovina); Business Registration Number 57-01-0554-23 (Bosnia and Herzegovina) [BALKANS-EO14033] (Linked To: DOBRIC, Aleksandar).

Designated pursuant to section 1(a)(vii) of E.O. 14033 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Aleksandar Dobric, a person whose property and interests in property are blocked pursuant to E.O. 14033.

2. NIMBUS INNOVATIONS D.O.O. BANJA LUKA, Brace Pantica 2, Banja Luka 78000, Bosnia and Herzegovina; Organization Established Date 23 Jul 2024; Tax ID No. 4405275080009 (Bosnia and Herzegovina); Business Registration Number 57-01-0301-24 (Bosnia and Herzegovina) [BALKANS-EO14033] (Linked To: DODIK, Igor).

Designated pursuant to section 1(a)(vii) of E.O. 14033 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Igor Dodik, a person whose property and interests in property are blocked pursuant to E.O. 14033.

3. VORTO D.O.O., Ulica Jevrejska 67, Banja Luka 78000, Bosnia and Herzegovina; Organization Established Date 02 Mar 2020; Organization Type: Management consultancy activities; Tax ID No. 4404565110002 (Bosnia and Herzegovina); Business Registration Number 57-01-0074-20 (Bosnia and Herzegovina) [BALKANS-EO14033] (Linked To: VUKOTIC, Vlatko).

Designated pursuant to section 1(a)(vii) of E.O. 14033 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Vlatko Vukotic, a person whose property and interests in property are blocked pursuant to E.O. 14033.

4. ZELENA JABUKA D.O.O. (a.k.a. GREEN APPLE D.O.O.), Gornji Podgradci bb, Gradiska 78400, Bosnia and Herzegovina; Organization Established Date Apr 2024; Organization Type: Growing of other tree and bush fruits and nuts; Tax ID No. 4405236420005 (Bosnia and Herzegovina); Business Registration Number 57-01-0166-24 (Bosnia and Herzegovina) [BALKANS-EO14033] (Linked To: DOBRIC, Mirko).

Designated pursuant to section 1(a)(vii) of E.O. 14033 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Mirko Dobric, a person whose property and interests in property are blocked pursuant to E.O. 14033.

Lisa M. Palluconi,
Acting Director, Office of Foreign Assets Control.
[FR Doc. 2024–30550 Filed 12–20–24; 8:45 am]
BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY**United States Mint****Establish Prices for 2025 United States Mint Numismatic Products**

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing new pricing for United

States Mint numismatic clad products in accordance with the table in the **SUPPLEMENTARY INFORMATION** section.

DATES: The new numismatic product prices will be effective January 2, 2025.

FOR FURTHER INFORMATION CONTACT: Derrick Griffin; Branch Chief, Product Management; United States Mint, 801 9th Street NW, Washington, DC 20220; or call 202–354–7579.

SUPPLEMENTARY INFORMATION:

Product	Current retail price	New retail price
2018 AMERICAN INNOVATION \$1 PROOF COIN	\$11.50	\$13.25
2019 EXPLORE AND DISCOVER SET	19.95	22.95
AMERICAN INNOVATION \$1 FOUR-COIN PROOF SET	24.00	27.50
AMERICAN INNOVATION DOLLAR 100-COIN BAG—PHILADELPHIA	117.50	123.50
AMERICAN INNOVATION DOLLAR 100-COIN BAG—DENVER	117.50	123.50
AMERICAN INNOVATION \$1 COIN REVERSE PROOF SET	28.00	32.25
AMERICAN INNOVATION DOLLAR 25-COIN ROLL—PHILADELPHIA	34.50	36.25
AMERICAN INNOVATION DOLLAR 25-COIN ROLL—DENVER	34.50	36.25
KENNEDY HALF-DOLLAR BAGS 200-COIN BAGS	147.00	154.50
KENNEDY HALF-DOLLAR ROLLS TWO-ROLL SET	34.50	36.25
NATIVE AMERICAN 25-COIN ROLLS—PHILADELPHIA	34.50	36.25
NATIVE AMERICAN 25-COIN ROLLS—DENVER	34.50	36.25
NATIVE AMERICAN 250-COIN BOX—PHILADELPHIA	289.75	304.25
NATIVE AMERICAN 250-COIN BOX—DENVER	289.75	304.25
NATIVE AMERICAN 100-COIN BAG—PHILADELPHIA	117.50	123.50
NATIVE AMERICAN 100-COIN BAG—DENVER	117.50	123.50
PROOF SET (2 LENS 10-COIN)	35.00	40.25
UNCIRCULATED SET	29.00	33.25
AMERICAN WOMEN QUARTER ORNAMENT	35.00	36.75
AMERICAN WOMEN QUARTER 100-COIN BAG—P	45.00	47.25
AMERICAN WOMEN QUARTER 100-COIN BAG—D	45.00	47.25
AMERICAN WOMEN QUARTER—QUARTER PROOF SET (5-COIN)	23.00	26.50
AMERICAN WOMEN QUARTER—2 ROLLS	40.00	42.00
AMERICAN WOMEN QUARTER—3 ROLLS	60.00	63.00
MIGHTY MINTERS ORNAMENT	35.00	36.75
USM HOLIDAY ORNAMENT	35.00	36.75

Authority: 31 U.S.C. 5111, 5112, 5132, 9701.

Eric Anderson,
Executive Secretary, United States Mint.
[FR Doc. 2024–30616 Filed 12–20–24; 8:45 am]
BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0915]

Agency Information Collection Activity Under OMB Review: Veterans Benefits Administration (VBA) Contractor Background Investigation Request and VBA Affiliate Background Investigation Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of

1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0915.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: VBA Affiliate Background Investigation Request (VA Form 20–10276a).

OMB Control Number: 2900–0915.
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: VA Forms 20–10276 and 20–10276a are used to gather the mandatory information to determine eligibility for employment and have physical and logical access for VBA. Without this information, determination of eligibility for employment and access would not be possible.

The new form (VA Form 20–10276a) added to this collection is used to collect information from Affiliates who are applying to work/volunteer for VBA. After the collection, personnel security specialists can perform background investigation work to determine eligibility for employment and to have physical and logical access to VBA Systems.

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: 89 FR 83953, October 18, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 2,167 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 10,000 per year.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–30492 Filed 12–20–24; 8:45 am]

BILLING CODE 8320–01–P



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Part II

Department of Energy

10 CFR Part 431

Energy Conservation Program: Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers; Final Rule

DEPARTMENT OF ENERGY**10 CFR Part 431****[EERE-2017-BT-STD-0009]****RIN 1904-AD79****Energy Conservation Program: Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers**

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

ACTION: Final rule.

SUMMARY: The Energy Policy and Conservation Act, as amended (“EPCA”), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including walk-in coolers and freezers (“walk-ins” or “WICFs”). EPCA also requires the U.S. Department of Energy (“DOE”) to periodically review its existing standards to determine whether more-stringent standards would be technologically feasible and economically justified, and would result in significant energy savings. In this final rule, DOE is adopting amended energy conservation standards for walk-ins. It has determined that the amended energy conservation standards for these products would result in significant conservation of energy and are technologically feasible and economically justified.

DATES: The effective date of this rule is February 21, 2025. Compliance with the amended standards established for walk-in non-display doors in this final rule is required on and after December 23, 2027. Compliance with the amended standards established for walk-in refrigeration systems in this final rule is required on and after December 31, 2028.

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

The docket web page can be found at www.regulations.gov/docket/EERE-2017-BT-STD-0009. The docket web page contains instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Troy Watson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (240) 449-9387. Email: ApplianceStandardsQuestions@ee.doe.gov.

Mr. Matthew Schneider, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-4798. Email: matthew.schneider@hq.doe.gov.

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I. Synopsis of the Final Rule

The Energy Policy and Conservation Act (Pub. L. 94–163), as amended (“EPCA”),¹ authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317, as codified) Title III, Part C of EPCA,² added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. (42 U.S.C. 6311–6317) Such equipment includes walk-in coolers and walk-in freezers (“walk-ins” or “WICFs”), the subject of this document. (42 U.S.C. 6311(1)(G)) DOE defines “walk-ins” as an enclosed storage space, including but not limited to panels, doors, and refrigeration systems, refrigerated to temperatures, respectively, above, and at or below 32 degrees Fahrenheit that can be walked into, and has a total chilled storage area of less than 3,000 square feet; however, the terms do not include products designed and marketed exclusively for medical, scientific, or research purposes. 10 CFR 431.302. Rather than establishing standards for complete walk-in systems,

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

² For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

DOE has established standards for the principal components that make up a walk-in (*i.e.*, doors, panels, and refrigeration systems).

Pursuant to EPCA, DOE is required to review its existing energy conservation standards for covered equipment no later than 6 years after issuance of any final rule establishing or amending a standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)) Pursuant to that statutory provision, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (“NOPR”) including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (*Id.*) Any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)) DOE has conducted this review of the energy conservation standards for walk-ins under EPCA’s 6-year lookback authority described herein.

In accordance with these and other statutory provisions discussed in this document, DOE analyzed the benefits and burdens of three trial standard levels (“TSLs”) for each component of walk-ins (*i.e.*, doors, panels, and refrigeration systems). The TSLs and their associated benefits and burdens are discussed in detail in sections V.A through V.C of this document. As discussed in section V.C of this document, DOE has determined that TSL 1 represents the maximum improvement in energy efficiency that is technologically feasible and economically justified for non-display doors and that TSL 2 represents the maximum improvement in energy efficiency that is technologically feasible and economically justified for refrigeration systems. DOE is not amending energy conservation standards for display doors or panels at this time and the existing standards will remain in effect. The adopted standards for walk-in non-display doors, which are expressed in maximum daily energy consumption in kilowatt-hours per day (“kWh/day”), are shown in table I.1. These standards apply to all walk-in non-display doors listed in table I.1 and manufactured in, or imported into, the

United States starting on December 23, 2027.
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Table I.1 Energy Conservation Standards for Walk-In Non-Display Doors
(Compliance Starting December 23, 2027)

Equipment Class	Maximum Daily Energy Consumption* <i>kWh/day</i>
Non-Display Door, Manual, Medium-Temperature	$0.02 \times A_{nd} + 0.58 + 0.33 \times a + 0.07 \times b + 0.24 \times c + e$
Non-Display Door, Manual, Low-Temperature	$0.10 \times A_{nd} + 2.63 + 0.40 \times a + 0.09 \times b + 0.30 \times c + 0.85 \times d + f$
Non-Display Door, Motorized, Medium-Temperature	$0.02 \times A_{nd} + 0.77 + 0.33 \times a + 0.07 \times b + 0.24 \times c + e$
Non-Display Door, Motorized, Low-Temperature	$0.09 \times A_{nd} + 2.88 + 0.40 \times a + 0.09 \times b + 0.30 \times c + 0.85 \times d + f$
A_{nd} represents the surface area of the non-display door in square feet. $a = 1$ for a door with lighting and $= 0$ for a door without lighting. $b = 1$ for a door with a digital temperature display without alarms and $= 0$ for a door without a digital display without alarms. $c = 1$ for a door with a digital temperature display with alarms and $= 0$ for a door without a digital temperature display with alarms. $d = 1$ for a door with a heated pressure relief vent and $= 0$ for a door without a heated pressure relief vent. $e = 0.06 \times A_{window} + 0.10$, with a maximum value of 0.25, for a door with a heated viewport window, and $= 0$ for a door without a heated viewport window. $f = 0.54 \times A_{window} + 0.23$, with a maximum value of 1.50, for a door with a heated viewport window, and $= 0$ for a door without a heated viewport window. A_{window} represents the surface area of the viewing window in square feet.	

The adopted standards for walk-in refrigeration standards, which are expressed as annual walk-in energy factor 2 (“AWEF2”) in British thermal units per Watt-hour (“Btu/W-h”), are shown in Table I.2. These standards apply to all walk-in refrigeration systems listed in Table I.2 and manufactured in, or imported into, the United States starting on December 31, 2028.

**Table I.2 Energy Conservation Standards for Walk-In Refrigeration Systems
(Compliance Starting December 31, 2028)**

Equipment Class	Net Capacity (q_{net})*	Minimum AWEF2* Btu/W-h
Dedicated Condensing System - High-Temperature, Indoor, Non-Ducted	< 7,000 Btu/h	$7.55 \times 10^{-4} \times q_{net} + 2.37$
	$\geq 7,000$ Btu/h	7.66
Dedicated Condensing System – High-Temperature, Outdoor, Non-Ducted	< 7,000 Btu/h	$1.02 \times 10^{-3} \times q_{net} + 2.40$
	$\geq 7,000$ Btu/h	9.55
Dedicated Condensing System - High-Temperature, Indoor, Ducted	< 7,000 Btu/h	$2.46 \times 10^{-4} \times q_{net} + 1.55$
	$\geq 7,000$ Btu/h	3.27
Dedicated Condensing System - High-Temperature, Outdoor, Ducted	< 7,000 Btu/h	$3.60 \times 10^{-4} \times q_{net} + 1.88$
	$\geq 7,000$ Btu/h	4.39
Dedicated Condensing System other than Single-Packaged - Medium-Temperature, Indoor	< 8,000 Btu/h	5.61
	$\geq 8,000$ Btu/h and < 25,000 Btu/h	$3.35 \times 10^{-5} \times q_{net} + 5.34$
	$\geq 25,000$ Btu/h	6.18
Dedicated Condensing System other than Single-Packaged - Medium-Temperature, Outdoor	< 25,000 Btu/h	$1.61 \times 10^{-5} \times q_{net} + 7.26$
	$\geq 25,000$ Btu/h and < 54,000 Btu/h	$7.59 \times 10^{-6} \times q_{net} + 7.47$
	$\geq 54,000$ Btu/h	7.88
Dedicated Condensing System other than Single-Packaged - Low- Temperature, Indoor	< 9,000 Btu/h	$4.64 \times 10^{-5} \times q_{net} + 2.18$
	$\geq 9,000$ Btu/h and < 25,000 Btu/h	$2.52 \times 10^{-5} \times q_{net} + 2.37$
	$\geq 25,000$ Btu/h and < 54,000 Btu/h	$1.45 \times 10^{-6} \times q_{net} + 2.96$
	$\geq 54,000$ Btu/h	3.04
Dedicated Condensing System other than Single-Packaged - Low- Temperature, Outdoor	< 9,000 Btu/h	$9.93 \times 10^{-5} \times q_{net} + 2.62$
	$\geq 9,000$ Btu/h and < 25,000 Btu/h	$3.14 \times 10^{-5} \times q_{net} + 3.23$
	$\geq 25,000$ Btu/h and < 75,000 Btu/h	$4.72 \times 10^{-6} \times q_{net} + 3.90$
	$\geq 75,000$ Btu/h	4.25
Single-Packaged Dedicated Condensing System - Medium- Temperature, Indoor	< 9,000 Btu/h	$1.00 \times 10^{-4} \times q_{net} + 4.91$
	$\geq 9,000$ Btu/h	5.81
Single-Packaged Dedicated Condensing System - Medium- Temperature, Outdoor	< 9,000 Btu/h	$3.07 \times 10^{-4} \times q_{net} + 4.73$
	$\geq 9,000$ Btu/h	7.49
Single-Packaged Dedicated Condensing System - Low- Temperature, Indoor	< 6,000 Btu/h	$8.00 \times 10^{-5} \times q_{net} + 1.80$
	$\geq 6,000$ Btu/h	2.28
Single-Packaged Dedicated Condensing System - Low- Temperature, Outdoor	< 6,000 Btu/h	$1.39 \times 10^{-4} \times q_{net} + 1.95$
	$\geq 6,000$ Btu/h	2.78
Unit Cooler - High-Temperature Non-Ducted	< 9,000 Btu/h	10.33
	$\geq 9,000$ Btu/h and < 25,000 Btu/h	$3.83 \times 10^{-4} \times q_{net} + 6.89$
	$\geq 25,000$ Btu/h	16.45
Unit Cooler - High-Temperature Ducted	< 9,000 Btu/h	6.64
	$\geq 9,000$ Btu/h and < 25,000 Btu/h	$3.70 \times 10^{-4} \times q_{net} + 3.31$
	$\geq 25,000$ Btu/h	12.57
Unit Cooler - Medium- Temperature	< 54,000 Btu/h	9.65
	$\geq 54,000$ Btu/h and < 75,000 Btu/h	$-3.10 \times 10^{-5} \times q_{net} + 11.32$
	$\geq 75,000$ Btu/h	9.00
Unit Cooler - Low-Temperature	All	4.57

* q_{net} is the representative value of net capacity as determined in accordance with the DOE test procedure at 10 CFR part 431, subpart R, appendix C1 and applicable sampling plans.

*A. Benefits and Costs to Consumers*³

Table I.3 through table I.4 summarize DOE's evaluation of the economic impacts of the adopted standards on

consumers of walk-ins, as measured by the average life-cycle cost ("LCC") savings and the simple payback period ("PBP").⁴ The average LCC savings are positive for all equipment classes, and

the PBP is less than the average lifetime of walk-ins, which is estimated to be 8.5 years for both refrigeration systems and non-display doors (*see* section IV.F of this document).

Table I.3 Impacts of Adopted Energy Conservation Standards on Consumers of Walk-In Non-Display Doors (TSL 1)

Opening Mechanism	Temperature	Average LCC Savings 2023\$	Simple Payback Period years
Manual	Low	683	1.0
	Medium	270	2.0
Motorized	Low	914	0.8
	Medium	397	1.5

Table I.4 Impacts of Adopted Energy Conservation Standards on Consumers of Walk-In Refrigeration Systems

System	Temperature	Location	Average LCC Savings 2023\$	Simple Payback Period years
Dedicated Condensing Unit and Matched Refrigeration System	Low	Indoor	381	2.0
		Outdoor	112	4.4
	Medium	Indoor	660	3.5
		Outdoor	298	1.5
Unit Cooler	Low	n/a	1,304	1.2
	Medium		66	4.7
	High, Non-Ducted		n/a	n/a
	High, Ducted		214	1.2
Matched Refrigeration Systems and Single-Packaged Dedicated Systems	High, Non-Ducted	Indoor	161	0.8
		Outdoor	108	3.2
	High, Ducted	Indoor	368	0.7
		Outdoor	316	0.8
Single-Packaged Dedicated Systems	Low	Indoor	285	2.0
		Outdoor	101	0.2
	Medium	Indoor	132	2.7
		Outdoor	68	3.8

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DOE's analysis of the impacts of the adopted standards on consumers is described in section IV.F of this document.

B. Impact on Manufacturers

The industry net present value ("INPV") is the sum of the discounted

cash flows to the industry from the base year (2024) through the end of the analysis period, which is 30 years from the analyzed compliance date. For walk-in display doors, non-display doors, and panels, the analysis period is 2024–2057. For refrigeration systems, the analysis period is 2024–2058. Using a

real discount rate of 9.4 percent for doors, 10.5 percent for panels, and 10.2 percent for refrigeration systems, DOE estimates that the INPV for manufacturers of walk-in display doors, non-display doors, panels, and refrigeration systems in the case without amended standards is \$218.7 million,

³ All monetary values in this document are expressed in 2023 dollars unless indicated otherwise. For purposes of discounting future monetary values, the present year in the analysis was 2024.

⁴ The average LCC savings refer to consumers that are affected by a standard and are measured relative to the efficiency distribution in the no-new-standards case, which depicts the market in the compliance year in the absence of new or amended

standards (*see* section IV.F.9 of this document). The simple PBP, which is designed to compare specific efficiency levels, is measured relative to the baseline product (*see* section IV.C of this document).

\$508.4 million, \$926.0 million, and \$542.0 million in 2023\$, respectively. Under the adopted standards, all walk-in display door equipment classes remain at the baseline efficiency level. As a result, there are no changes to INPV and no conversion costs for display door manufacturers. Under the adopted standards, the change in INPV for non-display door manufacturers is estimated to range from –0.4 percent to 0.7 percent, which is approximately –\$2.0 million to \$3.5 million. Under the adopted standards, all walk-in panel equipment classes remain at the baseline efficiency level. As a result, there are no changes to INPV and no conversion costs for panel manufacturers. Under the adopted standards, the change in INPV for refrigeration system manufacturers is estimated to range from –11.3 percent to –8.4 percent, which is approximately –\$61.2 million to –\$45.7 million. In order to bring equipment into compliance with amended standards, it is estimated that the walk-in non-display door and refrigeration system industries would incur total conversion costs of \$1.4 million and \$90.1 million, respectively.

DOE's analysis of the impacts of the adopted standards on manufacturers is described in sections IV.J and V.B.2 of this document.

C. National Benefits and Costs⁵

DOE's analyses indicate that the adopted energy conservation standards for walk-ins would save a significant amount of energy. The adopted TSLs are TSL 1 for walk-in non-display doors and TSL 2 for walk-in refrigeration systems. Relative to the case without amended standards, the lifetime energy savings for walk-ins purchased in the 30-year period that begins in the anticipated year of compliance with the amended standards (2028–2057 for non-display doors and 2029–2058 for refrigeration systems) amount to 1.60 quadrillion British thermal units (“Btu”), or quads of full-fuel cycle energy savings.⁶ This represents a savings of 6.3 percent relative to the energy use of these

products in the case without amended standards (referred to as the “no-new-standards case”)

The cumulative net present value (“NPV”) of total consumer benefits of the standards for walk-ins ranges from \$2.00 billion USD (at a 7-percent discount rate) to \$4.74 billion USD (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased equipment and installation costs for walk-in non-display doors purchased during the period 2028–2057 and walk-in refrigeration systems purchased in 2029–2058.

In addition, the adopted standards for walk-ins are projected to yield significant environmental benefits. DOE estimates that the standards will result in cumulative emission reductions (over the same period as for energy savings) of 28.82 million metric tons (“Mt”)⁷ of carbon dioxide (“CO₂”), 8.8 thousand tons of sulfur dioxide (“SO₂”), 53.8 thousand tons of nitrogen oxides (“NO_x”), 243.2 thousand tons of methane (“CH₄”), 0.3 thousand tons of nitrous oxide (“N₂O”), and 0.06 tons of mercury (“Hg”).⁸

DOE estimates the value of climate benefits from a reduction in greenhouse gases (“GHG”) using different estimates of the social cost of CO₂ (“SC–CO₂”), the social cost of methane (“SC–CH₄”), and the social cost of nitrous oxide (“SC–N₂O”). Together these represent the social cost of GHG (“SC–GHG”). DOE used an updated set of SC–GHG estimates published in 2023 (“2023 SC–GHG”), as well as the interim SC–GHG values (in terms of benefit per ton of GHG avoided) developed by an Interagency Working Group on the Social Cost of Greenhouse Gases (“IWG”) in 2021 (“2021 Interim SC–GHG”), which DOE used in the notice of proposed rulemaking for this rule before the updated values were available.⁹ These values are discussed

in section IV.L of this document. The climate benefits associated with the average SC–GHG at a 2-percent near-term Ramsey discount rate using the 2023 SC–GHG estimates are estimated to be \$6.80 billion, and the climate benefits associated with the average 2021 Interim SC–GHG estimates at a 3-percent discount rate are estimated to be \$1.70 billion. DOE notes, however, that the adopted standards would be economically justified even without inclusion of the estimated monetized benefits of reduced GHG emissions.

DOE estimates the monetary health benefits of SO₂ and NO_x emissions reductions using benefit per ton estimates from the EPA's Benefits Mapping and Analysis Program¹⁰ as discussed in section IV.L of this document. DOE did not monetize the reduction in mercury emissions because the quantity is very small. DOE estimated the present value of the health benefits would be \$1.37 billion using a 7-percent discount rate and, \$3.33 billion using a 3-percent discount rate.¹¹ DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions.

Table I.5 Summary of Monetized Benefits and Costs of Adopted Energy Conservation Standards for Table I.5 summarizes the monetized benefits and costs expected to result from the amended standards for walk-ins. There are other important unquantified effects, including certain unquantified climate benefits, unquantified public health benefits from the reduction of toxic air pollutants and other emissions, unquantified energy security benefits, and distributional effects, among others.

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GHG TSD”). www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf. https://www.epa.gov/system/files/documents/2023-12/ea12866_oil-and-gas-nsp-eg-climate-review-2060-av16-final-rule-20231130.pdf; https://www.epa.gov/system/files/documents/2023-12/epa_scghg_2023_report_final.pdf (last accessed July 3, 2024).

¹⁰ Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 21 Sectors. <https://www.epa.gov/benmap/estimating-benefit-ton-reducing-directly-emitted-pm25-pm25-precursors-and-ozone-precursors>.

¹¹ DOE estimates the economic value of these emissions reductions resulting from the considered TSLs for the purpose of complying with the requirements of Executive Order 12866.

⁵ All monetary values in this document are expressed in 2023 dollars and, where appropriate, are discounted to 2024 unless explicitly stated otherwise.

⁶ The quantity refers to full-fuel-cycle (“FFC”) energy savings. FFC energy savings includes the energy consumed in extracting, processing, and transporting primary fuels (i.e., coal, natural gas, petroleum fuels), and, thus, presents a more complete picture of the impacts of energy efficiency standards. For more information on the FFC metric, see section IV.H of this document.

⁷ A metric ton is equivalent to 1.1 short tons. Results for emissions other than CO₂ are presented in short tons.

⁸ DOE calculated emissions reductions relative to the no-new-standards case, which reflects key assumptions in the *Annual Energy Outlook 2023* (AEO2023). AEO2023 represents current Federal and state legislation and final implementation of regulations as of the time of its preparation. See section IV.K of this document for further discussion of AEO2023 assumptions that affect air pollutant emissions.

⁹ *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG. (“February 2021 SC–

Table I.5 Summary of Monetized Benefits and Costs of Adopted Energy Conservation Standards for Non-Display Doors at TSL 1 Shipped During the Period 2028–2057; and for Refrigeration Systems at TSL 2 Shipped During the Period 2029–2058

	Billion \$2023
3% discount rate	
Consumer Operating Cost Savings	6.52
Climate Benefits* (2023 SC-GHG estimates)	6.80
Climate Benefits* (2021 interim SC-GHG estimates)	1.70
Health Benefits**	3.33
Total Benefits† (2023 SC-GHG estimates)	16.66
Total Benefits† (2021 interim SC-GHG estimates)	11.55
Consumer Incremental Product Costs‡	1.78
Total Net Benefits† (2023 SC-GHG estimates)	14.88
Total Net Benefits† (2021 interim SC-GHG estimates)	9.77
Change in Producer Cashflow (INPV)‡‡	(0.06) – (0.04)
7% discount rate	
Consumer Operating Cost Savings	2.96
Climate Benefits* (2023 SC-GHG estimates)	6.80
Climate Benefits* (2021 interim SC-GHG estimates)	1.70
Health Benefits**	1.37
Total Benefits† (2023 SC-GHG estimates)	11.14
Total Benefits† (2021 interim SC-GHG estimates)	6.03
Consumer Incremental Product Costs‡	0.96
Total Net Benefits† (2023 SC-GHG estimates)	10.18
Total Net Benefits† (2021 interim SC-GHG estimates)	5.07
Change in Producer Cashflow (INPV)‡‡	(0.06) – (0.04)

Note: These results include consumer, climate, and health benefits that accrue after 2057 and 2058 from the walk-in non-display doors and refrigeration systems shipped during the periods 2028–2057 and 2029–2058, respectively.

* Climate benefits are calculated using different estimates of the social cost of carbon (SC-CO₂), methane (SC-CH₄), and nitrous oxide (SC-N₂O). Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and the interim set of estimates used in the NOPR which were published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) (see section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA’s *Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 21 Sectors* TSD provides a summary of the health impact endpoints quantified in the analysis. See section IV.L of this document for more details.

† Total and net benefits include those consumer, climate, and health benefits that can be quantified and monetized. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 estimate and the average SC-GHG with 3-percent discount rate for the 2021 interim SC-GHG estimate.

‡ Costs include incremental product costs as well as installation costs ‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below.

See sections IV.F and IV.H of this document. DOE's national impacts analysis includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (*i.e.*, manufacturer impact analysis, or "MIA"). See section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. Change in INPV is calculated using the industry weighted average cost of capital value of 9.4 percent for doors, 10.5 percent for panels, and 10.2 percent for refrigeration systems that is estimated in the manufacturer impact analysis (see chapter 12 of the final rule TSD for a complete description of the industry weighted average cost of capital). For walk-ins, the change in INPV ranges from -\$63 million to -\$42 million. DOE accounts for that range of likely impacts in analyzing whether a trial standard level is economically justified. See section V.C of this document. DOE is presenting the range of impacts to the INPV under two manufacturer markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table; and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated INPV in the above table, drawing on the MIA explained further in section IV.J of this document to provide additional context for assessing the estimated impacts of this final rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the net benefit calculation (2023 SC-GHG estimates) for this final rule, the net benefits would range from \$14.82 billion to \$14.84 billion at 3-percent discount rate and would range from \$10.12 billion to \$10.14 billion at 7-percent discount rate.

1. Annualized Benefits and Costs

The benefits and costs of the adopted standards can also be expressed in terms of annualized values. The monetary values for the total annualized net benefits are (1) the reduced consumer operating costs, minus (2) the increase in product purchase prices and installation costs, plus (3) the value of climate and health benefits of emission reductions, all annualized.¹²

The national operating cost savings are domestic private U.S. consumer monetary savings that occur as a result of purchasing the covered products and are measured for the lifetime of walk-in non-display doors and refrigeration systems shipped during the periods 2028–2057 and 2029–2058, respectively. The benefits associated with reduced emissions achieved as a result of the amended standards are also calculated

based on the lifetime of walk-in non-display doors and refrigeration systems shipped during the period 2028–2057 and 2029–2058, respectively. Total benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 SC-GHG estimates and the average SC-GHG with 3-percent discount rate for the 2021 interim SC-GHG estimates in section IV.L of this document.

a. Non-Display Doors

Table I.6 presents the total estimated monetized benefits and costs associated with the adopted standard for walk-in non-display doors, expressed in terms of annualized values. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards adopted in this rule is \$31.2 million per year in increased equipment costs, while the estimated annual benefits are \$123.4 million in reduced equipment operating costs, \$117.3

million in climate benefits (using the 2023 SC-GHG estimates) or \$34.8 million in climate benefits (using the 2021 interim SC-GHG estimates), and \$52.0 million in health benefits. In this case, the net benefit would amount to \$261.5 million per year (using the 2023 SC-GHG estimates) or \$179.0 million per year (using the 2021 interim SC-GHG estimates).

Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards is \$32.0 million per year in increased equipment costs, while the estimated annual benefits are \$147.9 million in reduced operating costs, \$117.3 million in climate benefits (using the 2023 SC-GHG estimates) or \$34.8 million in climate benefits (using the 2021 interim SC-GHG estimates), and \$68.8 million in health benefits. In this case, the net benefit would amount to \$302.0 million per year (using the 2023 SC-GHG estimates) or \$219.5 million per year (using the 2021 interim SC-GHG estimates).

¹² To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2020, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (*e.g.*, 2020 or 2030), and then discounted the present value from each year to 2024. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year, that yields the same present value.

Table I.6 Annualized Benefits and Costs of Adopted Standards for Non-Display Doors at TSL 1 Shipped During the Period 2028 – 2057

	Million 2023\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	147.9	145.0	158.5
Climate Benefits* (2023 SC-GHG estimates)	117.3	116.6	119.8
Climate Benefits* (2021 interim SC-GHG estimates)	34.8	34.6	35.6
Health Benefits**	68.8	68.4	70.2
Total Benefits† (2023 SC-GHG estimates)	334.0	330.0	348.6
Total Benefits† (2021 interim SC-GHG estimates)	251.5	248.0	264.3
Consumer Incremental Product Costs‡	32.0	36.6	31.9
Net Monetized Benefits (2023 SC-GHG estimates)	302.0	293.4	316.7
Net Monetized Benefits (2021 interim SC-GHG estimates)	219.5	211.4	232.4
Change in Producer Cashflow (INPV)**	(0.2) – 0.3	(0.2) – 0.3	(0.2) – 0.3
7% discount rate			
Consumer Operating Cost Savings	123.4	121.3	132.2
Climate Benefits* (2023 SC-GHG estimates)	117.3	116.6	119.8
Climate Benefits* (2021 interim SC-GHG estimates)	34.8	34.6	35.6
Health Benefits**	52.0	51.6	53.0
Total Benefits† (2023 SC-GHG estimates)	292.7	289.5	305.0
Total Benefits† (2021 interim SC-GHG estimates)	210.2	207.6	220.8
Consumer Incremental Product Costs‡	31.2	34.9	31.2
Net Monetized Benefits (2023 SC-GHG estimates)	261.5	254.7	273.8
Net Monetized Benefits (2021 interim SC-GHG estimates)	179.0	172.7	189.6
Change in Producer Cashflow (INPV)**	(0.2) – 0.3	(0.2) – 0.3	(0.2) – 0.3

Note: These results include consumer, climate, and health benefits that accrue after 2057 from the products shipped during the period 2028–2057 for doors and panels. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant prices rate in the Primary Estimate, a declining rate in the High Net Benefits Estimate, and an inclining rate in the Low Net Benefits Estimate. The methods used to derive projected price trends are explained in sections IV.F.2 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using different estimates of the global SC-GHG. Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set

published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and another set published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) which was used in the NOPR (*see* section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA’s *Estimating the Benefit per Ton of Reducing PM2.5 Precursors from 21 Sectors* TSD provides a summary of the health impact endpoints quantified in the analysis. *See* section IV.L of this document for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 SC-GHG estimates and the average SC-GHG with 3-percent discount rate for the 2021 interim SC-GHG estimates.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of this document. DOE’s national impacts analysis includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (*i.e.*, manufacturer impact analysis, or “MIA”). *See* section IV.J of this document. In the detailed MIA, DOE models manufacturers’ pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule’s expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 9.4 percent for doors that is estimated in the manufacturer impact analysis (*see* chapter 12 of the final rule TSD for a complete description of the industry weighted average cost of capital). For walk-in doors, the annualized change in INPV ranges from -\$0.2 million to \$0.3 million. DOE accounts for that range of likely impacts in analyzing whether a trial standard level is economically justified. *See* section V.C of this document. DOE is presenting the range of impacts to the INPV under two manufacturer markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table; and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document to provide additional context for assessing the estimated impacts of this final rule to society, including potential changes in production and consumption, which is consistent with OMB’s Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation (2023 SC-GHG estimates) for this final rule, the annualized net benefits would range from \$301.8 million to \$302.3 million at 3-percent discount rate and would range from \$261.3 million to \$261.8 million at 7-percent discount rate.

b. Refrigeration Systems

Table I.7 presents the total estimated monetized benefits and costs associated with the adopted standard for walk-in refrigeration systems, expressed in terms of annualized values. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards adopted in this rule is \$67.9 million per year in increased equipment

costs, while the estimated annual benefits are \$180.9 million in reduced equipment operating costs, \$209.2 million in climate benefits (using the 2023 SC-GHG estimates) or \$61.7 million in climate benefits (using the 2021 interim SC-GHG estimates), and \$89.0 million in health benefits. In this case, the net benefit would amount to \$411.2 million per year (using the 2023 SC-GHG estimates) or \$263.7 million per year (using the 2021 interim SC-GHG estimates).

Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or

the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards is \$61.7 million per year in increased equipment costs, while the estimated annual benefits are \$222.0 million in reduced operating costs, \$209.2 million in climate benefits (using the 2023 SC-GHG estimates) or \$61.7 million in climate benefits (using the 2021 interim SC-GHG estimates), and \$165 million in health benefits. In this case, the net benefit would amount to \$482.5 million per year (using the 2023 SC-GHG estimates) or \$335.1 million per year (using the 2021 interim SC-GHG estimates).

Table I.7 Annualized Benefits and Costs of Adopted Standards for Refrigeration Systems at TSL 2 Shipped During the Period 2029 – 2058

	Million 2023\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	222.0	211.1	238.0
Climate Benefits* (2023 SC-GHG estimates)	209.2	205.8	215.4
Climate Benefits* (2021 interim SC-GHG estimates)	61.7	60.7	63.5
Health Benefits**	120.6	118.6	124.1
Total Benefits† (2023 SC-GHG estimates)	551.7	535.6	577.4
Total Benefits† (2021 interim SC-GHG estimates)	404.3	390.4	425.5
Consumer Incremental Product Costs‡	69.2	91.4	66.7
Net Monetized Benefits (2023 SC-GHG estimates)	482.5	444.1	510.7
Net Monetized Benefits (2021 interim SC-GHG estimates)	335.1	299.0	358.8
Change in Producer Cashflow (INPV)**	(6.5) – (4.8)	(6.5) – (4.8)	(6.5) – (4.8)
7% discount rate			
Consumer Operating Cost Savings	180.9	172.3	193.8
Climate Benefits* (2023 SC-GHG estimates)	209.2	205.8	215.4
Climate Benefits* (2021 interim SC-GHG estimates)	61.7	60.7	63.5
Health Benefits**	89.0	87.5	91.4
Total Benefits† (2023 SC-GHG estimates)	479.1	465.5	500.6
Total Benefits† (2021 interim SC-GHG estimates)	331.6	320.4	348.7
Consumer Incremental Product Costs‡	67.9	85.8	65.8
Net Monetized Benefits (2023 SC-GHG estimates)	411.2	379.7	434.7
Net Monetized Benefits (2021 interim SC-GHG estimates)	263.7	234.6	282.8
Change in Producer Cashflow (INPV)**	(6.5) – (4.8)	(6.5) – (4.8)	(6.5) – (4.8)

Note: These results include consumer, climate, and health benefits that accrue after 2058 from the products shipped during the period 2029-2058 for refrigeration systems. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant prices rate in the Primary Estimate, a declining rate in the High Net Benefits Estimate, and an inclining rate in the Low Net Benefits Estimate. The methods used to derive projected price trends are explained in sections IV.F.2 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using different estimates of the global SC-GHG. Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set

published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and another set published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) which was used in the NOPR (*see* section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA’s *Estimating the Benefit per Ton of Reducing PM2.5 Precursors from 21 Sectors* TSD provides a summary of the health impact endpoints quantified in the analysis. *See* section IV.L of this document for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 SC-GHG estimates and the average SC-GHG with 3-percent discount rate for the 2021 interim SC-GHG estimates.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of this document. DOE’s national impacts analysis includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (*i.e.*, manufacturer impact analysis, or “MIA”). *See* section IV.J of this document. In the detailed MIA, DOE models manufacturers’ pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule’s expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 10.2 percent for refrigeration systems that is estimated in the manufacturer impact analysis (*see* chapter 12 of the final rule TSD for a complete description of the industry weighted average cost of capital). For walk-in refrigeration systems, the annualized change in INPV ranges from -\$6.5 million to -\$4.8 million. DOE accounts for that range of likely impacts in analyzing whether a trial standard level is economically justified. *See* section V.C of this document. DOE is presenting the range of impacts to the INPV under two manufacturer markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table; and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document to provide additional context for assessing the estimated impacts of this final rule to society, including potential changes in production and consumption, which is consistent with OMB’s Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation (2023 SC-GHG estimates) for this final rule, the annualized net benefits would range from \$476.0 million to \$477.7 million at 3-percent discount rate and would range from \$404.7 million to \$406.4 million at 7-percent discount rate.

c. Amended Standards

Table I.8 presents the total estimated monetized benefits and costs associated with the adopted standard for walk-in non-display doors (TSL 1) and refrigeration systems (TSL 2), expressed 2023\$ in terms of annualized values. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and health

benefits from reduced NO_x and SO₂ emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards adopted in this rule is \$99.1 million per year in increased equipment costs, while the estimated annual benefits are \$304.4 million in reduced operating costs, \$96.5 million in climate benefits, and \$140.9 million in health benefits. In this

case, the net benefit would amount to \$442.7 million per year.

Using a 3-percent discount rate for all benefits and costs, the estimated cost of the standards is \$101.2 million per year in increased equipment costs, while the estimated annual benefits are \$369.8 million in reduced equipment operating costs, \$96.5 million in climate benefits, and \$189.4 million in health benefits. In this case, the net benefit would amount to \$554.5 million per year.

Table I.8 Annualized Benefits and Costs of Adopted Standards for Non-Display Doors at TSL 1 Shipped During the Period 2028 – 2057; and for Refrigeration Systems at TSL 2 Shipped During the Period 2029 – 2058

	Million 2023\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	369.8	356.2	396.5
Climate Benefits* (2023 SC-GHG estimates)	326.5	322.4	335.2
Climate Benefits* (2021 interim SC-GHG estimates)	96.5	95.3	99.1
Health Benefits**	189.4	187.0	194.3
Total Benefits† (2023 SC-GHG estimates)	885.7	865.5	926.0
Total Benefits† (2021 interim SC-GHG estimates)	655.7	638.4	689.8
Consumer Incremental Product Costs‡	101.2	128.0	98.6
Net Monetized Benefits (2023 SC-GHG estimates)	784.5	737.5	827.3
Net Monetized Benefits (2021 interim SC-GHG estimates)	554.5	510.4	591.2
Change in Producer Cashflow (INPV)††	(6.7) - (4.5)	(6.7) - (4.5)	(6.7) - (4.5)
7% discount rate			
Consumer Operating Cost Savings	304.4	293.6	326.0
Climate Benefits* (2023 SC-GHG estimates)	326.5	322.4	335.2
Climate Benefits* (2021 interim SC-GHG estimates)	96.5	95.3	99.1
Health Benefits**	140.9	139.1	144.4
Total Benefits† (2023 SC-GHG estimates)	771.8	755.1	805.6
Total Benefits† (2021 interim SC-GHG estimates)	541.8	528.0	569.4
Consumer Incremental Product Costs‡	99.1	120.7	97.0
Net Monetized Benefits (2023 SC-GHG estimates)	672.7	634.4	708.6
Net Monetized Benefits (2021 interim SC-GHG estimates)	442.7	407.3	472.4
Change in Producer Cashflow (INPV)††	(6.7) - (4.5)	(6.7) - (4.5)	(6.7) - (4.5)

Note: Note: These results include consumer, climate, and health benefits that accrue after 2057 from the products shipped during the period 2028-2057 for non-display doors and 2058 from the products shipped during the period 2029-2058 for refrigeration systems. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant prices rate in the Primary Estimate, a declining rate in the High Net Benefits Estimate, and an inclining rate in the Low Net Benefits Estimate. The methods used to derive projected price trends are explained in sections IV.F.2 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using different estimates of the global SC-GHG. Climate benefits are estimated using two separate estimates of the social cost for each greenhouse gas, one published in 2023 by the Environmental Protection Agency (EPA) and another one published in 2021 as interim estimates by the Interagency Working Group on the SC-GHG (IWG) (see chapter 14 of this TSD). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are shown for the 2023 estimate, and the climate benefits associated with the average SC-GHG at a 3-percent discount rate are shown for the 2021 interim SC-GHG estimate.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA's *Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 21 Sectors* TSD provides a summary of the health impact endpoints quantified in the analysis. See chapter 14 of this TSD for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 SC-GHG estimates and the average SC-GHG with 3-percent discount rate for the 2021 interim SC-GHG estimates.

‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. See sections IV.F and IV.H of this document. DOE's national impacts analysis includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (*i.e.*, manufacturer impact analysis, or "MIA"). See section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 9.4 percent for doors, 10.5 percent for panels, and 10.2 percent for refrigeration systems that is estimated in the manufacturer impact analysis (see chapter 12 of the final rule TSD for a complete description of the industry weighted average cost of capital). For walk-ins, the annualized change in INPV ranges from -\$6.7 million to -\$4.5 million. DOE accounts for that range of likely impacts in analyzing whether a trial standard level is economically justified. See section V.C of this document. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table; and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document to provide additional context for assessing the estimated impacts of this final rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation (2023 SC-GHG estimates) for this final rule, the annualized net benefits would range from \$777.8 million to \$780.0 million at 3-percent discount rate and would range from \$666.0 million to \$668.2 million at 7-percent discount rate.

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DOE's analysis of the national impacts of the adopted standards is described in sections IV.H, IV.J.3, and IV.L of this document.

In the September 2023 NOPR, DOE requested comment on the methodology used to present the change in producer cashflow (*i.e.*, INPV) in the monetized benefits and costs tables. In response to the September 2023 NOPR, the Air-Conditioning, Heating and Refrigeration Institute ("AHRI") stated agreement with DOE's methodology to present the change in INPV in the monetized benefits and costs tables in table 1.6, table 1.7, and table V.100 of the September 2023 NOPR (which correspond to table I.5, table I.8, and table V.125 in this final rule), but stated

the resultant dollar amounts do not support the kinds of efficiency gains claimed, perhaps due to the errors called out in determining the baseline. (AHRI, No. 72 at pp. 8–9) Hussmann commented that it agrees with the views presented by AHRI on this topic. (Hussmann, No. 75 at p. 10)

DOE maintained its methodology from the September 2023 NOPR and presents change in INPV in the monetized benefits and costs tables in this final rule. DOE discusses baseline design assumptions throughout the engineering analysis, see section IV.C of this document. The TSLs and their associated benefits and burdens are discussed in detail in sections V.A through V.C of this document. As

discussed in section V.C of this document, DOE has determined that TSL 1 for non-display doors and TSL 2 for refrigeration systems represents the maximum improvement in energy efficiency that is technologically feasible and economically justified.

D. Conclusion

DOE concludes that the standards adopted in this final rule represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in the significant conservation of energy. Specifically, with regard to technological feasibility, equipment achieving these standard levels are already commercially

available for all equipment classes covered by this final rule. As for economic justification, DOE's analysis shows that the benefits of the standards exceed, to a great extent, the burdens of the standards.

Using a 7-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards adopted in this rule is \$99.1 million per year in increased equipment costs, while the estimated annual benefits are \$304.4 million in reduced equipment operating costs, \$326.5 million in climate benefits (using the 2023 SC–GHG estimates) or \$96.5 million in climate benefits (using the 2021 interim SC–GHG estimates), and \$136 million in health benefits. In this case, the net benefit would amount to \$672.7 million per year (using the 2023 SC–GHG estimates) or \$442.7 million per year (using the 2021 interim SC–GHG estimates).

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.¹³ For example, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than the impacts of products with relatively constant demand. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

As previously mentioned, the standards are projected to result in estimated national full fuel cycle (“FFC”) energy savings of 1.60 quad, the equivalent of the primary annual energy use of 10.7 million homes. In addition, they are projected to reduce cumulative CO₂ emissions by 28.82 Mt. over the time period of non-display doors shipped from 2028–2057 and refrigeration systems shipped from 2029–2058. Based on these findings, DOE has determined the energy savings from the standard levels adopted in this final rule are “significant” within the meaning of 42 U.S.C. 6295(o)(3)(B). A more detailed discussion of the basis for these conclusions is contained in the

remainder of this document and the accompanying TSD.

II. Introduction

The following section briefly discusses the statutory authority underlying this final rule, as well as some of the relevant historical background related to the establishment of standards for walk-ins.

A. Authority

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317, as codified) Title III, Part C of EPCA,¹⁴ added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. (42 U.S.C. 6311–6317) This equipment includes walk-ins, the subject of this document. (42 U.S.C. 6311(1)(G))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316; 42 U.S.C. 6296(a), (b), and (d)).

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6297(d))

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of covered equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(A) and 6295I) Manufacturers of covered equipment must use the Federal test procedures as the basis for certifying to DOE that their equipment complies with the applicable energy

conservation standards and as the basis for any representations regarding the energy use or energy efficiency of the equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s); 42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to evaluate whether a basic model complies with the applicable energy conservation standard(s). (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)) The DOE test procedures for walk-ins appear at title 10 of the Code of Federal Regulations (CFR) part 431, subpart R, appendices A, B, C, and C1.

EPCA set initial prescriptive energy conservation standards for walk-ins and further required DOE to set performance standards. (42 U.S.C. 6313(f)) EPCA also required that no later than January 1, 2020, the Secretary shall publish a final rule to determine if the standards should be amended. (42 U.S.C. 6313(f)(5)) EPCA further provides that, not later than six years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination (“NOPD”) that standards for the equipment do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)) DOE must make the analysis on which a NOPD or NOPR is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(2)) Not later than two years after a NOPR is issued, DOE must publish a final rule amending the energy conservation standard for the equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(3)(A))

DOE must follow specific statutory criteria for prescribing new or amended standards for covered equipment, including walk-ins. Any new or amended standard for covered equipment must be designed to achieve the maximum improvement in energy efficiency that the Secretary of Energy (“Secretary”) determines is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(B))

Moreover, DOE may not prescribe a standard if: (1) for certain equipment, including walk-ins, no test procedure has been established for the equipment, or (2) DOE determines by rule that the establishment of such standard will not result in significant conservation of energy, or is not technologically feasible or economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(A)–(B)) In

¹³ Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment, 86 FR 70892, 70901 (Dec. 13, 2021).

¹⁴ As noted previously, for editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven statutory factors:

The economic impact of the standard on manufacturers and consumers of the equipment subject to the standard;

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

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

Any lessening of the utility or the performance of the covered equipment likely to result from the standard;

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

The need for national energy and water conservation; and

Other factors the Secretary considers relevant.

(42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy

conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(iii))

EPCA, as codified, also contains what is known as an “anti-backsliding” provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. A rule prescribing an energy conservation standard for a type (or class) of product must specify a different standard level for a type or class of products that has the same function or intended use if DOE determines that products within such group (A) consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other

performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE considers such factors as the utility to the consumer of such a feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)(2))

DOE is publishing this final rule pursuant to its statutory obligations pursuant to EPCA described herein. (42 U.S.C. 6311(f)(5); 42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1))

B. Background

1. Current Standards

The current energy conservation standards for walk-ins are set forth in DOE’s regulations at 10 CFR 431.306. The current energy conservation standards for walk-in doors are in terms of maximum daily energy consumption (“MDEC”), which is measured in kWh/day (see table II.1). The current energy conservation standards for walk-in panels are in terms of R-value, which is measured in h-ft²-°F/Btu (see Table II.2). The current energy conservation standards for refrigeration systems are in terms of annual walk-in energy factor (“AWEF”), which is measured in Btu/W-h (see table II.3).

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Table II.1 Federal Energy Conservation Standards for Walk-In Coolers and Walk-In Freezer Doors

Equipment Class	Equations for Maximum Daily Energy Consumption (kWh/day)*
Display door, medium-temperature	$0.04 \times A_{dd} + 0.41$
Display door, low-temperature	$0.15 \times A_{dd} + 0.29$
Passage door, medium-temperature	$0.05 \times A_{nd} + 1.7$
Passage door, low-temperature	$0.14 \times A_{nd} + 4.8$
Freight door, medium-temperature	$0.04 \times A_{nd} + 1.9$
Freight door, low-temperature	$0.12 \times A_{nd} + 5.6$

* A_{dd} or A_{nd} = surface area of the display door or non-display door, respectively, expressed in ft², as determined in appendix A to subpart R of 10 CFR part 431.

Table II.2 Federal Energy Conservation Standards for Walk-In Coolers and Walk-In Freezer Panels

Equipment Class	Minimum R-value (h-ft ² -°F/Btu)
Wall or ceiling panels, medium-temperature	25
Wall or ceiling panels, low-temperature	32
Floor panels, low-temperature	28

Table II.3 Federal Energy Conservation Standards for Walk-In Coolers and Walk-In Freezer Refrigeration Systems

Equipment Class	Minimum AWEF (Btu/W-h)
Dedicated Condensing System – Medium, Indoor	5.61
Dedicated Condensing System – Medium, Outdoor	7.60
Dedicated Condensing System – Low, Indoor with a Net Capacity (q_{net}) of:	
< 6,500 Btu/h	$9.091 \times 10^{-5} \times q_{\text{net}} + 1.81$
$\geq 6,500$ Btu/h	2.40
Dedicated Condensing System – Low, Outdoor with a Net Capacity (q_{net}) of:	
< 6,500 Btu/h	$6.522 \times 10^{-5} \times q_{\text{net}} + 2.73$
$\geq 6,500$ Btu/h	3.15
Unit Cooler – Medium	9.00
Unit Cooler – Low with a Net Capacity (q_{net}) of:	
< 15,500 Btu/h	$1.575 \times 10^{-5} \times q_{\text{net}} + 3.91$
$\geq 15,500$ Btu/h	4.15

* Where q_{net} is net capacity as determined in accordance with 10 CFR 431.304 and certified in accordance with 10 CFR part 429.

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As previously mentioned, EPCA also specifies prescriptive energy conservation standards for walk-ins. These prescriptive standards are codified at 10 CFR 431.306(a) and (b). First, all walk-in doors narrower than 3 feet 9 inches and shorter than 7 feet must have automatic door closers that firmly close all walk-in doors that have been closed to within 1 inch of full closure, and must also have strip doors, spring hinged doors, or other methods of minimizing infiltration when doors are open. Additionally, walk-ins must contain wall, ceiling, and door insulation of at least R-25 for coolers and R-32 for freezers, excluding glazed portions of doors and structural members, and floor insulation of at least R-28 for freezers. Walk-in evaporator fan motors of under 1 horsepower (“hp”) and less than 460 volts must be electronically commutated motors (brushless direct current motors) or three-phase motors, and walk-in condenser fan motors of under 1

horsepower must use permanent split capacitor motors, electronically commutated motors, or three-phase motors. Interior light sources must have an efficacy of 40 lumens per watt or more, including any ballast losses; less-efficacious lights may only be used in conjunction with a timer or device that turns off the lights within 15 minutes of when the walk-in is unoccupied. See 42 U.S.C. 6313(f)(1).

EPCA also requires that walk-in freezers with transparent reach-in doors must have triple-pane glass with either heat-reflective treated glass or gas fill for doors and windows. Transparent walk-in cooler doors must have either double-pane glass with heat-reflective treated glass and gas fill or triple-pane glass with heat-reflective treated glass or gas fill. (42 U.S.C. 6313(f)(3)(A)–(B)) For walk-ins with transparent reach-in doors, EPCA also prescribes specific anti-sweat heater-related requirements: walk-ins without anti-sweat heater controls must have a heater power draw of no more than 7.1 or 3.0 watts per

square foot of door opening for freezers and coolers, respectively. Walk-ins with anti-sweat heater controls must either have a heater power draw of no more than 7.1 or 3.0 watts per square foot of door opening for freezers and coolers, respectively, or the anti-sweat heater controls must reduce the energy use of the heater in a quantity corresponding to the relative humidity of the air outside the door or to the condensation on the inner glass pane. See 42 U.S.C. 6313(f)(3)(C)–(D).

2. History of Standards Rulemaking for Walk-Ins

In a final rule published on June 3, 2014 (“June 2014 Final Rule”), DOE promulgated the energy conservation standards for walk-in doors, panels, and refrigeration systems manufactured on and after June 5, 2017. 79 FR 32050. After publication of the June 2014 Final Rule, AHRI and Lennox International, Inc. (“Lennox”), a manufacturer of walk-in refrigeration systems, filed petitions for review of DOE’s final rule

and DOE's subsequent denial of a petition for reconsideration of the rule (79 FR 59090 (October 1, 2014)) with the United States Court of Appeals for the Fifth Circuit. *Lennox Int'l v. Dep't of Energy*, Case No. 14–60535 (5th Cir.). A settlement agreement was reached among the parties under which the Fifth Circuit vacated energy conservation standards for six of the refrigeration system equipment classes—the two standards applicable to multiplex condensing refrigeration systems (subsequently re-named as “unit coolers”) operating at medium and low-temperatures and the four standards applicable to dedicated condensing refrigeration systems operating at low-temperatures.¹⁵ After the Fifth Circuit issued its order, DOE established a Working Group to negotiate energy conservation standards to replace the six vacated standards (“ASRAC Working Group”). 80 FR 46521 (August 5, 2015). The ASRAC Working Group assembled its recommendations into a Term Sheet (see Docket EERE–2015–BT–STD–0016–0056) that was presented to, and approved by, the Appliance Standards and Rulemaking Federal Advisory Committee (“ASRAC”) on December 18, 2015. (EERE–2015–BT–STD–0016–0055 at p. 11)

In a final rule published on July 10, 2017 (“July 2017 Final Rule”), DOE adopted energy conservation standards for the six classes of walk-in refrigeration systems with vacated standards—specifically, unit coolers and low-temperature dedicated condensing systems manufactured. 82 FR 31808. The rule required compliance with the six new standards on and after July 10, 2020.

¹⁵ The 13 other standards established in the June 2014 Final Rule (*i.e.*, the four standards applicable to dedicated condensing refrigeration systems operating at medium-temperature; the three standards applicable to panels; and the six standards applicable to doors) were not vacated. The compliance date for the remaining standards was on or after June 5, 2017.

To evaluate whether to propose amendments to the energy conservation standards for walk-ins, DOE issued a request for information (“RFI”) in the **Federal Register** on July 16, 2021 (“July 2021 RFI”). 86 FR 37687. In the July 2021 RFI, DOE sought data, information, and comment pertaining to walk-ins. 86 FR 37687, 37689.

DOE subsequently announced the availability of the preliminary analysis it had conducted for the purpose of evaluating the need for amending the current energy conservation standards for walk-ins in the **Federal Register** on June 30, 2022, (“June 2022 Preliminary Analysis”). The analysis was set forth in the Department’s accompanying preliminary TSD. DOE held a public meeting via webinar to discuss and receive comment on the June 2022 Preliminary Analysis on July 22, 2022.

On September 5, 2023, DOE published a NOPR in the **Federal Register** regarding energy conservation standards for walk-in coolers and freezers (“September 2023 NOPR”). 88 FR 60746. Specifically, DOE proposed amended standards for walk-in non-display doors and walk-in refrigeration systems. DOE did not propose to amend the standard for walk-in panels or display doors. The amended standards proposed for non-display doors in the September 2023 NOPR were defined in terms of maximum daily energy consumption. The amended standards proposed for refrigeration systems in the September 2023 NOPR were defined in terms of AWEF2, adopted in a test procedure final rule that published on May 4, 2023 (“May 2023 TP Final Rule”). The technical support document (“TSD”) that presented the methodology and results of the September 2023 NOPR analysis (“September 2023 NOPR TSD”) is available at www.regulations.gov/document/EERE-2017-BT-STD-0009-0046. Additionally, on September 28, 2023, DOE published a notice of data availability (“NODA” (“September 2023 NODA”))

summarizing additional comments received on the June 2022 Preliminary Analysis (87 FR 39008) that were considered but not discussed in the September 2023 NOPR. 88 FR 66710.

On September 27, 2023, DOE held a public webinar (“September 2023 Public Webinar”) in which it presented an overview of the topics addressed in the September 2023 NOPR, allowed time for prepared general statements by participants, and encouraged all interested parties to share their views on issues affecting this rulemaking.

On March 14, 2024, DOE published a second NODA (“March 2024 NODA”) presenting an updated analysis for walk-in non-display doors and refrigeration systems in light of additional data and comments received in response to the September 2023 NOPR, and as a result, presented life-cycle cost and payback period results and national impacts for TSLs that were different from those analyzed for the NOPR.¹⁶ 89 FR 18555. DOE’s final rule analysis considers these data and comments, and DOE’s responses to those comments and analysis adjustments are presented in the March 2024 NODA, with no further adjustment in the final rule analysis except as discussed in this final rule. The remaining comments received in response to the September 2023 NOPR are summarized and responded to in this final rule. Additionally, DOE received comments in response to the March 2024 NODA, which it also addresses in this final rule.

DOE received comments in response to the September 2023 NOPR and March 2024 NODA from the interested parties listed in table II.4 and table II.5, respectively. DOE also received three anonymous comment submissions in response to the September 2023 NOPR.

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¹⁶ As discussed in section IV.E.1, the TSLs analyzed in this final rule for non-display doors and refrigeration systems are largely consistent with the TSLs analyzed in the March 2024 NODA.

Table II.4 List of Commenters with Written Submissions in Response to the September 2023 NOPR

Commenter(s)	Abbreviation	Comment No. in the Docket	Commenter Type
Air-Conditioning, Heating, & Refrigeration Institute	AHRI	72	Trade Association
Anthony International	Anthony	71	Manufacturer
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, Natural Resources Defense Council, Northwest Energy Efficiency Alliance	ASAP <i>et al.</i>	77	Efficiency Organization
DuPont	DuPont	74	Manufacturer
Hussmann Corporation	Hussmann	75	Manufacturer
Isabella Ballesteros	Ballesteros	56	Individual
Kolpak	Kolpak	66	Manufacturer
Lennox International Inc.	Lennox	70	Manufacturer
Michael Ravnitsky	Ravnitsky	55	Individual
North American Association of Food Equipment Manufacturers	NAFEM	67	Trade Association
National Refrigeration & Air Conditioning Canada Corp.	NRAC	73	Manufacturer
Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison; collectively, the California Investor-Owned Utilities	CA IOUs	76	Utilities
Refrigerated Solutions Group	RSG	69	Manufacturer
Rob Brooks and Associates, LLC	RBA	68	Individual
Senneca Holdings and Frank Door Company	Senneca and Frank Door	78	Manufacturer

Table II.5 List of Commenters with Written Submissions in Response to the March 2024 NODA

Commenter(s)	Abbreviation	Comment No. in the Docket	Commenter Type
Air-Conditioning, Heating, & Refrigeration Institute	AHRI	86	Trade Association
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, New York State Energy Research and Development Authority, Northwest Energy Efficiency Alliance	ASAP <i>et al.</i>	90	Efficiency Organization
Hormann	Hormann	85	Manufacturer
Husmann Corporation	Husmann	88	Manufacturer
Imperial Brown	Imperial Brown	84	Manufacturer
Jamison Door Company	Jamison	83	Manufacturer
Lennox International Inc.	Lennox	87	Manufacturer
Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison; collectively, the California Investor-Owned Utilities	CA IOUs	91	Utilities
Refrigerated Solutions Group	RSG	89	Manufacturer
Senneca Holdings	Senneca	92	Manufacturer
Representative Stephanie Bice	Rep. Bice	82	Individual

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A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.¹⁷ To the extent that interested parties have provided written comments that are substantively consistent with any oral comments provided during the September 2023 Public Webinar, DOE cites the written comments throughout this final rule. DOE did not identify any oral comments provided during the September 2023 Public Webinar that are not substantively addressed by written comments.

III. General Discussion

DOE developed this final rule after a review of the market for the subject walk-ins. DOE also considered comments, data, and information from interested parties that represent a variety of interests. This final rule addresses issues raised by these commenters.

A. General Comments

This section summarizes general comments received from interested parties regarding the proposed

standards, rulemaking timing, and process.

1. Comments Regarding the Proposed Standard Levels

Ballesteros expressed general support for the standards proposed in the September 2023 NOPR, stating that the benefits would outweigh the burdens. (Ballesteros, No. 56 at p. 1)

DuPont supported panel efficiency standards remaining the same and the non-display door efficiencies remaining at 4-inch insulation thickness. DuPont stated that added efficiency could create a WICF supply shortage above current constraints. (DuPont, No. 74 at p. 2)

The CA IOUs supported DOE's proposal to adopt TSL 2 for WICFs. The CA IOUs also supported DOE's proposal to establish energy conservation standards for high-temperature systems. (CA IOUs, No. 76 at p. 1)

In response to the March 2024 NODA, ASAP *et al.* and the CA IOUs recommended that DOE adopt TSL 2 analyzed in the March 2024 NODA. (ASAP *et al.*, No. 90 at pp. 1–2; CA IOUs, No. 91 at p. 1) However, ASAP *et al.* additionally urged DOE to consider higher standards for non-display doors associated with the use of thicker insulation. (ASAP *et al.*, No. 90 at pp. 1–2)

DOE evaluated more-stringent standards for non-display doors associated with the use of thicker insulation; these are considered in TSL

3 of this final rule. The rationale for not adopting higher standards for non-display doors that would likely necessitate thicker insulation is discussed further in section V.C of this document.

AHRI recommended that DOE issue a no-new-standard approach for the equipment covered in the September 2023 NOPR, which would provide an additional 3 years of lead time to manufacturers and allow them to complete the transition to low global warming potential (“GWP”) refrigerants. (AHRI, No. 72 at p. 3 and No. 86 at p. 3)

NRAC also recommended that DOE issue a “no-new-standard” standard for the equipment covered in the September 2023 NOPR to allow the necessary time needed to complete the transition to A2Ls¹⁸ and low-GWP refrigerants required by the EPA’s American Innovation and Manufacturing (“AIM”) Act of 2020 and also the new UL 60335–2–89 standard.¹⁹ NRAC commented that these regulations are placing significant burdens on manufacturers and end

¹⁸ Refrigerants in the A2L subgroup, as categorized by ASHRAE Standard 34, have lower toxicity and lower flammability than other subgroups.

¹⁹ UL 60335–2–89, *Household and Similar Electrical Appliances—Safety—Part 2–89: Particular Requirements for Commercial Refrigerating Appliances and Ice-Makers with an Incorporated or Remote Refrigerant Unit or Motor-Compressor*.

¹⁷ The parenthetical reference provides a reference for information located in the docket of DOE’s rulemaking to develop energy conservation standards for walk-ins. (Docket No. EERE–2017–BT–STD–0009, which is maintained at www.regulations.gov). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

users, posing a high risk that none of the requirements will be met in the proposed timeframes. (NRAC, No. 73 at pp. 1–2)

DOE acknowledges that EPA's final rule published in the **Federal Register** on October 24, 2023, to address hydrofluorocarbons through the AIM Act ("October 2023 EPA Technology Transitions Final Rule") will require the heating, ventilation, air-conditioning, and refrigeration ("HVACR") industry to undertake a broad transition to lower-GWP refrigerants. 88 FR 73098. DOE has considered this refrigerant transition and the burdens that come with it in the analyses that support this final rule. In summary, DOE analyzed all medium- and low-temperature dedicated condensing system (*i.e.*, dedicated condensing unit and single-packaged dedicated system) representative units with R-448A as the baseline refrigerant, which DOE has concluded is representative of sub-300 GWP refrigerants that would likely be used in medium- and low-temperature dedicated condensing systems. DOE also analyzed R-290 as a design option for medium- and low-temperature single-packaged dedicated systems. DOE used R-404A to analyze medium- and low-temperature unit coolers, which provides a conservative analysis because sub-300 GWP refrigerants would likely increase unit cooler performance. DOE analyzed high-temperature single-packaged dedicated systems and high-temperature unit coolers using R-134a because DOE has not been able to identify a sub-300 GWP refrigerant that could serve as a replacement for R-134a in high-temperature applications that has enough performance data (*e.g.*, compressor coefficients) available to conduct a full engineering analysis for high-temperature units. These analyses are further discussed in sections IV.C.1.e, IV.C.1.f, and IV.F.2.a of this document. DOE also considers the potential manufacturer investments associated with the transition to low-GWP refrigerants in response to refrigerant regulations in section V.B.2.e of this document. Through these analyses, DOE has determined that the standards promulgated in this final rule are technologically feasible and economically justified given the refrigerant transition required of the HVACR industry.

NAFEM requested that DOE find that no-new-standards are justified at this time. NAFEM stated that DOE previously promulgated standards for WICFs in 2014, but six of the classes were remanded by the United States Court of Appeals for the Fifth Circuit;

NAFEM further stated that DOE promulgated revised standards for these six classes in 2017, with compliance deadlines of 2020. NAFEM stated that based on this timeline, the latest technologies are still being implemented into the latest equipment. NAFEM commented that there has not been sufficient time to develop, test, and make available the types of new technologies that would impact the most recent energy efficiency standards and otherwise justify revising those standards in the next several years. (NAFEM, No. 67 at p. 2)

As indicated by NAFEM, compliance with the existing standards has been required for multiple years. Compliance with the current energy conservation standards for walk-in doors and medium-temperature dedicated condensing systems was required on June 5, 2017, over 7 years ago. Compliance with the current energy conservation standards for unit coolers and low-temperature dedicated condensing systems was required on July 10, 2020, over 4 years ago. EPCA requires that any new or amended standard for covered equipment must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)) As part of DOE's assessment of whether adopting amended standards is economically justified, DOE considers the potential impact on manufacturers, including the potential investments required to develop, test, produce, and market compliant equipment. *See* sections IV.J and V.B.2 of this document for details on the manufacturer impact analysis. As discussed further in section V.C of this document, DOE is adopting amended standards for walk-ins that are technologically feasible and economically justified.

DOE also received comments that the standards proposed in the September 2023 NOPR and/or that updated analysis presented in the March 2024 NODA are too stringent.

AHRI and Hussmann commented that in the September 2023 NOPR, DOE determined that TSL 3 is not economically justified; however, DOE determined that TSL 2 is economically justified. AHRI and Hussmann further stated that for unit coolers, both TSL 3 and TSL 2 incorporate the max-tech design options for all unit cooler equipment classes. (AHRI, No. 72 at p. 4; Hussmann, No. 75 at pp. 2–3) Therefore, Hussmann recommended that efficiency levels for TSL 2 for unit coolers be set at the intermediate (EL 1) levels. (Hussmann, No. 75 at pp. 2–3)

Hussmann also recommended that DOE propose an AWEF2 of 9.15 for medium-temperature unit coolers and an AWEF2 of 4.30 for low-temperature unit coolers. (Hussmann, No. 75 at pp. 5–7)

DOE notes that it determined in the September 2023 NOPR that, for refrigeration systems, TSL 3 was not economically justified. 88 FR 60746, 60852. This determination was made despite certain efficiency levels for certain equipment classes that made up TSL 3 being economically justified. In the September 2023 NOPR, DOE tentatively determined that TSL 2 was economically justified. 88 FR 60746, 60853. Given that some efficiency levels for some representative units that made up TSL 3 in the September 2023 NOPR were cost effective, there was overlap in the efficiency levels that made up TSL 3 and the efficiency levels that made up TSL 2 for certain representative units. 88 FR 60746, 60786–60787. Medium-temperature unit coolers and low-temperature unit coolers were two of the equipment classes where the efficiency levels between TSL 3 and TSL 2 were the same. DOE is required to set standards that achieve the maximum improvement in energy that the Secretary determines is technologically feasible and economically justified (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)); therefore, in the September 2023 NOPR DOE proposed the economically justified maximum technology levels for medium- and low-temperature unit cooler equipment classes. DOE is adopting amended standards based on the updated analyses from the March 2024 NODA in this final rule that achieve the maximum improvement in energy that the Secretary determines is technologically feasible and economically justified. DOE notes that in this final rule it is adopting the max-tech efficiency level for low-temperature and high-temperature ducted unit coolers but is not adopting the max-tech efficiency level for all analyzed capacities of medium-temperature unit coolers in this final rule. *See* section V.C of this document for further discussion.

Lennox commented that the baseline design assumptions and AWEF2 levels may result in proposed AWEF2 standard levels that would drive financials considerably more unfavorably to manufacturers and consumers. Lennox requested that DOE correct discrepancies in baseline assumptions and costs associated with higher efficiency levels in the September 2023 NOPR and September 2023 NOPR TSD. (Lennox, No. 70 at p. 8) Lennox stated that once DOE has addressed the technical issues Lennox identified in the September 2023 NOPR,

DOE must re-run the NOPR analysis to determine if the proposed standards are technologically feasible and economically justified. Lennox recommended that the final standards be no more stringent than those proposed in the September 2023 NOPR. (Lennox, No. 70 at p. 6) In response to the March 2024 NODA analysis, Lennox stated that DOE must address various technical issues—baseline design assumptions and costs of attaining higher efficiency levels, reduced incremental margins assumptions to attain higher efficiency levels, and product lifetime assumptions—to ensure that any new WICF energy conservation standard is “technologically feasible and economically justified”, as required by statute. (Lennox, No. 87 at p. 3) Lennox further stated that section 7 of the NODA support document presents updated AWEF2 calculations for refrigeration system equipment classes at TSLs presented in the NODA that lack justification. (*Id.* at pp. 7–8) Lennox commented it has significant concerns regarding this rulemaking’s technical and cost analysis, and DOE has not demonstrated that amended energy conservation standards are appropriate. (*Id.* at p. 8)

In the March 2024 NODA, DOE reviewed and updated parts of its analyses based on stakeholder feedback from the September 2023 NOPR and DOE’s own findings. As such, in the March 2024 NODA, DOE presented updated LCC and PBP results, as well as national impacts. 89 FR 18555. Additionally, in this final rule, DOE further reviewed and updated its analyses based on stakeholder feedback from both the September 2023 NOPR and March 2024 NODA, in particular for refrigeration systems and through comments raised by Lennox. DOE addresses and discusses Lennox’s indicated technical issues in section IV of this document. The updated analytical results that reflect the comments that have been addressed can be found in section V of this document. DOE has concluded that the analyses in this final rule are representative of the performance capabilities and costs of WICF components to justify the adopted standards. When proposing a standard level, DOE considers the benefits and burdens of each TSL as discussed in section V.C.1 of this document. As a result, DOE is adopting a standard level that represents the maximum improvement in energy efficiency that is technologically feasible and economically justified for both consumers and manufacturers.

Senneca and Frank Door commented that the standards proposed in the September 2023 NOPR for WICFs contain procedural and substantive flaws, which affect the technical feasibility and economic justification of the proposed standards and have the potential to violate EPCA and the Administrative Procedure Act. (Senneca and Frank Door, No. 78 at p. 1) Senneca and Frank Door asserted that DOE used inaccurate inputs to calculate several values that are integral to DOE’s evaluation of whether the proposed standards are economically justified, and that, therefore, DOE should withdraw the September 2023 NOPR and redo the evaluation with accurate inputs in every calculated value. (Senneca and Frank Door, No. 78 at p. 6) Senneca and Frank Door commented that the proposed standards would result in the elimination of certain types and/or sizes of doors and the elimination of anti-sweat heat, which the commenters stated would violate 42 U.S.C. 6295(o)(4). (Senneca and Frank Door, No. 78 at pp. 5–6) Following publication of the March 2024 NODA, Senneca commented that the NODA does not address flaws in the September 2023 NOPR. Senneca stated that DOE cannot identify technology options that, when applied in a real-world context as opposed to modeling, are capable of achieving the level of reductions that would be required under either set of standards; in effect, DOE has failed to meet its burden for both the standards in the September 2023 NOPR and the March 2024 NODA.

Imperial Brown stated that the 0.06 coefficient to calculate the March 2024 NODA MDEC for low-temperature doors is too stringent. Imperial Brown stated that this reduction leads to MDEC requirements that Imperial Brown believes the industry cannot achieve. Imperial Brown stated that it supports energy conservation but is concerned that the MDEC proposed is unattainable. (Imperial Brown, No. 84 at pp. 1–3)

RSG commented that the proposed changes in maximum daily energy consumption for non-display doors would pose a significant challenge because RSG and other manufacturers have already implemented reduced anti-sweat heat as a design option to the meet the current standards. RSG stated that the reduction in maximum daily energy consumption outpaces the technology changes for reduced, real-world power consumption; therefore, RSG suggested that DOE refrain from adopting such significant reduction in the maximum daily energy consumption at this time. (RSG, No. 69 at p. 1)

DOE notes that in the March 2024 NODA, DOE reviewed and updated parts of its analyses based on stakeholder feedback from the September 2023 NOPR and DOE’s own findings. In the March 2024 NODA, DOE presented an updated engineering analysis for non-display doors based on stakeholder feedback in response to the September 2023 NOPR and presented updated LCC and PBP results, as well as national impacts. 89 FR 18555. Specifically, in the March 2024 NODA, DOE presented energy consumption allowances for electricity-consuming devices that may be present on non-display doors and updated the energy consumption due to thermal load for low-temperature non-display doors. DOE addresses and discusses the feedback received from Senneca and Frank Door, Imperial Brown, and RSG in section IV and V of this document. In this final rule, DOE is adopting standards for non-display doors that are less stringent (*i.e.*, allow a higher MDEC) than those proposed in the September 2023 NOPR. In consideration of stakeholder feedback and uncertainty as to whether all non-display doors could implement certain design options (*i.e.*, improved frame systems and reduced anti-sweat heat) DOE is adopting a standard level that does not necessitate the use of those design options, which is discussed in section V.C.1.a of this document. Based on the considerations discussed in section V.C.1.a of this document, DOE has concluded that the adopted standards for non-display doors would not result in the elimination of certain types and/or sizes of doors; nor would the adopted standards result in the elimination of anti-sweat heat. Further, DOE has concluded that the reduction in MDEC is achievable by the walk-in door industry. DOE has concluded that the analyses in this final rule are sufficiently representative of the performance capabilities and costs of WICF components to justify the adopted standards.

Rep. Bice expressed strong opposition to multiple rules recently proposed by DOE that would add new regulations. Rep. Bice expressed concern that the consistent proposals coming out of DOE are adding burdensome energy conservation standards to products Americans use on a regular basis. Rep. Bice stated that increased standards will increase production costs for manufacturers and retail prices for consumers and asserted that this would cost millions of dollars with little long-term benefit. (Rep. Bice, No. 82 at p. 1)

As previously discussed, EPCA requires that DOE must periodically evaluate the appropriateness of

amended energy conservation standards and publish either a NOPD stating that standards for the equipment do not need to be amended, or a NOPR including new proposed energy conservation standards not later than 6 years after the issuance of any final rule establishing or amending a standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)) DOE has concluded that the standards adopted in this final rule are economically justified and will save consumers \$442.7 million annually (2023\$) over the lifetime of equipment shipped (see section I.C.1.c of this document for details).

2. Comments Regarding the Proposed Compliance Date

In the September 2023 NOPR, DOE estimated publication of a final rule regarding amended energy conservation standards for walk-ins in 2024; therefore, for purposes of the September 2023 NOPR analysis, DOE used 2027 as the first year of compliance with any amended standards for walk-ins, consistent with the requirements of EPCA (see 42 U.S.C. 6313(f)(5)(B)(i)). 88 FR 60746, 60791.

In response, AHRI commented that the proposal requires as much as a 15-percent increase in efficiency. AHRI stated that a maximum 5-percent increase in efficiency would be acceptable, depending on other related requirements, however, AHRI also stated the 2027 timing for compliance is not desirable even if DOE were to amend unit cooler energy efficiency minimums by 5 percent given the EPA Significant New Alternatives Policy Program (“SNAP”) 23 activities and test method changes that would require efficiency improvements. (AHRI, No. 72 at p. 5) AHRI commented that should DOE adopt the standards proposed in the September 2023 NOPR without any changes, AHRI suggests that DOE target to publish this final rule by June 2025 with a 3-year compliance period (*i.e.*, compliance required by June 2028). AHRI recommended that if there are changes to the September 2023 NOPR based on stakeholder comments, the compliance date should be pushed back further. (*Id.* at p. 14)

Lennox commented that a 3-year lead time to comply with potential amended WICF energy conservation standards is inadequate. Lennox commented that manufacturer engineering, lab, and product development resources are already overburdened through 2026 due to required compliance with EPA’s “technology transition” final rule. Lennox added that manufacturer resources are additionally strained by competing out-of-sequence rulemakings, which impose a cumulative regulatory

burden on WICF manufacturers. Lennox requested that DOE allow an additional 2 years’ lead time (for a total of 5 years) to comply with any amended WICF energy conservation standards; Lennox added that the 5-year lead time would allow for WICF manufacturers to implement required changes after the required EPA refrigerant transition. Lennox commented that due to these factors, manufacturing capacity and/or engineering resource constraints are significant and may indeed limit consumer access to, as well as increase costs for, WICF under a 3-year, versus a 5-year, compliance period. Lennox further commented that even a 5-year compliance period is feasible only if DOE issues final standards that are no more stringent than those proposed in the NOPR. (Lennox, No. 70 at pp. 1–3, 9)

Additionally, in response to the March 2024 NODA, Lennox stated that as an alternative to allowing a longer compliance period, DOE should postpone the rulemaking process until the low-GWP products are available to ensure DOE meets the statutory criteria in promulgating energy conservation standards that are “economically justified.” Lennox stated that increasing the energy efficiency of WICF products using low-GWP refrigerants presents significant uncertainty regarding costs and stated that DOE has not adequately addressed this issue, as the design and manufacture of WICF equipment that uses low-GWP refrigerants is complex and involves A2L refrigerants that present significant engineering challenges different from existing refrigerants used. Lennox stated it is premature for DOE to consider tightening standards for WICF equipment that is not yet on the market. (Lennox, No. 87 at p. 2) Lennox stated that DOE should not move to a final rule regarding WICF equipment, but rather DOE should continue to improve its analysis to ensure that the proposed standards are economically justified. Lennox also stated that given the substantial redesign of WICF equipment that is already underway regarding EPA requirements to transition to equipment that uses low-GWP refrigerant, Lennox believes DOE’s best course would defer further rulemaking until that redesigned equipment is better understood and engineering and lab capacity becomes available to better assess amended WICF energy conservation standards. (Lennox, No. 87 at pp. 4–5) NRAC commented that engineering resources will be fully consumed by the transition to low-GWP refrigerants and transitioning all product lines to the new safety

standards. NRAC commented that it will have insufficient time to meet the 2027 amended standard compliance date and requested a pause on the amended standards until after the transition to low-GWP refrigerants is complete. NRAC commented that the proposed rulemaking would require a transition to new low-GWP A2L refrigerants as well as a change in all the safety standards, which would in turn require changes to testing and design of current equipment. NRAC recommended a pause, delay, or no-new-standards rulemaking to benefit the environment and all parties. (NRAC, No. 73 at pp. 2–3)

DOE understands that Federal and State refrigerant regulations, such as EPA’s October 2023 EPA Technology Transitions Final Rule, require manufacturers of WICF refrigeration systems to cease manufacturing equipment that uses high-GWP HFC refrigerants and to begin manufacturing redesigned equipment that uses low-GWP refrigerants before that rule’s compliance date, which would occur prior to the expected compliance date of new and amended DOE standards. As discussed in section V.B.2.e of this document, DOE expects that the research and development and capital investment required to comply with the October 2023 EPA Technology Transitions Final Rule may exceed the typical industry R&D and capital expenses. DOE has quantitatively estimated those expenditures in its Government Regulatory Impact Model (“GRIM”) ²⁰ in the no-new-standards case and standards case to reflect the increased operating expenses and reduced cash flow experienced by industry due to Federal refrigerant regulations. DOE qualitatively discusses potential engineering and laboratory resource constraints in section V.B.2.c of this document.

Regarding the timeline to comply with EPA refrigerant regulations, in the notice of proposed rulemaking published in the **Federal Register** on December 15, 2022 (“December 2022 EPA Technology Transitions NOPR”), EPA proposed a January 1, 2025 compliance date for the refrigeration categories that apply to walk-in refrigeration systems (*i.e.*, remote condensing units and cold storage warehouse systems). 87 FR 76738, 76810. In the October 2023 EPA Technology Transitions Final Rule, EPA determined that due to the need for

²⁰ The GRIMs developed for this final rule are available for download at: www.regulations.gov/docket/EERE-2017-BT-STD-0009/document.

certain SNAP approvals,²¹ updates to building codes, equipment design, testing, and certifications, technician trainings, and manufacturing facility upgrades, providing additional time to comply was reasonable for certain subsectors in retail food refrigeration, including the categories applicable to walk-in refrigeration systems. 88 FR 73098, 73149–73152. As such, EPA finalized a compliance date of January 1, 2026, for both remote condensing units and cold storage warehouses, delaying compliance one year from what was proposed in the December 2022 EPA Technology Transitions NOPR.

In the September 2023 NOPR and March 2024 NODA, DOE analyzed a 3-year compliance lead-in period for walk-in doors, panels, and refrigeration systems, which DOE modeled as requiring compliance in 2027. DOE notes that it has some flexibility under EPCA to delay the effective date of amended standards: if the Secretary determines that a 3-year period is inadequate, the Secretary may establish an effective date for WICFs manufactured beginning on the date that is not more than 5 years after the date of publication of a final rule for WICFs. (42 U.S.C. 6313(f)(5)(B)(ii)) DOE received comments regarding industry's ability to meet the standards proposed in the September 2023 NOPR specific to walk-in refrigeration systems. Although most manufacturers emphasized that a 3-year lead-in and 2027 compliance date would not be feasible due to engineering and laboratory resource constraints related to the refrigerant transition, RSG commented that a 2027 compliance date would be viable to meet the standards proposed in the September 2023 NOPR for walk-in refrigeration systems. (RSG, No. 69 at p. 3) AHRI commented that if DOE adopted the standards proposed in the September 2023 NOPR, a June 2028 compliance date would be feasible for industry.

Generally, DOE understands that aligning compliance dates to avoid multiple successive redesigns can help to reduce cumulative regulatory burden. However, most stakeholder comments indicate that the rulemaking timelines and compliance periods for DOE and EPA regulations make it challenging to redesign and retest walk-in refrigeration systems simultaneously to meet both the October 2023 EPA Technology Transitions Final Rule and new and amended DOE standards. Specifically, manufacturers are in the midst of

redesigning walk-in refrigeration systems to comply with the October 2023 EPA Technology Transitions Final Rule by January 1, 2026, and may not be able to incorporate the necessary updates to comply with new and amended DOE standards within the same design cycle. Furthermore, DOE is not aware of significant walk-in refrigeration system shipments currently rated above the baseline efficiency level (*i.e.*, EL 0). Thus, DOE expects that most manufacturers will need to update their equipment portfolios to meet the standards adopted in this final rule. Therefore, based on stakeholder comments and DOE's assessment of the investments and redesign required to meet the adopted levels, combined with the overlapping Federal refrigerant regulations, DOE is extending the compliance period so that compliance is required by December 31, 2028 (modeled as 2029), approximately 1 year later than the expected compliance year (2027) analyzed in the September 2023 NOPR (which was based on a 3-year compliance period).

DOE has determined that spreading out the DOE compliance date for amended energy conservation standards from the October 2023 EPA Technology Transitions Final Rule compliance date will help alleviate manufacturers' concerns about engineering and laboratory resource constraints. Furthermore, the longer compliance period will help mitigate cumulative regulatory burden by allowing manufacturers more flexibility to spread investments across approximately 4 years instead of 3 years. Manufacturers will also have more time to recoup any investments made to redesign walk-in equipment for the October 2023 EPA Technology Transitions Final Rule as compared to a 3-year compliance period.

DOE did not receive comments regarding the 3-year compliance period analyzed in the September 2023 NOPR for walk-in doors or panels. Therefore, DOE maintains the 3-year compliance period for the amended walk-in non-display doors standard in this final rule, which DOE models as 2028. As previously discussed, DOE is not amending the standard for walk-in panels and display doors.

3. Comments Regarding Rulemaking Process

In response to the September 2023 NOPR and March 2024 NODA, DOE received several comments regarding the process of the rulemaking.

In response to both the September 2023 NOPR and the March 2024 NODA, AHRI requested that DOE consider a

pause in its current rulemakings relating to energy conservation standards for walk-ins, given the efforts now underway across the HVACR industry to transition to new classes of refrigerants with low GWP for the AIM Act. AHRI commented that since most substitute refrigerants capable of complying with the AIM Act are A2Ls, SNAP approvals contain highly prescriptive use conditions and limitations, including conformance to safety standards that are now in the process of being updated and revised, such as ASHRAE 15²² and UL 60335–2–89. AHRI commented that State and local building codes further complicate the picture, with many prohibiting A2Ls and requiring updating, which can take 2 to 5 years to complete—eight States have updated their codes and more than 20 have yet to authorize A2L refrigerants for commercial refrigeration. (AHRI, No. 72 at pp. 1–2 and No. 86 at pp. 1–3)

DOE is statutorily required to publish either a NOPD if it finds that standards for the equipment do not need to be amended, or a NOPR including new proposed energy conservation standards not later than 6 years after the issuance of any final rule establishing or amending a standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)) The final rules that established the current standards for walk-in doors and refrigeration systems were issued in 2014 and 2017, respectively. Further, EPCA specifically prescribed that no later than January 1, 2020, DOE shall publish a final rule to determine if standards for walk-ins should be amended. (42 U.S.C. 6313(f)(5)) DOE is conducting this rulemaking pursuant to these statutory requirements.

Regarding AHRI's comments surrounding the transition to low-GWP refrigerants in response to Federal refrigerant regulations, DOE considered the refrigerant transition and the burdens that come with it in the analyses that support this final rule. With respect to AHRI's concern that some State and local building codes currently prohibit A2Ls, DOE notes that although it considers the potential impacts of refrigerant regulations on walk-in refrigeration systems in its analysis, the energy conservation standards adopted in this final rule generally do not require the use of specific refrigerants (*e.g.*, A2Ls).²³

²² ASHRAE Standard 15, *Safety Standard for Refrigeration Systems and ANSI/ASHRAE Standard 34–2022, Designation and Safety Classification of Refrigerants*.

²³ DOE notes that it expects that manufacturers of lower-capacity medium temperature single-packaged dedicated condensing systems would

²¹ The EPA SNAP program evaluates and approves alternative refrigerants to those that are no longer compliant.

Furthermore, DOE is aware of ongoing efforts by industry groups and other stakeholders to work with State and local officials to update building codes to allow for alternative refrigerants, such as A2Ls. Additionally, DOE notes that EPA, to the extent practicable, took building codes into account in its consideration of availability of substitutes in the October 2023 EPA Technology Transitions Final Rule. 88 FR 73098, 73136. As such, DOE understands that EPA established compliance dates for the transition to low-GWP refrigerants with the expectation that jurisdictions will prioritize completing building code updates with the October 2023 EPA Technology Transitions Final Rule deadlines in mind. *Id.* DOE notes that the change in the EPA compliance date for walk-in refrigeration systems (*i.e.*, from January 1, 2025 proposed in the December 2022 EPA Technology Transitions NOPR to January 1, 2026 finalized in the October 2023 EPA Technology Transitions Final Rule) provides additional time for jurisdictions to update their building codes or legislation accordingly. As previously discussed, DOE is finalizing a compliance date of December 31, 2028, for walk-in refrigeration systems (approximately 3 years after the October 2023 EPA Technology Transitions Final Rule compliance date for walk-in refrigeration systems), which DOE believes is sufficient time for manufacturers to comply with the adopted standards, accounting for other regulatory obligations. DOE expects that all states will have updated their building codes to reference the updated mechanical codes and safety standards by the December 31, 2028, compliance date.

Ravnitsky supported DOE's efforts to improve the energy efficiency of walk-ins, stating that the benefits estimated by DOE are substantial for the consumers, economy, and environment. Ravnitsky recommended that DOE adopt a negotiated rulemaking process to revise the standards for walk-ins. (Michael Ravnitzky, No. 55 at pp. 1–3)

The Appliance Standards and Rulemaking Federal Advisory Committee (“ASRAC”) allows DOE to use negotiated rulemaking as a method to engage all interested parties, gather data, and attempt to reach consensus on establishing energy conservation

standards. ASRAC has not voted to proceed with a negotiated rulemaking regarding energy conservation standards for WICFs. Further, there was no additional information provided to suggest that a negotiated rulemaking would result in standards significantly different than those proposed in the September 2023 NOPR or adopted in this final rule. Therefore, DOE is adopting this final rule after using the typical rulemaking process.

Senneca commented that the information contained in the March 2024 NODA undermines DOE's standards proposed in the September 2023 NOPR. Senneca stated that the failure to consider the energy consumption of the additionally analyzed electricity-consuming devices (*i.e.*, heating vents, heated viewing windows, lights, and thermometer/temperature alarms) despite having documented that they are all included on models of doors covered by the proposed standards invalidates DOE's conclusions that the proposed standards are technologically feasible and economically justified as they were based on a model door that is not representative of doors in the market. Senneca commented that DOE should withdraw the proposed standards and restart the process so that additional electrical components can be included in the required analysis. (Senneca, No. 92 at pp. 1–2) Senneca stated that DOE cannot propose new standards in a NODA. Senneca stated that the new standards cannot be considered a logical outgrowth of the September 2023 NOPR. Senneca also stated that the standards are not amendments to existing standards and that they are entirely new standards for entirely new classes of equipment. (Senneca, No. 92 at pp. 2–3) Senneca further stated that if DOE considered product literature and non-public information, DOE must first make data and information available to the public as part of the rulemaking docket before using that data and information. (Senneca, No. 92 at p. 3) Hormann and Jamison supported the comments made by Senneca and Frank Door in response to the September 2023 NOPR and March 2024 NODA. (Hormann, No. 85 at p. 1; Jamison, No. 83 at p. 1)

As noted previously, under EPCA DOE has authority to amend the energy conservation standards applicable to certain industrial equipment, including equipment meeting the definition of walk-in coolers and walk-in freezers. (42 U.S.C. 6295(m); 6316(a); 6311(20)). In doing so, DOE may make certain standards more stringent and can impose additional standards on

equipment that fall within the definition of a covered equipment category that previously were not subject to existing regulation. Consistent with EPCA's purposes, this authority allows DOE to amend standards to adjust to technological innovations and changes in the marketplace. DOE further has authority to establish separate equipment classes if DOE determines that equipment capacity or other performance-related feature justifies a different standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)). In short, DOE has authority to amend the energy conservation standards applicable to walk-ins and to add certain equipment classes, as adopted in this final rule.

DOE further responds that it did not propose new standards in the March 2024 NODA. As discussed in the March 2024 NODA, upon consideration of the views shared in the September 2023 Public Webinar and public comments DOE received in response to the September 2023 NOPR, the March 2024 NODA presented an analysis with updated portions of DOE's NOPR analysis for walk-in non-display doors and refrigeration systems on which DOE had sought comments, data, and information. 89 FR 18555, 18556. In the March 2024 NODA, DOE demonstrated how the updated analysis applied to the existing equipment classes through the inclusion of the MDEC allowances (see section IV.A.1.a of this document) for non-display doors and the impact on the standards equations proposed in the September 2023 NOPR, which functionally would make them subclasses within the existing class structure. (*Id.* at 89 FR 18576). DOE did not propose any new TSLs and sought further public input. *Id.* In this final rule, DOE has incorporated additional feedback regarding the March 2024 NODA analysis (see section IV of this final rule) and adopted standards that reflect the totality of feedback received during this rulemaking process, including the comments regarding energy use of electricity-consuming components, in response to both the September 2023 NOPR and the March 2024 NODA. The standards adopted in this final rule are within the range of alternatives proposed in the September 2023 NOPR.

In the September 2023 NOPR, DOE summarized the NOPR stage deviations from 10 CFR part 430, subpart C, appendix A (which DOE referred to as the “Process Rule” in that document). 88 FR 60746, 60756. In response to the September 2023 NOPR, Senneca and Frank Door disagreed with DOE's decision to deviate from the process outlined for the development of new

generally incorporate propane compressors at the standard level adopted in this final rule. However, the charge of propane required for these systems is within the acceptable charge limits specified in an EPA SNAP rule for propane in a refrigeration circuit (300 grams) for refrigeration systems with end-uses in the retail food industry. 89 FR 50410, 50467.

efficiency standards, specifically regarding DOE's decision not to publish a Framework Document due to alleged redundancy and to reduce the comment period for interested parties to respond to the proposed rule by 20 percent. Senneca and Frank Door commented that if redundancy and multiplicity of comment opportunities were valid reasons to deviate from the Process Rule, no standards development rulemaking would need to follow the process adopted by DOE in that rule. Senneca and Frank Door commented that DOE's rulemaking process intentionally includes requirements to explain aspects of the rulemaking in multiple documents and provide interested parties with multiple opportunities to comment. Senneca and Frank Door additionally commented that the previous opportunities for interested parties to provide comments were not, in fact, opportunities to comment on the proposed standards themselves, but instead were opportunities for interested parties to inform DOE's decisions on whether to propose amended standards and what the proposed standards should be. Senneca and Frank Door commented that DOE's rationale for limiting the opportunity for the public to participate in the development of the proposed standards was further weakened when two leading trade associations jointly requested additional time to comment due to the complexity of the issues presented in the proposal, a request that DOE refused to accommodate. Senneca and Frank Door commented that DOE's decision to deviate from the Process Rule sets a precedent to continue deviating from the Process Rule. (Senneca and Frank Door, No. 78 at pp. 2–3)

Senneca and Frank Door commented that prior opportunities to comment on the technological feasibility and economic costs of the potential new standards did not sufficiently capture important information from WICF door manufacturers. Senneca and Frank Door commented that the single manufacturer of WICF doors to comment on DOE's Preliminary Analysis does not manufacture any doors that would be covered by the proposed standards, and that DOE's reliance on information from this manufacturer to justify reducing the amount of information made available to the public, shorten the length of the comment period, and support the conclusion that the proposed standards are technically feasible and economically justified is inconsistent with DOE's commitment to robust participation. (*Id.*)

In a final rule published on December 13, 2021, DOE adopted a provision allowing it to depart from the general guidance in 10 CFR part 430, subpart C, appendix A so long as DOE provides notice and an explanation (86 FR 70892, 70896). This rule restored DOE's authority to deviate on a case-by-case basis, which was included in previous versions of appendix A. (61 FR 36974) The provisions at 10 CFR part 430, subpart C, appendix A contain procedures, interpretations and policies that are generally applicable to the development of energy conservation standards, but DOE may, as provided in the rule itself, deviate from this appendix to account for the specific circumstances of a particular rulemaking. *See* section (3)(a) of appendix A to subpart C of 10 CFR part 431. If DOE concludes that changes to the procedures, interpretations, or policies in 10 CFR part 430, subpart C, appendix A are necessary or appropriate, DOE will provide notice in the **Federal Register** of modifications to this appendix with an accompanying explanation. *See* section (3)(b) of appendix A to subpart C of 10 CFR part 431.

As provided in the September 2023 NOPR, chapter 2 of the preliminary TSD that accompanied the preliminary analysis—entitled *Analytical Framework, Comments from Interested Parties, and DOE Responses*—describes the general analytical framework that DOE uses in evaluating and developing potential amended energy conservation standards. As such, in the September 2023 NOPR, DOE determined that publication of a separate framework document would be largely redundant given previously published documents. DOE maintains its determination that publication of a separate framework document would be largely redundant for this rulemaking. Further, 10 CFR part 430, subpart C, appendix A as amended does not require that a framework document and preliminary analysis be published in the pre-NOPR stage and states that such pre-NOPR documents could take several forms depending upon the specific proceeding. *See* section 6(a) of appendix A to subpart C of 10 CFR part 430.

As also noted previously, DOE requested comment in the July 2021 RFI on the analysis conducted in support of the last energy conservation standard rulemaking for walk-ins and provided a 30-day comment period. In its June 2022 Preliminary Analysis and TSD, DOE's analysis remained largely the same as the analysis conducted in support of the previous energy conservation standards rulemaking for walk-ins. DOE requested

comment in the June 2022 Preliminary Analysis TSD on the analysis conducted in support of this current rulemaking. Given that the September 2023 NOPR analysis remained largely the same as the June 2022 Preliminary Analysis, and in light of the 60-day comment period DOE provided with its June 2022 Preliminary Analysis, DOE determined that a 60-day comment period was appropriate for the September 2023 NOPR and provided interested parties with a meaningful opportunity to comment on the proposed rule. 88 FR 60746, 60756. Additionally, DOE made subsequent updates to the September 2023 NOPR analysis in the March 2024 NODA and provided interested parties an opportunity to comment on those updates. 89 FR 18555.

Regarding Senneca and Frank Door's assertion that previous opportunities for interested parties to provide comments were not opportunities to comment on the proposed standards themselves, DOE notes that stakeholders were given the opportunity to comment on the assumptions used in analyses that fed into the standards proposed in the September 2023 NOPR. As discussed previously in this section, the analysis presented in the September 2023 NOPR remained largely the same as the analysis presented in the June 2022 preliminary analysis. Additionally, the March 2024 NODA afforded stakeholders an additional opportunity to comment on the updated analysis. As such, stakeholders were given multiple opportunities to provide input on the analyses and assumptions that support this final rule.

Regarding Senneca and Frank Door's assertion that prior opportunities to comment on the technological feasibility and economic costs of the potential new standards did not sufficiently capture important information from WICF door manufacturers, DOE notes that in addition to public comments, DOE sought feedback from WICF door manufacturers during confidential manufacturer interviews. Feedback from these interviews has been incorporated throughout the September 2023 NOPR analysis and this final rule analysis.

4. Comments Regarding Prescriptive Standards

Kolpak requested that DOE clarify its requirements for minimizing infiltration when doors are open and suggested that DOE require spring-loaded hinges causing the door to self-close and either fan-driven air curtains, strip curtains, or strip doors. (Kolpak, No. 66, Attachment 1 at pp. 2–3)

The prescriptive standards for walk-ins were set in EPCA by Congress and were subsequently codified by DOE at 10 CFR 431.306(a)(2). It is required that each walk-in cooler or walk-in freezer manufacturer on or after January 1, 2009, have strip doors, spring-hinged doors, or other methods of minimizing infiltration when doors are open. DOE is not updating the prescriptive standards for walk-ins in this rulemaking.

5. Comments Regarding the Standards Equations

DOE presented several potential energy conservation standards curves for refrigeration systems as supporting data for the March 2024 NODA. *See* section 7 of the NODA support document.²⁴

AHRI, Hussmann, and Lennox stated that for the medium-temperature and low-temperature unit cooler (UC.M and UC.L) equipment classes, the efficiency level selected is the same for TSL 1, 2 and 3 but that there are different standards equations for TSL 3 than TSL 1 and 2 in the NODA support document. (AHRI, No. 86 at pp. 5–6; Hussmann, No. 88 at pp. 3–4; Lennox, No. 87 at p. 6) AHRI requested that DOE clarify the difference between the equations for TSL 1 and 2 and those for TSL 3. (AHRI, No. 86 at pp. 5–6)

DOE notes that the standards equations shown for medium-temperature and low-temperature unit coolers in the March 2024 NODA support document at TSL 3 should have matched those for TSL 1 and TSL 2, as the same efficiency level was selected for each TSL. The equations for TSL 3 were erroneously different from those at TSL 1 and 2 for medium-temperature and low-temperature unit coolers. DOE also notes that in the NODA support document, the equation for the high-temperature, ducted unit coolers at TSL 2 was erroneously written and did not account for the updated NODA analysis. In this final rule, the equation at TSL 2, which is the adopted standard level, has been corrected to reflect the changes made in the March 2024 NODA analysis. DOE does not believe these typographical errors impacted commenters' ability to evaluate and provide input on DOE's updated analysis.

AHRI and Lennox asked how the equation ($-6.43 \times 10^{-6} \times Q_{\text{net}} + 9.97$) that increases the minimum AWEF2 from 9.65 in the September 2023 NOPR

to a higher minimum AWEF2 up to 9.9 in the March 2024 NODA for net capacities greater than or equal to 9 kBtu/h and less than 54 kBtu/h was determined. (AHRI, No. 86 at p. 5; Lennox No. 87 at pp. 7–8) AHRI asserted that the AWEF2 standard should reflect a decrease and not an increase and recommended that DOE review the rationale and reconcile it with the change in the AWEF2 standard. (AHRI, No. 86 at p. 5)

In the September 2023 NOPR, for medium-temperature and low-temperature unit coolers, DOE proposed standards at constant AWEF2 values (*i.e.*, the proposed AWEF2 standard did not vary with capacity). Specifically, DOE proposed a standard equal to the average AWEF2 corresponding to the selected efficiency levels of each representative capacity in the selected TSL. Stakeholders pointed out that the proposed AWEF2 levels were above the “max-tech” levels for some of the representative capacities. (AHRI, No. 72 at p. 4; Hussmann, No. 75 at p. 2) Additionally, the proposed AWEF2 levels were below the “max-tech” levels for other representative capacities. In the March 2024 NODA, DOE presented standards equations for medium-temperature unit coolers that vary with capacity, following the representative-capacity efficiency levels more closely, but not exceeding any of the “max-tech” levels for specific representative capacities. As such, the presented standards equation resulted in AWEF2 values that were greater than what was proposed in the September 2023 NOPR for capacities between 9 kBtu/h and 54 kBtu/h for medium-temperature unit coolers.

See section IV.E.1 for discussion regarding how DOE set the standards equations for the standards adopted in this final rule.

B. Scope of Coverage

This final rule covers “walk-in coolers and walk-in freezers” defined as an enclosed storage space, including but not limited to panels, doors, and refrigeration systems, refrigerated to temperatures, respectively, above, and at or below 32 degrees Fahrenheit (“°F”) that can be walked into, and has a total chilled storage area of less than 3,000 square feet; however, the terms do not include products designed and marketed exclusively for medical, scientific, or research purposes. 10 CFR 431.302. Rather than establishing standards for complete walk-in systems, DOE has previously established separate standards for the principal components that make up a walk-in (*i.e.*, doors, panels, and refrigeration systems). In

this final rule, DOE has continued with this approach.

A “door” means an assembly installed in an opening on an interior or exterior wall that is used to allow access or to close off the opening and that is movable in a sliding, pivoting, hinged, or revolving manner of movement. For walk-in coolers and walk-in freezers, a door includes the frame (including mullions), the door leaf or multiple leaves (including glass) within the frame, and any other elements that form the assembly or part of its connection to the wall. *Id.*

A “panel” means a construction component that is not a door and is used to construct the envelope of the walk-in (*i.e.*, elements that separate the interior refrigerated environment of the walk-in from the exterior). *Id.*

A “refrigeration system” means the mechanism (including all controls and other components integral to the system's operation) used to create the refrigerated environment in the interior of a walk-in cooler or walk-in freezer, consisting of:

- (1) A dedicated condensing refrigeration system (as defined in 10 CFR 431.302); or
- (2) A unit cooler.

In response to the September 2023 NOPR, AHRI commented that DOE is expanding the scope of the rulemaking to include CO₂ unit coolers, multi-circuit single-packaged dedicated systems, and ducted fan coil units, but DOE has not been able to procure a CO₂-dedicated condensing unit and did not test or allow for CO₂-dedicated condensing units. AHRI commented that the walk-in market will probably adopt CO₂-dedicated condensing units. (AHRI, No. 72 at p. 7)

In response to AHRI's assertion that DOE did not allow for CO₂-dedicated condensing units, DOE notes that the test procedure for walk-in refrigeration systems does not explicitly define scope based on refrigerant, as discussed in the May 2023 TP Final Rule. 88 FR 28780, 28786. Notwithstanding the fact that DOE did not adopt test procedures specifically for CO₂-dedicated condensing units addressing the unique characteristics of CO₂, DOE has concluded that all such condensing units currently available, whether in the United States or elsewhere, can be tested using the existing test procedures set forth at 10 CFR part 431, subpart R, appendices C and C1. Specifically, DOE's understanding is that no modifications are needed to test CO₂-dedicated condensing units under the walk-in dedicated condensing unit test procedure, provided the CO₂ exiting the condensing unit is liquid. DOE also

²⁴ “Detailed Data for Engineering Analysis and National Impact Analysis for the Notice of Data Availability Pertaining to Walk-in Coolers and Walk-In Freezers.” Available at www.regulations.gov/document/EERE-2017-BT-STD-0009-0079.

notes that there are CO₂-dedicated condensing units certified in DOE's Compliance Certification Database ("CCD") currently. On this basis, and the fact that no petitions for waiver of the DOE test procedure for condensing units have been submitted, DOE concludes that the current test procedures and energy conservation standards are applicable to such equipment. If a manufacturer believes that a CO₂-dedicated condensing unit contains one or more design characteristics that prevent testing of the basic model(s) according to the prescribed DOE test procedures or cause the prescribed test procedures to evaluate the CO₂-dedicated condensing unit in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data, then manufacturers can petition for a waiver in accordance with 10 CFR 431.401. DOE notes that in the May 2023 TP Final Rule, DOE adopted test provisions specific for CO₂ unit coolers and added new provisions to appendix C1 because the industry test procedure referenced in the DOE test procedure at the time (AHRI 1250–2009, referenced in appendix C) did not accommodate CO₂ unit coolers. The procedure and provisions that DOE adopted were consistent with waivers and interim waivers granted to manufacturers of CO₂ unit coolers. 88 FR 28780, 28786.

See section IV.A.1 of this document for discussion of the equipment classes analyzed in this final rule.

C. Test Procedure

EPCA sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. (42 U.S.C. 6314(a)) Manufacturers of covered equipment must use these test procedures as the basis for certifying to DOE that their equipment complies with the applicable energy conservation standards and as the basis for any representations regarding the energy use or energy efficiency of the equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s); and 42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to evaluate whether a basic model complies with the applicable energy conservation standard(s). 10 CFR 429.110(e). The current test procedure for walk-in display and non-display doors is codified at 10 CFR part 431, subpart R, appendix A ("appendix A"), which includes provisions for determining maximum daily energy consumption, the metric on which current standards for walk-in display and non-display doors are based. 10 CFR 431.306 The

current test procedure for walk-in panels is codified at 10 CFR part 431, subpart R, appendix B ("appendix B"), which includes provisions for determining R-value, the metric on which current standards for walk-in panels are based. The current test procedure for walk-in refrigeration systems is codified at 10 CFR part 431, subpart R, appendix C ("appendix C"). Appendix C includes provisions for determining AWEF, the metric on which current standards for walk-in refrigeration systems are based.

In the September 2023 NOPR analysis, DOE used the test procedures adopted in the May 2023 TP Final Rule to evaluate the efficiency of walk-in components. From this point forward the May 2023 TP Final Rule will be referred to as the "current test procedure."

In the May 2023 TP Final Rule, DOE established a new appendix, appendix C1 to subpart R ("appendix C1"), and a new efficiency metric, AWEF2, for refrigeration systems. (See 10 CFR part 431, subpart R, appendix C1.) The engineering analysis results and the adopted energy conservation standards for refrigeration systems are presented as AWEF2 values. Manufacturers would be required to begin using appendix C1 as of the compliance date of energy conservation standards promulgated as a result of this rulemaking.

D. Technological Feasibility

1. General

As discussed, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A))

To determine whether potential amended standards would be technologically feasible, DOE first develops a list of all known technologies and design options that could improve the efficiency of the products or equipment that are the subject of the rulemaking. DOE considers technologies incorporated in commercially available products or in working prototypes to be "technologically feasible." 10 CFR 431.4; 10 CFR part 430, subpart C, appendix A, sections 6(b)(3)(i) and 7(b)(1). Section IV.A.2 of this document discusses the technology options identified by DOE for this analysis. For further details on the technology assessment conducted for this final rule, see chapter 3 of the final rule TSD.

After DOE has determined which, if any, technologies and design options are

technologically feasible, it further evaluates each technology and design option in light of the following additional screening criteria: (1) practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; (3) adverse impacts on health or safety; and (4) unique-pathway proprietary technologies. 10 CFR 431.4; 10 CFR part 430, subpart C, appendix A, sections 6(b)(3)(ii)–(v) and 7(b)(2)–(5). Those technology options that are "screened out" based on these criteria are not considered further. Those technology and design options that are not screened out are considered as the basis for higher efficiency levels that DOE could consider for potential amended standards. Section IV.B of this document discusses the results of the screening analysis conducted for this final rule. For further details on the screening analysis conducted for this final rule, see chapter 4 of the final rule TSD.

2. Maximum Technologically Feasible Levels

EPCA requires that for any proposed rule that prescribes an amended or new energy conservation standard or prescribes no amendment or no new standard for a type (or class) of covered product, DOE must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for each type (or class) of covered products. 42 U.S.C. 6316(a); 42 U.S.C. 6295(p)(1). Accordingly, in the engineering analysis, DOE identifies the maximum efficiency level currently available on the market. DOE also defines a "max-tech" efficiency level representing the maximum theoretical efficiency that can be achieved through the application of all available technology options retained from the screening analysis.²⁵ In many cases, the max-tech efficiency level is not commercially available because it is not currently economically feasible.

The max-tech levels that DOE determined for this analysis are described in section IV.C.1 of this document and in chapter 5 of the final rule TSD.

E. Energy Savings

1. Determination of Savings

For each trial standard level, DOE projected energy savings from application of the TSL to walk-in doors,

²⁵ In applying these design options, DOE would only include those that are compatible with each other that when combined, would represent the theoretical maximum possible efficiency.

panels, and refrigeration systems purchased in the 30-year period that begins in the year of compliance with the amended standards (2028–2057 for doors and panels, 2029–2058 for refrigeration systems).²⁶ The savings are measured over the entire lifetime of walk-ins purchased in the 30-year analysis period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the no-new-standards case. The no-new-standards case represents a projection of energy consumption that reflects how the market for the equipment would likely evolve in the absence of amended energy conservation standards.

DOE used its national impact analysis (“NIA”) spreadsheet models to estimate national energy savings (“NES”) from potential amended standards for walk-ins. The NIA spreadsheet model (described in section IV.H of this document) calculates energy savings in terms of site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports national energy savings in terms of primary energy savings, which are the savings in the energy that is used to generate and transmit the site electricity. For natural gas, the primary energy savings are considered to be equal to the site energy savings. DOE also calculates NES in terms of full-fuel-cycle (“FFC”) energy savings. The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.*, coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy conservation standards.²⁷ DOE’s approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products or equipment. For more information on FFC energy savings, see section IV.H.2 of this document.

2. Significance of Savings

To adopt any new or amended standards for covered equipment, DOE must determine that such action would result in significant energy savings. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(B))

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a

given rulemaking.²⁸ For example, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than the impacts of products with relatively constant demand. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis, taking into account the significance of cumulative FFC national energy savings, the cumulative FFC emissions reductions, and the need to confront the global climate crisis, among other factors.

As stated, the standard levels adopted in this final rule are projected to result in national energy savings of 1.60 quad, the equivalent of the primary annual energy use of 10.6 million homes. Based on the amount of FFC savings, the corresponding reduction in emissions, and the need to confront the global climate crisis, DOE has determined the energy savings from the standard levels adopted in this final rule are “significant” within the meaning of 42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(B).

F. Economic Justification

1. Specific Criteria

As noted previously, EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII)) The following sections discuss how DOE has addressed each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of potential new or amended standards on manufacturers, DOE conducts an MIA, as discussed in section IV.J of this document. DOE first uses an annual cash-flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include (1) INPV, which values the industry on the basis of expected future cash flows; (2) cash flows by year; (3) changes in revenue and income; and (4) other measures of impact, as appropriate.

Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in LCC and payback period (“PBP”) associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the consumer costs and benefits expected to result from particular standards. DOE also evaluates the impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a standard.

b. Savings in Operating Costs Compared To Increase in Price (LCC and PBP)

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered equipment that are likely to result from a standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of equipment (including its installation) and the operating cost (including energy, maintenance, and repair expenditures) discounted over the lifetime of the equipment. The LCC analysis requires a variety of inputs, such as equipment prices, equipment energy consumption, energy prices, maintenance and repair costs, equipment lifetime, and discount rates appropriate for consumers. To account for uncertainty and variability in specific inputs, such as equipment lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value.

The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of more-efficient equipment through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost due to a more-stringent standard by the change in annual operating cost for the

²⁶ DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

²⁷ The FFC metric is discussed in DOE’s statement of policy and notice of policy amendment. 76 FR 51282 (Aug. 18, 2011), as amended at 77 FR 49701 (Aug. 17, 2012).

²⁸ The numeric threshold for determining the significance of energy savings established in a final rule published on February 14, 2020 (85 FR 8626, 8670) was subsequently eliminated in a final rule published on December 13, 2021 (86 FR 70892).

year that standards are assumed to take effect.

For its LCC and PBP analysis, DOE assumes that consumers will purchase the covered equipment in the first year of compliance with new or amended standards. The LCC savings for the considered efficiency levels are calculated relative to the case that reflects projected market trends in the absence of new or amended standards. DOE's LCC and PBP analysis is discussed in further detail in section IV.F of this document.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(III)) As discussed in section IV.H of this document, DOE uses the NIA spreadsheet models to project national energy savings.

d. Lessening of Utility or Performance of Products

In establishing equipment classes, and in evaluating design options and the impact of potential standard levels, DOE evaluates potential standards that would not lessen the utility or performance of the considered equipment. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(IV)) Based on data available to DOE, the standards adopted in this document would not reduce the utility or performance of the equipment under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from a standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(V)) It also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(ii)) To assist the Department of Justice ("DOJ") in making such a determination, DOE transmitted copies of its proposed rule and the NOPR TSD to the Attorney General for review, with a request that the DOJ provide its determination on this issue.

In its assessment letter responding to DOE, DOJ concluded that the proposed energy conservation standards for walk-ins are unlikely to have a significant adverse impact on competition. DOE is publishing the Attorney General's assessment at the end of this final rule.

f. Need for National Energy Conservation

DOE also considers the need for national energy and water conservation in determining whether a new or amended standard is economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(VI)) The energy savings from the adopted standards are likely to provide improvements to the security and reliability of the Nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the Nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the Nation's needed power generation capacity, as discussed in section IV.M of this document.

DOE maintains that environmental and public health benefits associated with the more efficient use of energy are important to take into account when considering the need for national energy conservation. The adopted standards are likely to result in environmental benefits in the form of reduced emissions of air pollutants and GHGs associated with energy production and use. DOE conducts an emissions analysis to estimate how potential standards may affect these emissions, as discussed in section IV.K of this document; the estimated emissions impacts are reported in section V.B.6 of this document. DOE also estimates the economic value of emissions reductions resulting from the considered TSLs, as discussed in section IV.L of this document.

g. Other Factors

In determining whether an energy conservation standard is economically justified, DOE may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)(VII)) To the extent DOE identifies any relevant information regarding economic justification that does not fit into the other categories described previously, DOE could consider such information under "other factors."

2. Rebuttable Presumption

EPCA creates a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the

equipment that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(iii)) DOE's LCC and PBP analyses generate values used to calculate the effect potential amended energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the Nation, and the environment, as required under 42 U.S.C. 6316(a) and 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable-presumption payback calculation is discussed in section IV.F of this document.

IV. Methodology and Discussion of Related Comments

This section addresses the analyses DOE has performed for this rulemaking with regard to walk-ins. Separate subsections address each component of DOE's analyses.

DOE used several analytical tools to estimate the impact of the standards considered in this document. The first tool is a spreadsheet that calculates the LCC savings and PBP of potential amended or new energy conservation standards. The national impacts analysis uses a second spreadsheet set that provides shipments projections and calculates national energy savings and net present value of total consumer costs and savings expected to result from potential energy conservation standards. DOE uses the third spreadsheet tool, the GRIM, to assess manufacturer impacts of potential standards. These three spreadsheet tools are available on the DOE website for this rulemaking: <https://www.energy.gov/eere/buildings/walk-coolers-and-walk-freezers>. Additionally, DOE used outputs from the latest version of the Energy Information Administration's ("EIA's") *Annual Energy Outlook* ("AEO") for the emissions and utility impact analyses.

A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the

market for the products concerned, including the purpose of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly-available information. The subjects addressed in the market and technology assessment for this rulemaking include (1) a determination of the scope of the rulemaking and equipment classes, (2) manufacturers and industry structure, (3) existing efficiency programs, (4) market and industry trends, and (5) technologies or design options that could improve the energy efficiency of walk-ins. The key findings of DOE's market assessment are summarized in the following sections. See chapter 3 of the final rule TSD for further discussion of the market and technology assessment.

1. Equipment Classes

When evaluating and establishing or amending energy conservation standards, DOE may establish separate standards for a group of covered equipment (*i.e.*, establish a separate equipment class) if DOE determines that separate standards are justified based on the type of energy used, or if DOE determines that equipment capacity or other performance-related feature justifies a different standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)) In making a determination whether a performance-

related feature justifies a different standard, DOE considers such factors as the utility of the feature to the consumer and other factors DOE determines are appropriate. (*Id.*)

As noted previously, rather than establishing standards for complete walk-in systems, DOE has established separate standards for each of the principal components that make up a walk-in (*i.e.*, doors, panels, and refrigeration systems). DOE's analysis for each component is discussed in the following sections.

a. Doors

DOE's existing standards for walk-in doors are based on six equipment classes differentiated by temperature and whether they are display doors or non-display doors.

Display Doors

DOE defines a display door as a door that is designed for product display or has 75 percent or more of its surface area composed of glass or another transparent material. 10 CFR 431.302. Display doors are further divided based on walk-in temperature (*i.e.*, cooler/medium-temperature or freezer/low-temperature). DOE currently defines separate energy conservation standards for these two classes of display doors: medium-temperature and low-temperature. 10 CFR 431.306(c).

In the September 2023 NOPR, DOE considered distinguishing display door

classes by the presence or absence of a motorized door opener for the purposes of its analysis. DOE analyzed medium- and low-temperature display doors without motorized door openers and medium-temperature display doors with motorized door openers. *Id.* DOE did not identify any motorized display doors for low-temperature applications and therefore did not analyze such equipment in the September 2023 NOPR. 88 FR 60746, 60761. Ultimately, in the September 2023 NOPR, DOE did not find that amended standards for display doors were economically justified and therefore, DOE did not propose any amendments to the class structure for display doors. 88 FR 60746, 60841–60843.

DOE did not receive any comments regarding the equipment classes analyzed for display doors in the September 2023 NOPR. DOE maintains its conclusion from the September 2023 NOPR for this final rule, and for the purposes of this analysis, evaluated amended standards for display doors by presence or absence of a motorized door opener. Therefore, DOE evaluated the display door equipment classes in Table IV.1 for this final rule. However, as discussed further in section V.C.1.a of this document, DOE has determined that amended standards for display doors are not economically justified; therefore, DOE is not adopting equipment classes that differ from the existing classes for display doors.

Table IV.1 Equipment Classes Analyzed for Walk-In Display Doors

Opening Mechanism	Temperature	Class Code
Manual	Medium	DW.M
	Low	DW.L
Motorized	Medium	DS.M

DOE discusses representative units, baseline assumptions for representative unit efficiency, and design options analyzed at higher efficiency levels for walk-in display doors in section IV.C.1 of this document. Consistent with the September 2023 NOPR, DOE did not consider more-efficient levels for the motorized display door class beyond the current maximum energy consumption (*i.e.*, baseline efficiency level) in this final rule. In its review of the motorized display door market, DOE found that manufacturers are already implementing maximum technology design options, such as vacuum-insulated glass, to achieve the current maximum energy consumption standard since the motor

consumes additional energy. DOE did not receive any comments regarding this in response to the September 2023 NOPR and DOE has not identified any energy-saving technology options for motorized display doors that were retained during the screening analysis, as discussed in sections IV.A.2.a and IV.A.2.b of this document.

Non-Display Doors

Non-display doors are all doors not considered display doors. (10 CFR 431.302) Non-display doors are mainly used to allow people and products to be moved into and out of the walk-in. Non-display doors are further divided into equipment classes by whether they are passage or freight doors. DOE defines a

freight door as a door that is not a display door and is equal to or larger than 4 feet wide and 8 feet tall. *Id.* DOE defines passage doors as any doors that are not display doors or freights doors. *Id.* Passage and freight doors are further divided based on walk-in temperature (*i.e.*, cooler/medium-temperature or freezer/low-temperature). DOE currently defines separate energy conservation standards for the following walk-in non-display door classes (10 CFR 431.306(d)):

- Passage Door, Medium-temperature
- Passage Door, Low-temperature
- Freight Door, Medium-temperature
- Freight Door, Low-temperature

In the September 2023 NOPR, DOE proposed to combine passage and freight non-display door classes and instead differentiate non-display doors by whether or not they have motorized door openers. 88 FR 60746, 60761. Unlike door size, DOE tentatively determined that the presence or absence of a motorized door opener was a performance-related feature that justified adopting a different standard. As with its prior analysis, DOE also evaluated the motorized and non-motorized non-display door classes by temperature conditions: medium-temperature (*i.e.*, cooler) and low-temperature (*i.e.*, freezer). *Id.*

As discussed in the March 2024 NODA, DOE received comments in response to the September 2023 NOPR indicating that other electricity-consuming devices such as heated vents, heated viewing windows, lights, and thermometer/temperature alarms provide functionality. These physical and functional attributes, which can be installed on non-display doors, were not considered in the representative units analyzed in the September 2023 NOPR but would be included in the calculation of daily energy consumption (“DEC”) per the test procedure. The current MDEC standards allow for additional electrical components such as heated vents, heated viewing windows, lights, and thermometer/temperature alarms to be included and considered in the DEC calculation. However, the basis of the energy conservation standards proposed in the September 2023 NOPR only accounted for the electrical energy consumption from anti-sweat heat around the perimeter of the door (and motors for doors classified as “motorized non-display doors”). As a result, in the March 2024 NODA, DOE tentatively concluded that the proposed standards

as outlined in the September 2023 NOPR may be difficult to meet for basic models of doors that have additional electrical components beyond what DOE considered in its representative units. 89 FR 18555, 18556–18559.

Therefore, in the March 2024 NODA, DOE presented an updated analysis that included MDEC allowances for non-display doors with certain electricity-consuming devices based on the feedback received in response to the September 2023 NOPR. These MDEC allowances represent additional energy consumption added to the adopted standard calculation based on the presence of these certain electricity-consuming devices. The MDEC allowances implement the four features as adders which effectively result in a less-stringent standard when applied to the base equipment class. In the March 2024 NODA, DOE considered MDEC allowances, which represent additional equipment classes of non-display doors, if manufacturers offer basic models with any combination of the following four electricity-consuming devices:

- ☐ Lighting
- ☐ Anti-sweat heat for viewing window
- ☐ Digital temperature display with or without alarms
- ☐ Heated pressure relief vent

The four features are implemented as adders, which effectively result in a less-stringent standard when applied to the base equipment class. For example, if a basic model is sold with lighting, then the basic model would be subject to the adopted standard for that equipment class (*i.e.*, manual or motorized, low-temperature or medium-temperature non-display door) plus the lighting MDEC allowance. The allowances are additive, *i.e.*, maximum allowed MDEC is increased for each of the devices that is present on the door.

Each of these electrical components is a performance-related feature that provides functionality to the consumer when installed on a non-display door. Pursuant to EPCA, DOE may establish separate standards for a group of covered equipment (*i.e.*, establish a separate equipment class) if DOE determines that separate standards are justified based on the type of energy used or if DOE determines that the equipment’s capacity or other performance-related feature justifies a different standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)(1)(B)) In the March 2024 NODA, DOE noted that these devices constitute a performance-related feature that justifies a higher standard. DOE sought comment in the March 2024 NODA on the MDEC allowances for the specified electricity-consuming devices. 89 FR 18555, 18559. DOE discusses comments received regarding the MDEC allowances in section IV.C.1.c of this document.

In this final rule, DOE is adopting the approach outlined in the updated analysis from the March 2024 NODA, that lighting, anti-sweat heat for viewing windows, digital temperature displays with or without alarms, and heated pressure-relief vents constitute performance-related features that justify a higher MDEC standard. Each equipment class of non-display doors is being further subdivided based on whether each electricity-consuming device is present or not present. DOE analyzed the equipment classes listed in Table IV.2 for walk-in non-display doors. DOE further evaluated the MDEC allowances for classes of non-display doors with lighting, anti-sweat heat for viewing windows, digital temperature displays with or without alarms, and/or heated pressure relief vents.

Table IV.2 Analyzed Equipment Classes for Walk-In Non-Display Doors

Opening Mechanism	Temperature	Class Code
Manual	Medium	NM.M
	Low	NM.L
Motorized	Medium	NO.M
	Low	NO.L

DOE discusses representative units, baseline assumptions for representative unit efficiency, and design options analyzed at higher efficiency levels for walk-in non-display doors in section IV.C.1.c of this document. DOE discusses MDEC allowances and the

comments received in response to the March 2024 NODA regarding the MDEC allowances in section IV.C.1.c of this document.

b. Panels

DOE’s existing standards for walk-in panels apply to three equipment classes that are differentiated by whether they are structural (also referred to as “wall or ceiling panels”) or floor panels. Structural panels are further separated

by temperature condition (*i.e.*, cooler or freezer). DOE’s analysis for the June 2014 Final Rule determined that, unlike walk-in freezers, the majority of walk-in coolers have concrete floors and no insulated floor panels. DOE expected that setting an R-value requirement for walk-in cooler floor panels would cause manufacturers to stop selling cooler floor panels to avoid the certification burden. Thus, DOE did not adopt insulation R-value standards for walk-in cooler floors. 79 FR 32050, 32067. DOE’s re-evaluation of the market for this rulemaking suggests that the walk-in cooler floor panel market has not

changed substantially since the June 2014 Final Rule. Therefore, DOE has excluded walk-in cooler floor panels from this rulemaking. DOE currently defines separate energy conservation standards for the following walk-in panel classes (10 CFR 431.306(a)):

- Structural Panel, Medium-Temperature
- Structural Panel, Low-Temperature
- Floor Panel, Low-Temperature

DOE has not established energy conservation standards for display panels because they make up a small percentage of the panel market;

therefore, standards would not result in significant energy savings without incurring disproportionate costs. 79 FR 32050, 32067. In the September 2023 NOPR, DOE proposed maintaining the current panel equipment classes. 88 FR 60746, 60761–60762. DOE received no comment regarding panel equipment classes in response to the September 2023 NOPR. As such, DOE is maintaining its current equipment classes for walk-in panels. Table IV.3 summarizes the equipment classes for walk-in panels.

Table IV.3 Equipment Classes for Walk-In Panels

Component	Temperature	Class Code
Structural Panel	Medium	PS.M
	Low	PS.L
Floor Panel	Low	PF.L

c. Refrigeration Systems

DOE’s existing standards for walk-in refrigeration systems apply to nine equipment classes, differentiated by whether they are unit coolers or dedicated condensing systems and by temperature (*i.e.*, whether they are a cooler or freezer). A “dedicated condensing system” means a dedicated condensing unit, a single-packaged dedicated system, or a matched refrigeration system. (See 10 CFR 431.302.) Dedicated condensing systems are further differentiated by their installation location (*i.e.*, indoor or outdoor). Low-temperature dedicated condensing systems and unit cooler equipment classes are further differentiated by net capacity. DOE currently defines separate energy conservation standards for the following walk-in refrigeration system classes (10 CFR 431.306(e)):

- Dedicated Condensing System, Medium-Temperature, Indoor
- Dedicated Condensing System, Medium-Temperature, Outdoor
- Dedicated Condensing System, Low-Temperature, Indoor, Net Capacity of less than 6,500 Btu/h
- Dedicated Condensing System, Low-Temperature, Indoor, Net Capacity of greater than or equal to 6,500 Btu/h
- Dedicated Condensing System, Low-Temperature, Outdoor, Net Capacity of less than 6,500 Btu/h
- Dedicated Condensing System, Low-Temperature, Outdoor, Net Capacity of greater than or equal to 6,500 Btu/h
- Unit Cooler, Medium-Temperature

- Unit Cooler, Low-Temperature, Net Capacity of less than 15,500 Btu/h, and
 - Unit Cooler, Low-Temperature, Net Capacity of greater than or equal to 15,500 Btu/h.
- Single-packaged dedicated systems, which are dedicated condensing systems with a combined condensing unit and unit cooler, were not evaluated separately from dedicated condensing units and matched refrigeration systems in the previous rulemaking. New test procedure provisions in appendix C1 require specific test methods for single-packaged dedicated systems that measure the inherent thermal losses of such systems. These thermal losses reduce the capacity and therefore the efficiency of single-packaged dedicated systems.
- As discussed in the September 2023 NOPR, in general, DOE has separated packaged equipment from split dedicated condensing systems,²⁹ as packaged equipment provides consumers with more options for space-constrained applications. Single-packaged dedicated systems have both the cold and hot sides connected within the packaged framework and the cold side is exposed to the outside, which increases the losses associated with the thermal loads. Single-packaged dedicated systems are constrained by

the overall dimensions and weight limitations of the equipment; therefore, manufacturers cannot employ the same technologies, such as increased heat exchanger sizes. In the September 2023 NOPR, DOE tentatively concluded that single-packaged system and split system walk-in refrigeration systems cannot be combined into the same equipment class because single-packaged systems provide consumers with more options for space-constrained applications and inherent differences in system design between packaged systems and split systems limit the efficiency of the former. For these reasons, in the September 2023 NOPR, DOE evaluated single-packaged dedicated systems separately from split systems. 88 FR 60746, 60762–60763.

DOE did not receive any comments in response to the September 2023 NOPR or March 2024 NODA regarding its separation of equipment classes for single-packaged dedicated systems and split systems. Further, DOE maintains its conclusion that separate equipment classes are warranted for single-packaged dedicated systems and split systems. Therefore, in this final rule, DOE maintained a separate analysis for single-packaged dedicated systems and split systems equipment classes.

In the May 2023 TP Final Rule, DOE defined a high-temperature refrigeration system as a walk-in refrigeration system that is not designed to operate below 45 °F. 88 FR 28780, 28789. DOE established a test procedure for high-temperature unit coolers, matched refrigeration systems, and single-

²⁹ Split dedicated condensing systems or split systems refer to any dedicated condensing system that is made up of a unit cooler and a remote dedicated condensing unit. The systems are split because the unit cooler and dedicated condensing unit are not in the same package.

packaged dedicated condensing systems, but did not establish a test procedure in the May 2023 TP Final Rule for high-temperature dedicated condensing units tested alone. 88 FR 28780, 28816–28817. As such, DOE did not analyze high-temperature dedicated condensing units as an equipment class, but did analyze high-temperature unit coolers, matched refrigeration systems, and single-packaged dedicated condensing systems in the September 2023 NOPR analysis. 88 FR 60746, 60762–60763.

High-temperature units are generally smaller capacity than medium-temperature units and therefore contain small-capacity compressors, which DOE has found to be less efficient. Additionally, some high-temperature units are either sold in ducted or non-ducted configurations, dependent on the configuration of the walk-in box and surrounding space. Ducting adds flexibility to the installation location and removes refrigeration equipment from the refrigerated storage space. However, ducting imposes a higher external static pressure on the system's fans and therefore, a ducted system has greater energy consumption to maintain the same or sufficient airflow (and sufficient cooling capacity) as a system

without ducting. DOE tentatively concluded ducting of high-temperature units constitutes a performance-related feature. Therefore, in the September 2023 NOPR, DOE evaluated high-temperature ducted and non-ducted units as separate equipment classes. *Id.*

For the September 2023 NOPR, different from the treatment of medium-temperature and low-temperature matched refrigeration systems and single-packaged dedicated systems, DOE evaluated high-temperature matched refrigeration systems and high-temperature single-packaged dedicated systems as a single equipment class because the temperature difference between the refrigerated and ambient spaces for high-temperature refrigeration systems is less than the temperature difference for medium- and low-temperature systems. Therefore, thermal losses have less impact for high-temperature systems. This means that the difference in performance between high-temperature matched refrigeration systems and high-temperature single-packaged dedicated systems is much less than the performance difference expected between medium- or low-temperature matched refrigeration systems and medium- or low-temperature single-packaged dedicated

systems. Because of the expected similarity in performance, DOE tentatively determined that a single class of equipment encompassing high-temperature matched refrigeration systems and single-packaged dedicated systems is appropriate. In its September 2023 NOPR analysis of high-temperature refrigeration units, DOE focused on single-packaged dedicated systems since this is where most of the shipments are concentrated for the high-temperature market. *Id.*

DOE did not receive any comments in response to the September 2023 NOPR or March 2024 NODA regarding its selection of high-temperature refrigeration system equipment classes. Further, DOE maintains its conclusions that the high-temperature refrigeration system classes proposed in the September 2023 NOPR are appropriate. Therefore, in this final rule, DOE maintained the high-temperature equipment classes analyzed in the September 2023 NOPR.

DOE analyzed and is establishing the equipment classes for refrigeration systems for this final rule presented in Table IV.4.

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Table IV.4 Equipment Classes for Walk-In Refrigeration Systems

System	Temperature	Location	Class Code
Dedicated Condensing Units and Matched Refrigeration Systems	Medium-Temperature	Outdoor	DC.M.O
		Indoor	DC.M.I
	Low-Temperature	Outdoor	DC.L.O
		Indoor	DC.L.I
Unit Cooler	High-Temperature (Non-Ducted)	N/A	UC.H
	High-Temperature (Ducted)		UC.H.D
	Medium-Temperature		UC.M
	Low-Temperature		UC.L
Matched Refrigeration Systems and Single-Packaged Dedicated Systems	High-Temperature (Non-ducted)	Outdoor	SP.H.O
		Indoor	SP.H.I
	High-Temperature (Ducted)	Outdoor	SP.H.O.D
		Indoor	SP.H.I.D
Single-Packaged Dedicated Systems	Medium-Temperature	Outdoor	SP.M.O
		Indoor	SP.M.I
	Low-Temperature	Outdoor	SP.L.O
		Indoor	SP.L.I

In the September 2023 NOPR, DOE evaluated multiple capacities in each equipment class to better ascertain the relationship between efficiency and net capacity. In this final rule, DOE maintained the same approach and evaluated multiple capacities in each equipment class. This is discussed in more detail in the Representative Units subsection of section IV.C.1.e of this document.

2. Technology Options

DOE considered separate technology options for whole walk-ins, doors and panels, and refrigeration systems.

a. Fully Assembled Walk-Ins

Although DOE has set standards for walk-in components (*i.e.*, panels, doors, and refrigeration systems) rather than fully assembled walk-ins, EPCA gives DOE authority to establish standards

that address fully assembled walk-ins. (42 U.S.C. 6313(f)(4)). Hence, DOE has considered technologies that could be relevant for fully assembled walk-ins in its technology assessment. In the market analysis and technology assessment presented in chapter 3 of the June 2022 Preliminary Analysis TSD and in the September 2023 NOPR, DOE identified seven technology options that would be expected to improve the efficiency of a fully assembled walk-in (*i.e.*, wall, ceiling and floor panels, door(s), and refrigeration system(s)) but would not apply specifically to any of the components analyzed in this rulemaking:

- (1) Energy storage systems,
- (2) Refrigeration system override,
- (3) Automatic evaporator fan shut-off,
- (4) Non-penetrative internal racks and shelving,
- (5) Humidity sensors,

- (6) Fiber optic natural lighting, and
- (7) Heat reclaim valve.

DOE received no comments on the technology options that might improve the efficiency of whole walk-ins in response to the September 2023 NOPR. DOE maintained the same technology options for whole walk-ins for this final rule analysis. DOE further discusses these technology options in chapter 3 of the final rule TSD.

b. Doors and Panels

In the NOPR market analysis and technology assessment, DOE identified 15 technology options that would be expected to improve the efficiency of doors and/or panels, as measured by the DOE test procedure. The technology options analyzed for doors in the September 2023 NOPR are listed in Table IV.5.

Table IV.5 Summary of Door- and Panel-Related Technology Options Analyzed in the September 2023 NOPR

Technology Options	Applicable Component
Door gaskets	Doors
Anti-sweat heater/freezer wire controls	
Display and window glass system insulation performance	
Non-electric, reduced, or no anti-sweat systems	
Improved frame systems	
Automatic door opening and closing systems	
Occupancy sensors	
High-efficiency lighting	
Utilization of box design to minimize anti-sweat heater systems	
Automatic insulation deployment systems	Display doors
Infiltration-reducing devices or systems (e.g., air curtains, strip curtains, vestibule entryways, revolving doors)	Non-display doors
Insulation thickness and material	Non-display doors and panels
Damage-sensing systems (e.g., air and water infiltration sensors, heat flux sensors)	
Panel interface systems	Panels
Structural materials	

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DOE received comments regarding several of the technology options pertaining to the screening or use of these technology options in the engineering analysis in response to the September 2023 NOPR and March 2024 NODA. DOE summarizes those comments and addresses them further in sections IV.B and IV.C of this document.

DOE did not receive any comments suggesting that specific new technology options for doors and panels be considered; therefore, DOE is considering the same technology options for doors and panels in this final rule that it considered in the September 2023 NOPR.

c. Refrigeration Systems

In the September 2023 NOPR, DOE identified 17 technology options that would be expected to improve the efficiency of refrigeration systems,

1. Improved evaporator and condenser fan blades,
2. Improved evaporator and condenser coils,
3. Evaporator fan control,
4. Oil management systems,
5. Hydrocarbon refrigerants,³⁰

6. Ambient subcooling,
 7. Higher efficiency fan motors,
 8. Higher efficiency compressors,
 9. Variable-speed compressors,
 10. Liquid suction heat exchanger,
 11. Adaptive defrost,
 12. Hot gas defrost,
 13. Floating head pressure,
 14. Variable-speed condenser fan control,
 15. Economizer cooling,
 16. Crankcase heater controls, and
 17. Improved thermal insulation for single-packaged dedicated systems.
- 88 FR 60746, 60764–60765.

Regarding the technology options analyzed in the September 2023 NOPR, the CA IOUs recommended that DOE consider additional design options in its analysis that could justify even more cost-effective savings for TSL 2, specifically evaporator fin density, two-speed condenser fan modulation, more-efficient single-speed compressors, electronic expansion valves, and efficiency improvements to condensate pan heating. (CA IOUs, No. 76 at p. 1) Similarly, ASAP *et al.* recommended that DOE consider electronic expansion valves (“EEVs”) as a design option for outdoor refrigeration systems. (ASAP *et al.*, No. 77 at pp. 2–3)

DOE notes that evaporator fin density and more-efficient single-speed compressors were considered as technology options in the September 2023 NOPR as a part of improved evaporator coils and higher efficiency compressors, respectively. *See* sections 3.3.7.2 and 3.3.8.3 of chapter 3 of the September 2023 NOPR TSD. In response to these recommendations, DOE considered two-speed condenser fan controls, EEVs, and condensate pan heating controls as technology options for this final rule analysis. In response to comments submitted on the September 2023 NOPR, DOE also evaluated more efficient single-speed compressors in the March 2024 NODA. 89 FR 18555, 18560–18561. A more detailed discussion of additional comments submitted in response to the technology and design options analyzed in the September 2023 NOPR and March 2024 NODA is included in section IV.B.1.c and the Design Options subsection of sections IV.C.1.e and IV.C.1.f of this document.

B. Screening Analysis

DOE uses the following five screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

³⁰ Hydrocarbon refrigerants were not listed as a technology option in the September 2023 NOPR notice. 88 FR 60746, 60764–60765. However, they were listed as a technology option on p. 3–41 of

chapter 3 of the NOPR TSD and considered in the September 2023 NOPR analysis as a design option to improve AWEF2 of certain refrigeration system representative units.

(1) Technological feasibility.

Technologies that are not incorporated in commercial equipment or in commercially viable, existing prototypes will not be considered further.

(2) Practicability to manufacture, install, and service. If it is determined that mass production of a technology in commercial equipment and reliable installation and servicing of the technology could not be achieved on the scale necessary to serve the relevant market at the time of the projected compliance date of the standard, then that technology will not be considered further.

(3) Impacts on product utility. If a technology is determined to have a significant adverse impact on the utility of the equipment to subgroups of consumers, or results in the unavailability of any covered equipment type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as equipment generally available in the United States at the time, it will not be considered further.

(4) Safety of technologies. If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further.

(5) Unique-pathway proprietary technologies. If a technology has proprietary protection and represents a unique pathway to achieving a given efficiency level, it will not be considered further, due to the potential for monopolistic concerns.

10 CFR 431.4; 10 CFR part 430, subpart C, appendix A, sections 6(c)(3) and 7(b).

In sum, if DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis. The reasons for eliminating any technology are discussed in the following sections.

The subsequent sections include comments from interested parties pertinent to the screening criteria, DOE's evaluation of each technology option against the screening criteria, and whether DOE determined that a technology option should be excluded ("screened out") based on the screening criteria.

1. Screened-Out Technologies

a. Fully Assembled Walk-Ins

In the June 2022 Preliminary Analysis and September 2023 NOPR, DOE screened out the following technology options under the tentative assumption that they would not affect rated energy

consumption of the walk-in components as measured by the DOE test procedure. While these technologies may improve the energy efficiency of a fully assembled walk-in installed in the field, DOE's current walk-in test procedures are component specific. DOE initially established the current approach in its April 15, 2011, final rule in which DOE found that a component-based approach would address the unique challenges posed in regulating the energy efficiency performance of walk-in envelopes. 76 FR 21580, 21582. As noted in that rule, these challenges include the fact that walk-in units are frequently assembled using components made by multiple manufacturers, and walk-in installers may not be equipped to test all the components that comprise a walk-in. The screened-out options included the following:

- Energy storage systems,
- Refrigeration system override,
- Automatic evaporator fan shut-off,
- Non-penetrative internal racks and shelving,
- Humidity sensors, and
- Heat reclaim valves.

88 FR 60746, 60765.

Furthermore, in this final rule, DOE is screening out fiber optic natural lighting because it would not affect rated energy consumption of the walk-in components as measured by the DOE test procedure.

DOE did not receive any comments in response to the September 2023 NOPR screening analysis regarding technologies applicable to fully assembled walk-ins. As such, in this final rule, DOE has screened out all technology options for fully assembled walk-ins for the same rationale as provided in the September 2023 NOPR. For details of this screening analysis, see section 4.2.1 of chapter 4 of the final rule TSD.

b. Doors and Panels

In the September 2023 NOPR, DOE screened out the following technology options because any reduction in energy use would not be captured by the test procedure in appendix A to subpart R of 10 CFR part 431 ("appendix A") for doors, and any increase in overall thermal improvement of a panel would not be captured by the test procedure that measures R-value of insulation only in appendix B to subpart R of 10 CFR part 431 ("appendix B"):

- Infiltration-reducing devices,
- Air and water infiltration sensors,
- Heat flux sensors, and
- Structural materials for panels.

88 FR 60746, 60765–60766.

Infiltration-reducing technologies could include door gaskets, automatic

door opening and closing systems, air curtains, strip curtains, vestibule entryways, revolving doors, and panel interface systems. DOE had tentatively determined that any potential energy savings from infiltration-reducing devices would not be captured because air infiltration is a characteristic of a fully assembled walk-in. The walk-in test procedures do not evaluate the energy use of the assembled walk-in box and instead evaluate the energy use of a single component (*i.e.*, door or panel); therefore, technologies that may improve energy efficiency of the full walk-in box were screened out. *Id.*

Additionally, DOE tentatively concluded that any potential energy savings from air and water infiltration sensors, heat flux sensors, and structural materials for panels would not be captured by either the appendix A or appendix B test procedures. Air and water infiltration sensors and heat flux sensors are technology options that would most benefit the end user for monitoring the continuing performance of walk-in components; however, the potential degradation captured by these sensors over the lifetime of a walk-in are not reflected in the current test procedure. Additionally, changes to panel structural materials are not captured in the test procedure since the current walk-in panels test procedure provides a method for determining the R-value of the panel insulation only. In other words, the overall thermal performance of the panel, including structural materials, is not captured by the current test procedure. Therefore, such technologies were screened out. *Id.*

Additionally, in the September 2023 NOPR, DOE screened out the technology option to utilize insulation from the box/cooler wall to minimize door anti-sweat heat power. 88 FR 60746, 60766. As discussed in the September 2023 NOPR, DOE recognizes that an ideally designed walk-in box ensures that panel design could reduce door sweating; however, since its walk-in test procedures evaluate the performance of walk-in components separately, these design pairings are not captured by the test procedure and therefore cannot be used to analyze higher efficiency levels. *Id.*

Furthermore, in the September 2023 NOPR, DOE screened out the following technologies due to technological infeasibility since DOE was not able to find these technologies incorporated into either prototypes or commercially available walk-in doors or panels:

- Non-electric anti-sweat systems,
- Higher efficiency LEDs, and
- Automatic insulation deployment systems.

Id.

DOE screened out panel and door insulation thicker than 6 inches because DOE received feedback during manufacturer interviews that it is not practicable to manufacture and install. DOE tentatively concluded that insulation thicker than 6 inches would be heavy, unwieldy, and take up space that the consumer would otherwise use. Additionally, panels and non-display doors greater than 6 inches that use foam-in-place insulation would take an excessive amount of time to cure, impacting the practicability to manufacture, install, and service. *Id.*

In response to the September 2023 NOPR, Senneca and Frank Door commented that aerogels and vacuum-insulated panels are not usable as framing materials and cannot support the weight of the product; nor can they hold fasteners such as screws and bolts. Senneca and Frank Door commented that DOE's conclusion that the proposed standards are technologically feasible based on a manufacturer's ability to use aerogels and vacuum-insulated panels should be withdrawn. Senneca and Frank Door stated that two-part polyurethane foam is essential to the ability of a walk-in door to function properly because it is an insulator and the method manufacturers use to keep the framing materials and metal skins adhered to one another. Senneca and Frank Door commented that incorporating aerogels or vacuum insulation would lessen the utility and performance of WICF doors. Senneca and Frank Door also stated that aerogels cannot be exposed to moisture, which is present in all WICFs. Senneca and Frank Door stated that neither aerogels nor vacuum insulation are commercially available for use by WICF door manufacturers. (Senneca and Frank Door, No. 78 at pp. 3–5) Furthermore, Senneca and Frank Door commented that DOE's estimated costs of incorporating aerogels and vacuum insulation into WICF doors are severely underestimated. (Senneca and Frank Door, No. 78 at p. 10)

DOE did not consider aerogels and vacuum-insulated panels as design options in the September 2023 NOPR to improve thermal insulation of framing materials of doors and/or panels. In section 3.3.5.1 of the September 2023 NOPR TSD, DOE discusses potential thermal improvements through the use of insulation thickness and materials relevant to non-display doors and panels. In that section, DOE describes the primary method through which to improve insulating capacity—*i.e.*, by increasing insulation thickness using

existing foam materials. DOE also stated that other options to improve the insulating capacity of the envelope could include the use of insulating materials that have higher thermal resistance per inch of thickness than materials currently used, such as aerogels and vacuum-insulated panels. While these were mentioned as potential technology options, DOE did not evaluate the use of aerogels or vacuum-insulated panels in the September 2023 NOPR analysis as alternative insulating materials in non-display doors and panels. Similarly, in this final rule analysis, DOE did not consider the use of aerogels or vacuum-insulated panels.

As discussed in the September 2023 NOPR, walk-in doors typically use anti-sweat heater wires to prevent (1) condensation from collecting on the glass, frame, or any other portion of the door, which can puddle and be hazardous to walk-in users; (2) glass from fogging; and (3) condensation that may lead to low-temperature doors freezing shut. The amount and rate of condensation on walk-in doors is dependent on the relative humidity surrounding the walk-in and the surface temperature of the door. It can also be affected by the thermal resistance of the door frame and edge materials. To ensure the temperature of the door surface stays above the dewpoint of its surroundings, electric resistive heater wire is installed around the frame of the door. DOE recognizes that anti-sweat systems on doors may be necessary in high-humidity environments and DOE does not have sufficient evidence to demonstrate that anti-sweat heat can be removed from doors installed in all climate zones of the United States without having a potential negative impact on the safety and functionality of the walk-in. Therefore, DOE screened out the elimination of anti-sweat heater systems in the September 2023 NOPR on the basis of safety of technology. 88 FR 60746, 60766. However, DOE screened in reduced anti-sweat heat. *Id.* at 88 FR 60767. DOE evaluated the energy savings and cost associated with reducing rated anti-sweat heater power for medium-temperature and low-temperature doors based on a combination of certified values in DOE's Compliance Certification ("CCMS") database, rated anti-sweat heater power per linear foot of wire based on product literature, and information received during confidential interviews with manufacturers. *Id.* at 88 FR 60770.

In response to the September 2023 NOPR, Senneca and Frank Door commented that reducing the amount of anti-sweat heat would lessen the utility,

performance, and safety of walk-in doors such that doors could freeze shut and puddles or ice patches could form on the floor. Senneca and Frank Door commented that reducing or eliminating anti-sweat heat is not sufficient to meet the proposed standard. (Senneca and Frank Door, No. 78 at pp. 4–5) NAFEM commented that the prior WICF rulemaking resulted in safety concerns because by reducing the door perimeter heater's wattage, passage doors are more likely to freeze closed and temporarily trap workers. NAFEM commented that WICF manufacturers have reported an increase in consultants requesting corrective action concepts and strategies to allow trapped workers to open frozen doors through secondary, fail-safe methods other than the emergency release handles or push buttons used on most walk-in doors. (NAFEM, No. 67 at p. 3)

DOE also received comments in response to the September 2023 NOPR from RSG and Kolpak supporting the levels of reduced anti-sweat heat that DOE analyzed. (Kolpak, No. 66, Attachment 1 at p. 1; RSG, No. 69 at p. 1) Kolpak agreed with DOE's proposal to reduce anti-sweat heater wire power and commented that the anti-sweat heater wires on its non-display doors have already been reduced to 1 W/ft for medium-temperature and 5 W/ft for low-temperature. Additionally, Kolpak commented that the anti-sweat heater wire power on its non-display doors use bimetallic thermostat controls that turn the heater wire off once it has reached a temperature required to remove condensation. (Kolpak, No. 66, Attachment 1 at p. 1) RSG commented that it has already reduced heater wire power to the level proposed in the September 2023 NOPR; therefore, the reduced heater wire power values proposed in the September 2023 NOPR should be acceptable for most applications. (RSG, No. 69 at p. 1)

In response to the March 2024 NODA, DOE received additional comments regarding the screening of reduced anti-sweat heat.³¹

Although RSG previously commented in support of the levels of anti-sweat heat analyzed in the September 2023 NOPR, in response to the March 2024 NODA, RSG commented that to meet the standards in the March 2024 NODA, RSG's door frame anti-sweat heaters would need to be reduced to half the current wattage and this reduction could result in formation of condensate

³¹ DOE did not update its analysis regarding anti-sweat heat around the perimeter of the door leaf in the March 2024 NODA. DOE nevertheless considered these comments as part of developing the final rule.

water, which is a safety slip issue. RSG stated that the heater wire wattages were reduced about 50 percent to meet the 2017 door MDEC standards. RSG commented that a balance should exist between energy consumption and safety when considering new energy requirements. RSG commented that technology options for walk-in door construction have not significantly changed since 2017 and are limited largely to existing components and insulation science. RSG commented that manual non-display doors may be a category best suited for no new changes, similar to panels. (RSG, No. 89 at p. 1) Despite the fact that RSG previously commented in support of the reduced anti-sweat heat levels that DOE analyzed, DOE is viewing RSG's latest comment in response to the March 2024 NODA as its current position on the screening of this technology option.

Imperial Brown commented that door perimeter heater cables are critical components of walk-in freezer doors that eliminate condensation or frost formation at the door perimeter. Imperial Brown commented that in a worst-case scenario, a door could become frozen shut, leading to entrapment and risk of death. Imperial Brown stated that it reduced the power consumption of its perimeter heater cables in response to the first WICF standards rulemaking and even though Imperial Brown has not witnessed freezing issues since, condensation issues are not uncommon, especially in high-humidity geographical areas. Imperial Brown commented it does not believe that it can further reduce the power rating of its perimeter heater cables without risking doors freezing shut and endangering lives. Imperial Brown commented it targets heater cables rated at 4.5 to 5.5 W/ft of door perimeter for PVC frame doors and non-PVC frame doors, respectively. Imperial Brown stated that because heater cables are only available in limited ohms/ft ratings, the real heat cable W/ft will differ from the target number and that deviation can be as much as ± 25 percent. Imperial Brown provided a description of how it wires its doors. (Imperial Brown, No. 84 Attachment 1 at p. 2) Imperial Brown commented it does not know of ways to reduce energy consumption of its—or competitors'—freezer door perimeter heater cables without producing unacceptable products. Imperial Brown commented that condensation on door gaskets may lead to mold growth (health hazard) and frost formation around the door (life hazard). (Imperial Brown, No. 84 at p. 3) Imperial Brown also provided DEC

numbers for several of its models. (Imperial Brown, No. 84, Attachment 2)

Regarding NAFEM's comments that the prior rulemaking (*i.e.*, June 2014 Final Rule) resulted in safety concerns, DOE notes the performance standards finalized in the prior rulemaking and in this rulemaking are not prescriptive, *i.e.*, they don't prescribe use of specific design options or technologies to reduce energy consumption. Therefore, manufacturers may comply with MDEC standards using any technologies they see fit, and the standard levels themselves set no explicit requirements on anti-sweat heater wattage levels. In the June 2014 Final Rule, DOE included anti-sweat heat for both cooler and freezer non-display doors in its analysis but did not analyze reduced anti-sweat heat as a design option; therefore, the standard levels adopted for non-display doors in the June 2014 Final Rule were representative of baseline anti-sweat heat wattage used in non-display doors at the time. 79 FR 32050. Furthermore, there are several factors besides anti-sweat heat wattage that could affect the chances that a low-temperature non-display door would freeze shut, including but not limited to the humidity of the environment, the thermal characteristics of the door, how well the walk-in door is sealed during construction and installation, and how often the door is opened. RSG and Imperial Brown commented that in response to the MDEC standards that went into effect in 2017 they both reduced the anti-sweat heat on their non-display doors to a level that they indicate is the minimum level required to restrict the formation and freezing of condensation to prevent safety issues under typical conditions in the field. Imperial Brown commented that it has not witnessed doors freezing shut with the current anti-sweat heat levels that it uses. Stakeholder feedback primarily indicates that further reducing anti-sweat heat beyond what is used to meet the existing standards increases the risk of condensation forming on non-display doors. Based on public comments and data included in those public comments and a review of certified data, DOE has concluded that manufacturers offer models for sale that use anti-sweat heat wattage around the perimeter of the door leaf at levels equal to or lower than those analyzed for the reduced anti-sweat heat design option in the September 2023 NOPR. For example, DOE identified 20 manufacturers of medium-temperature non-display doors that use anti-sweat heater wire wattage around the perimeter of the door leaf that is less than or equal to what DOE

analyzed for the reduced anti-sweat heat design option. Similarly, DOE has identified low-temperature non-display doors with anti-sweat heat levels that are at or below the reduced ASH level that DOE analyzed in this rulemaking. The presence of these doors on the market with lower ASH wattage than what DOE analyzed indicates that manufacturers are safely applying these designs in the field today without leading to an increase in safety incidents or increasing risks. As such, DOE is not screening out reduced anti-sweat heat as a technology option for non-display doors in this final rule. However, as discussed in section V.C.1.b of this document, DOE does not expect that the standard level adopted in this final rule for non-display doors would necessitate the use of reduced anti-sweat heat. Rather, DOE expects that manufacturers would incorporate anti-sweat heat controls, which only limit or turn off anti-sweat heat when anti-sweat heat is not necessary based on the ambient conditions, to meet the standard level adopted in this final rule for non-display doors. DOE does not expect to see an increase in condensation when the anti-sweat heat is turned off when ambient conditions do not result in a need to reduce the humidity.

The September 2023 NOPR and March 2024 NODA also evaluated reduced thermal conduction load through improved framing systems and materials. In response, Kolpak commented that it supports requiring more-efficient frames. (Kolpak, No. 66, Attachment 1 at p. 3)

Senneca and Frank Door commented that DOE's determination that the proposed standards are technologically feasible for all non-display doors does not consider doors that are manufactured separately from the walk-in box in which they are installed. Senneca and Frank Door stated that these types of doors must be bolted onto the walk-in box in the field using various fasteners and the commenters are unaware of any framing materials for these types of doors with a low enough U-factor that could meet the proposed standard levels. (Senneca and Frank Door, No. 78 at p. 5) Additionally, Senneca and Frank Door commented that common framing materials include aluminum, plastics, and wood and that the commenters are unaware of any framing materials with a low enough U-factor to comply with the proposed standards. (Senneca and Frank Door, No. 78 at pp. 3–4) Imperial Brown stated that non-PVC frame doors are a necessity for applications that have higher structural requirements (*e.g.*,

bigger doors with heavier pass-thru traffic or doors installed in areas with seismic or high wind exposures). (Imperial Brown, No. 84 at p. 2)

Despite mixed support and opposition of thermal improvements to framing systems in doors, DOE is aware through public comments and review of the market that better thermally insulating (and therefore less energy consumptive) frame systems exist on the market. Some stakeholder comments suggest that such thermally-improved frame designs may have reduced structural rigidity compared to traditional (e.g., wood) framing systems. Nonetheless, DOE expects that non-display doors with thermally-improved frames can maintain a certain level of resiliency to typical structural loads (e.g., accommodating typical walk-in traffic) because they are available for sale in the walk-in market. As such, DOE is not screening out the improved frame design option for non-display doors in this final rule. Nevertheless, due to the variability in structural loads that walk-in doors may be subject to, DOE recognizes that there is not full certainty that the best thermally-insulating frame systems available on the market would be sufficiently robust in certain circumstances. If there are cases where thermally-improved frame designs are not sufficiently robust in structure, then this could result in the need for earlier replacement of certain non-display doors. DOE considers and discusses the impact to consumer economics as a result of a potentially reduced lifetime for non-display doors in section IV.F.7 of this document.

In this final rule, DOE is screening out the same technologies for doors and panels that it screened out in the September 2023 NOPR. DOE further discusses considerations for adopting a standard level that could require reduced anti-sweat heat and improved frame design options in section V.C.1.a of this document.

c. Refrigeration Systems

In the September 2023 NOPR, DOE tentatively determined that adaptive defrost, hot gas defrost, oil management systems, and economizer cooling would not affect the measured AWEF2 value of walk-in refrigeration systems based on the DOE test procedures outlined in the newly adopted appendix C1. 88 FR 60746, 60766. DOE did not receive any comments in response to the September 2023 NOPR regarding its tentative conclusion. DOE maintains this conclusion for the final rule.

In the September 2023 NOPR, DOE responded to CA IOU comments requesting that DOE include EEVs as a

standalone technology option. 88 FR 66710, 66713. The CA IOUs commented that an EEV would reduce cycling losses and therefore save energy when compared to a thermostatic expansion valve (“TXV”). *Id.* Because the tests conducted as part of the test procedure in appendix C1 are steady-state tests, DOE tentatively concluded that a test performed with a TXV would result in the same measured efficiency as a test of the same unit performed with an EEV. *Id.* In response, the CA IOUs commented they disagree with DOE’s statement that DOE cannot include EEVs as a technology option because the test procedure measures refrigeration performance at steady-state conditions and would therefore not capture the energy savings of EEVs because, according to a study conducted by Hill Phoenix, an 8.7-percent reduction in kWh was found when using an EEV rather than a mechanical TXV at steady-state temperature. (CA IOUs, No. 76 at pp. 5–6)

DOE was not able to determine if the Hill Phoenix study was conducted at steady-state conditions from a chart shown by the CA IOUs with their comment. DOE notes that a refrigeration system with steady ambient air temperature and steady refrigerated storage space temperature may not qualify as a steady-state test. A steady-state test must include no compressor cycling, as the DOE test procedure specifies. See 10 CFR part 431, subpart R, appendix C1 and section C3.6.1 of AHRI 1250–2020. DOE was unable to find the complete study conducted by Hill Phoenix that the CA IOUs reference, so DOE is unable to confirm that the test was conducted at test conditions representative of the DOE test procedure for walk-in refrigeration equipment. DOE likewise cannot confirm that the savings seen in Hill Phoenix’s study would be measurable by the DOE test procedure in appendix C1. Therefore, DOE determined it was appropriate to still screen out EEVs as a standalone design option given that no evidence has been presented to indicate that adding EEVs to walk-in refrigeration equipment would result in a measurable increase in efficiency when tested according to the DOE test procedure. EEVs within the context of the floating head pressure design option are discussed in more detail in section IV.C.1.e of this document.

In this final rule analysis, DOE has determined that the following technologies will not have an effect on walk-in refrigeration system efficiency as measured by appendix C1, and therefore is screening them out on that basis:

- Adaptive defrost,
- Hot gas defrost,
- Oil management systems,
- Economizer cooling, and
- Electronic expansion valves.

In the September 2023 NOPR, DOE also screened out three-phase motors as a technology option. 88 FR 60746, 60766. The use of three-phase motors requires three-phase power. Not all businesses that use walk-ins are equipped with three-phase power, and therefore must use single-phase equipment. DOE therefore screened out this technology option because it could result in the unavailability of this equipment with certain performance features for certain consumers. *Id.*

Furthermore, in the September 2023 NOPR, DOE screened out improved evaporator and condenser coils for high-temperature refrigeration systems on the grounds of having adverse impacts on the functionality of the equipment in response to stakeholder feedback regarding the space constraints imposed when installing high-temperature refrigeration systems. 88 FR 60746, 60766.

DOE did not receive comments in response to its tentative conclusions regarding the screening of improved evaporator and condenser coils for high-temperature refrigeration systems and three-phase motors. DOE maintains its conclusions from the September 2023 NOPR and is screening out three-phase motors and improved evaporator and condenser coils for high-temperature refrigeration systems in this final rule.

2. Remaining Technologies

a. Doors and Panels

Through a review of each technology, DOE concludes that all of the other identified technologies for doors and panels listed in section IV.A.2.b of this document met all five screening criteria to be examined further as design options in this analysis. In summary, DOE did not screen out the following technology options:

- Glass system insulation performance for display doors,
- Occupancy sensors (lighting controls) for doors,
- Anti-sweat heater controls for doors,
- Improved frame systems and materials for non-display doors,
- Reduced anti-sweat heater systems for non-display doors, and
- Increased insulation thicknesses up to 6 inches for non-display doors and panels.

DOE determined that these technology options are technologically feasible because they are being used or have previously been used in

commercially available equipment or working prototypes. DOE also finds that all of the remaining technology options meet the other screening criteria (*i.e.*, practicable to manufacture, install, and service; do not result in adverse impacts on consumer utility, product availability, health, or safety; and do not utilize unique-pathway proprietary technologies). For additional details, *see* chapter 4 of the final rule TSD.

b. Refrigeration Systems

Through a review of each technology, DOE concludes that all the other identified technologies listed in section IV.A.2.c of this document met all five screening criteria to be examined further as design options in this analysis. In summary, DOE did not screen out the following technology options for walk-in refrigeration systems:

- Improved condenser and evaporator fan blades,
- Improved evaporator and condenser coils for medium- and low-temperature refrigeration systems,
- Off-cycle and on-cycle evaporator fan control,
- Hydrocarbon refrigerants,
- Ambient subcooling,
- Higher-efficiency condenser and evaporator fan motors (excluding three-phase motors),
- Higher-efficiency compressors,
- Variable-speed compressors,
- Liquid suction heat exchanger,
- Head pressure control,
- Condenser fan speed control (two-speed and variable-speed),
- Crankcase heater controls,
- Improved thermal insulation for single-packaged dedicated systems, and
- Condensate pan heating controls.

DOE determined that these technology options are technologically feasible because they are being used or have previously been used in commercially available products or working prototypes. DOE also finds that all of the remaining technology options meet the other screening criteria (*i.e.*, practicable to manufacture, install, and service; do not result in adverse impacts on consumer utility, product availability, health, or safety; and do not utilize unique-pathway proprietary technologies). For additional details, *see* chapter 4 of the final rule TSD.

In response to the September 2023 NOPR, NAFEM commented that the remaining design options for refrigeration systems are not new technologies and most were considered in the last WICF rulemaking. NAFEM stated that, therefore, these technologies do not serve as actionable opportunities

for manufacturers to increase energy efficiency. (NAFEM, No. 67 at p. 3) In response, DOE notes that the technology options that DOE considers in the screening analysis and then the engineering analysis do not need to be technologies that were not considered in previous rulemakings. DOE has determined that the technology options identified as remaining technologies would increase the efficiency of walk-ins as measured by the test procedure and pass all screening criteria. The technologies could be in use already or have been used. This is considered when determining which design options are representative of the baseline units in the engineering analysis.

C. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of each component of walk-ins (*i.e.*, doors, panels, refrigeration systems). There are two elements to consider in the engineering analysis: the selection of efficiency levels to analyze (*i.e.*, the “efficiency analysis”), and the determination of equipment cost at each efficiency level (*i.e.*, the “cost analysis”). In determining the performance of higher-efficiency equipment, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each equipment class, DOE estimates the baseline cost, as well as the incremental cost for the equipment at efficiency levels above the baseline. The output of the engineering analysis is a set of cost-efficiency “curves” that are used in downstream analyses (*i.e.*, the LCC and PBP analyses and the NIA).

1. Efficiency Analysis

DOE typically uses one of two approaches to develop energy efficiency levels for the engineering analysis: (1) relying on observed efficiency levels in the market (*i.e.*, the efficiency-level approach), or (2) determining the incremental efficiency improvements associated with incorporating specific design options to a baseline model (*i.e.*, the design-option approach). Using the efficiency-level approach, the efficiency levels established for the analysis are determined based on the market distribution of existing equipment (in other words, based on the range of efficiencies and efficiency level “clusters” that already exist on the market). Using the design-option approach, the efficiency levels established for the analysis are determined through detailed engineering calculations and/or computer simulations of the efficiency

improvements from implementing specific design options that have been identified in the technology assessment. DOE may also rely on a combination of these two approaches. For example, the efficiency-level approach (based on actual equipment on the market) may be extended using the design-option approach to interpolate to define “gap fill” levels (to bridge large gaps between other identified efficiency levels) and/or to extrapolate to the “max-tech” level (particularly in cases where the “max-tech” level exceeds the maximum efficiency level currently available on the market).

For this final rule analysis, DOE used a design-option approach for doors, panels, dedicated condensing units, single-packaged dedicated systems, and high-temperature unit coolers. DOE used an efficiency-level approach for medium- and low-temperature unit coolers. These approaches are discussed in the following sections.

a. General Feedback

In response to the March 2024 NODA analysis, DOE received several comments of general feedback pertaining to the efficiency analysis.

AHRI requested a release of all documents and data, while maintaining individual manufacturer confidentiality, used to support the proposed amendments in the September 2023 NOPR and March 2024 NODA specifically related to unit coolers and refrigeration systems. AHRI stated its concern that DOE is not using physical units running in different conditions to complete off-cycle tests to determine the wattage, alternate refrigerants, and single-speed compressor changes. AHRI recommended DOE test physical products using a data evaluation process such as an alternative efficiency determination method (“AEDM”) with validation that reflects the changes DOE proposed in the September 2023 NOPR and updated in the March 2024 NODA for all dedicated condensing units and unit coolers. AHRI stated that its members do not see the same results in real life that DOE has detailed in the September 2023 NOPR and March 2024 NODA. (AHRI, No. 86 at p. 4)

DOE collects data to inform the rulemaking process in many different ways. Some of this data is pulled from public sources such as product catalogs or public stakeholder comments. Other data sources are not public, such as information received through the public request for comments identified by stakeholders as confidential business information or information shared with DOE during confidential interviews. In an effort to be as open as possible and

solicit the best feedback possible, DOE publishes summary data and analyses in the TSDs that accompany rulemaking documents and, in the case of walk-ins, the engineering spreadsheets used in the rulemaking. Many of the assumptions or values that feed into these analyses are a result of aggregated and anonymized confidential feedback. DOE is unable to share additional data that informs the walk-ins rulemaking given its legal obligations to maintain confidentiality of such data, even if sources were anonymized. DOE received comments that requested the release of specific data, which are discussed in the following sections.

To understand the efficiencies of units currently available on the market, DOE conducted a round of refrigeration system testing. Additional analysis and teardowns of these units also informed the off-cycle power and design option performance considered in this rulemaking. It would be overly burdensome for DOE to conduct a physical test for every representative unit with every combination of design options analyzed in this final rule analysis. Therefore, this round of testing was used to validate the refrigeration systems engineering analysis at certain efficiency levels and representative capacities, as manufacturer tests are used to validate AEDMs. Based on these validations, DOE has determined that the refrigeration system analyses conducted to support this final rule are representative of the performance of walk-in refrigeration systems. Specific instances of validating analysis through physical testing are described in the following sections. DOE also notes that the refrigeration engineering spreadsheet used for this final rule, which details the analysis for medium- and low-temperature dedicated condensing systems, includes all assumptions and values that feed into the analysis and is available on the docket. Additionally, the engineering analysis approach is further described in more detail in chapter 5 of the final rule TSD.

Lennox stated that DOE must continue to review the baseline design assumptions and the methods and associated costs of attaining increased efficiency levels. Lennox stated that DOE should clearly demonstrate that it has correlated the baseline designs and methods to improve efficiency to actual products and test results. (Lennox, No. 87 at p. 3)

As stated previously in this section, DOE has validated various efficiency levels for different representative capacities using physical test results. Additionally, DOE has validated the

costs analyses in this final rulemaking using physical teardowns. As such, DOE has determined that the engineering analyses for walk-in refrigeration systems in this final rule are representative of walk-in refrigeration systems and that the cost-efficiency correlations developed are also representative.

b. Display Doors

Representative Units

As previously mentioned in section IV.A.1.a of this document, DOE evaluated equipment classes for display doors in the September 2023 NOPR based on the presence or absence of a motor. DOE did not evaluate higher efficiency levels for motorized display doors in the September 2023 NOPR analysis, and therefore it did not further consider the representative units for those motorized display doors. DOE analyzed three representative door sizes for manually opening display doors. The representative units were based on the number of door openings within a common frame; DOE has identified that as many as five door openings can be contained within a single frame. Additionally, DOE based its representative door sizes on typical height and width of doors found in equipment product literature. 88 FR 60746, 60768.

In response to the September 2023 NOPR, Anthony commented that although DOE is not amending the energy conservation standards for walk-in display doors, the definition of “door” changed in the test procedure rulemaking, which has the effect of decreasing the energy use allowed for lighting and anti-sweat heaters for display doors, except for the case when a door has a single opening. Anthony stated that the effect violates the prohibition in EPCA of adopting energy standards that impair the functionality of a pre-existing product. (Anthony, No. 71 at p. 1) Anthony stated that manufacturers will switch to single-opening doors per frame, which complicates wiring and installation, increases the cost, and does not serve customer preferences. (Anthony, No. 71 at p. 2)

Anthony commented that with DOE’s recently adopted single-door interpretation, doors with multiple openings are penalized compared to multiple individual doors installed in the same-size opening. Anthony stated that this penalty is not justified because the two installations would effectively be the same, and Anthony suggested that treating doors with multiple openings as multiple individual doors

would be more consistent with field installation practices. Anthony provided a comparison of how the energy conservation standard for display doors changes based on whether the single-opening interpretation or multi-opening interpretation is used. The comparison shows that the maximum daily energy consumption standard increases for the multi-door interpretation, which is based on the surface area of a single door and multiplying it by the number of doors in the system. (Anthony, No. 71 at pp. 3–4)

Anthony stated that the standard for display doors has an offset (0.41 kWh/day for medium-temperature display doors and 0.29 kWh/day for low-temperature display doors) that’s intended to account for effects that do not scale for surface area, such as heat transfer through framing materials, anti-sweat heater power, and lighting power. Anthony commented that with the single-door interpretation, there is a lower allowable maximum daily energy consumption, because that offset term is applied once, and therefore the maximum daily energy consumption would be much greater for multiple single-door systems compared to one multiple-opening door. Anthony stated that this incentivizes the usage of multiple single doors. (Anthony, No. 71 at pp. 4–8)

Anthony commented that the multi-door interpretation results in the same maximum daily energy consumption as multiple single doors and a single multiple-opening door and is, therefore, the logical interpretation. (Anthony, No. 71 at p. 8)

The amended definition of “door” adopted in the May 2023 TP Final Rule was not a change in the test procedure, but rather an intent to better clarify DOE’s existing scope, test procedure provisions, and application of the standards to walk-in doors. 88 FR 28780, 28788. “Door” was previously defined at 10 CFR 431.302 as “an assembly installed in an opening on an interior or exterior wall that is used to allow access or close off the opening and that is movable in a sliding, pivoting, hinged, or revolving manner of movement. For walk-in coolers and walk-in freezers, a door includes the door panel, glass, framing materials, door plug, mullion, and any other elements that form the door or part of its connection to the wall.” As amended, door is now defined at 10 CFR 431.302 as “an assembly installed in an opening on an interior or exterior wall that is used to allow access or close off the opening and that is movable in a sliding, pivoting, hinged, or revolving manner of movement. For walk-in

coolers and walk-in freezers, a door includes the frame (including mullions), the door leaf or multiple leaves (including glass) within the frame, and any other elements that form the assembly or part of its connection to the wall.” The frame and all elements that form the door or part of its connection to the wall has always been a part of the definition.

Given that DOE clarified in the May 2023 TP Final Rule that doors with

multiple leaves within a single frame would be considered a door under the existing test procedure and standards, DOE chose to analyze representative units that reflect the display doors available on the market, which consist of doors with one through five leaves within a single frame. DOE did not receive any other comments regarding the representative units of display doors analyzed in the September 2023 NOPR. Therefore, in this final rule, DOE

analyzed the same representative units for manually opening display doors as were analyzed in the September 2023 NOPR. Table IV.6 lists the display door classes and sizes that DOE analyzed in its engineering analysis for this final rule, where the dimensions listed are consistent with the surface area that is used to determine the maximum daily energy consumption.

Table IV.6 Representative Units Analyzed for Display Doors

Opening Mechanism	Temperature	Class Code	No. of Door Openings	Dimensions (height x length, ft)
Manual	Medium-temperature	DW.M	1	6.25 × 2.5
			3	6.25 × 7.5
			5	6.25 × 12.5
	Low-temperature	DW.L	1	6.25 × 2.5
			3	6.25 × 7.5
			5	6.25 × 12.5

Baseline Efficiency, Design Options, and Higher Efficiency Levels

To determine the baseline efficiency of manually opening display doors in the September 2023 NOPR, DOE relied on the current energy conservation standards and minimum prescriptive requirements for the glass pack of transparent reach-in doors at 10 CFR 431.306(b)(1)–(2). DOE’s analysis

suggested that manufacturers already implement high-efficiency frame designs to minimize thermal transmission; therefore, DOE included high-efficiency frame designs as a baseline design option for manually opening display doors in the September 2023 NOPR. 88 FR 60746, 60768.

In the September 2023 NOPR, DOE evaluated the design options listed in Table IV.7 for manually opening display

doors. As noted, design option DR1 includes baseline design options; additional design options are evaluated in DR2 (EL 1) and DR3 (EL 2). *Id.* DOE did not evaluate any changes to the amount of lighting or anti-sweat heat across efficiency levels and included lighting controls and anti-sweat heat controls in all efficiency levels (from baseline to max-tech).

Table IV.7 Design Options Evaluated for Display Doors

Efficiency Level	Design Option Code	Description	
		Medium-Temperature, Manual Display Doors	Low-Temperature, Manual Display Doors
0 (Baseline)	DR1	2-pane glass with argon gas fill	3-pane glass with argon gas fill
1	DR2	3-pane glass with argon gas fill	3-pane glass with krypton gas fill
2	DR3	2-pane vacuum-insulated glass	2-pane vacuum-insulated glass

In response to the September 2023 NOPR, Anthony commented that based on its own market research of manufacturer websites, the average wattage for lighting of display doors is nearly double what DOE asserts is reflective of the industry. Anthony

further stated that the display doors that employ the low-wattage LED lighting fixtures are low-end models, which make up approximately 17 percent of the display door market, and therefore are not representative of the typical display door. Anthony commented that,

based on its experience and research, approximately 20 percent of customers that purchase these low-end models replace the lighting with higher-performing lighting that is typical for most higher-end display doors. Anthony suggested that aftermarket replacement

of lighting may become more common practice given the inadequacy of the level of lighting DOE proposes to require. (Anthony, No. 71 at pp. 2–3)

Anthony stated that if DOE does not correct the errors in its analysis, it is likely that purchasers of display doors will buy aftermarket higher-wattage lighting and higher-voltage anti-sweat heaters designed to preserve and enhance the fundamental display functionality of the doors. (Anthony, No. 71 at p. 2)

DOE notes that its efficiency analysis is intended to be reflective and representative of the display door market. In order to evaluate the potential increase in cost and any downstream quantitative impact to consumers, DOE must assign a baseline design in order to evaluate the potential for higher-efficiency designs. DOE developed its baseline representative units from the existing market. DOE analyzes a pathway to higher efficiency in its engineering analysis, but DOE does not require that this exact pathway be taken. For display doors, DOE only requires that the MDEC performance standard in terms of kWh/day be met. While manufacturers are required to meet the prescriptive requirements applicable to display doors (*see* 10 CFR 431.302(a) and (b)), manufacturers are free to meet the MDEC standard using any design options they deem necessary. The design options evaluated by DOE should not be interpreted as prescriptive requirements, but rather possible steps along a potential efficiency improvement path. In this final rule, DOE is not adopting amended standards for display doors and is therefore not requiring any level of lighting that is different from what may already be required to meet the existing standards. Additionally, DOE recognizes that if manufacturers require higher lighting wattage for certain basic models of display doors, they may need to implement more efficient designs (*e.g.*, more thermally efficient glass packs) in order to meet the existing standard, which could limit the pathways to higher efficiency. *See* section V.C.1 for further discussion of the viability of higher efficiency levels for display doors and DOE's conclusions regarding not amending standards for display doors.

Lastly, DOE defines a “manufacturer of a walk-in cooler or walk-in freezer” as any person who (1) manufactures a component of a walk-in cooler or walk-in freezer that affects energy consumption, including but not limited to refrigeration, doors, lights, windows, or walls; or (2) manufactures or assembles the complete walk-in cooler

or walk-in freezer. 10 CFR 431.302. In a final rule pertaining to compliance, certification, and enforcement of walk-ins (“March 2011 Final Rule”), DOE adopted this definition of manufacturer of a walk-in cooler or walk-in freezer and discussed the responsibility of certification and compliance. 76 FR 12422, 12442–12444 (March 7, 2011). DOE stated in the March 2011 Final Rule that component manufacturers are responsible for certifying compliance of the components they manufacture for walk-in applications and ensure compliance with the applicable standards for those components. 76 FR 12422, 12444. DOE noted in that final rule that the adopted definition of “manufacturer” extends the compliance responsibility to both the component manufacturer and the assembler, even though the component manufacturer is responsible for certification.

Assemblers of the complete walk-in system are required to use only components that are certified to meet the Federal energy conservation standards in the assembled walk-in. *Id.* If an assembler was to purchase a compliant component and then alter the component in a manner that affects the energy efficiency or consumption of the component, the assembler would be considered the manufacturer of the component and would be responsible for testing, compliance, and certification of the altered component. Failure to comply with these requirements would subject the assembler to civil penalties pursuant to 10 CFR 429.102(a)(1). If the alteration renders the component noncompliant with the applicable energy conservation standard, use of the component in a complete walk-in cooler or walk-in freezer would render the assembled unit noncompliant and subject the assembler to civil penalties pursuant to 10 CFR 429.102(a)(6), both for the noncompliant component and the noncompliant complete walk-in.

For example, if an assembler purchases a compliant display door and replaces the display door's lighting with aftermarket lighting, the assembler would be considered the manufacturer of the altered display door and be responsible for testing and certifying the door as compliant with applicable DOE energy conservation standards. Failure to do so would subject the assembler to civil penalties. If the after-market lighting rendered the display door noncompliant with the applicable DOE energy conservation standard, use of the altered door in a complete walk-in would subject the assembler to civil penalties, both for the manufacture of the noncompliant display door and the manufacture of the noncompliant

complete walk-in cooler or walk-in freezer. *See generally* 10 CFR 429.102 and 429.120.

Anthony commented that DOE's use of a single static value for anti-sweat heater wattage does not take into account the need for heat scaling with walk-in space or with the number of openings in a door assembly. Anthony stated that as a result, manufacturers will be required to use anti-sweat heaters that are inadequate to eliminate condensation, which could lead to aftermarket installation of higher-voltage anti-sweat heaters or more costly products. (Anthony, No. 71 at p. 3)

As mentioned previously, DOE only requires that the MDEC performance standard in terms of kWh/day be met. While manufacturers are required to meet the prescriptive requirements applicable to display doors (*see* 10 CFR 431.302(a) and (b)), manufacturers are free to meet the MDEC standard using any design options they choose. In this final rule, DOE is not adopting amended standards for display doors, and it is therefore not requiring any level of anti-sweat that is different from what is already required by the existing standards.

Regarding aftermarket installation of higher-voltage anti-sweat heaters, if assemblers were to install a display door with aftermarket anti-sweat heat replacing the anti-sweat heater of the originally purchased display door, they would be at risk of installing a non-compliant display door.

For this final rule, DOE maintained the analysis conducted for the September 2023 NOPR for display doors.

c. Non-Display Doors

Representative Units and Baseline Efficiency

As previously mentioned in section IV.A.1.a of this document, DOE evaluated equipment classes for non-display doors based on the presence or absence of a motorized door opener in the September 2023 NOPR. In the June 2022 Preliminary Analysis, DOE analyzed three representative sizes for each class of non-display doors. 88 FR 60746, 60769. DOE did not receive any comments regarding the representative units analyzed for the September 2023 NOPR. In this final rule, DOE analyzed the same non-display door representative sizes that it evaluated in the September 2023 NOPR. Table IV.8 lists the non-display door classes and sizes that DOE analyzed in the engineering analysis for this final rule.

To determine non-display door baseline efficiency for each

representative unit, DOE relied on the current energy conservation standards. In the September 2023 NOPR, DOE determined for its analysis that baseline non-display doors had 3.5-inch-thick insulation for coolers and 4-inch-thick insulation for freezers, wood framing materials, a viewing window, and anti-sweat heat around the perimeter of the door leaf without controls. DOE did not consider lighting or other electrical components in its baseline representative units for non-display doors. *Id.* As such, DOE only considered design options relevant to the design of the baseline representative units, including anti-sweat controls, reduced anti-sweat heat, improvements to the framing systems to make the frame more thermally insulative, and increased insulation thickness. *Id.* at 88 FR 60770.

As previously mentioned, DOE received comments in response to the

September 2023 NOPR that resulted in reconsideration of the equipment classes that were proposed for non-display doors to account for other electricity-consuming devices that DOE did not consider in its representative units and baseline for analysis. In response to comments received regarding the September 2023 NOPR analysis, DOE recognized that it cannot include all other possible electrical components in its baseline representative units and cannot analyze reduced energy consumption for other electrical components because not all doors contain these components. Therefore, in the March 2024 NODA, DOE updated its analysis to present equipment classes with MDEC allowances for non-display doors if manufacturers offer basic models with certain electricity-consuming devices. 89 FR 18555, 18556–18559.

DOE considered the additional electrical component energy consumption through the use of MDEC allowances. Therefore, DOE maintained the same representative units with components and features that are generally applicable for most doors and could be analyzed for reduced energy consumption at the baseline. DOE did not receive any comments regarding this update approach presented in the March 2024 NODA. For this final rule, DOE evaluated the same representative units and considers the additional electrical components through the use of the MDEC allowances. Table IV.8 lists the non-display door classes and sizes that DOE analyzed baseline and higher efficiency levels for in the engineering analysis for this final rule.

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Table IV.8 Non-Display Door Representative Units Analyzed in This Final Rule

Opening Mechanism	Temperature	Class Code	Size	Dimensions, (height x length (in))
Manual	Medium-Temperature	NM.M	Small	84 x 38
			Medium	90 x 40
			Large	96 x 56
	Low-Temperature	NM.L	Small	84 x 38
			Medium	90 x 40
			Large	96 x 56
Motorized	Medium-Temperature	NO.M	Small	100 x 66
			Medium	118 x 90
			Large	154 x 90
	Low-Temperature	NO.L	Small	100 x 66
			Medium	118 x 90
			Large	154 x 66

Design Options and Higher Efficiency Levels

For the September 2023 NOPR analysis, DOE evaluated the design

options listed in Table IV.9 for non-display doors. The following subsections discuss the comments received regarding these design options

and the implementation of these design options to achieve higher efficiency levels.

Table IV.9 Design Options Evaluated in the September 2023 NOPR Analysis for Non-Display Doors

Design Option Code	Description
-	Anti-sweat heater wire controls
ASHNC	No anti-sweat heater controls
ASCTRL	Anti-sweat heater controls
-	Improved frame systems and lower-conductivity framing materials
FR1	Baseline non-display door frame made of wood
FR2	Improved non-display door frame made of insulation
-	Decreased anti-sweat heater power
ASH1	Baseline anti-sweat heater power
ASH2	Reduced anti-sweat heater power
-	Increased insulation thickness
TCK1	Baseline insulation thickness
TCK2	Increased insulation thickness 1
TCK3	Increased insulation thickness 2
TCK4	Increased insulation thickness 3

In response to the September 2023 NOPR analysis, Senneca and Frank Door commented that DOE's recommended methods for compliance with the new standards do not account for how several of these methods are currently used by manufacturers and how that limits a manufacturer's ability to use those methods to generate the additional energy savings required to meet the proposed standards. (Senneca and Frank Door, No. 78 at pp. 3–4)

DOE analyzes units and design options based on an evaluation of the current market. DOE understands that some models on the market may utilize the higher-efficiency design options analyzed in the engineering analysis; however, many of the models using higher-efficiency design options are also outperforming the current MDEC standards (*i.e.*, have rated DEC below the baseline). As discussed in section

V.C.1 of this document, DOE estimated that 35 percent of the non-display door market can already meet the standards DOE is adopting for non-display doors through the use of higher efficiency design options such as those analyzed in this rulemaking. Further, DOE notes that the standards finalized in this rulemaking are not prescriptive; manufacturers may comply with them using any technologies they see fit.

As previously discussed in section IV.B.1.b of this document, DOE screened out the same technology options in this final rule as it did in the September 2023 NOPR. Therefore, for this final rule, DOE analyzed the same design options for non-display doors as it did in the September 2023 NOPR.

i. Reduced Anti-Sweat Heater Power

In the September 2023 NOPR, DOE considered reduced anti-sweat heater

power as a design option for all non-display doors. For medium-temperature doors, DOE evaluated a reduction in anti-sweat heater power to 2 W/ft based on an evaluation of certified data in DOE's private CCMS database, which had approximately 93 percent of models reported a rated anti-sweat heater power of less than or equal to 2 W/ft. For low-temperature doors, DOE evaluated a reduction in anti-sweat heater power to 5 W/ft based on a combination of certified values in CCMS, rated anti-sweat heater power per linear foot of wire based on product literature, and information received during confidential interviews with manufacturers. Table IV.10 shows the baseline and reduced anti-sweat heater wire power evaluated in the September 2023 NOPR.

Table IV.10 Anti-sweat Heater Wire Power per Linear Foot Used in September 2023 NOPR Analysis

Equipment Class	Baseline Anti-sweat Heater Wire Power Rating (W/ft)	Reduced Anti-sweat Heater Wire Power Rating (W/ft)
Medium-Temperature, Manually-Opening Non-Display Doors	4	2
Low-Temperature, Manually-Opening Non-Display Doors	10	5
Medium-Temperature, Motorized Non-Display Doors	4	2
Low-Temperature, Motorized Non-Display Doors	9.5	5

As discussed in section IV.B.1.b of this document, DOE received multiple comments both in favor of screening out the reduced anti-sweat heat design option and supporting the levels of reduced anti-sweat heat that DOE analyzed. As discussed in that section, DOE ultimately included reduced anti-sweat heat as a technology option for all non-display doors in this final rule because manufacturers offer models for sale with anti-sweat heat at or below the reduced anti-sweat heat wattage values that DOE analyzed. Regarding the power in W/ft that DOE analyzed for the reduced anti-sweat heat design option, Kolpak supported the reduced anti-sweat heater wire power values that were analyzed. (Kolpak, No. 66, Attachment 1 at p. 1) As such, DOE maintained the values evaluated for reduced anti-sweat heater wire power for the September 2023 NOPR in this final rule analysis.

ii. Improved Thermal Conduction Load Through Improved Frame Systems and Increased Insulation Thickness

As discussed in the September 2023 NOPR TSD, DOE determined U-factors for each representative door size by scaling the U-factors determined from tested non-display doors based on theoretical U-factors. DOE also assumed each non-display door had a window sized at 2 ft². Wood frames are the least efficient framing material currently found on the market and were selected as the baseline framing material. Polyurethane door frames are more thermally insulative and were selected as the improved framing material. See

section 5.7.1.3 of the September 2023 NOPR TSD.

Based on stakeholder feedback and detailed calculations provided by Kolpak in response to the September 2023 NOPR, in the March 2024 NODA, DOE reevaluated the analyzed U-factors for both medium-temperature and low-temperature non-display doors. 89 FR 18555, 18559–18560. For medium-temperature doors, DOE found that the thermal conduction load at the proposed energy conservation standard level (EL 3) from the September 2023 NOPR is representative of the achievable thermal conduction load of non-display doors on the market. Therefore, in the March 2024 NODA, DOE did not make any adjustment to the U-factors evaluated for the medium-temperature non-display doors at EL 3. *Id.* For low-temperature doors, DOE further analyzed available data for the March 2024 NODA and tentatively determined that the thermal conduction load by area in the proposed standard level from the September 2023 NOPR was lower than that calculated using the data DOE evaluated. Therefore, DOE increased the U-factors at EL 3 (which corresponded to the proposed standard level in the September 2023 NOPR) for each representative unit of low-temperature non-display doors by 9 percent for the March 2024 NODA. DOE tentatively determined that this increase in U-factor would be more representative of the low-temperature non-display doors currently on the market. 89 FR 18555, 18559–18560.

In response to the September 2023 NOPR, Senneca and Frank Door commented that the design options

analyzed that are technologically feasible and not already utilized by manufacturers would not be sufficient to meet the proposed energy consumption. For example, Senneca and Frank Door stated that increasing thickness to 6 inches would not result in a U-factor necessary to meet the proposed standard. (Senneca and Frank Door, No. 78 at pp. 3–4) DOE's test data and information provided by Kolpak demonstrate that there are doors currently on the market that meet or exceed the thermal conduction load that DOE analyzed at EL 3 (*i.e.*, the proposed standard level from the September 2023 NOPR) without increasing insulation thickness. See chapter 5 of the final rule TSD for plots of DOE's test data compared to the efficiency levels DOE analyzed in this final rule. Further, as discussed in section V.C.1.b of this document, DOE does not expect that the standard level adopted in this final rule for non-display doors would necessitate the implementation of design options that would decrease U-factor (*e.g.*, improved frame or increased insulation thickness), as the standard level adopted in this final rule includes the baseline U-factor analyzed.

In the March 2024 NODA, DOE requested comment on the representativeness of the adjustments made to the U-factors for the low-temperature non-display doors. *Id.* Senneca stated that because Kolpak manufactures and distributes complete walk-in coolers and freezers, its data is not representative of the energy efficiency that can be achieved by companies that manufacture and distribute walk-in cooler and freezer

doors that are sold and installed separately. (Senneca, No. 92 at p. 3) Senneca's comment suggests that non-display doors that are sold separately from the walk-in in which they are installed may have different energy consumption than doors sold with a complete walk-in. However, DOE received additional data in response to the March 2024 NODA from another manufacturer, Imperial Brown, that manufactures walk-in doors for "new construction, retrofit and remodel applications" and states its "models are compatible with all manufacturers of cold storage systems."³² (Imperial Brown, No. 84, Attachment 2) DOE reviewed the data provided by Imperial Brown and found that the thermal load characteristics of these models are well within the thermal load that DOE determined to be required to meet the adopted standard for this final rule. Therefore, DOE has concluded that the data provided by Kolpak, and subsequently by Imperial Brown, are representative of the energy efficiency that can be achieved for all non-display doors, including those that are sold separately from the walk-in in which they are installed.

Also in response to the March 2024 NODA, RSG stated that it already uses low-density, high-insulation foam core

material without a wood frame, so the thermal load technology exceeds the DOE baseline. (RSG, No. 89 at p. 1)

DOE did not receive any other comments in response to its adjustment of thermal conduction load/U-factors made in the March 2024 NODA. For this final rule, DOE maintained the same thermal conduction load and U-factors as the March 2024 NODA.

Maximum Daily Energy Consumption Allowances

As previously discussed, in the March 2024 NODA, DOE updated its analysis to present maximum daily energy consumption allowances for non-display doors where manufacturers offer basic models with certain electricity-consuming devices. 89 FR 18555, 18556–18559. To develop the MDEC allowances specific for walk-in non-display doors with certain electrical components, DOE reviewed the data and calculations submitted by Kolpak, as well as product literature from hardware and instrument manufacturers. In its comment, Kolpak provided information regarding the following components that are included on its basic models of non-display doors: anti-sweat heat on viewing windows; lighting and mechanisms to turn the lighting on or off (*e.g.*, manual

toggle switches, door-open timers, occupancy sensors); heated ventilators (also called heated pressure relief vents); and temperature alarms. (Kolpak, No. 66, Attachment 1 at pp. 1–2) Kolpak provided information on model numbers of electrical components, rated wattage of those components, number of electrical components on its doors, and the calculation of the direct and indirect electrical energy consumption for all electrical components. (Kolpak, No. 66, Attachment 2) Using the detail provided by Kolpak, DOE also looked into the hardware and instrument manufacturers' product offerings for electrical components to better understand the range of potential options for these additional electrical components. Based on this, DOE grouped the electrical components into four categories for the March 2024 NODA: lighting, anti-sweat heat for viewing windows, digital temperature displays/alarms, and heated pressure relief vents. 89 FR 18555, 18557. Table IV.11 presents the MDEC allowances for lighting, anti-sweat heat for viewing windows, digital temperature displays/alarms, and heated pressure relief vents from the March 2024 NODA and the underlying assumptions used to determine the MDEC allowances.

Table IV.11 Maximum Daily Energy Consumption Allowances and Assumptions for Each Component from March 2024 NODA

Device	Wattage of Component(s) (W)	Controls (Y/N)	Location	MDEC Allowance – Medium-Temperature (kWh/day)	MDEC Allowance – Low-Temperature (kWh/day)
Door light, night light, and/or switch	14.3	No	Interior	0.33	0.40
Heated viewing window: medium-temperature	34	Yes	Interior	0.25	-
Heated viewing window: low-temperature	84	Yes	Interior	-	1.42
Digital temperature without alarm	2.4	No	Interior	0.07	0.09
Digital temperature display with alarm	8	No	Interior	0.24	0.30
Heated vent: low-temperature only	23	No	Interior	-	0.85

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In the March 2024 NODA, DOE sought comment on the MDEC

allowances developed for the specified electricity-consuming devices. DOE also

³² See imperialbrown.com/products/doors.

sought comment on the assumed wattages, presence or absence of controls, and location that were considered in the calculation of MDEC allowances for the specified electricity-consuming devices. 89 FR 18555, 18559. In response, DOE received several comments that were supportive of the approach and the MDEC allowances developed.

ASAP *et al.* supported DOE's approach regarding non-display doors with additional electrical components but encouraged DOE to gather additional information to ensure that the energy use allowances for non-display doors with additional electrical components reflect the use of efficient components. (ASAP *et al.*, No. 90 at p. 2)

The CA IOUs supported DOE's evaluation of the identified additional non-display door electricity-consuming components and agreed that DOE cannot analyze reduced energy consumption for these electrical components as they are not included with all non-display doors. The CA IOUs supported the grouping of these components into four categories, the conservative assumption that certain additional electrical components contribute to indirect walk-in refrigeration load, and the proposed MDEC allowances in the March 2024 NODA. The CA IOUs also supported the relevant revisions to the walk-in non-display door standards equations set forth in the March 2024 NODA. (CA IOUs, No. 91 at p. 2)

Imperial Brown supported providing separate MDEC allowances for lighting, anti-sweat heat for viewing windows, digital temperature displays/alarms, and heated pressure relief vents. Imperial Brown further stated that the MDEC allowance for lighting, digital temperature displays/alarms, and heated pressure relief vents are reasonable for medium- and low-temperature doors. (Imperial Brown, No. 84 at p. 1) Imperial Brown provided data to support its comments. (Imperial Brown, No. 84, Attachment 2)

RSG stated that DOE's suggestion to account for lights, heated viewing windows, heated vents, and digital temperature displays in the MDEC equations are a step in the right direction. RSG stated that the equations for MDEC from Table II.24 of the March 2024 NODA remain overly restrictive. (RSG, No. 89 at p. 1)

As discussed in the previous subsection (Improved Thermal Conduction Load Through Improved Frame Systems and Increased Insulation Thickness), Senneca stated that because Kolpak manufactures and distributes

complete walk-in coolers and freezers, its data is not representative of the energy efficiency that can be achieved by companies that manufacture and distribute walk-in cooler and freezer doors that are sold and installed separately. (Senneca, No. 92 at p. 3) As summarized in this section, two manufacturers that offer doors that are sold and installed separately from the walk-in box commented in support of some of the maximum daily energy consumption allowances and provided specific feedback to support their comments and recommendations for the MDEC allowances.³³ DOE discusses the feedback received from these manufacturers in the following subsections.

DOE also received several specific comments regarding each component. The subsections that follow describe the underlying assumptions for each category of electrical components and the relevant comments received in response to the September 2023 NOPR and the March 2024 NODA.

i. Lighting

In response to the September 2023 NOPR, Kolpak encouraged DOE to adopt an efficiency requirement for light bulbs used in doors that is more stringent than 40 lumens/W. Kolpak commented that it uses LED light bulbs that have an efficacy of at least 88 lumens/W and controls, and therefore it does not have a means of further reducing energy consumption from lighting. (Kolpak, No. 66, Attachment 1 at p. 1) Kolpak also stated that it supports DOE requiring non-display doors to have light controls such as occupancy sensors or door-open timers instead of manual toggle light switches. (Kolpak, No. 66, Attachment 1 at p. 3)

As discussed in the March 2024 NODA, for the lighting category, DOE considered lighting, a night light, and a pilot light located on a switch to develop an appropriate DEC allowance for doors that have lighting. 89 FR 18555, 18557. Lighting provides visibility within the walk-in, particularly near the entrance and exit of the walk-in, and is commonly controlled by a switch. Switches used for turning the lights on and off often have a pilot light so that the switch can be located in the dark. As included in Kolpak's comment and calculations, a night light could also be attached to the walk-in door.

³³ See imperialbrown.com/products/doors, master-bilt.com/product_category/walk-in-repair/, and norlake.com/nor-lake-products/foodservice/products/walk-in-repair/.

Based on Kolpak's provided data and a review of product literature,³⁴ in the March 2024 NODA, DOE assumed lighting would have rated power of 13 W, a switch with a pilot light would have a rated power of 0.3 W, and a night light would have a rated power of 1 W. The lighting wattage used to develop the MDEC allowance was based on the information and calculations provided by Kolpak, which specify an LED light fixture with an efficacy of 88 lumens/W.

Based on a review of models certified to DOE, DOE also assumed that these components would not be controlled by demand-based controls, and therefore it used the percent time off ("PTO") values specified for lighting and other electricity-consuming devices without controls, timers, or auto-shut-off systems, per Table A.2 of appendix A, along with the rated power to determine the direct electrical energy consumption. Based on a review of product literature and doors it has tested, DOE assumed that the light and night light would be located on the interior of the walk-in, and the switch may be located on either the interior or exterior of the walk-in; therefore, all the three components associated with lighting were conservatively assumed to be sited on the internal face of the door for the purposes of determining the indirect electrical energy consumption. See 10 CFR part 431, subpart R, appendix A, sections 6.3.2.2 and 6.3.3.

In response to the March 2024 NODA, ASAP *et al.* stated that controls could be implemented to reduce lighting energy usage. (ASAP *et al.*, No. 90 at p. 2) RSG stated that the door light allowance appears low. RSG stated that walk-in lighting is a safety issue and there needs to be enough lumens to sufficiently light the walk-in entrance and interior to allow the operators the ability to safely perform their duties. RSG recommended that a 17 to 20 W light with around 1,500-lumens output would be a better assumption than 13 W. (RSG, No. 89 at pp. 1–2)

Based on the feedback received from RSG and ASAP *et al.*, for this final rule DOE evaluated the MDEC allowance for lighting based on updated assumptions using (1) a 20 W light bulb in the MDEC calculation instead of a 13 W light bulb, and (2) demand-based controls. DOE compared the MDEC allowance calculated using these two assumptions with the MDEC allowance calculated in the March 2024 NODA. The two scenarios are shown in Table IV.12. These two changes in assumptions mostly offset each other in terms of the

³⁴ See https://www.kasonind.com/files/pdf/Kason_Catalog_lightingElectrical_Digital.pdf.

daily energy consumption from the lighting because the higher wattage

lightbulb increases the daily energy consumption, however, the demand-

based controls reduce the daily energy consumption.

Table IV.12 Maximum Daily Energy Consumption Allowances and Assumptions for Lighting

Device	Wattage of Component(s) (W)	Controls (Y/N)	Location	MDEC Allowance – Medium-Temperature (kWh/day)	MDEC Allowance – Low-Temperature (kWh/day)
Door light, night light, and/or switch	14.3	No	Interior	0.33	0.40
Door light, night light, and/or switch	21.3	Yes	Interior	0.33	0.39

DOE has concluded that the MDEC allowances presented in the March 2024 NODA sufficiently capture the additional energy consumption of lighting, which provides visibility within the walk-in, specifically near the entrance and exit of the walk-in near the door. Therefore, DOE is adopting the MDEC allowances calculated for the March 2024 NODA.

ii. Anti-Sweat Heater for Viewing Window

DOE included windows in its representative units of non-display doors. However, as discussed in the March 2024 NODA, DOE did not consider additional anti-sweat heat specific to the window. 89 FR 18555, 18557–18558. Antisweat heaters are a performance-related feature used on viewing windows to prevent (1) condensation from collecting on the glass, and (2) fogging of the glass.

In response to the September 2023 NOPR, Kolpak commented that it is standard for medium-temperature non-display doors with viewing windows to have an anti-sweat heater wire around the frame of the window and for low-temperature non-display doors with viewing windows to have an anti-sweat heater wire and heated glass coating on the outer pane of glass. Kolpak commented that its widely used supplier used to provide a 10 W/ft anti-sweat heater wire without controls. Kolpak stated that it uses a 5 W/ft heater wire with controls in the frame of the viewport window. Kolpak stated that it cannot find additional means to reduce the energy consumption of the anti-sweat heater wire in the viewing window frame further. (Kolpak, No. 66 Attachment 1 at p. 1) Kolpak also stated that it supports DOE requiring non-display doors to have anti-sweat heater wire maximums for viewing windows similar to the maximums for the non-

display doors and controls for non-display door anti-sweat heater wires and controls for window anti-sweat heater wires. (Kolpak, No. 66, Attachment 1 at p. 3)

Based on Kolpak's provided data and a review of product literature, for the March 2024 NODA, DOE assumed that if anti-sweat heat is included around and/or on viewing windows, that anti-sweat heat would have a rated power of 34 W for medium-temperature (*i.e.*, cooler) applications and 84 W for low-temperature (*i.e.*, freezer) applications. DOE also assumed that these components would be controlled by some demand-based controls based on the information provided by Kolpak, and therefore DOE used the PTO values specified for anti-sweat heat with controls, timers, or auto-shut-off systems per Table A.2 of appendix A, along with the rated power to determine the direct electrical energy consumption. DOE assumed that for the purposes of determining the indirect electrical energy consumption of the anti-sweat heater, 75 percent of the total power is attributed to the interior and 25 percent of the total power is attributed to the exterior of the walk-in, consistent with the assumptions outlined in the DOE test procedure. *See* 10 CFR part 431, subpart R, appendix A, sections 6.3.2.2 and 6.3.3.

In response to the March 2024 NODA, Imperial Brown stated that the MDEC allowance for anti-sweat heat of viewing windows for low-temperature doors is too stringent. Imperial Brown stated that it offers a 12" x 12" nominal viewing window from its vendor that consumes 50 W for low-temperature installations and does not include demand-based controls, which yields a total DEC of 1.74 kWh/day above the MDEC allowance in the NODA. Imperial Brown stated it is not aware of a vendor that provides view windows with

controls for its application. Imperial Brown stated it also offers a 12" x 24" nominal viewing window, which accommodates a wider range of human height, that consumes 84 W for low-temperature installations and does not include demand-based controls. Imperial Brown stated that the DEC for this window heat is 3.11 kWh/day. Imperial Brown recommended that the MDEC for heated windows be defined per square foot of window and that the maximum acceptable area of a viewing window be defined. (Imperial Brown, No. 84 at p. 1)

While Imperial Brown stated it is not aware of a vendor that provides view windows with controls for its application, DOE notes that Kolpak stated in its comment that it requested that its viewing window vendor make windows with bimetallic thermostats to control the heater wire around the viewport. There is no indication that the applications for these two manufacturers of non-display doors are any different; therefore, DOE has no evidence that other manufacturers could not implement anti-sweat controls on the viewing windows used in non-display doors. Therefore, DOE has concluded that calculating the MDEC allowance for anti-sweat heat for viewing windows based on the presence of controls is appropriate.

DOE further evaluated Imperial Brown's suggestion that the MDEC allowance for heated viewing windows be defined per square foot of window. To do this, DOE collected the information provided by Kolpak and Imperial Brown and reviewed additional information found in product literature of a manufacturer of heated viewing windows.³⁵ DOE calculated the direct and indirect electrical energy

³⁵ See [norfabinc.com/wp-content/uploads/2022/04/VU-PORT-Spec-Sheet-5-Watt-1.pdf](https://www.norfabinc.com/wp-content/uploads/2022/04/VU-PORT-Spec-Sheet-5-Watt-1.pdf).

consumption for each viewing window size and anti-sweat wattage used, based on the presence of controls, and plotted the MDEC allowance by window area to

develop a linear relationship. These updated MDEC allowances calculated per area of window size and the linear relationship based on the area of the

viewing window can be found in Table IV.13.

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Table IV.13 Maximum Daily Energy Consumption Allowances for Anti-Sweat Heat on Viewing Windows

Device	Window Size	MDEC Allowance – (kWh/day)
Heated viewing window – medium-temperature	14” x 24”	0.25
Heated viewing window – medium-temperature	14” x 14”	0.18
Heated viewing window – medium-temperature	14” x 14”	0.19
Heated viewing window – low-temperature	14” x 24”	1.50
Heated viewing window – low-temperature	14” x 24”	1.42
Heated viewing window – low-temperature	12” x 24”	1.42
Heated viewing window – low-temperature	14” x 14”	0.93
Heated viewing window – low-temperature	14” x 14”	0.84
Heated viewing window – low-temperature	12” x 12”	0.84
Heated viewing window – medium-temperature	-	$0.06 \times A_{\text{window}} + 0.10^*$
Heated viewing window – low-temperature	-	$0.54 \times A_{\text{window}} + 0.23^*$
* A_{window} represents area in square feet of the viewing window. The MDEC allowance for non-display doors with heated viewing windows cannot exceed 0.25 and 1.50 kWh/day for medium-temperature and low-temperature applications, respectively.		

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DOE has concluded that the MDEC allowances presented in the March 2024 NODA would sufficiently capture the additional energy consumption required for doors that require heated viewing windows. As shown in Table IV.13, the MDEC allowance varies by window size and amount of anti-sweat heat presented per window size. Per Imperial Brown’s recommendation, DOE has concluded that setting the MDEC allowance for heated viewing windows per area of viewing window (in square feet) would sufficiently capture the difference in additional energy that would be consumed by anti-sweat heaters on viewing windows for smaller and larger windows. DOE does not intend to limit the maximum acceptable area of a viewing window; however, the wattage of the anti-sweat heater for the 14-inch by 24-inch windows for both medium- and low-temperature applications were the maximum wattages that DOE found based on public comment and manufacturer literature. As such, DOE is maintaining the MDEC allowances for

heating viewing windows for medium- and low-temperature applications from the March 2024 NODA as the maximum allowance. DOE’s calculations were based on the four window sizes that it has identified through comments and a review of product literature. Therefore, DOE has concluded that the MDEC allowances defined by window area as shown in Table IV.13 are appropriate, and DOE is adopting them in this final rule for non-display doors with heated viewing windows.

iii. Digital Temperature Displays With or Without Alarms

A digital temperature display allows users to easily monitor the temperature of the walk-in. The digital temperature display is connected to a thermocouple that measures the temperature of the walk-in, and the interface on the exterior of the walk-in displays the temperature within the walk-in compartment. In the March 2024 NODA, based on review of product literature and Kolpak’s data, DOE had determined that a digital temperature display could

be paired with alarms or stand alone (*i.e.*, without alarms). 89 FR 18555, 18558. The alarms alert kitchen staff or others if the refrigerated goods within the walk-in compartment are in conditions that are too warm or too cold, which may spoil or ruin these goods. Additionally, alarms can sound if the walk-in door is left open for too long. Kolpak commented that walk-ins with multiple compartments that have only one exterior door but have doors on interior partitions that separate the compartments often have two temperature alarms on the exterior door so that the alarms can be heard by those outside of the walk-in. (Kolpak, No. 6, Attachment 1 at p. 2) Kolpak also stated that it supports DOE requiring non-display doors to have temperature alarms with a maximum energy usage such as 7 W each but allow multiple temperature alarms on one door. (Kolpak, No. 66, Attachment 1 at p. 3) Additionally, through its review of hardware and instrument manufacturers’ product offerings, DOE identified that a panic or entrapment

alarm could be installed for use in the event that a user is unable to exit the walk-in. Based on Kolpak's provided data and a review of hardware manufacturers' product literature,³⁶ in the March 2024 NODA, DOE assumed a digital temperature display without alarms would have a rated power of 2.4 W and a digital temperature display with alarms would have rated power of 4 W. In consideration of Kolpak's comment that a walk-in comprising two compartments may require two temperature displays with alarms to be located on the exterior non-display door, DOE assumed that digital temperature display with alarm(s) would have a total rated power of 8 W. DOE assumed based on a review of Kolpak's data and product literature that the digital temperature display with or without alarms would always be on, and as such used the PTO specified for other electricity-consuming devices without controls, timers, or auto-shut-off systems, per Table A.2 of appendix A, along with the rated power to determine the direct electrical energy consumption. The temperature display and alarms would likely be sited on the exterior of the walk-in door to be seen and heard; however, components of the display would be located interior to the walk-in, such as the thermocouple. Therefore, DOE conservatively assumed these components would be sited on both the internal and external face of the door for the purposes of determining the indirect electrical energy consumption. See 10 CFR part 431, subpart R, appendix A, sections 6.3.2.2 and 6.3.3. Additionally, DOE assumed that a door would either have one or the other but would not have both (1) a digital temperature display without an alarm, and (2) a digital temperature display with alarms.

As previously mentioned, DOE received general support from ASAP *et al.* and the CA IOUs regarding the MDEC allowances and support from Imperial Brown regarding the MDEC allowance for digital temperature displays/alarms. DOE did not receive any other comments regarding its assumptions for determining the MDEC allowances or the MDEC allowances themselves for doors with a (1) digital temperature display without an alarm, or (2) digital temperature display with alarms. In this final rule, DOE is maintaining the MDEC allowances for doors with a (1) digital temperature display without an alarm, or (2) digital temperature display with alarms as calculated for the March 2024 NODA.

These calculated allowances can be found in Table IV.14. Consistent with the March 2024 NODA, DOE assumed that a door would either have one or the other but would not have both (1) a digital temperature display without an alarm, and (2) a digital temperature display with alarms. As such, only one of these MDEC allowances would apply based on whether there is or is not an alarm connected to the digital temperature display. This is demonstrated in the standards equations presented in section I of this document.

iv. Heated Pressure Relief Vent

Heated ventilators, or heated pressure relief vents, are performance-related features that allow doors to open more easily when there is a pressure differential between the interior and the exterior of the walk-in.

In response to the September 2023 NOPR, Kolpak stated that heated ventilators can affect energy consumption of non-display doors and were not detailed in DOE's proposal. Kolpak stated that some manufacturers put heated ventilators on a non-door panel so that they are not considered in the energy consumption calculation of a door; however, Kolpak places these devices on the door, where its energy consumption is captured in the daily energy consumption calculation. Kolpak commented that it uses the lowest-wattage heated ventilator available and cannot find additional means to decrease the energy consumption of the heated ventilators. Kolpak stated that it asked its supplier of heated ventilators to explore adding a bimetallic thermostat control to the heating element, but there are concerns regarding quality due to the nature of its applications. (Kolpak, No. 66 at p. 2) Kolpak's data indicates that a 4 W heated ventilator is used on doors for both medium-temperature and low-temperature installations. (Kolpak, No. 66, Attachment 2) Kolpak also stated that it supports DOE requiring non-display doors to have heated ventilators to have a maximum energy usage such as 4 W unless the compartment is over 2,500 cubic feet and heated ventilators' energy usage to be included in the door calculation even if on a wall panel. (Kolpak, No. 66, Attachment 1 at p. 3)

In the March 2024 NODA, DOE evaluated an MDEC allowance for non-display doors with heated ventilators. 89 FR 18555, 18558. DOE had tentatively determined, however, that while medium-temperature applications may require a pressure relief vent, it may not be necessary for the pressure relief vent to be heated. Therefore, DOE did not develop a MDEC allowance for

medium-temperature non-display doors. *Id.*

Additionally, based on review of hardware manufacturers' product literature and the recommendations for pressure relief vents based on the size of a walk-in,³⁷ DOE tentatively determined that a heated pressure relief vent for low-temperature walk-in applications could require up to 23 W of heat to prevent freezing and therefore provide sufficient airflow between the walk-in compartment and the exterior. DOE assumed based on a review of Kolpak's data and hardware manufacturers' product literature that the heater component of the pressure relief vent would always be on, and as such used the PTO specified for other electricity-consuming devices without controls, timers, or auto-shut-off systems, per Table A.2 of appendix A, along with the rated power to determine the direct electrical energy consumption. Because the heated vent is located between both the exterior and interior of the walk-in, it is considered to be located interior to the walk-in for the purposes of determining the indirect electrical energy consumption. See 10 CFR part 431, subpart R, appendix A, sections 6.3.2.2 and 6.3.3.

As previously mentioned, DOE received general support from ASAP *et al.* and the CA IOUs regarding the MDEC allowances and support from Imperial Brown regarding the MDEC allowance for heated pressure relief vents. ASAP *et al.* encouraged DOE to further investigate the discrepancy between Kolpak's suggested ventilator heater power and the power allowance included in the NODA for low-temperature non-display doors. (ASAP *et al.*, No. 90 at p. 2)

Based on product literature of heated pressure relief vents, DOE assumes that the required wattage would scale with walk-in volume. A 4 W heated pressure relief vent may be sufficient for a small walk-in up to 2,000 or 2,500 cubic feet, which is consistent with Kolpak's comment; however, larger walk-ins (*i.e.*, greater than 2,500 cubic feet) may require a heated pressure relief vent up to 23 W. Because the performance standards are separated out by component, doors are tested and rated based on the energy consumption of the door alone, independent of the volume of the walk-in that the door would be installed in. Therefore, DOE conservatively used 23 W for the heated pressure relief vent, recognizing that heated pressure relief vents installed on

³⁶ See https://www.kasonind.com/files/pdf/Kason_Catalog_lightingElectrical_Digital.pdf.

³⁷ See www.kasonind.com/files/pdf/Kason_Catalog_WalkIn_Digital.pdf.

walk-in doors could have rated power as high as 23 W.

DOE calculated the MDEC allowances (*i.e.*, the sum of the direct and indirect electrical energy consumption) for low-temperature doors with heated pressure relief vents, which can be found in Table IV.14.

v. Door Leaf Perimeter Anti-Sweat Heat

In the March 2024 NODA, DOE did not analyze an MDEC allowance specific to anti-sweat heat around the perimeter of the door leaf because this electricity-consuming device was already included in the representative units analyzed. In response to the April 2024 NODA, Imperial Brown stated that the portion of the equation that accounts for the perimeter heater cable is out of line compared to the MDEC allowance for heated view windows. Imperial Brown stated that the DEC for heater cables should not be a function of A_{ND} , but a function of door-opening perimeter,

because total heater cable power consumption is based upon length. Imperial Brown described the anti-sweat heat wiring pathways of its non-display doors. Imperial Brown asserted that the A factor in the MDEC equation must be increased or the equation needs to include a dedicated portion for the door perimeter heater cable component where P_{ND} is the perimeter of the non-display door opening. (Imperial Brown, No. 84 at pp. 2–3)

Anti-sweat heater wire is generally applied to the perimeter of the door leaf or the frame that comes into contact with the door leaf. However, DOE notes that the energy conservation standards for non-display doors are expressed as a function of A_{ND} , which includes the frame of the door in addition to the door leaf. The area of the door frame and door leaf can vary for doors of the same overall area A_{ND} . For the purposes of the analysis, DOE analyzed a representative

door leaf area and frame area, but this may vary across door models with the same overall area. The energy conservation standards proposed in the September 2023 NOPR and the updated standards equations shown in the March 2024 NODA already included perimeter anti-sweat heat for non-display doors. Therefore, DOE is not adopting a separate allowance for the perimeter anti-sweat heat. As further discussed in section V.C of this document, DOE is adopting standards less stringent than proposed in the September 2023 NOPR. Therefore, the A factor in the MDEC equation has been increased.

vi. Components Summary

Table IV.14 presents the updated MDEC allowances for lighting, anti-sweat heat for viewing windows, digital temperature displays/alarms, and heated pressure relief vents for this final rule.

Table IV.14 Maximum Daily Energy Consumption Allowances for Each Component for This Final Rule

Device	MDEC Allowance – Medium-Temperature (kWh/day)	MDEC Allowance – Low-Temperature (kWh/day)
Door light, night light, and/or switch	0.33	0.40
Heated viewing window	$0.06 \times A_{\text{window}} + 0.10^*$	$0.54 \times A_{\text{window}} + 0.23^*$
Digital temperature display without alarm	0.07	0.09
Digital temperature display with alarm	0.24	0.30
Heated vent – low-temperature only	-	0.85
* A_{window} represents area in square feet of the viewing window. The MDEC allowance for non-display doors with heated viewing windows cannot exceed 0.25 or 1.50 kWh/day for medium-temperature and low-temperature applications, respectively.		

As discussed previously, each of these electrical components provides some functionality to the consumer when installed on a non-display door. Additionally, having these electrical components installed on the door limits the number of electrical connections that need to be wired when installing a walk-in. Pursuant to EPCA, DOE may establish separate standards for a group of covered equipment (*i.e.*, establish a separate equipment class) if DOE determines that separate standards are justified based on the type of energy used or if DOE determines that the equipment’s capacity or other performance-related feature justifies a different standard. (42 U.S.C. 6316(a);

42 U.S.C. 6295(q)(1)(B)) DOE has tentatively determined that that the devices it has listed previously constitute a performance-related feature that justifies a higher standard and therefore is adopting the MDEC allowances for non-display doors that include these components on or within the door.

DOE notes that the information described previously and in Table IV.14 was used to develop the MDEC allowances for basic models of non-display doors that have any number of these components sited on or within the non-display doors. However, DOE notes that for the purposes of determining DEC in accordance with the Federal test

procedure at appendix A, manufacturers must follow the instructions for calculating both direct and indirect electrical energy consumption of components as described in appendix A.

In the March 2024 NODA, DOE reviewed non-public manufacturer data submitted to DOE’s CCD to estimate the percentage of the market that includes these other electricity-consuming devices on non-display doors. DOE’s estimates of shipments containing electricity-consuming devices from the March 2024 NODA are shown in Table IV.15.

Table IV.15 Percentage of Non-Display Door Shipments Containing Each Electricity-Consuming Device

Component	Percentage of Shipments with Component			
	Medium-Temperature, Manual	Low-Temperature, Manual	Medium-Temperature, Motorized	Low-Temperature, Motorized
Lighting	10%	6%	22%	33%
Viewing Window ASH	4%	1%	4%	3%
All Other Electrical Components	8%	8%	28%	73%

In response, RSG stated that lighting is included in 100 percent of its medium- and low-temperature manual doors. RSG stated that the viewing window shipment numbers DOE estimated appear to be close. RSG stated that 100 percent of RSG's medium- and low-temperature manual doors contain one or more of the digital temperature display and/or heated vent options. (RSG, No. 89 at p. 2) DOE has accounted

for this in its updated equipment efficiency distributions shown in Table IV.51 of this document.

d. Panels

Representative Units

In the September 2023 NOPR, DOE evaluated the same representative units for each panel equipment class that it evaluated for the June 2014 Final Rule.

88 FR 60746, 60770. DOE did not receive any comments regarding the representative units of panels analyzed in the September 2023 NOPR. In this final rule, DOE maintained the same representative units for each panel equipment class. Table IV.16 summarizes the representative units evaluated for walk-in panel equipment classes.

Table IV.16 Representative Units Analyzed for Panels in This NOPR

Equipment	Temperature	Equipment Class Code	Dimensions (Height x Length, ft)
Structural	Medium	PS.M	8 × 1.5
			8 × 4
			9 × 5.5
Structural	Low	PS.L	8 × 1.5
			8 × 4
			9 × 5.5
Floor		PF.L	8 × 2
			8 × 4
			9 × 6

Baseline Efficiency, Design Options, and Efficiency Levels

In the September 2023 NOPR, DOE evaluated increasing insulation thickness to obtain higher insulation R-values for panels as calculated pursuant to appendix B of subpart R to 10 CFR part 431. The thermal resistance of insulating materials increases approximately linearly with material thickness. 88 FR 60746, 60771.

For determining the baseline efficiency level, DOE relied on the current R-value standards. Based on DOE's analysis of the market, 3.5 inches of foam insulation is generally used for baseline medium-temperature panels

and low-temperature floor panels, while 4 inches of foam insulation is used in baseline low-temperature structural panels to meet the minimum R-value requirements specified in 10 CFR 431.306(a)(3)–(4). *Id.*

In addition, DOE found that many panel manufacturers offer insulation in thicknesses of 4, 5, and 6 inches. DOE also observed that the majority (approximately 75 percent) of the market uses polyurethane insulation, with the remainder using extruded polystyrene ("XPS"), expanded polystyrene, and polyisocyanurate insulation in its walk-in panels. Therefore, DOE assessed the

incremental increase in R-value for polyurethane insulation at 4, 5, and 6 inches as design options, with 6 inches being the max-tech design option. *Id.*

DOE did not receive any comments regarding the specifics of the efficiency analysis (*i.e.*, baseline efficiency, design options, and efficiency levels) DOE conducted for panels in the September 2023 NOPR. For the panels' efficiency analysis, DOE maintained the same baseline efficiency, design options, and efficiency levels in this final rule.

e. Dedicated Condensing Units and Single-Packaged Dedicated Systems Refrigerants Analyzed

i. Background and NOPR Analysis

As previously mentioned, EPA published a NOPR, “Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under Subsection (i) the American Innovation and Manufacturing Act of 2020,” on December 15, 2022, under the AIM Act, which proposed refrigerant regulations regarding acceptable GWP limits for various air-conditioning and refrigeration systems. 87 FR 76738. The December 2022 EPA Technology Transitions NOPR proposed to establish a limit of 300 GWP for refrigeration systems with remote condensing units in retail food refrigeration systems and cold storage warehouses with less than 200 pounds (“lbs”) of charge, which includes split-system walk-in refrigeration systems covered under the scope of the September 2023 NOPR. EPA proposed this take effect January 1, 2025. EPA finalized its proposals in the October 2023 EPA Technology Transitions Final Rule published on October 24, 2023, with an extended effective date of January 1, 2026. 88 FR 73098.

In the September 2023 NOPR, DOE estimated the potential performance penalties associated with transitioning medium- and low-temperature refrigeration systems from R-448A and R-449A to lower-GWP alternatives by modeling the performance of three potential replacement A2L refrigerants, which have GWPs less than 300: R-454A, R-454C, and R-455A. DOE tentatively determined that R-454A would be the most likely replacement refrigerant for medium- and low-temperature walk-in refrigeration systems once the regulations proposed in the December 2022 EPA Technology Transitions NOPR take effect. DOE also tentatively determined that R-454A would have comparable performance to the currently used refrigerant R-448A. 88 FR 60746, 60772. As there was limited compressor performance data available for R-454A at the time, DOE used R-448A as the basis for its engineering analysis for medium- and low-temperature dedicated condensing units and single-packaged dedicated systems.³⁸ *Id.* In the September 2023 NOPR, DOE requested performance data

for walk-in refrigeration systems using R-454A, R-454C, and/or R-455A. DOE also sought comment on its tentative determinations that R-454A is the most likely replacement for the current refrigerants being used (*e.g.*, R-448A and R-449A) for medium- and low-temperature refrigeration systems and that walk-in dedicated condensing systems would not suffer a performance penalty when switching from R-448A or R-449A to R-454A. *Id.*

Also as discussed in the September 2023 NOPR, DOE tentatively determined that high-temperature refrigeration systems currently use R-134a exclusively. 88 FR 60746, 60773. Due to the October 2023 EPA Technology Transitions Final Rule, walk-in cooler refrigeration systems that use R-134a will be banned from being manufactured and instead will be required to be manufactured with a low-GWP substitute will be required by 2025 or 2026 depending on the sector.³⁹ In the September 2023 NOPR, DOE analyzed high-temperature refrigeration systems using R-134a given that at the time of publishing no clear low-GWP replacement had been identified by the high-temperature refrigeration system industry or refrigerant manufacturers. *Id.* In the September 2023 NOPR, DOE also requested comment on any potential low-GWP replacements for high-temperature systems. *Id.*

Additionally, for the September 2023 NOPR, DOE analyzed R-290 (propane) as a design option for medium- and low-temperature single-packaged dedicated systems. The current charge limit for R-290 for single-packaged systems is 300 grams.⁴⁰ 88 FR 60746, 60772. DOE did not analyze R-290 as a design option for dedicated condensing units, since it is not suitable for use in split systems under current regulations, and because DOE tentatively determined that split-system charge requirements would exceed the 300-gram limit. *Id.* Additionally, DOE was unable to identify compressors for high-temperature applications designed for use with R-290. As such, DOE did not analyze R-290 as a design option for high-temperature refrigeration systems.

³⁹ The compliance date for manufacture of products using lower-GWP refrigerants for self-contained “retail food refrigeration standalone units” is January 1, 2025, while the compliance date for manufacture of “retail food remote condensing units” and “cold storage warehouses” is January 1, 2026. 40 CFR part 84, subpart B.

⁴⁰ EPA published a final rule pertaining to hydrocarbon refrigerants on June 13, 2024. 89 FR 50410. This rule limits the acceptable charge of propane in a refrigeration circuit to 300 grams for refrigeration systems with end-uses in the retail food industry. 89 FR 50410, 50467.

ii. Candidate Replacements for Current Refrigerants

As previously mentioned, DOE sought comment on its tentative determinations that R-454A is the most likely replacement for the current refrigerants being used for low- and medium-temperature refrigeration systems (*i.e.*, R-448A and R-449A). 88 FR 60746, 60772.

In response to the September 2023 NOPR, RSG stated that there is no firm way forward in the regulatory landscape or industry regarding A2L refrigerants and testing. (RSG, No. 69 at p. 2) Additionally, RSG stated that the inclusion of per- and polyfluoroalkyl substances ‘PFAS’ (“forever chemical”) as components of most A2Ls (*e.g.*, R-454) has raised concerns domestically and globally, leading to bans of the chemicals in increasing numbers. RSG requested that DOE consider this as a factor in proposing technologies for energy savings. (RSG, No. 69 at p. 2) AHRI and Hussmann commented that PFAS and perfluorooctanoic acid (“PFOA”) regulations by EPA and States could prohibit the use of R-454A and stated that Maine has PFA reporting requirements starting on January 1, 2025. (AHRI, No. 72 at p. 10; Hussmann, No. 75 at p. 10) AHRI and Hussmann commented that States that are Climate Alliance members, such as New York, may pursue regulations with GWP limits lower than 150. (*Id.*) AHRI commented that by the time the standards go into effect, EPA may have lowered the GWP allowance from 300 to 150. (AHRI, No. 72 at p. 10)

DOE is not currently aware of any current or proposed regulations (other than certain State regulations⁴¹ that were considered in the March 2024 NODA and are further discussed in the “NODA Analysis” subsection of this section) that would limit walk-in refrigeration systems to refrigerants with less than 150 GWP or regulate PFAS present in refrigerants. As a result, DOE did not consider potential future bans of PFAS, or further future restrictions to the GWP of refrigerants used in walk-in refrigeration systems in this analysis.

AHRI, Hussmann, and Lennox commented that customers that have refrigeration circuits both above and below 200 lb may not want to have two different refrigerants on the same site

⁴¹ California established (effective January 1, 2022) a limit of 150 GWP for retail food refrigeration equipment and cold storage warehouses with more than 50 lbs of charge. Washington also established (effective January 1, 2025 for new equipment and January 1, 2029 for retrofit equipment) a limit of 150 GWP for retail food refrigeration equipment and cold storage warehouses with more than 50 lbs of charge.

³⁸ DOE notes that a more efficient single-speed compressor that used propane was analyzed as a design option for some single-packaged dedicated systems. A propane compressor was analyzed if the charge limit for propane was sufficient to provide the analyzed capacity and the propane compressor resulted in increased efficiency.

and would use a refrigerant below 150 GWP. (AHRI, No. 72 at p. 10; Hussmann, No. 75 at p. 10; Lennox, No. 70 at p. 7)

DOE recognizes that customers will, and do, have varying needs that may impact their choice of refrigerant used in a walk-in. However, DOE selected the most representative refrigerant to account for the behavior of the entire walk-in industry. As a result, DOE did not consider locations with installations above and below 200 lb in this analysis and only considered walk-in installations below 200 lb of refrigerant, focusing on sub-300 GWP refrigerants for split-system walk-in refrigeration systems, except as discussed further in the NODA Analysis subsection.

The CA IOUs recommended that DOE consider R-471A, a new refrigerant in the marketplace, as a refrigerant that would comply with potential future regulations that require sub-150 GWP refrigerants for walk-in refrigeration systems. The CA IOUs commented that because R-471A impacts WICF efficiency, offers 30-percent energy savings over CO₂, and has a GWP of less than 150, it is likely to replace R-454A in the long term. (CA IOUs, No. 76 at p. 11) ASAP *et al.* commented that both R-454A and R-471A may exceed the efficiency of R-404A over a broad range of operating conditions. (ASAP *et al.*, No. 77 at pp. 5–6) NRAC commented that R-471A is not suitable for low-temperature applications. (NRAC, No. 73 at p. 2)

DOE is aware that R-471A could be used as a refrigerant for medium-temperature walk-in refrigeration systems in the future; however, there is currently not enough publicly available data on R-471A to analyze in this rulemaking. Therefore, DOE did not consider R-471A as a refrigerant for medium-temperature systems in this final rule analysis. In this final rule analysis DOE maintained the refrigerants analyzed for medium- and low-temperature dedicated condensing systems from the NOPR analysis and conducted all analyses using R-448A as a performance proxy for R-454A.

As previously mentioned, in the September 2023 NOPR, DOE also requested comment on any potential low-GWP replacements for high-temperature systems. 88 FR 60746, 60773.

AHRI, Hussmann, and NRAC cited R-471A as a possible replacement for R-134a for high-temperature applications. (AHRI, No. 72 at pp. 10–11; Hussmann, No. 75 at p. 11; NRAC, No. 73 at p. 2) Hussmann stated that little information on R-471A is available, but the manufacturer could provide details.

(Hussmann, No. 75 at p. 11) As discussed previously in this section, DOE does not have sufficient data to analyze the performance of R-471A.

AHRI commented that R-1234yf (GWP < 1) can replace R-134a for remote system applications and is commonly applied in commercial refrigeration today. (AHRI, No. 72 at p. 10) DOE acknowledges that R-1234yf is a potential replacement for R-134a in high-temperature walk-in applications. DOE has not been able to identify any performance data for R-1234yf compatible compressors for high-temperature applications and therefore did not analyze R-1234yf as a refrigerant in this analysis.

AHRI stated that it is aware of A1 refrigerants with performance similar to R-134a and a GWP below 300, but it noted these cannot be used in low-temperature applications above atmospheric pressure and these have considerably lower capacity compared to A2L alternatives. AHRI commented that like-for-like capacity units require larger condensing units and unit coolers for these A1 refrigerants compared to their A2L counterparts. (AHRI, No. 72 at pp. 10–11) Given the limited information provided by AHRI about potential sub-300 GWP A1 refrigerants, and their potential downsides, DOE did not analyze such refrigerants for high-temperature refrigeration systems in this final rule.

ASAP *et al.* commented that R-513A—which is currently used in ENERGY STAR®-rated service-over-counter commercial refrigeration equipment (“CRE”)—is a low-GWP replacement for R-134a in high-temperature applications with similar reported efficiency. (ASAP *et al.*, No. 77 at pp. 5–6) DOE notes that R-513A has a GWP of 573, which is lower than the GWP of R-134a but would not comply with the October 2023 EPA Technology Transitions Final Rule regulation. Thus, DOE did not consider R-513A as a refrigerant for high-temperature applications in its engineering analysis for this final rule.

Based on the feedback received and a review of publicly available resources, DOE has not been able to identify a sub-300 GWP refrigerant that could serve as a replacement for R-134a in high-temperature applications that has enough performance data (e.g., compressor coefficients) available to conduct a full engineering analysis for high-temperature single-packaged dedicated condensing systems. As such, DOE is maintaining the analysis conducted in the September 2023 NOPR and analyzing high-temperature single-

packaged dedicated systems using R-134a.

iii. Performance of Alternative Refrigerants

For the September 2023 NOPR, DOE estimated potential performance penalties associated with transitioning from R-448A and R-449A to a lower-GWP refrigerant by modeling the performance of three potential replacement A2L refrigerants for dedicated condensing units: R-454A, R-454C, and R-455A. DOE tentatively concluded R-454A would be the most likely replacement for split-system walk-in refrigeration systems because R-454A has the lowest glide and would be the highest-performance sub-300 GWP replacement for R-448A and R-449A of the three refrigerants analyzed. DOE also tentatively concluded that medium- and low-temperature walk-in refrigeration systems would not suffer a performance penalty when switching from R-448A or R-449A to R-454A. DOE requested performance data for walk-in refrigeration systems using R-454A, R-454C, and/or R-455A. 88 FR 60746, 60771–60772.

In response to the September 2023 NOPR, ASAP *et al.* supported DOE’s refrigerant assumptions in the engineering analysis and noted that these assumptions may result in conservative standard levels, particularly for low- and medium-temperature systems, when considering the upcoming switch to low-GWP refrigerants. (ASAP *et al.*, No. 77 at pp. 5–6)

RSG commented that it appears that some A2Ls perform similar to HFCs, such as R-449. (RSG, No. 69 at p. 2) NRAC commented that preliminary testing on R-454A, R-454C, and R-455A shows R-454A to be the best performer of the three and the one closest to R-448A/R-449A in terms of performance; however, more time is needed to thoroughly test for all scenarios, applications, and equipment types. (NRAC, No. 73 at p. 2) AHRI and Lennox commented that DOE’s supposition that A2L refrigerants are of equal performance to HFCs has proven to not be true, as the new refrigerants are generally worse in overall performance. (AHRI, No. 72 at p. 15; Lennox, No. 70 at p. 10) DOE notes that in the September 2023 NOPR it did not make statements about the performance of A2Ls in general compared to HFC refrigerants. As discussed previously in this section, based on currently available data, DOE tentatively determined that specifically R-454A has similar performance to R-448A and R-

449A for walk-in dedicated condensing units.

RSG commented that A2L refrigerants require significantly more components and design limitations than HFC refrigerants that may affect performance. (RSG, No. 69 at p. 2) AHRI, Hussmann, and Lennox commented that A2L refrigerants have higher ancillary power requirements from additional solenoid valves, sensors, and controls that are required to meet the safety standards, and motors could consume more power due to tighter spacing and additional grilles. (AHRI, No. 72 at p. 10; Hussmann, No. 75 at pp. 10–11; Lennox, No. 70 at p. 7) In response to the March 2024 NODA, AHRI recommended that DOE review UL 60335–2–89. AHRI stated that DOE's evaluation did not consider the safety shut-off valves that will run during the on- and off-cycle condition. AHRI also stated that due to the mitigation requirements, there are some cases where some condenser fans will run when the compressor is off. (AHRI, No. 86 at p. 8) In response to these comments, DOE reviewed UL 60335–2–89, the relevant safety standard for using A2L refrigerants with walk-in refrigeration systems. DOE found a requirement for additional leak detection sensors, which DOE already assumed would be included and determined would result in negligible additional wattage. Per section 1.7.5 of Annex 101.DVU of UL 60335–2–89, when a leak detection system is present, condenser fans only have to run when a leak is detected and therefore would not have increased power consumption as measured during a test conducted in accordance with the DOE test procedure at appendix C1. Furthermore, DOE found no requirement for valves that are not already present in WICF refrigeration systems and that would consume appreciable power.

Additionally, DOE has determined that any grille spacing requirements would not increase fan power consumption by a measurable amount. As such, DOE did not include any allowance for additional power consumption as a result of a transition to A2L refrigerants.

Lennox commented that technologies that are currently in use may not be able to be directly applied to low-GWP refrigeration systems without thorough evaluation. (Lennox, No. 70 at p. 5) DOE is not aware of current technologies or design options analyzed in this analysis that cannot be used with low-GWP refrigerants, including A2Ls.

AHRI and Lennox stated that while R–454A performs better than R–454C and R–455A for dedicated condensing units, R–455A performs better than R–454A for unit coolers. Additionally,

AHRI and Lennox commented that R–455A has an advantage in the marketplace due to mitigation cost and use allowance because of its lower flammability limit (“LFL”). (AHRI, No. 72 at p. 10; Lennox, No. 70 at p. 7)

DOE's understanding is that the use of A2L refrigerants is a greater concern for the performance of dedicated condensing units than for unit coolers due to the high glide of A2L refrigerants.⁴² Therefore, DOE's performance impact assessment of A2Ls focused on dedicated condensing units rather than on unit coolers. As such, DOE has not conducted analysis on A2L refrigerant performance in unit coolers to determine which A2L refrigerant performs best in unit coolers. Feedback collected during manufacturer interviews indicated that the very high glide of R–455A⁴³ made it a poor refrigerant candidate for dedicated condensing units as compared to other alternatives. Because a unit cooler would be paired with a dedicated condensing in over 80 percent of applications, R–455A would likely not be used as a refrigerant in unit cooler applications. Additionally, based on DOE's understanding of safety standard UL 60335–2–89, walk-in refrigeration systems using safety shut-off valves such as the liquid line solenoids already included on most if not all walk-in refrigeration system installations would not face charge limits that are restrictive enough to interfere with the use of any A2Ls, including R–454A.⁴⁴ Based on this, DOE has concluded that R–454A and R–454C are still the most likely replacement refrigerants for walk-in applications.

iv. NODA Analysis

Additionally, in response to the September 2023 NOPR, DOE received

⁴² The DOE test procedure for walk-in unit coolers and dedicated condensing units tested alone is based on specification of the dewpoint temperature corresponding with unit cooler exit or dedicated condensing unit inlet pressure. See AHRI 1250–2020 tables 12–17. The average two-phase refrigerant temperature associated with this condition is lower for a higher-glide refrigerant, which is more favorable for unit coolers and less favorable for dedicated condensing units.

⁴³ As show in Table 5.6.4 of the NOPR TSD, R–455A has a glide of 17 °F at walk-in test conditions, while R–448A has a glide of 8.2 °F, R454A has a glide of 8.6 °F, and R–454C has a glide of 11.8 °F.

⁴⁴ UL 60335–2–89 states that if safety shut-off valves are included in a system, the max releasable charge is equal to only the charge downstream of the valve. UL 60335–2–89 Annex 101.DVU section 1.4.3.7. In this case, restrictions are only placed on the charge weight of the releasable charge, not the total system charge. DOE has determined that UL 60335–2–89's charge weight restrictions for various walk-in box volumes would far exceed the releasable charge between the liquid line solenoid and the compressor charge for representative systems paired with these boxes.

comment that R–454C or R–455A would be more likely replacements for R–448A and R–449A than R–454A, because California and Washington State have regulations that prohibit the use of a refrigerant with a GWP greater than 150 for systems with more than 50 lb of charge. These comments are summarized in the March 2024 NODA. 89 FR 18555, 18562–18563.

In the March 2024 NODA, DOE acknowledged that certain localities already require WICF refrigeration systems to be designed for use with sub-150 GWP refrigerants.⁴⁵ 89 FR 18555, 18562. In the September 2023 NOPR, DOE tentatively concluded that the highest-performing sub-150 GWP refrigerant appropriate for use in split-system walk-in refrigeration systems is R–454C. See section 5.6.3.1 of the September 2023 NOPR TSD. To assess the potential impact of State-level sub-150 GWP requirements, DOE reviewed the energy efficiency ratio (“EER”) of R–454C compressors with capacities representative of walk-in refrigeration systems and compared these EERs to those of the baseline compressors analyzed in the September 2023 NOPR. DOE determined the R–454C EERs at operating conditions representative for the A test conditions prescribed in the DOE test procedure for walk-in refrigeration systems, adjusting the condensing dewpoint up 2 °F to account for the higher refrigerant temperature glide of R–454C as compared to R–448A or R–454A.

DOE found that trends in the R–454C compressor efficiencies generally aligned with the compressor EERs used in the September 2023 NOPR analysis, except for the DC.M.O.025 and DC.M.I.025 representative units. At this 25 kBtu/h capacity DOE found that the available R–454C compressor had an EER that is 4 percent less than that of the compressor analyzed in the September 2023 NOPR. Based on this, DOE determined that using the R–454C compressor analyzed could result in an AWEF2 that is 2 percent lower for 25 kBtu/h medium-temperature dedicated condensing units than a comparable unit using an R–454A-compatible compressor. As such, and in the absence of more efficient compressors of the same type compatible with R–454C, DOE tentatively determined that to

⁴⁵ California established (effective January 1, 2022) a limit of 150 GWP for retail food refrigeration equipment and cold storage warehouses with more than 50 lb of charge. Washington also established (effective January 1, 2025 for new equipment and January 1, 2029 for retrofit equipment) a limit of 150 GWP for retail food refrigeration equipment and cold storage warehouses with more than 50 lb of charge.

achieve the standard proposed in the September 2023 NOPR (based on the performance of R-448A), a medium-temperature walk-in refrigeration system using a sub-150 GWP refrigerant may need to incorporate additional design options beyond what DOE presumed in the September 2023 NOPR. To determine the cost of these additional design options, DOE constructed the cost curves corresponding to use of the R-454C compressor (with a roughly 2-percent reduction of AWEF2 for each evaluated design) and calculated the additional cost to attain the proposed AWEF2 by interpolating along the cost-efficiency curves. Based on this analysis in the March 2024 NODA, DOE tentatively determined that the additional manufacturer sales price (“MSP”) required to achieve the AWEF2 at TSL 1 from the March 2024 NODA for less-than-150 GWP refrigerant would be \$381 for 25 kBtu/h medium-temperature indoor dedicated condensing units and \$96 for 25 kBtu/h medium-temperature outdoor dedicated condensing units. 89 FR 18555, 18563.

In the March 2024 NODA, DOE requested comment on the estimated additional MSP associated with 25 kBtu/h medium-temperature indoor and outdoor dedicated condensing units achieving the proposed AWEF2 standard levels while operating with a refrigerant with less than 150 GWP. 89 FR 18555, 18563.

In response to the March 2024 NODA, Lennox stated that the cost increases appear low for the medium-temperature indoor and outdoor dedicated condensing units achieving the proposed AWEF2 standard levels while operating with a refrigerant with less than 150 GWP. Lennox stated that due to the high glide of the lower-GWP refrigerants, the reduction in cooling capacity will need to be offset in the product design through increased coil surface or other design improvements that will increase product cost. (Lennox, No. 87 at p. 5)

DOE notes that the 150-GWP MSP adders presented in the March 2024 NODA consider additional design improvements to achieve AWEF2 levels based on sub-300 GWP refrigerants and

do not represent the total cost of converting a system designed for R-448A to use a sub-150 GWP A2L. Given the lack of specific data and feedback on the 150 GWP cost adders, DOE was unable to adjust the methodology used to determine these adders. Therefore, in this final rule analysis, DOE maintained the methodology used in the March 2024 NODA to determine 150-GWP cost adders for medium-temperature 25 kBtu/h indoor and outdoor dedicated condensing units. Using this methodology, DOE determined that the DC.M.O.025 representative unit would increase in MPC by \$128 when using sub-150 GWP refrigerants for that standard level finalized in this final rule, and the DC.M.I.025 representative unit would increase by \$390. Adders for each trial standard level analyzed are summarized in Table IV.17. The approach to apply the 150-GWP cost adders as a sensitivity to consumer impacts are discussed in section IV.F.2.a. of this document.

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Table IV.17 Sub-150 GWP Cost Adders for Certain Dedicated Condensing Unit Equipment Classes

Equipment Class	Baseline (EL 0) 2023\$	TSL 1 2023\$	TSL 2 2023\$
DC.M.O.025	1.56	86.22	128.25
DC.M.I.025	95.21	389.72	389.72

v. Final Rule Analysis Summary

In this final rule, DOE maintained the refrigerants analyzed in the September 2023 NOPR analysis for dedicated condensing units and single-packaged dedicated condensing systems. Specifically, DOE analyzed all medium- and low-temperature representative units with R-448A as the baseline refrigerant, which DOE has concluded is

representative of sub-300 GWP refrigerants that would likely be used in medium- and low-temperature dedicated condensing systems. As discussed previously, for DC.M.O.025 and DC.M.I.025, DOE considered the cost adder associated with using a refrigerant that is sub-150 GWP. DOE analyzed R-290 as a design option for medium- and low-temperature single-packaged dedicated systems. Finally,

DOE analyzed high-temperature single-packaged dedicated systems using R-134a in this final rule analysis.

Representative Units

Table IV.18 lists the representative units analyzed in the September 2023 NOPR for walk-in dedicated condensing units and single-packaged dedicated systems.

Table IV.18 Representative Units Analyzed for Dedicated Condensing Units and Single-Packaged Dedicated Systems

System	Temperature	Location	Class Code	Capacity (kBtu/h)
Dedicated Condensing Units	Medium	Outdoor	DC.M.O	9
				25
				54
				75
				124
		Indoor	DC.M.I	9
				25
				54
				75
				124
	Low	Outdoor	DC.L.O	3
				9
				25
				54
				75
		Indoor	DC.L.I	9
				25
				54
Single-Packaged Dedicated Systems	High (Non-ducted)	Outdoor	SP.H.O	2
				7
		Indoor	SP.H.I	2
				7
	High (Ducted)	Outdoor	SP.H.O.D	2
				7
		Indoor	SP.H.I.D	2
				7
	Medium	Outdoor	SP.M.O	2
				9
		Indoor	SP.M.I	2
				9
	Low	Outdoor	SP.L.O	2
				6
		Indoor	SP.L.I	2
				6

In response to the representative units analyzed in the September 2023 NOPR, AHRI requested that DOE clarify how capacity factors into DOE's high-temperature analysis and observed that if the lowest capacity for high-temperature systems is 9 kBtu/h with a rotary compressor, then any unit with a capacity below 9 kBtu/h with a hermetic compressor may be at a disadvantage. (AHRI, No. 72 at p. 6)

DOE analyzed two representative units for high-temperature dedicated condensing systems in the September

2023 NOPR. The smallest capacity that DOE analyzed was a 2 kBtu/h high-temperature single-packaged dedicated system that used a hermetic reciprocating compressor, not a rotary compressor. Thus, DOE considered the efficiency impact of using reciprocating compressors for lower-capacity units by analyzing a representative 2 kBtu/h unit and a representative 7 kBtu/h unit. In this final rule analysis, DOE analyzed the same representative units for high-

temperature single-packaged dedicated systems.

AHRI commented that it had previously recommended that DOE add high-temperature dedicated condensing units, since leaving these out of the scope would be a competitive disadvantage for manufacturers that sell single-packaged dedicated systems and matched split systems for high-temperature applications. AHRI highlighted that DOE did not analyze high-temperature dedicated condensing units in the NOPR analysis and

therefore is not proposing to establish an equipment class for high-temperature dedicated condensing units. AHRI stated that DOE is continuing to disallow the use of high-temperature dedicated condensing units without a waiver. AHRI commented that due to the smaller size of this market and the continual evolution to lower-GWP refrigerants, as well as transitions to the new product safety standards (UL 60335–2–89), DOE's stance is a disservice to an already smaller, disenfranchised market segment. AHRI recommended that DOE analyze indoor and outdoor high-temperature dedicated condensing systems with capacities of 2, 9, and 25 kBtu/h. (AHRI, No. 72 at pp. 7–8)

As discussed in the May 2023 TP Final Rule, DOE's evaluation of the wine cellar market indicates that specific high-temperature dedicated condensing units are rarely, if ever, sold outside of matched-pair configurations. 88 FR 28780, 28810. As such, in the May 2023 TP Final Rule, DOE did not establish specific test provisions for high-temperature dedicated condensing units tested alone. *Id.* Instead, DOE assumed that high-temperature dedicated condensing units would be tested as a part of matched-pair test including any such condensing unit, and manufacturers would not be required to petition for waiver, as suggested by AHRI. Details of this decision not to include test provisions specific for high-temperature dedicated condensing units tested alone are outlined in the May 2023 TP Final Rule. 88 FR 28780, 28810. Because there is no test procedure for high-temperature dedicated condensing units tested alone and DOE has not received any comments indicating that the analysis for single-packaged high-temperature refrigeration systems would not be

representative of high-temperature matched pairs, DOE did not separately analyze such products as representative units in this final rule. While high-temperature matched refrigeration systems were not separately analyzed as representative units, the energy conservation standards set forth in this final rule for high-temperature systems encompass high-temperature single-packaged dedicated systems and high-temperature matched refrigeration systems.

In response to the September 2023 NOPR, AHRI commented that multiple commenters had asked DOE to analyze additional representative units at a broader range of capacities, but it noted that below approximately 4 kBtu/h, DOE is simply maintaining the current AWEF but converting it to AWEF2. AHRI commented that DOE is overlooking the fact that lower-capacity compressors are less efficient than higher-capacity compressors. AHRI stated that for the medium-temperature dedicated condensing systems, the AWEF2 minimums do not take this into account, thus continuing to exacerbate the original issue both commented on and known to DOE. AHRI commented that the prior walk-in market had gone down to 1/2–3/4 HP medium-temperature indoors, but because DOE did not analyze hermetic reciprocating compressors originally, it has been impossible to meet the minimum AWEF in many cases. (AHRI, No. 72 at pp. 6–7)

As discussed in the September 2023 NOPR, DOE did not analyze medium-temperature dedicated condensing units with a capacity less than 4 kBtu/h, because DOE tentatively determined that those systems would have to be equipped with all available design options to meet the current standards. DOE notes that despite the technologies necessary for these units to achieve minimum AWEF2 standards, there are

medium-temperature dedicated condensing systems certified in the CCD. As such, DOE did not evaluate higher efficiency levels for medium-temperature dedicated condensing units with capacity less than 4 kBtu/h in the September 2023 NOPR; instead, DOE proposed to maintain the current standard level for this equipment, but convert it from the current AWEF metric to the AWEF2 metric based on the appendix C1 test procedure. 88 FR 60746, 60774. This tentative determination was an acknowledgement that, among other factors, smaller-capacity compressors used in these units are less efficient than the larger-capacity compressors used in larger units. Based on testing and analysis conducted, DOE has determined that converting AWEF to AWEF2 at the baseline efficiency level does not result in more stringent standards. As such, in this final rule analysis DOE is not analyzing medium-temperature dedicated condensing units below 4 kBtu/h for the same reasons outlined in the September 2023 NOPR.

For the reasons outlined previously, in this final rule DOE analyzed the same representative units for dedicated condensing units and single-packaged dedicated systems that it analyzed in the September 2023 NOPR.

Design Options

i. Design Options Analyzed for NOPR

In the September 2023 NOPR, DOE used a design-option approach to evaluate potential efficiency improvements for walk-in dedicated condensing units and single-packaged dedicated systems. 88 FR 60746, 60768. DOE considered the technologies listed in Table IV.19 as design options for dedicated condensing units and single-packaged dedicated systems in the September 2023 NOPR.

Table IV.19 NOPR Analysis Refrigeration System Design Options

	Dedicated Condensing Units	Single-Packaged Dedicated Systems
All Units	• Higher-efficiency compressors • Improved condenser coil • Higher-efficiency condenser fan motors	• Higher-efficiency compressors • Higher-efficiency condenser fan motors • Off-cycle and on-cycle evaporator fan control • Improved thermal insulation
Outdoor Units Only	• Crankcase heater controls • Variable-speed condenser fan control • Ambient subcooling • Head pressure controls	• Crankcase heater controls • Variable-speed condenser fan control • Ambient subcooling • Head pressure controls
Medium- and Low-Temperature Units Only		• Improved evaporator and condenser coil • Hydrocarbon refrigerants

BILLING CODE 6410-01-C**ii. More Efficient Single-Speed Compressors**

In the September 2023 NOPR, DOE analyzed higher-efficiency compressors as a design option for dedicated condensing units and single-packaged dedicated systems. 88 FR 60746, 60777. The higher-efficiency compressor design options included both higher-efficiency single-speed compressors and variable-speed compressors. As discussed in section 5.7.2.1 of the September 2023 NOPR TSD, DOE did not analyze more efficient single-speed compressors for medium- and low-temperature dedicated condensing units due to concerns that an analysis based on more efficient semi-hermetic compressors would not be achievable by scroll compressor technology and therefore could limit or eliminate scroll compressor technology for which there is functionality to the consumer; instead, DOE only analyzed variable-speed compressors as a compressor design option for these equipment classes and did not analyze any changes to type of compressor (*i.e.*, scroll or semi-hermetic) at higher efficiency levels for a given representative unit. For single-packaged dedicated systems, DOE considered both higher-efficiency single-speed compressors and variable-speed compressors in the September 2023 NOPR analysis.

In response to the September 2023 NOPR, ASAP *et al.* and the CA IOUs recommended that DOE analyze higher-efficiency single-speed compressors, without changing compressor type, as design options for dedicated condensing

units (*i.e.*, swapping a less efficient scroll compressor for a more efficient scroll compressor). These comments are summarized in the March 2024 NODA. In response to these comments, in the March 2024 NODA, DOE analyzed more efficient single-speed compressors for medium- and low-temperature dedicated condensing units. 89 FR 18555, 18560–18561. DOE identified higher-efficiency single-speed compressors that could be incorporated into the following representative units: DC.M.O.054, DC.M.I.054, and DC.M.O.124. *Id.* Details of this analysis can be found in the March 2024 NODA. *Id.*

In response to the March 2024 NODA, DOE received the following comments. The CA IOUs supported DOE's updated walk-in refrigeration system analysis presented in the March 2024 NODA, specifically DOE's evaluation of a high-efficiency single-speed compressor design option for certain equipment classes. The CA IOUs encouraged DOE to further investigate higher-efficiency compressors as a design option for all walk-in refrigeration system equipment classes in the next rulemaking and after the commercial refrigeration market has completed the transition to low-GWP refrigerants. (CA IOUs, No. 91 at p. 2) DOE may evaluate the compressor market when beginning any future rulemakings to understand which units may have more efficient single-speed compressors available as a design option.

AHRI and Lennox stated they do not agree that selecting a larger compressor is reasonable for increasing AWEF, as

not every model will have a larger compressor available. (AHRI, No. 86 at pp. 7–8; Lennox, No. 87 at p. 5) AHRI requested to see real-world testing of compressors in units to evaluate this change. AHRI stated that looking at compressor data alone is not reflective and suggested that the interaction between compressors, coil designs, airflow levels, and refrigerant characteristics needs to be validated to determine performance. (AHRI, No. 86 at pp. 7–8)

DOE notes that it identified a range of single-speed compressors from 50 kBtu/h to 60 kBtu/h with EERs higher than the baseline compressor(s) analyzed for the DC.M.O.054, DC.M.I.054, and DC.M.O.124 representative units. To analyze this range of more efficient compressors, DOE selected a compressor that had larger capacity than the baseline compressor. DOE selected this compressor because its EER was in line with the capacity versus the EER trend of higher-efficiency scroll compressors. The capacity of the higher-efficiency compressor selected for the analysis of this representative unit did not play into its selection, nor would it cause the representative unit to be more efficient than if a lower-capacity compressor with the same EER were selected. While the selected compressor is larger than the baseline compressor, DOE has determined it is still representative of this capacity range that the representative unit analyzes. DOE has determined that manufacturers would be able to select a higher-efficiency compressor from this range

with a capacity that best suits their needs.

DOE's refrigeration system analysis for the March 2024 NODA did evaluate a compressor's impact on the refrigeration system as a whole, including condenser coil and condenser fan characteristics. DOE is unable to conduct real-world testing for every representative unit with every configuration of design options analyzed in this final rule due to time and resource constraints that make such a task unrealistic. Instead, DOE has made use of the most representative data available to model the performance of representative units to the best of its ability. DOE notes that publicly available compressor performance coefficients retrieved from manufacturer literature have been a key component of all DOE's walk-in refrigeration systems analyses including the analysis endorsed by the ASRAC Working Group.⁴⁶ As such, DOE has determined that compressor performance coefficients are a representative method to estimate the energy consumption and mass flow of compressors available on the market today. DOE is maintaining this method of analyzing compressors in this final rule analysis.⁴⁷

In this final rule, DOE is maintaining the higher-efficiency single-speed compressor analysis for the following representative units, as analyzed for the March 2024 NODA: DC.M.O.054, DC.M.I.054, and DC.M.O.124. Details of this analysis can be found in section 5.7.2.1 of the final rule TSD.

iii. Condenser Fan Controls

In the September 2023 NOPR analysis, DOE analyzed variable-speed condenser fans for outdoor dedicated condensing units and outdoor single-packaged dedicated systems. 88 FR 60746, 60777. As discussed in the September 2023 NOPR, when analyzing variable-speed condenser fans, DOE only considered variable-speed motors and controls, not two-speed motors and controls. 88 FR 60746, 60776. As stated in the September 2023 NOPR, this decision was based on manufacturer interviews and DOE's analysis, which showed that fully variable-speed fans are more effective at increasing a unit's efficiency than two-speed fans and that the costs for variable- and two-speed

electronically commutated motors ("ECMs") are similar. *Id.*

In response, the CA IOUs recommended that DOE include two-speed condenser fan modulation as a technology option, in addition to considering fan speed cycling and variable-speed modulation. The CA IOUs disagreed with DOE's conclusion that variable-speed and two-speed ECMs have similar costs, suggesting that the controllers for variable-speed ECMs cost more to manufacture than those for two-speed ECMs. The CA IOUs provided links to a walk-in condensing unit equipped with a two-speed condenser fan, and two fan controllers. (CA IOUs, No. 76 at p. 3)

Prompted by the CA IOUs' comments, DOE investigated the costs of two-speed and variable-speed motor costs and the costs of necessary controls for two-speed and variable-speed operation and was not able to find a considerable difference in cost based on the information available. In this final rule, DOE has determined that due to the almost identical construction of two-speed and variable-speed ECMs, and the similar complexity in two-speed and variable-speed controllers, there is generally not a discernible difference between the cost of a variable-speed condenser fan setup and that of a two-speed condenser fan setup. Therefore, in this final rule, DOE is not analyzing two-speed fans as a design option.

Additionally, AHRI commented that DOE should reconsider using variable-speed condenser fan motors as a technology option. AHRI commented that variable-speed condenser fan motors are typically used in applications with modulating or two-stage compressors, versus single stage; however, AHRI stated that modulating and two-stage compressors are not needed to meet AWEF2 and would add significant costs if used. (AHRI, No. 72 at p. 7)

In its analysis, DOE found that there are efficiency benefits of using variable-speed condenser fans with single-stage compressors. Specifically, variable-speed condenser fans allow for reduced fan speed at lower ambient temperatures to reduce condenser head pressure.

Furthermore, AHRI commented that most dedicated condensing units use condenser fan motors under 1 HP, and with supply of these fans limited on the market, manufacturers would face challenges sourcing variable-speed condenser fan motors across their portfolio of capacity offerings since the availability for walk-in applications is also limited. AHRI stated that suppliers of motors in the smallest size range for walk-in use are difficult to find because

walk-in market motors are too large to use in the reach-in market and too small compared to those needed in the air-conditioning condensing unit market. The motors needed to achieve AWEF2 for dedicated condensing unit product lines are not readily available off the shelf for the sizes needed in these markets, with volumes inadequate to justify development by condenser fan motor original equipment manufacturers ("OEMs"). (AHRI, No. 72 at p. 7)

DOE notes that it has identified dedicated condensing systems with variable-speed condenser fan motors.⁴⁸ Thus, DOE has determined that variable-speed condenser fan motors are available on the market. Therefore, DOE is considering variable-speed condenser fan motors as a design option in this analysis.

iv. Condensate Pan Heater

As discussed in the September 2023 NODA, DOE did not include drain line heaters on any of the single-packaged dedicated condensing system representative equipment analyzed in the September 2023 NOPR analysis, as DOE tentatively determined that such devices would typically be provided as a feature that may be optionally installed by a contractor. 88 FR 66710, 66714.

In response, the CA IOUs recommended that DOE consider condensate pan heating technology options, such as water level sensors or hot gas routing, for packaged systems. In response to an earlier exchange with DOE in which DOE believed the CA IOUs referred to the drain line heater, the CA IOUs stated that, in fact, they were referring to the condensate pan heater inside the packaged system. The CA IOUs stated that the condensate pan heater is usually installed by the manufacturer on top of the walk-in box for indoor units, and they provided an illustration of the difference between the drain line and condensate pan heaters. The CA IOUs commented that manufacturers include the condensate pan heater in the packaged system because the condensate cannot be piped to a drain and must be evaporated. The CA IOUs recommended that DOE consider technologies that reduce the energy use of the condensate pan heater, such as water level sensors or hot gas routing, as technology options for packaged systems. (CA IOUs, No. 76 at pp. 9–10)

⁴⁸ See a line of dedicated condensing units with variable-speed fan motors as an optional specification in the following catalog: www.heatcrafttrpd.com/dA/6dcf836788/NEW-BN-TB-CU-AIRCOOLED-HAD-.5-6.pdf.

⁴⁶ ASRAC Working Group transcripts are docketed at [regulations.gov/docket/EERE-2015-BT-STD-0016/document](https://www.regulations.gov/docket/EERE-2015-BT-STD-0016/document).

⁴⁷ Compressor coefficients used in this final rule analysis can be found on the "Comp DB" tab of the final rule refrigeration systems engineering analysis spreadsheet docketed at [regulations.gov/docket/EERE-2017-BT-STD-0009/document](https://www.regulations.gov/docket/EERE-2017-BT-STD-0009/document).

Throughout investigative testing conducted to support this final rule single-packaged dedicated system analysis, DOE has not encountered a condensate pan heater like the one pictured in figure 6 of the CA IOUs' comment. (CA IOUs, No. 76 at p. 10) DOE has calibrated the AWEF2s of the efficiency levels analyzed in this final rule using results from this testing. DOE did not include electric resistance condensate pan heaters in its baseline representative units for single-packaged dedicated systems. Therefore, DOE did not analyze any design options to reduce the energy consumption of condensate pan heaters.

v. Design Option Order

In response to the September 2023 NOPR, ASAP *et al.* recommended that, in general, DOE should ensure that the order of design options analyzed in the engineering analysis prioritizes cost-effective design options ahead of ones that are not cost-effective. (ASAP *et al.*, No. 77 at p. 2)

In the September 2023 NOPR and March 2024 NODA, DOE generally ordered design options by cost-effectiveness (*i.e.*, AWEF2 improvement/incremental cost). Design options with greater cost-effectiveness (*i.e.*, greater AWEF2 improvement per incremental cost) were implemented before less cost-effective design options. In some cases, due to performance characteristics of design options or manufacturer feedback, less cost-effective design options preceded more cost-effective options. For example, during interviews manufacturers indicated that if they were to equip units with a variable-speed condenser fan they would only consider ECMs, since all ECMs can be variable-speed if equipped with a variable-speed controller. Therefore, the ECM condenser fan design option always came before the variable-speed condenser fan design option.

ASAP *et al.* recommended that DOE consider a standard level for outdoor dedicated condensing units that assumes the use of a variable-speed condensing fan ("VSCF"). ASAP *et al.* commented that according to its and DOE's respective analyses, VSCFs would be a cost-effective design option, particularly for the medium-temperature outdoor dedicated condensing units. ASAP *et al.* stated that the combination of design options at TSL 2 plus a VSCF would result in a discounted lifetime operating cost of several hundred dollars less than that of TSL 2. ASAP *et al.* recommended that DOE reorder the design options for the outdoor DCU classes such that the addition of a VSCF

comes before a larger condensing coil and that DOE consider adopting standards that reflect the use of a VSCF. (ASAP *et al.*, No. 77 at pp. 1–2)

Variable-speed or cycling condenser fans are two other examples of design options that required prerequisite design options. For most representative units in DOE's analysis, these design options generally did not improve the efficiency of a unit unless that unit was equipped with a larger condenser coil. For this reason, DOE applied the larger condenser coil design option before cycling or variable-speed condenser fans, despite the larger condenser coil appearing to be a less cost-effective design option in the September 2023 NOPR analysis and March 2024 NODA analysis.

DOE maintained the same design option ordering scheme for this final rule analysis. The specific criteria for ordering design options are discussed in Chapter 5 of the accompanying TSD.

vi. Larger Condenser Coils

In the September 2023 NOPR analysis, DOE analyzed improved condenser coils for all dedicated condensing units and low- and medium-temperature single-packaged dedicated systems. 88 FR 60746, 60777. In response to this analysis, AHRI commented that DOE should not consider increased condenser coils as a design option, because larger condenser coils cannot be considered independent of considering fan motors and fan blades. Additionally, AHRI commented that AHRI members have received customer complaints about increased coil sizes that make the unit footprint larger, which, AHRI states, is not always a customer preference in certain applications. (AHRI, No. 72 at p. 7)

In the September 2023 NOPR analysis, when DOE applied the larger condenser coil design option, the fan power was also increased to match the airflow needed by a larger coil. This fan power increase was modeled as either a larger fan or additional fans depending on the magnitude of the condenser coil size increase. In either scenario, the MPC of the representative unit accounts for the increased coil size as well as either the larger fan size or added fans through increased cost of motors, fan blades, and fan mounting assemblies. See section 5.7.2.2 of the NOPR TSD. Additionally, the September 2023 NOPR analysis captured the MPC and shipping increases related to the larger case size resulting from a larger condenser coil. In its review of the market, DOE has identified existing dedicated condensing units that have larger coil sizes consistent with the improved

condenser coil design option DOE analyzed. DOE is not aware of any impacts to consumers that would prevent manufacturers implementing larger condenser coils for the equipment classes this design option was analyzed for. Based on its analysis, DOE has concluded that the increased condenser coil can be a cost-effective design option and therefore is considering it for this final rule.

vii. Floating Head Pressure Controls

In the June 2022 Preliminary Analysis, DOE analyzed head pressure controls as a design option for outdoor dedicated condensing system equipment classes. See section 5.7.2.7 of the preliminary analysis TSD for details. Head pressure controls allow outdoor condensing units' head pressure to "float" down to a minimum condensing pressure as the ambient air temperature falls. This allows the compressor to operate more efficiently and therefore reduces the power consumption of the system without reducing the capacity. In the June 2022 Preliminary Analysis DOE evaluated two design options pertaining to head pressure control for the representative units of outdoor dedicated condensing units and outdoor single-packaged dedicated systems analyzed. These two design options were floating head pressure and floating head pressure with an EEV.⁴⁹ DOE assumed fixed head pressure would be the baseline design. Based on information collected during previous rulemakings, DOE determined the minimum condensing pressure associated with these design options and converted all minimum condensing pressures to minimum condensing dewpoint temperatures so that the values would be refrigerant agnostic. DOE assumed this minimum condensing dewpoint would apply at the lowest ambient rating condition (*i.e.*, 35 °F). At the intermediate rating temperature of 59 °F, DOE estimated the head pressure for fixed and floating systems when using a TXV based on testing results. DOE did not have testing results for a system with an EEV, so DOE calculated the degree to which the pressure would "float" down based on an assumption that the condenser temperature difference (*i.e.*, difference between entering air and refrigerant temperature) would scale with the capacity. DOE used test results and scaling to estimate a minimum

⁴⁹ Systems equipped with an EEV could potentially operate with an even lower head pressure because the greater flexibility of the electronic controls allows an EEV to have a wider range of orifice open area without leading to unstable operation in warm ambient conditions.

dewpoint offset at 59 °F. Minimum condensing dewpoints at the 35 °F C test

point and at the 59 °F B test point are summarized in Table IV.20.

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Table IV.20 Summary of June 2022 Preliminary Analysis Head Pressure Control Design Options

Design Option Description	Minimum Condensing Dewpoint at 35 °F (°F)	Minimum Condensing Dewpoint at 59 °F (°F)
Fixed head pressure	101.5	104.4
Floating head pressure	85	86.7
Floating head pressure with an electronic expansion valve	67	85.9

In addition to the minimum condensing dewpoints imposed by head pressure control strategies, different compressor types have different minimum condensing dewpoints. The minimum condensing dewpoint temperatures for hermetic, semi-hermetic, scroll, and rotary compressors used in the June 2022 Preliminary Analysis are listed in Table IV.21. Therefore, DOE determined the

minimum condensing dewpoints at the B (59 °F) and C (35 °F) test points as the maximum of the minimum condensing dewpoint allowed by the floating head pressure control scheme and the compressor type of the representative unit. For example, at the 35 °F C test condition, representative units using hermetic compressors would not be able to float down to a minimum condensing dewpoint of 67 °F, even if installed with

floating head pressure with an EEV, because those systems would be constrained to the higher of the minimum condensing dewpoints based on compressor type and head pressure control scheme; therefore, at the 35 °F C test condition, representative units with hermetic compressors would only be able to float to a head pressure that corresponds to a minimum condensing dewpoint temperature of 85 °F.

Table IV.21 Minimum Condensing Dewpoint Temperatures by Compressor Type Used in the June 2022 Preliminary Analysis

Compressor Type	Minimum Condensing Dewpoint Temperature (°F)
Hermetic	85
Semi-hermetic	67
Scroll	67
Rotary	67

For the September 2023 NOPR analysis, DOE tentatively determined that the minimum condensing dewpoint temperatures used for the floating head pressure design option in the June 2022 Preliminary Analysis were higher than needed. 88 FR 66710, 66715–66716; section 5.2.7.2 of the NOPR TSD. DOE aggregated interview feedback and tentatively determined that 71.8 °F is a representative minimum condensing dewpoint at the C test for walk-in refrigeration systems using the floating head pressure design option. DOE assumed that the difference between the

C test and B test minimum condensing dewpoints would remain the same as the difference between the June 2022 preliminary analysis C and B test minimum condensing dewpoints. During interviews, manufacturers indicated that floating head pressure was a standard design on all walk-in condensing systems and that this minimum condensing dewpoint temperature could be achieved by systems using TXVs. Additionally, during interviews manufacturers stated that changing a TXV for an EEV would not allow for lower head pressure

settings and manufacturers had received feedback from customers and field technicians that lower head pressure settings even on equipment with EEVs result in decreased reliability and increased warranty claims. Therefore, DOE did not consider an additional step down in head pressure (and minimum condensing dewpoint) associated with EEVs. The minimum condensing dewpoints used in the September 2023 NOPR analysis are summarized in Table IV.22.

Table IV.22 Minimum Condensing Dewpoint Temperatures Used in the September 2023 NOPR Analysis

Design Option Description	Minimum Condensing Dewpoint Temperature (°F) at Outdoor Ambient Temperature of 35 °F	Minimum Condensing Dewpoint Temperature (°F) at Outdoor Ambient Temperature of 59 °F
Fixed head pressure	101.5	104.4
Floating head pressure	71.8	73.5

Based on testing results and feedback from manufacturer interviews, DOE tentatively determined that most dedicated condensing systems would need this floating head pressure design option to achieve the current AWEF standards. As such, DOE considered floating head pressure controls in the baseline designs for all outdoor dedicated condensing system representative units in the September 2023 NOPR analysis and did not consider floating head pressure controls with an EEV as a design option. FR 66710, 66715–66716; section 5.2.7.2 of the NOPR TSD.

In response to the September 2023 NOPR, the CA IOUs commented that EEVs save energy compared to traditional floating head pressure coupled with a mechanical TXV, because EEVs have a much lower pressure differential requirement and therefore can function at lower discharge pressures than a mechanical TXV. (CA IOUs, No. 76 at p. 4) The CA IOUs stated that the EEV would only impact utility if it were improperly controlling reduction in head pressure or the compressor were oversized without variable-capacity control. (CA IOUs, No. 76 at pp. 4–5)

The CA IOUs also commented that DOE should consider a broader range of minimum condensing dewpoint temperatures than what was shown in Table 5.7.11 of the NOPR TSD to account for the energy savings from EEVs. The CA IOUs stated that semi-hermetic compressors can have saturated condensing temperatures (“SCTs”) as low as 55 °F and scroll compressors can have SCTs as low as 40 °F. (CA IOUs, No. 76 at pp. 6–7)

The CA IOUs commented that DOE’s statement that a lower condensing dewpoint temperature than what is published in compressor literature may lead to concerns about potential unit reliability only applies to systems with poor piping practices, bad superheat settings, compressor cycling, and oil return issues. The CA IOUs stated that a proper system should benefit from

lower head pressure. (CA IOUs, No. 76 at pp. 7–8)

Similarly, ASAP *et al.* recommended that DOE consider EEVs as a design option for outdoor refrigeration systems. ASAP *et al.* commented that EEVs could allow refrigeration systems to operate at lower head pressure relative to TXVs, saving energy. ASAP *et al.* stated that EEVs are much more precise than mechanical TXVs in controlling temperatures and pressures; thus, a refrigeration system using an EEV may be able to operate at lower head pressures without impacting utility or reliability. ASAP *et al.* further commented that EEV floating head pressure controls are used in the market today and that the technology is likely to be implemented by manufacturers to improve outdoor refrigeration system efficiency. (ASAP *et al.*, No. 77 at pp. 2–3) ASAP *et al.* reiterated their comments about EEVs in response to the March 2024 NODA. (ASAP *et al.*, No. 90 at p. 1)

As previously discussed in this section, DOE received feedback during manufacturer interviews that minimum condensing dewpoints lower than 71.8 °F affect walk-in refrigeration system reliability and increase warranty claims regardless of the type of expansion device used in the system. Regardless of the type of expansion valve (*i.e.*, TXV or EEV) used in a system, a lower head pressure results in subcooling, which is more difficult to control, leading to a liquid-vapor mixture instead of a pure liquid entering the expansion device. As such, if manufacturers specified lower head pressures, WICF installers may adjust these back to a condensing dewpoint of 71.8 °F when installing in the field, negating any potential savings.

DOE notes that different compressors within the same type have different minimum condensing dewpoints (*i.e.*, SCTs, as referred to by the CA IOUs). The values presented in Table 5.7.11 of the September 2023 NOPR TSD are intended to be representative of a typical minimum condensing dewpoint for the given compressor type, not the

absolute minimum possible. DOE reviewed compressor performance data for the scroll and semi-hermetic compressors analyzed in this final rule analysis and determined that the minimum condensing dewpoint values in Table 5.7.11 of the September 2023 NOPR TSD are too conservative. Based on publicly available compressor performance data, DOE determined that 50 °F is a representative minimum condensing dewpoint for scroll compressors and 60 °F is a representative minimum condensing dewpoint for semi-hermetic compressors. Therefore, DOE updated the minimum condensing dewpoints assumed for scroll and semi-hermetic compressors in this final rule analysis. As discussed previously, DOE determines the minimum condensing dewpoints at the B (59 °F) and C (35 °F) test points as the maximum of the minimum condensing dewpoint allowed by the floating head pressure control scheme and the compressor type of the representative unit. Since the floating head pressure control scheme only allows a minimum condensing temperature of 71.8 °F for the C test, and 73.5 °F for the B test, the reduction in minimum condensing dewpoint for scroll and semi-hermetic compressors does not impact this final rule analysis.

Additionally, as manufacturers do not have control of piping practices, superheat settings, and equipment oversizing in the field, they are forced to accommodate a variety of field installation situations with conservative factory settings and recommendations for minimum condensing dewpoint temperature. As specified in section 3.5.2.4 of the appendix C1 test procedure, walk-in refrigeration systems must be set up for testing according to applicable field installation instructions. While a reduction in head pressure may be possible to reduce energy for certain installations, DOE does not have confidence that this reduction in head pressure through the use of an EEV would be possible in all potential installation scenarios that a basic model could be used in.

At this time, DOE is not considering a reduction to the floating head pressure design options' minimum head pressure value in this final rule analysis and is not adding a design option to further reduce the minimum condensing dewpoint by using an EEV.

viii. Variable-Speed Compressors

In the September 2023 NOPR analysis, DOE considered variable-speed compressors as a maximum-technology design option for dedicated condensing

units and low- and medium-temperature single-packaged dedicated systems. 88 FR 60746, 60776.

AHRI commented that DOE is considering variable-capacity compressors to meet the max-tech levels; however, manufacturers could face challenges sourcing variable-capacity compressors. (AHRI, No. 72 at p. 6) Based on compressor manufacturer literature, DOE has determined that variable-capacity compressors are available for walk-in refrigeration

systems at this time. Therefore, DOE is considering variable-capacity compressors as a design option for this final rule analysis.

ix. Design Options Analyzed for Final Rule Analysis

See Table IV.23 for a full list of design options analyzed for dedicated condensing units and single-packaged dedicated systems in this final rule analysis.

Table IV.23 Final Rule Analysis Refrigeration System Design Options

	Dedicated Condensing Units	Single-Packaged Dedicated Systems
All Units	- Higher-efficiency compressors - Improved condenser coil - Higher-efficiency condenser fan motors	- Higher-efficiency compressors - Higher-efficiency condenser fan motors - Off-cycle and on-cycle evaporator fan control - Improved thermal insulation
Outdoor Units Only	- Crankcase heater controls - Variable-speed condenser fan control - Ambient subcooling - Head pressure controls	- Crankcase heater controls - Variable-speed condenser fan control - Ambient subcooling - Head pressure controls
Medium- and Low-Temperature Units Only		- Improved evaporator and condenser coil - Hydrocarbon refrigerants - Variable-speed compressors

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The specifics of modeling each design option are discussed in chapter 5 of the accompanying TSD.

Baseline Efficiency

For each equipment class, DOE generally selects a baseline model as a reference point for each class, and measures anticipated changes resulting from potential energy conservation standards against the baseline model. The baseline model in each equipment class represents the characteristics of equipment typical of that class (*e.g.*, capacity, physical size). Generally, a baseline model is one that just meets current energy conservation standards, or, if no standards are in place, the baseline is typically the most common or least efficient unit on the market.

There are currently energy conservation standards for medium- and low-temperature indoor dedicated condensing systems and for medium- and low-temperature outdoor dedicated condensing systems. These standards were established based on an analysis of dedicated condensing unit

representative units using the AWEF metric and test procedures in appendix C. In the May 2023 TP Final Rule, DOE established a new test procedure and metric, AWEF2, for walk-in refrigeration systems in appendix C1. In the September 2023 NOPR, DOE set baseline efficiency levels for medium- and low-temperature dedicated condensing unit representative units at the current minimum standard level using the appendix C test procedure (*see* appendix C to subpart R to 10 CFR part 431). For example, for a medium-temperature, outdoor dedicated condensing unit, DOE determined which technology options would just meet the current AWEF standard of 7.6 Btu/W-h using the appendix C test procedure. Once units had their baseline design options set, DOE conducted the rest of the efficiency analysis using the appendix C1 test procedure to determine AWEF2 values for each efficiency level, including baseline. When transitioning from one metric to another DOE must ensure that new standards based on the new metric

do not result in backsliding. The method DOE used in the September 2023 NOPR to set baseline levels for units currently subject to standards accomplishes this by translating current AWEF baselines to AWEF2 baselines.

In the May 2023 TP Final Rule DOE also established new test procedures for single-packaged dedicated systems and high-temperature refrigeration systems. For this equipment that was not analyzed in previous walk-in rulemakings DOE used product catalogs, feedback from manufacturer interviews, and testing to set the baseline at the lowest efficiency level commonly seen on the market today. All analysis for these equipment classes was done according to appendix C1.

In response to the baselines set in the September 2023 NOPR, AHRI and Hussmann commented that on the 10.0 tab of the NOPR analysis spreadsheet, the baseline minimum condensing dewpoint temperature is much higher than that of currently produced equipment. AHRI and Hussmann suggested that it is currently more likely

that baseline units are in the 80 °F range and not the 101 °F range. AHRI and Hussmann commented that the TSD references 180 psig head pressure, but that is not represented by actual refrigerant properties; likewise, AHRI and Hussmann commented that in the NOPR, DOE states head pressure will float down to 150 psig, but that value is not reflected in the analysis spreadsheet. (AHRI, No. 72 at p. 19; Hussmann, No. 75 at p. 9)

As discussed in the Floating Head Pressure Controls subsection under Design Options, the fixed head pressure design option that AHRI and Hussmann reference with the 101 °F minimum condensing dewpoint was not considered as a baseline design option for any walk-in refrigeration system. Based on manufacturer feedback during interviews, DOE determined that all walk-in refrigeration systems employ the floating head pressure design option at baseline. Therefore, DOE did not analyze any representative units with fixed head pressure in the September 2023 NOPR analysis. DOE is maintaining that all representative units of dedicated condensing units will have floating head pressure at baseline efficiency in this final rule analysis. See appendix 5A of the final rule TSD, which shows a full list of design options that each representative unit includes at baseline.

AHRI commented that past walk-in analyses of medium- and low-temperature units mistakenly focused only on scroll compressors and discuss semi-hermetic reciprocating compressors. AHRI stated that as a result, the majority of walk-in OEMs transitioned from hermetic reciprocating compressors to scroll compressors on smaller-capacity units and similarly discuss semi-hermetic reciprocating compressors on larger-capacity systems. AHRI commented that DOE never fully evaluated higher-efficiency fixed-speed reciprocating compressors in the previous WICF energy conservation standards rules. AHRI stated that this oversight rendered OEMs unable to use these market-standard compressors as the baseline. (AHRI, No. 72 at p. 6)

As mentioned previously, DOE uses products currently on the market to determine the characteristics of baseline representative units. DOE used compressor types of baseline units in the September 2023 NOPR based on

currently available models. As AHRI indicated in its comment, the majority of these representative units used scroll and semi-hermetic compressors. However, DOE found several single-packaged dedicated condensing systems use hermetic reciprocating compressors. Therefore, DOE analyzed these representative units with hermetic reciprocating compressors rather than scroll or semi-hermetic compressors at the baseline in the September 2023 NOPR analysis. DOE is maintaining the compressor types used at baseline in the September 2023 NOPR in this final rule analysis.

AHRI and Lennox commented that many of the technologies outlined and listed as increasing efficiency are already in use on some standard equipment and would not further increase efficiency on those products. AHRI and Lennox listed these technologies already in use in some products as: higher-efficiency condenser fan motors; off-cycle evaporator fan controls; head pressure controls; crankcase heater controls; higher-efficiency evaporator fan motors; ambient subcooling; improved condenser coil; variable-speed condenser fan control; and evaporator fan control—on-cycle. (AHRI, No. 72 at p. 5; Lennox, No. 70 at pp. 4–5)

DOE recognizes that some design options analyzed may already be in use in standard equipment. For some representative units, higher-efficiency design options are used at baseline to reach the current AWEF standard. For example, the DC.M.I.009 representative unit has a larger condenser coil and ECM at baseline. On the contrary, the DC.M.O.009 representative unit has no higher-efficiency design options at baseline. Thus, DOE has concluded that the design options analyzed, including those mentioned by AHRI and Lennox, could be implemented in equipment to improve efficiency of certain representative units.

In response to comments received on the September 2023 NOPR, DOE revised the assumptions about baseline unit characteristics by increasing the off-cycle power and crankcase heater power of low-temperature dedicated condensing system equipment classes in the March 2024 NODA. 89 FR 18555, 18561–18562. As discussed in the March 2024 NODA, these adjustments were based on a review of manufacturer

specifications for crankcase heater wattage and a review of low-temperature off-cycle power test data. *Id.*

In response to these off-cycle power increases, AHRI stated that the updated crankcase heater wattages for low-temperature dedicated condensing units and single-packaged dedicated systems are still low. AHRI requested actual test data with all test conditions reflective of off-cycle power for a wider sampling of crankcase heaters as well as effects on low-temperature outdoor units. AHRI stated it is aware that there are multiple methodologies OEMs are using to control units operating at low-temperature conditions, and it would like to see DOE evaluate how controls play into off-cycle power by testing real-world products. (AHRI, No. 86 at p. 8) RSG stated that the crankcase heater power values presented in Table II.4 of the NODA appear to be sufficient. RSG asked if a system incorporates more than one compressor, whether the crankcase heater allowance multiplies with the number of compressors and how that would factor into the calculations. (RSG, No. 89 at p. 2)

The off-cycle power data DOE used to inform the crankcase heater power and off-cycle controls power for low-temperature dedicated condensing systems is summarized in Table IV.24. DOE's March 2024 NODA analysis estimations are on average 3 percent greater than the measured power of the tested units. Additionally, DOE has determined that unit number 4 is an outlier and that the controls present on this unit that account for the additional off-cycle power are not generally representative of low-temperature units currently on the walk-in market. DOE's estimations of crankcase heater power are a function of a unit's net capacity and do not consider the number of compressors specified for the unit. Based on this test data and manufacturer specifications for crankcase heater wattages, DOE has determined that the methodology used to calculate the low-temperature dedicated condensing unit off-cycle power for the March 2024 NODA analysis is representative and, therefore, DOE used the same methodology for this final rule analysis. Details of this methodology are discussed in Chapter 5 of the final rule TSD.

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Table IV.24 Summary of Low-Temperature Outdoor Dedicated Condensing Unit Off-Cycle Power Test Data

Unit Number	Approximate Net Capacity	Measured Off-Cycle Power (W)			NODA Analysis Baseline Ancillary Off-Cycle Power for a Representative Unit of the Same Capacity (W)
		A Test	B Test	C Test	
1	3,000	35	35	35	45
2	10,000	72	73	73	75
3	7,000	74	74	74	75
4	17,000	93	93	94	75

RSG suggested that off-cycle power for dedicated condensing units will be different than for single-packaged dedicated systems. RSG stated that off-cycle power for single-packaged dedicated systems may include evaporator fans, crankcase heaters, electronic controls, solenoids, and EEVs. (RSG, No. 89 at p. 2)

Both dedicated condensing units and single-packaged dedicated systems incorporate off-cycle evaporator fan power into their AWEF2 calculations. The DOE test procedure at appendix C1 for dedicated condensing units tested alone specifies that off-cycle evaporator fan power will be 20 percent of on-cycle

evaporator fan power. See AHRI 1250–2020 equations 118, 137, 163, and 180. Depending on which evaporator fan control design option the baseline representative unit is equipped with (*i.e.*, no controls, cycling controls, or variable-speed controls), the baseline single-packaged dedicated systems analyzed in the March 2024 NODA may have baseline off-cycle evaporator fan power that is equal to 100, 50, or 20 percent of on-cycle evaporator fan power. DOE's single-packaged dedicated system off-cycle test data suggests that single-packaged dedicated systems will have ancillary off-cycle power (*i.e.*, off-cycle power excluding evaporator fan

power) very similar to that of dedicated condensing units. DOE has validated the single-packaged dedicated system ancillary off-cycle power assumptions used in the March 2024 NODA analysis with this test data. See Table IV.25 for a comparison of single-packaged ancillary off-cycle test data and ancillary off-cycle power assumptions from the March 2024 NODA engineering analysis. DOE has determined that unit number 4 is not representative of typical single-packaged dedicated system off-cycle power, as the crankcase heater is a lower wattage than recommended by the compressor manufacturer.

Table IV.25 Summary of Single-Packaged Dedicated System Off-Cycle Power Test Data

Unit Number	Temperature	Approximate Net Capacity (Btu/h)	Measured Ancillary Off-Cycle Power (W)			NODA Analysis Baseline Ancillary Off-Cycle Power for a Representative Unit of the Same Capacity (W)
			A Test	B Test	C Test	
1	LT	5,000	62	70	70	75
2	LT	2,000	4	N/A	N/A	5
3	MT	2,000	1	N/A	N/A	0
4	MT	14,000	34	34	34	67

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DOE maintained the baselining methodology from the September 2023

NOPR and March 2024 NODA in this final rule analysis.

Higher Efficiency Levels

Consistent with the analysis for previous walk-in refrigeration system

rulemakings (*i.e.*, the June 2014 Final Rule and the July 2017 Final Rule), in the September 2023 NOPR, DOE added the remaining applicable design options that were not used in the baseline of each representative unit to determine efficiency levels above baseline. As discussed in the design option section, the increase in AWEF2 from each design option for each representative unit is calculated using appendix C1 and is calibrated using test data, stakeholder comments, and manufacturer interview feedback.

In response to the September 2023 NOPR, DOE received comments from stakeholders regarding the higher efficiency levels analyzed for dedicated condensing units and single-packaged dedicated systems.

The CA IOUs recommended that DOE consider including additional design options (*e.g.*, variable-speed evaporator fans, improved compressors, and larger condensing coils) for low-temperature outdoor single-packaged systems, as they are included for indoor low-temperature single-packaged systems. The CA IOUs stated that many indoor and outdoor systems offered by the same manufacturer differ only by their weatherproof housing, while the internal components remain the same. The CA IOUs commented that both indoor and outdoor single-packaged systems include reciprocating and scroll compressor options, resulting in different efficiencies. The CA IOUs also stated that manufacturers offer condensing coils of differing sizes, and manufacturers offer different efficiency condensing fan motor options (*i.e.*, ECM and PSC) for outdoor systems. Thus, the CA IOUs recommended that DOE consider additional design options, including larger condensing coils, for outdoor low-temperature packaged systems. (CA IOUs, No. 76 at pp. 10–11) DOE notes that many of the additional design options indicated by the CA IOUs (*e.g.*, variable-speed evaporator fans and larger condensing coils) are included in the baseline design for the representative units analyzed for outdoor low-temperature single-packaged dedicated units. DOE did not analyze improved compressors for outdoor low-temperature single-packaged dedicated system representative units, as the improved compressors (hermetic reciprocating propane compressors) identified for these units did not improve the AWEF2 of outdoor units. Appendix 5A of the final rule TSD shows a full list of design options that each representative unit includes at baseline.

AHRI asserted that the low-temperature and indoor medium-

temperature dedicated condensing system equipment classes are already the hardest categories to meet minimum AWEF and when considering the current AWEF standards, the proposed changes by DOE would require significant design modifications to achieve the new minimum AWEF2. (AHRI, No. 72 at p. 6)

DOE notes that it is obligated to consider all efficiency levels above baseline. Additionally, DOE considers the significance of the modifications necessary to achieve these efficiency levels through the cost analysis and the MIA. *See* section IV.C.2 for discussion of the cost analysis and section IV.J for discussion of the MIA. Some efficiency levels above baseline for the equipment classes specified by AHRI were found to be cost-effective and technologically feasible, so they were included in the proposed standard level in the September 2023 NOPR. DOE is maintaining the higher efficiency levels analyzed in the September 2023 NOPR analysis in this final rule analysis and is therefore analyzing the design options mentioned in AHRI's comment in this final rule analysis.

DOE maintained the methodology from the September 2023 NOPR to determine higher efficiency levels in this final rule analysis.

Engineering Spreadsheet

As part of the September 2023 NOPR, DOE published the engineering spreadsheet used to analyze dedicated condensing units and single-packaged dedicated systems ("September 2023 refrigeration system engineering spreadsheet"). *See* EERE-2017-BT-STD-0009-0052. DOE received specific stakeholder feedback regarding the content of the engineering spreadsheet, which is summarized and addressed in the following paragraphs.

AHRI and Hussmann commented that in the NOPR analysis spreadsheet, the formulas in cells F7 and F8 of tab 2.0 and cell E7 of tab 7.0 do not align with that found in the TSD. AHRI and Hussmann recommended DOE provide explanations for the calculations so a valid review could be done. (AHRI, No. 72 at p. 2; Hussmann, No. 75 at p. 9) As discussed in the September 2023 NOPR TSD, DOE developed a correlation between condenser core volume⁵⁰ and condenser load divided by condenser temperature difference. *See* section 5.7.2.2 of the September 2023 NOPR TSD. The equations in cells F7 and F8 of the September 2023 refrigeration system engineering spreadsheet use

⁵⁰ DOE defined "condenser core volume" as fin area times finned length.

those correlations to calculate condenser coil core volume for the baseline and improved condenser coils.

AHRI and Hussmann commented that in the NOPR analysis spreadsheet, DOE assumes that all coil rows are 1.08 inches; however, AHRI and Hussmann commented that some coils use different row spacing, which could be negatively impacted. (AHRI, No. 72 at p. 2; Hussmann, No. 75 at p. 9) DOE used 1.08 inches as a representative value for a coil row in the September 2023 NOPR based on teardowns, review of diagrams in product literature, and manufacturer interview feedback. DOE has determined that 1.08 inches appropriate represents the sizing of a coil row. Thus, in this final rule, DOE is maintaining a representative coil row size of 1.08 inches in the final rule engineering analysis spreadsheet.

AHRI and Hussmann recommended that DOE fix the errors in the NOPR analysis spreadsheet and redo all analyses before finalizing any new targets. (AHRI, No. 72 at p. 2; Hussmann, No. 75 at p. 9) DOE made several corrections to the September 2023 refrigeration system engineering spreadsheet for the March 2024 NODA. Stakeholder comments that informed these corrections are summarized and addressed in the March 2024 NODA. 89 FR 18555, 18563–18564. Additionally, DOE published an updated engineering spreadsheet for single-packaged dedicated equipment and dedicated condensing units. *See* EERE-2017-BT-STD-0009-0080. DOE did not receive any further comments regarding the engineering analysis spreadsheet in response to the March 2024 NODA. DOE posted an updated refrigeration systems engineering spreadsheet for this final rule analysis.⁵¹

f. Unit Coolers

Refrigerants Analyzed

As discussed in section IV.C.1.e of this document, the October 2023 EPA Technology Transitions Final Rule requires the use of low-GWP refrigerants for walk-in coolers and freezers. A key concern about the transition to lower-GWP refrigerants relative to the performance of refrigeration systems is the potential for higher refrigerant glide to impact performance; however, as discussed previously in section IV.C.1.e of this document, increased refrigerant glide increases unit cooler performance. DOE based its unit cooler analysis on low-glide refrigerants. Specifically, DOE used R-404A to analyze medium- and low-temperature unit coolers and R-

⁵¹ *See* [regulations.gov/docket/EERE-2017-BT-STD-0009/document](https://www.regulations.gov/docket/EERE-2017-BT-STD-0009/document).

134a to analyze high-temperature unit coolers. 88 FR 60746, 60780. DOE expects that high-glide refrigerants would have better performance, thus it is expected that unit coolers will be able to meet the adopted standards with the refrigerant changes mandated by the October 2023 EPA Technology Transitions Final Rule.

DOE did not receive any comments in response to the refrigerants analyzed in the September 2023 NOPR for unit coolers. In response to the March 2024 NODA, Lennox stated that further test evaluation indicates the efficiency and capacity performance of R-454A is actually 3 to 4 percent lower than that

of R-448A in unit coolers. (Lennox, No. 70 at p. 7) DOE notes that R-404A, not R-448A, was used in the unit cooler analysis. DOE analyzed the capacity of unit coolers certified in the CCD and compared identical unit cooler models certified with both R-404A and R-448A. DOE found that capacity for R-404A unit coolers was at least 25 percent less and on average 34 percent less than equivalent R-448A unit coolers. This results in at least a 6-percent reduction and an average reduction of 9 percent in AWEF2 when swapping R-448A for R-404A. As such, based on this and Lennox's assertions in its comments, DOE expects any analysis

conducted using R-404A to be a conservative approach and that unit coolers would not suffer a performance penalty when switching from R-404A to R-454A. In this final rule analysis, DOE is maintaining the refrigerants analyzed in the September 2023 NOPR and using R-404A to analyze medium- and low-temperature unit coolers and R-134A to analyze high-temperature unit coolers.

Representative Units

The representative unit cooler capacities analyzed in the September 2023 NOPR are listed in Table IV.26.

Table IV.26 Representative Units Analyzed for Unit Coolers in September 2023 NOPR and Final Rule Analysis

Temperature	Class Code	Capacity (kBtu/h)
High (Non-Ducted)	UC.H	9
		25
High (Ducted)	UC.H.D	9
		25
Medium	UC.M	3
		9
		25
		54
		75
Low	UC.L	3
		9
		25
		54
		75

DOE did not receive comment on the representative unit cooler capacities analyzed in the September 2023 NOPR. Therefore, in this final rule, DOE analyzed the same representative units for unit coolers that it analyzed in the September 2023 NOPR.

Efficiency Levels for Medium- and Low-Temperature Unit Coolers

In the September 2023 NOPR, DOE analyzed medium- and low-temperature unit coolers using an efficiency-level approach. 88 FR 60746, 60781. To conduct this analysis, DOE constructed a database of medium- and low-temperature unit coolers by combining CCD data and manufacturer product literature. Throughout this final rule, this database is referenced as “the unit cooler performance database.” The following subsections describe how the unit cooler performance database was constructed and how it was used to

define the efficiency levels analyzed in this final rule. Additionally, comments pertaining to the unit cooler performance database and the unit cooler efficiency analysis that DOE received in response to the September 2023 NOPR and March 2024 NODA are summarized and addressed.

i. Constructing the Unit Cooler Performance Database

As discussed in the September 2023 NOPR, the CCD includes few unit coolers rated above baseline. 88 FR 60746, 60781. However, after evaluating certified unit cooler capacities, DOE tentatively determined that there are unit coolers on the market at efficiencies higher than baseline. As such, instead of modeling efficiency based on certified AWEF values, DOE calculated unit cooler AWEF2 in accordance with appendix C1 to subpart R of 10 CFR part 431 using certified capacity from the

CCD, fan powers published in manufacturer literature, and default defrost power calculations based on test procedure equations in AHRI 1250–2020. DOE posted to the docket a version of the unit cooler performance database with identifying information and information obtained through confidential manufacturer interviews removed. *See* EERE–2017–BT–STD–0009–0064.

In response to the NOPR, AHRI and Lennox commented that DOE's unit cooler performance database should have used equation C45 of AHRI 1250–2020 to calculate the defrost heat (Btu/h) for low-temperature unit coolers instead of equations C25, C26, and C27 of AHRI 1250–2020, which are for unit coolers with hot gas defrost. (AHRI, No. 72 at p. 9; Lennox, No. 70 at p. 5) Equation C45 from AHRI 1250–2020 appendix C is used to calculate the defrost heat of single-packaged

dedicated systems, matched pairs, or unit coolers tested alone, but all of these equipment have measured defrost power during the defrost test. As the measured defrost power of unit coolers is not certified in the CCD or readily published in most manufacturer literature, DOE instead estimated a representative defrost power for each unit cooler in the database using the defrost calculations for dedicated condensing units tested alone, which is why equations C46, C47, and C48 of AHRI 1250–2020, which are used for dedicated condensing units tested alone, were used. DOE notes that equations C46, C47, and C48 from AHRI 1250–2020 are identical to equations C25, C26, and C27.

Lennox commented that defrost heat seems low for unit coolers compared to tested values and off-cycle power seems high for unit coolers. (Lennox, No. 70 at p. 5) As discussed in this section, DOE calculated defrost heat for low-temperature unit coolers in the unit cooler performance database using the defrost calculations from AHRI 1250–2020 for dedicated condensing units tested alone. For unit coolers with two- or variable-speed fan motors, DOE assumed that off-cycle fan power would be based on the fan(s) running at 50-percent speed, the minimum speed allowed by the DOE test procedure. Section 4.2 of appendix C to AHRI 1250–2020. DOE calculated fan power for this 50-percent speed assuming this operation would consume 20 percent of the full speed power, based on equation 118 in AHRI 1250–2020. Since the defrost heat and off-cycle fan power in the unit cooler performance database are based on the industry test procedure, AHRI 1250–2020, DOE has determined that the values in the unit cooler performance database are representative. It is DOE's understanding that the defrost heat values in AHRI 1250–2020 were established based on a test program of representative electric-defrost low-temperature unit coolers spanning a range of capacities. Thus, DOE has determined that the defrost heat values can be considered to be representative.

Lennox also suggested that DOE verify net capacities of unit coolers through testing with all listed refrigerants. (Lennox, No. 70 at p. 5) DOE notes that testing the unit coolers in the unit cooler performance database with all listed refrigerants was not practical given time and resource constraints. The unit cooler database contains data that is certified to DOE; thus, DOE has determined that using the net capacities in the unit cooler database in its

analysis is appropriate and representative of the market.

AHRI commented that DOE should not use the CCD net capacity and literature fan power to calculate AWEF2 because the AWEF values certified in the CCD are often shown as the minimum and literature fan power is not necessarily associated with either the unit's net capacity or AWEF in the CCD. (AHRI, No. 72 at p. 19) Lennox commented that the motor wattage data from catalogs may not be representative of actual performance. (Lennox, No. 70 at p. 5) Through a review of the market and available data, DOE has determined that fan powers found in product literature are the most representative fan powers available for the units included in the unit cooler performance database. Additionally, as discussed in the previous paragraphs, DOE used CCD net capacity, not CCD AWEF, to construct the unit cooler performance database. DOE expects that the net capacities certified in the CCD are appropriate and representative as they are certified to DOE.

AHRI recommended that DOE establish and validate a data-based basis for calculating AWEF2 through testing. (AHRI, No. 72 at p. 19) Since DOE has concluded that fan power, net capacity, and defrost power in the unit cooler performance database (the inputs for unit cooler AWEF2 calculations) are representative, DOE has determined that the calculated AWEF2s are representative and do not need extensive validation from testing.

In response to the September 2023 NOPR, Lennox stated that as unit cooler rows increase, unit cooler fans have to increase their power draw due to the increased internal static pressure ("ISP"). This comment is summarized and addressed in the March 2024 NODA. 89 FR 18555, 18564. As discussed in the March 2024 NODA, manufacturer product catalogs, which were the primary source of fan powers for the unit cooler performance database, generally do not show an increase in fan power as rows increase. *Id.* DOE acknowledged that an increase in ISP caused by additional rows would result in an increased fan power if all other system characteristics were held constant. DOE analyzed unit cooler systems using CoilDesigner and tentatively determined that increasing the number of heat exchanger rows from two to three or three to four would result in roughly a 6-percent increase in unit cooler fan power, and increasing heat exchanger rows from four to five would result in roughly a 4-percent unit

cooler fan power increase.⁵² Based on an analysis of the AWEFs in the unit cooler performance database, DOE tentatively determined that the most likely scenario is that catalogs report the maximum power draw for unit cooler fans. As such, unit coolers with fewer than four or five rows have overestimated fan powers in the unit cooler performance database. Based on these conclusions in the March 2024 NODA, DOE tentatively determined that the maximum technology levels proposed in the September 2023 NOPR were still technologically feasible, as the units used to set these values had accurate fan powers. As such, in the March 2024 NODA, DOE did not adjust the fan powers of any units in the unit cooler database.

In response to the March 2024 NODA, AHRI and Lennox stated that adding two more rows to the existing unit cooler coil significantly changes the dimension of the evaporator and adds static pressure to airflow, thereby increasing the motor power consumption. AHRI and Lennox stated that, therefore, the expected increase in AWEF2 should be less. AHRI and Lennox stated that the lower the capacity, the more reduced the AWEF2 standard should be. AHRI and Lennox stated that for these reasons, the costs are underestimated, and they referred DOE to its member comments in response to the September 2023 NOPR. (AHRI, No. 86 at p. 4; Lennox, No. 87 at p. 6)

DOE agrees that unit cooler fan power should increase for higher-row unit coolers. Thus, DOE revised its unit cooler fan power analysis for this final rule. DOE adjusted the fan power of units in the unit cooler database assuming that the reported catalog fan power was accurate for units with the greatest number of tube rows and fins per inch for a given product family and brand, and that units with fewer rows and fewer fins per inch within that given family would have lower fan powers. The relationship between fan power and tube rows is discussed above. Regarding fan power trends with fins per inch, DOE assumed that reducing fins per inch from eight to six reduces fan power by 2.5 percent and that reducing fins per inch from six to four reduces fan power by 3.5 percent, based on review of literature reports of airflow trends versus both fins per inch and row numbers for unit coolers. The details of this fan power adjustment are described in chapter 5 of the final rule

⁵² CoilDesigner is a heat exchanger coil simulation tool. CoilDesigner Version 4.8.20221.110 was used for this analysis.

TSD. When implementing these changes to the analysis, the calculated AWEF2 values of the lower-row unit coolers increased, thus reflecting the trend noted by commenters, *i.e.*, that the AWEF2 improvement associated with row number increase should not be as great as DOE calculated based on the initial assumption that fan power does not increase as the number of rows increase. The cost changes that resulted due to this change are discussed in the Assigning Costs to Efficiency Levels subsection of section IV.C.2.f of this document.

In response to the March 2024 NODA unit cooler analysis, Hussmann stated that there is no way to review what DOE did for unit coolers unless they provide the database of information. (Hussmann, No. 88 at p. 4) Additionally, AHRI requested the updated unit cooler database with the number of rows for each unit cooler. (AHRI, No. 86 at p. 4) DOE notes that the unit cooler performance database docketed with the September 2023 NOPR analysis contained all the information DOE is able to disclose while retaining the anonymity of units in the database and not violating non-disclosure agreements of manufacturer interviews under which some data in the unit cooler performance database was collected. DOE notes that the posted unit cooler database provides all the inputs used for the AWEF2 calculation. As such, the unit cooler performance database docketed in support of this final rule analysis contains no additional information. Furthermore, DOE notes that in the unit cooler performance database that is docketed with this final rule, there are five less unit entries than in the unit cooler performance database that was docketed with the September 2023 NOPR. DOE determined that these units were not representative of the unit cooler market and therefore removed them. These five units were not used in

the September 2023 NOPR efficiency analysis so the efficiency levels are unaffected by the removal of these units.

ii. Analyzing Representative Units Using the Unit Cooler Performance Database

As discussed in section 5.8.2 of the September 2023 NOPR TSD, DOE identified units in the unit cooler performance database that were a part of manufacturers' product configurations that had net capacities within 10 percent of each representative unit's net capacity and grouped them together. These groups of unit coolers with similar configurations and capacities were used to analyze the representative units selected for this analysis.

In response to this methodology used to analyze representative units, Hussmann commented that the representative models used from the unit cooler database are not representative of the broader population of models. Hussmann stated that while the only model selected to represent the UC.M.075 representative unit and the capacity point is 7 percent above the goal, there are 376 models in the same capacity range in the CCD, many of which are much closer to the goal capacity value. Hussmann stated that similarly, only two UC.L.075 models were selected for representation and are 8 to 9 percent from the goal capacity, while 373 models could have been used, many of which have capacity values much closer to the goal. Hussmann noted that for the lower capacity points, multiple units were selected that provide a range of models. Hussmann provided charts to show both the representative models and all possible models that could have been used, indicating models that it believed would have been better choices for representation. (Hussmann, No. 75 at pp. 3–5) DOE notes that it selected models for the NOPR analysis that not

only were within 10 percent of the capacity goal but also differed only in the number of tube rows, to isolate the impact of this design option. The alternative selections mentioned by Hussmann have more differences than tube rows and thus could not be used to isolate the impact of the tube row addition. Figure IV.1 shows the calculated AWEF2 values for three-, four-, and five-row medium-temperature unit cooler models in the database using the methodology used in the NOPR but with fan power calculation adjusted as described in this section. The calculated AWEF2 values are compared in this figure to the EL 1 and EL 2 efficiency levels used in the analysis, indicating that the selected efficiency levels are appropriate.

iii. Baseline Efficiency

For each equipment class, DOE generally selects a baseline model as a reference point for each class, and measures anticipated changes resulting from potential energy conservation standards against the baseline model. The baseline model in each equipment class represents the characteristics of equipment typical of that class (*e.g.*, capacity, physical size). Generally, a baseline model is one that just meets current energy conservation standards, or, if no standards are in place, the baseline is typically the most common or least efficient unit on the market.

DOE concluded while conducting the NOPR analysis that baseline medium- and low-temperature unit coolers with a capacity less than or equal to 25 kBtu/h typically had two evaporator rows and baseline units with a capacity greater than 25 kBtu/h typically had three evaporator tube rows. Table IV.27 lists representative units and the number of baseline evaporator tube rows DOE used in the September 2023 NOPR.

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Table IV.27 Representative Baseline Medium- and Low-Temperature Unit Cooler Evaporator Tube Rows from the September 2023 NOPR

Temperature	Capacity (kBtu/h)	Baseline evaporator tube rows
Medium	3	2
	9	2
	25	2
	54	3
	75	3
Low	3	2
	9	2
	25	2
	54	3
	75	3

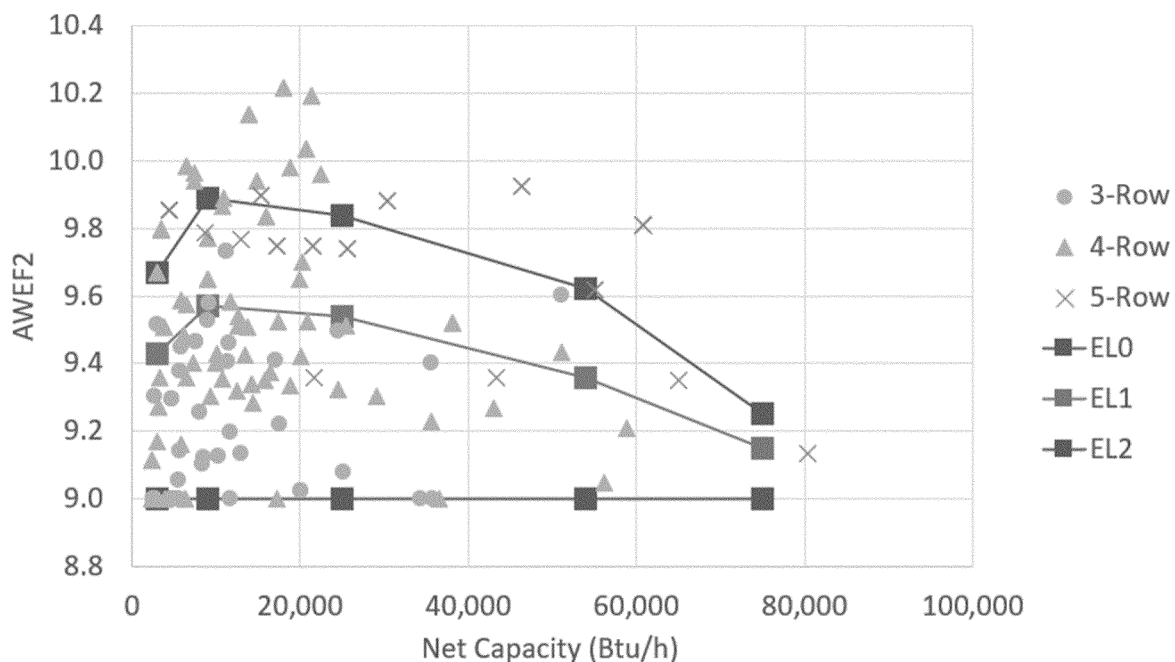
In response to the September 2023 NOPR, DOE received comments on the baseline assumption for medium- and low-temperature unit coolers.

Lennox recommended that DOE further review unit cooler designs of the current market to ensure that the baseline design is representative of the current market and not a carryover from the prior WICF rulemaking. Lennox stated that the approach to add rows to two- and three-row unit cooler designs has likely already been implemented to attain the current AWEF standard levels. (Lennox, No. 70 at p. 4)

AHRI, Hussmann, and Lennox commented that section 5.8 in the TSD assumes all baseline coils are either two or three rows; however, many coils are already four rows to meet the current

AWEF requirements. (AHRI, No. 72 at pp. 3–4 and No. 86 at p. 6; Hussmann, No. 75 at p. 1; Lennox, No. 70 at p. 4) AHRI stated that the presumption that most coils are two-row is erroneous, as the more common baseline is now four rows. (AHRI, No. 72 at p. 9) AHRI and Hussmann estimated that 5 percent of current coils are two row, about 30 percent are three row, and the remaining 65 percent are four row. (AHRI, No. 72 at pp. 3–4 and No. 86 at p. 6; Hussmann, No. 75 at p. 1) Lennox estimated that 5 percent of current coils are two row, about 30 percent are three row, and the remaining 55 percent are four row, 5 percent are five row, and 5 percent are six row. (Lennox, No. 70 at p. 4)

As discussed, DOE sets the baseline unit as a unit that just meets the current energy conservation standards. DOE analyzed the unit cooler performance database in response to these comments and found that 4 percent of units in the database have two-row coils, 22 percent have three rows, 52 percent have four rows, and 22 percent have five rows. Additionally, DOE plotted the AWEF and capacity of the medium-temperature units in the database while differentiating row numbers. See Figure IV.1. These plots show that baseline efficiency levels are achievable by three-row units for all capacities. As such, for this final rule analysis DOE updated the representative row numbers for each baseline unit to be three rows.



iv. Maximum Technology Levels

Using the unit cooler performance database, DOE found that the primary design option in unit coolers on the market today to improve efficiency is an improved evaporator coil. Specifically, DOE found that adding tube rows to unit cooler evaporators increases capacity and that, while fan power does

increase, the fan power increase is significantly less than the capacity increase, resulting in more efficient units.

In the September 2023 NOPR, to set the maximum technology level for medium- and low-temperature unit coolers, DOE selected the highest-efficiency unit cooler available for each representative capacity from the unit

cooler performance database. The highest-efficiency unit coolers at each representative capacity corresponded to an increase in two evaporator tube rows. Table IV.28 lists the unit cooler representative units evaluated in the September 2023 NOPR and the number of tube rows used to reach the highest efficiency level analyzed.

Table IV.28 Representative Maximum-Technology Medium- and Low-Temperature Unit Cooler Evaporator Tube Rows from the September 2023 NOPR

Temperature	Capacity (Btu/h)	Maximum-Technology Evaporator Tube Rows
Medium	3,000	4
	9,000	4
	25,000	4
	54,000	5
	75,000	5
Low	3,000	4
	9,000	4
	25,000	4
	54,000	5
	75,000	5

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In response to the September 2023 NOPR, DOE received comment on the maximum technology evaporator tube rows.

AHRI questioned the AWEF2 values at EL 2 in DOE's NOPR analysis. AHRI commented that the source for EL 2 values was not provided, and if they came from the "unit cooler performance database," the information on the quantity of rows was not provided to evaluate. AHRI requested that DOE provide the number of rows for the list of models so AHRI can further assess the data. (AHRI, No. 72 at pp. 4–5) AHRI also stated that AWEF gains in the vicinity of 15 percent for unit coolers is an aggressive expectation for adding a row to coils. (AHRI, No. 72 at p. 9) Lennox also commented that the unit cooler database does not specify the number of coil rows, so Lennox is unable to analyze further. (Lennox, No. 70 at p. 4)

DOE determined the AWEF2 values based on the unit cooler performance database. As discussed previously in this section, DOE grouped units within a range of capacities into a single representative capacity. Then, DOE determined the efficiency and cost increase associated with adding one- and two-coil rows to the baseline model. DOE notes that the number of coil rows

associated with each unit is confidential data informed by feedback obtained through manufacturer interviews. As mentioned previously, DOE is unable to publish this data publicly. Regarding AHRI's assertion that a 15-percent increase in AWEF is an aggressive expectation for adding a coil row, DOE notes that only some representative units analyzed for low-temperature unit coolers have efficiency increases as high as 15 percent, and these correspond to an additional two rows added to baseline.

AHRI and Hussmann commented that DOE should conduct the unit cooler analysis assuming that three-row coils will move to four-row coils and that four-row coils will be maintained. (AHRI, No. 72 at p. 4; Hussmann, No. 75 at p. 2) In its review of the market, DOE found unit coolers that have coils with five rows across the range of representative unit capacities. Thus, DOE analyzed five-row coils as the maximum technology option for unit coolers.

Lennox commented that increasing four-row designs to five- and six-row designs is not cost-effective because adding coil rows has diminishing returns on improving efficiency. Lennox stated that effective heat exchange of adding rows drops because the heat has already been largely added to the

refrigerant in the existing rows, therefore heat remaining in the air is lessened. (Lennox, No. 70 at p. 4)

In response to the March 2024 NODA, AHRI reiterated that increasing four-row unit coolers to five or six rows is not cost-effective and that additional rows have diminishing efficiency returns. (AHRI, No. 86 at pp. 6–7)

DOE notes that it did not identify any six-row unit coolers in the unit cooler performance database. In its analysis, DOE recognizes that increasing a four-row design to a five-row design results in a lower efficiency increase than increasing a three-row design to a four-row design and, therefore, the efficiency increase from EL 0 to EL 1 is greater than the efficiency increase from EL 1 to EL 2. Cost-effectiveness of any design option is determined by analyses in sections IV.F and IV.H of this document.

As shown in Figure IV.1, the max-tech levels from the September 2023 NOPR for medium-temperature unit coolers are achievable by four- and five-row unit coolers on the market today. In this final rule analysis, DOE is making the conservative assumption that all unit coolers would have to go to five-row coils at max-tech levels.

Defining maximum technology levels for unit coolers is discussed in more detail in chapter 5 of the final rule TSD.

v. Intermediate Efficiency Levels

As discussed in the September 2023 NOPR, all medium- and low-temperature unit cooler representative capacities had baseline and maximum technology efficiency levels that differed by more than one tube row. DOE defined an efficiency level for each of these representative units at the number of tube rows between their baseline and maximum technology levels. For example, if the baseline has three tube rows and the maximum technology had five tube rows, DOE defined an intermediate efficiency level at four tube rows. DOE's analysis of the market suggested that manufacturers only use full tube rows and, therefore, DOE only used whole-number tube rows for the analysis. DOE determined the efficiency of these intermediate efficiency levels using data from the unit cooler performance database. 88 FR 60746, 60782.

DOE did not receive comments on defining intermediate efficiency levels for unit coolers in response to the September 2023 NOPR; therefore, DOE is defining intermediate efficiency levels using the same methodology as was used in the September 2023 NOPR in this final rule analysis. In this final rule analysis, due to the change in tube-row assumptions for baseline and max-tech levels, DOE correspondingly assumes that all intermediate efficiency levels would use four tube rows.

Defining and determining the efficiency of intermediate efficiency levels is discussed in more detail in chapter 5 of the final rule TSD.

General Comments

In response to the September 2023 NOPR, DOE received several general comments about the unit cooler efficiency level analysis. Hussmann recommended that DOE address its concerns regarding its unit cooler analysis and consider the proposed revision to the AWEF2 standards before finalizing any new targets. (Hussmann, No. 75 at p. 7) Lennox stated that DOE must address various technical issues before proceeding with any new WICF energy conservation standard. Lennox further stated that DOE must review the baseline design assumptions and associated costs of attaining increased efficiency levels. (Lennox, No. 70 at pp. 3–4) Lennox recommended DOE further review that the methods to achieve improved efficiency are viable and that the associated costs are accurate (Lennox, No. 70 at p. 4) Lennox also stated that DOE must verify data inputs and correct errors in formulas and calculations before determining if

amended AWEF standard levels are justified. (Lennox, No. 70 at p. 5) In the previous sections, DOE addressed specific concerns raised by stakeholders about the unit cooler efficiency level analysis to ensure it is technologically feasible. As such, DOE has determined that the unit cooler efficiency levels presented in the March 2024 NODA are technologically feasible. Their cost-effectiveness is assessed in sections IV.F and IV.H. of this final rule.

In response to the efficiency levels presented in the March 2024 NODA, AHRI asked for the updated analysis for the UC.L.009 representative unit and what the difference between the three different designs at baseline, EL 1, and EL 2 are. AHRI stated that it did not understand why Table 3.1 (of the NODA support document) lists two different design options but the analysis uses three different options. (AHRI, No. 86 at p. 4) DOE notes that the design option codes in Table 3.1 of the NODA support document are for dedicated condensing systems and single-packaged dedicated systems, as those were the equipment classes analyzed using a design-option analysis. The UC.L.009 representative unit was analyzed using an efficiency-level approach. As discussed in the previous sections, a baseline, intermediate, and max-tech level were defined for each medium- and low-temperature unit cooler representative unit. DOE found that the intermediate level generally represented an additional tube row being added to the baseline unit cooler heat exchanger, and the max-tech level represented two additional tube rows being added.

Design Options

In the September 2023 NOPR, DOE did not directly analyze any design options for medium- and low-temperature unit coolers as an efficiency-level analysis was conducted. In response to the efficiency-level analysis for medium- and low-temperature unit coolers, DOE received several comments about specific design options, which are summarized and addressed below.

NAFEM commented that DOE's proposal to increase evaporator tube rows in order to increase efficiency for unit coolers is not a new technology but an extension of an existing technology. NAFEM commented that manufacturers' options for adopting new technologies in order to increase energy efficiency are limited, which poses an issue and a challenge applicable to all permutations of walk-ins. (NAFEM, No. 67 at p. 3) As discussed in section IV.A.2.c of this document, the design options that DOE analyzes do not need to be new

technologies. Based on the unit cooler performance database, DOE has determined that efficiency levels above baseline are possible to achieve. Additional evaporator coil rows are the primary technology option DOE has identified for manufacturers to meet these levels above baseline. Despite some units already employing additional tube rows, DOE has determined efficiency levels above baseline are achievable with this technology. Additionally, DOE notes that the standards finalized in this rulemaking are not prescriptive; manufacturers may comply with them using any technologies they see fit.

The CA IOUs recommended that DOE include evaporator fin density (up to eight fins per inch) as a design option for medium-temperature unit coolers. (CA IOUs, No. 76 at p. 2) The CA IOUs commented that although high fin densities may cause excessive ice buildup in low-temperature applications, this is not the case for medium-temperature applications. (CA IOUs, No. 76 at p. 2) DOE notes that standard medium-temperature unit cooler conditions have refrigerant temperatures below freezing. Therefore, during high-load conditions resulting in long on-cycles, frost can still form on the coils. For this reason, fin density higher than seven fins per inch may impact the functionality of medium-temperature evaporators. Therefore, DOE is only considering fin density up to six fins per inch in this analysis and screening out high fin densities based on the possibility of having adverse impacts to the equipment performance or functionality.

As discussed in the September 2023 NODA, DOE did not analyze permanent magnet synchronous ("PMS") motors as a design option for unit coolers in the September 2023 NOPR analysis due to the prescriptive requirements in EPCA (42 U.S.C. 6313(f)(1)(E)) requiring unit cooler motors under 1 hp use ECM or three-phase motors. 88 FR 66710, 66717.

In response to the September 2023 NOPR, the CA IOUs recommended that DOE consider PMS motors as the maximum technologically feasible option for evaporator fan motors because they are, on average, 15- to 27-percent more efficient than ECMs. The CA IOUs commented that in the 2014 Final Rule for walk-ins, DOE acknowledged that EPCA grants DOE the authority to permit alternative motor types for evaporator fan motors if DOE determines that, on average, those other motors use no more energy in evaporative fan applications than ECMs; therefore, the CA IOUs encouraged DOE to evaluate the PMS AC motors as a

design option. (CA IOUs, No. 76 at pp. 3–4)

DOE acknowledges that EPCA grants the Secretary of Energy the authority to allow alternative motor types for WICF evaporator fan motors if the Secretary of Energy determines that, on average, those other motors use no more energy in evaporator fan applications than ECMs. (42 U.S.C. 6313(f)(2)(B)). DOE attempted to evaluate the performance of PMS fan motors in WICF evaporator fan applications. However, based on a review of the PMS motors currently on the market, these motors do not span the range of WICF fan wattages and revolutions per minute needed for proper operations. Therefore, at this time, DOE cannot make a determination regarding the energy consumption of PMS motors relative to the energy consumption of ECMs in WICF evaporator fan applications and is not analyzing PMS motors as a design option in this final rule.

High-Temperature Design-Option Approach

As discussed in the September 2023 NOPR, DOE was unable to construct a performance database for high-temperature unit coolers because there are no high-temperature units certified in the CCD; therefore, DOE conducted a design option approach for high-temperature unit coolers. 88 FR 60746, 60781. In the September 2023 NOPR, the design options remaining for unit coolers after screening were improved evaporator coil, improved evaporator fan blades, off-cycle evaporator fan control, and on-cycle evaporator fan control. However, DOE only analyzed improved evaporator coils and off-cycle evaporator fan controls. DOE had tentatively determined that improved evaporator fan blades do not effectively improve unit cooler efficiency, and therefore DOE did not analyze improved evaporator fan blades as a design option for high-temperature unit coolers. Additionally, on-cycle evaporator fan control requires a condensing system that varies cooling load to the unit cooler, and DOE is aware that not all high-temperature condensing systems are capable of this type of operation. As a result, DOE did not analyze on-cycle evaporator fan control as a design option for high-temperature unit coolers. This left off-cycle fan controls and improved evaporator coils as the only remaining design option for high-temperature unit coolers in the September 2023 NOPR analysis.

As discussed in the September 2023 NOPR, there are currently no energy conservation standards for high-temperature unit coolers; therefore, DOE

could not use a current standard as the baseline for the high-temperature equipment classes. Instead, DOE used manufacturer literature to select baseline units that DOE has determined are representative of the baseline efficiency currently on the market. DOE determined potential design options applied to these units based on a review of manufacturer literature and feedback from high-temperature refrigeration system manufacturers. DOE validated the AWEF2 values used to define the high-temperature baseline efficiency level through testing. 88 FR 60746, 60782.

As discussed in the September 2023 NOPR, DOE defined the maximum technology level for high-temperature unit coolers as a representative unit with all the design options applied. As discussed in the unit cooler Efficiency Levels subsection of section IV.C.1.f of this document, the design options analyzed for high-temperature unit coolers were off-cycle evaporator fan controls and improved evaporator coils. In this NOPR, a maximum-technology high-temperature unit cooler includes both design options. 88 FR 60746, 60782.

DOE did not identify any intermediate efficiency levels for high-temperature unit coolers in the September 2023 NOPR analysis.

DOE received no comments in response to the high-temperature unit cooler design option analysis and is therefore maintaining this methodology in the final rule analysis. Details of this analysis can be found in Chapter 5 of the accompanying TSD.

2. Cost Analysis

The cost analysis portion of the engineering analysis is conducted using one or a combination of cost approaches. The selection of cost approach depends on a suite of factors, including the availability and reliability of public information, characteristics of the regulated equipment, and the availability and timeliness of purchasing the equipment on the market. The cost approaches are summarized as follows:

- *Physical teardowns:* Under this approach, DOE physically dismantles commercially available equipment, component-by-component, to develop a detailed bill of materials for the equipment.

- *Catalog teardowns:* In lieu of physically deconstructing equipment, DOE identifies each component using parts diagrams (available from manufacturer websites or appliance repair websites, for example) to develop the bill of materials for the equipment.

- *Price surveys:* If neither a physical nor catalog teardown is feasible (e.g., for tightly integrated products such as fluorescent lamps, which are infeasible to disassemble and for which parts diagrams are unavailable), cost-prohibitive, or otherwise impractical (e.g., large commercial boilers), DOE conducts price surveys using publicly available pricing data published on major online retailer websites and/or by soliciting prices from distributors and other commercial channels.

In the present case, DOE conducted the analysis using physical teardowns supplemented with catalog (virtual) teardowns.

As discussed in the September 2023 NOPR, DOE identified the energy efficiency levels associated with walk-in components using testing, market data, and manufacturer interviews. Next, DOE selected equipment for the physical teardown analysis having characteristics of typical equipment on the market at the representative capacity. DOE gathered information from performing a physical teardown analysis to create detailed bills of materials (“BOMs”), which included all components and processes used to manufacture the equipment. DOE used the BOMs from the teardowns as inputs to calculate the MPC for equipment at various efficiency levels spanning the full range of efficiencies from the baseline to the maximum technology available. 88 FR 60746, 60782–60783. DOE estimated the MPC at each efficiency level considered for each representative unit, from the baseline through the maximum technology and then calculated the percentages attributable to each cost category (i.e., materials, labor, depreciation, and overhead). These percentages are used to validate the assumptions by comparing them to manufacturers’ actual financial data published in annual reports, along with feedback obtained from manufacturers during interviews. DOE uses these production cost percentages in the MIA (see section IV.J of this document).

a. Teardown Analysis

To assemble BOMs and to calculate the manufacturing costs for the different parts of walk-in components, DOE disassembled multiple envelope and refrigeration system units into their base parts and estimated the materials, processes, and labor required for the manufacture of each individual part, a process referred to as a “physical teardown.” Using the data gathered from the physical teardowns, DOE characterized each part according to its weight, dimensions, material, quantity,

and the manufacturing processes used to fabricate and assemble it.

DOE also used a supplementary method, called a “virtual teardown,” which examines published manufacturer catalogs and supplementary component data to estimate the major physical differences between equipment that was physically disassembled and similar equipment that was not. For supplementary virtual teardowns, DOE gathered equipment data such as dimensions, weight, and design features from publicly available information, such as manufacturer catalogs.

For parts fabricated in-house, the prices of the underlying “raw” metals (e.g., tube, sheet metal) are estimated on the basis of 5-year averages to smooth out spikes in demand. Other “raw” materials such as plastic resins, insulation materials, etc. are estimated on a current-market basis. The costs of raw materials are based on manufacturer interviews, quotes from suppliers, and secondary research. Past results are updated periodically and/or inflated to present-day prices using indices from resources such as MEPS Intl.,⁵³ PolymerUpdate,⁵⁴ the U.S. geologic survey (“USGS”),⁵⁵ and the Bureau of Labor Statistics (“BLS”).⁵⁶

More information regarding details on the teardown analysis can be found in chapter 5 of the final rule TSD.

b. Cost Estimation Method

The costs of models are estimated using the content of the BOMs (i.e., materials, fabrication, labor, and all other aspects that make up a production facility) to generate the MPCs. For example, these MPCs consider cost contributions from overhead and depreciation. DOE collected information on labor rates, tooling costs, raw material prices, and other factors as inputs into the cost estimates. For purchased parts, DOE estimated the purchase price based on volume-variable price quotations and detailed discussions with manufacturers and component suppliers. For fabricated parts, the prices of raw metal materials⁵⁷ (i.e., tube, sheet metal) are estimated using the average of the most recent 5-year period. The cost of

transforming the intermediate materials into finished parts was estimated based on current industry pricing at the time of analysis.⁵⁸

During development of the analysis for the September 2023 NOPR, DOE held confidential interviews with manufacturers to gain insight into the walk-in industry and to request feedback on the engineering analysis. DOE used the information gathered from these interviews, along with information obtained through the teardown analysis and public comments, to refine its MPC estimates for this rulemaking. Next, DOE derived manufacturer markups using data obtained for past walk-in rulemakings in conjunction with manufacturer feedback. The markups were used to convert MPCs into manufacturer sales prices (“MSPs”). Further information on comments received and the analytical methodology is presented in the following subsections. For additional detail, see chapter 5 of the final rule TSD.

c. Low-GWP Refrigerants

DOE received comments in response to the September 2023 NOPR regarding the cost impacts of alternative refrigerants. AHRI, Hussmann, and Lennox commented that the safety standard would require additional components such as guards, grilles, labels, non-ignition sources, etc. that would result in increased cost. (AHRI, No. 72 at p. 10; Hussmann, No. 75 at pp. 10–11; Lennox, No. 70 at p. 7) Hussmann stated that associated costs to meet the safety requirements of using A2L or CO₂ refrigerants could add 20 to 400 percent to equipment costs, resulting in higher product prices for customers. (Hussmann, No. 75 at p. 14) NRAC commented that refrigeration systems would require added components, including safety shut-off valves, leak-detection sensors, and mitigation boards, and since these components are not readily available in the marketplace yet, costs cannot be determined. (NRAC, No. 73 at p. 3)

DOE also received the following comments in response to the March 2024 NODA. AHRI stated that the increases in MPC and MSP seem low when considering tooling, materials, and development costs required to fully address the capacity reduction due to high glide of refrigerants with less than 150 GWP. AHRI also stated that additional costs for A2L refrigerants will include at minimum the cost of A2L sensor, wiring, and control components

for mitigation. AHRI and its members requested to see test data of products operating per the test procedure. AHRI stated that the rules for commercial refrigeration and acceptability are contained in SNAP 26 and that it has not yet been released. AHRI recommended that DOE wait for the release of SNAP 26 so it can be addressed properly. (AHRI, No. 86 at p. 8) Lennox also stated that the updated safety standards for A2L refrigerant require safety mitigation measures, in both the products as delivered and during installation, that DOE must consider. (Lennox, No. 87 at p. 5) RSG stated that there will be large costs associated with refrigerant leak detection and mitigation that should be factored into the overall costs associated with the deployment of refrigeration systems that operate with A2L refrigerants and that RSG would like to see those upfront costs of leak detection and mitigation factored into the LCC and PBP for this equipment to assist with determining the path forward. (RSG, No. 89 at p. 2)

DOE notes that on June 13, 2024, EPA published a Final Rule in the **Federal Register** regarding protection of stratospheric ozone: listing of substitutes under the Significant New Alternatives Policy Program (“SNAP”) in commercial and industrial refrigeration, also known as SNAP 26. 89 FR 50410. In this Final Rule EPA listed R–454A and R–454C (among other refrigerants) as acceptable substitutes for cold storage warehouses,⁵⁹ retail food refrigeration supermarket systems, and retail food remote condensing units. As these are the primary refrigerants DOE is assuming the walk-in refrigeration system industry will adopt (see Refrigerants Analyzed subsection of section IV.C.1.e of this document), DOE has determined that a lack of certainty around SNAP approval is no longer a factor in the refrigerant transition.

DOE acknowledges that the transition to lower GWP refrigerants may impact the cost of WICF refrigeration systems. Considering the safety requirements outlined in UL 60335–2–89, DOE has concluded that walk-in dedicated condensing systems using A2L refrigerants would require the addition of a refrigerant leak detection system. Therefore, DOE included the cost of a refrigerant leak detection system in all dedicated condensing units and single-packaged dedicated system representative units analyzed. Because

⁵³ For more information on MEPS Intl, please visit www.meps.co.uk/.

⁵⁴ For more information on PolymerUpdate, please visit www.polymerupdate.com.

⁵⁵ For more information on the USGS metal price statistics, please visit www.usgs.gov/centers/nmic/commodity-statistics-and-information.

⁵⁶ For more information on the BLS producer price indices, please visit www.bls.gov/ppi/.

⁵⁷ Fastmarkets, available at www.fastmarkets.com/amm-is-part-of-fastmarkets.

⁵⁸ U.S. Department of Labor, Bureau of Labor Statistics, Producer Price Indices, available at www.bls.gov/ppi/.

⁵⁹ R–454A is only an acceptable alternative for systems under 200 lbs of charge, which matches the restrictions finalized in the October 2023 EPA Technology Transitions Final Rule.

the refrigerant leak detection system is required independent of efficiency, DOE applied this cost across all baseline and higher efficiency levels analyzed. Therefore, this had no impact to the incremental MPCs analyzed. Details of this cost addition are outlined in chapter 5 of the final rule TSD.

Additionally, based on the properties of R-454A and the current design of walk-in refrigeration systems, DOE has concluded that there would likely be modest tooling and development conversion costs to convert the condenser, evaporator, and refrigerant piping of an R-448A system to use R-454C. *See* section IV.C.2.g of this document for further discussion on DOE's accounting for how tooling and development costs are incorporated into MPCs.

In response to the March 2024 NODA, DOE received the following comments specifically relating to single-packaged dedicated systems. AHRI and Lennox stated that DOE significantly underestimated a <1-percent cost increase to achieve a 34-percent increase of AWEF2 while considering HFC refrigerant for transition for the following representative units: SP.M.O.009, SP.M.I.009, SP.L.O.006, SP.L.I.006, and SP.L.O.002. AHRI and Lennox commented that DOE should have looked at the EPA technology transition rule on self-contained products. AHRI and Lennox stated that while the charge amount is a challenge to achieve the performance requirement, achieving a higher AWEF2 number could cause a tremendous cost increase. AHRI stated the ballpark number could be in the range of 30–40 percent vs. DOE's estimation of less than 1 percent. AHRI and Lennox stated that for SP.M.O.002 and SP.L.I.002, DOE's estimated MPC increases of 42 percent and 31 percent, respectively, may be underestimated for lower GWP refrigerants requiring potential changes to heat exchangers and cabinetry. AHRI and Lennox stated that for the SP.L.I.002 representative unit, DOE has only considered up to EL 4 at TSL 1 and TSL 2, which does not include propane or any other low-GWP refrigerant. AHRI stated that propane must be considered part of the AWEF2 if DOE is intending to adopt TSL 1 or TSL 2. AHRI stated that this could also impact the MPC. AHRI and Lennox stated that there is no consideration of heat exchanger design impact or any additional components to be accommodated to achieve higher AWEF2. (AHRI, No. 86 at p. 9; Lennox, No. 87 at pp. 7–8)

As indicated previously in this section, DOE acknowledges that the transition to lower GWP refrigerants

may result in increased equipment costs across WICF refrigeration systems. However, DOE has determined based on the information available at this time, that any change in cost to manufacture equipment that is compatible with lower GWP refrigerants is not likely to significantly affect incremental costs to improve efficiency analyzed in this rulemaking (*i.e.*, the costs to implement these changes will likely be similar at each efficiency level). AHRI did not specify what cost it is requesting to be included in this analysis of single-packaged dedicated systems. Based on manufacturer feedback, it is DOE's understanding that major changes to heat exchangers and cabinetry would not be necessary for single-packaged dedicated systems' transition to low-GWP refrigerants. Given the lack of specific data provided by AHRI on what the cost increases for single-packaged dedicated systems would be attributed to, DOE has maintained the cost approach from the March 2024 NODA in the final rule cost analysis.

d. More Efficient Single-Speed Compressors

In the September 2023 NOPR, DOE analyzed higher-efficiency compressors for dedicated condensing units and single-packaged dedicated systems. The higher-efficiency compressor design options included both higher-efficiency single-speed compressors and variable-speed compressors. For single-packaged dedicated systems, DOE considered both higher-efficiency single-speed compressors and variable-speed compressors in the September 2023 NOPR. However, DOE did not consider higher-efficiency single-speed compressors for dedicated condensing units in the September 2023 NOPR. *See* section 5.7.2.1 of the September 2023 NOPR TSD for further discussion. In response to the comments received on the September 2023 NOPR from ASAP *et al.* and the CA IOUs (ASAP *et al.*, No. 77 at p. 2; CA IOUs, No. 76 at pp. 8–9), for the March 2024 NODA, DOE reviewed publicly available compressor performance data and identified compressors with capacities roughly between 50 and 60 kBtu/h that have higher efficiencies than the compressors in that capacity range used in the September 2023 NOPR analysis. DOE determined that compressors in that capacity range could be used on the following representative units: DC.M.O.054, DC.M.I.054, and DC.M.O.124. In the March 2024 NODA, DOE presented updated cost-efficiency curves that incorporated more-efficient single-speed compressors as design options on those three representative

units. DOE requested comment on the updated cost-efficiency results for the 54 kBtu/h indoor and outdoor medium-temperature dedicated condensing units and the 124 kBtu/h outdoor medium-temperature dedicated condensing unit presented in section 3 of the NODA support document. 89 FR 18555, 18560–18561.

In response to the March 2024 NODA, AHRI stated that since there are multiple technologies (*i.e.*, scroll and semi-hermetic compressors) offered above the capacities of 54 kBtu/h, the cost is underestimated by as much as 40 percent in some cases. (AHRI, No. 86 at pp. 7–8) Lennox stated that DOE significantly underestimated costs for compressors with improved efficiency. (Lennox, No. 87 at p. 5) Based on these comments, it is unclear to DOE if the commenters are stating that the costs are underestimated because they believe that, in some cases, units would need to swap a scroll compressor for a semi-hermetic compressor or if the costs are underestimated because the costs of swapping for a higher efficiency compressor of the same type (scroll or semi-hermetic) are too low. As discussed in the March 2024 NODA, DOE analyzed compressors at efficiencies that have options for both scroll and semi-hermetic compressors to ensure that the analysis only included compressors that did not remove consumer choice. 89 FR 18555, 18560. For the DC.M.O.054, DC.M.I.054, and DC.M.O.124 representative units modeled in the engineering analysis, DOE associated the incremental cost for a higher-efficiency compressor with the cost of swapping a representative scroll compressor with a higher-efficiency scroll compressor, as DOE determined that scroll compressors are more representative for these representative units than semi-hermetic compressors. Without further clarity about why this incremental cost is being underestimated, DOE maintained its methodology for the final rule cost analysis. DOE notes that it reviewed and updated compressor pricing for the final rule cost analysis to align with current pricing trends. *See* chapter 5 of the final rule TSD for further details on how component costs were updated.

e. Variable-Speed Compressors

In response to the September 2023 NOPR, ASAP *et al.* commented that DOE may be overestimating the cost of variable-speed compressors and, as a result, the economic analysis does not show levels incorporating variable-speed compressors to be cost-effective. ASAP *et al.* commented that in DOE's NOPR analysis for CRE, DOE used a

lower incremental cost associated with variable-speed compressors; thus, ASAP *et al.* recommended that DOE further investigate the cost of variable-speed compressors for walk-ins. (ASAP *et al.*, No. 77 at p. 3) In the September 2023 NOPR, DOE was unable to collect sufficient cost information for variable-speed compressors from product teardowns and manufacturer interviews. Therefore, DOE calculated the cost of variable-speed compressors using compressor pricing data previously collected from teardowns of other refrigeration and HVAC products to develop a price multiplier to estimate the cost increase of a variable-speed compressor compared to a single-speed compressor. For the final rule analysis, DOE was still unable to find sufficient cost information for variable-speed compressors specifically used for walk-ins. In contrast, variable-speed compressors are more prevalent in the CRE market and, as a result, DOE was able to ascertain price information for compressors used for CREs through product teardowns and online quotes. DOE notes that those compressor prices would not be directly applicable to walk-ins, as application temperatures and refrigerated volumes for CREs differ from those of walk-ins. Because of the differing availability for compressors, DOE estimates that a variable-speed compressor for a walk-in dedicated condensing system has a larger incremental cost compared to CRE. Ultimately, DOE maintained the methodology used to estimate incremental costs for variable-speed compressors for dedicated condensing systems used in the September 2023 NOPR in this final rule.

f. Unit Coolers

In the September 2023 NOPR, DOE developed linear cost-efficiency correlations for each representative unit, which DOE used to determine the MPC increase from the baseline efficiency level to the higher efficiency levels for unit coolers. For additional details, *see* section 5.8.6 of the September 2023 NOPR TSD. For the September 2023 NOPR, DOE did not consider that adding rows to the unit cooler heat exchanger would require an increase in cabinet size when determining the MPCs associated with each efficiency level. In response, AHRI, Hussmann, and Lennox commented that current unit cooler coil and cabinet designs are optimized around four-row designs and increasing efficiency would be more costly than what DOE estimated when considering packaging, freight, materials, and scrap. (AHRI, No. 72 at pp. 3–4, 9; Hussmann, No. 75 at pp. 2,

12; Lennox, No. 70 at p. 4) DOE subsequently updated its analysis for the March 2024 NODA to account for costs related to expanding the cabinet to accommodate additional tube rows. 89 FR 18555, 18564. The average cost adder associated with expanding cabinet sizes was \$11 for the representative capacities DOE analyzed. DOE notes that most of the cost adder is comprised of material costs for additional cabinet sheet metal and packaging associated with an expanded cabinet. DOE did not include capital expenditures, such as retooling investments required for an expanded cabinet, in the MPCs. For further discussion on this, *see* section IV.C.2.g of this document.

In response to the March 2024 NODA, Lennox and AHRI stated that the baseline MPC for unit coolers are about 50 percent low and that they are unable to comment on the incremental costs for EL 1 and EL 2 due to uncertainty surround the definition of the higher efficiency levels (AHRI, No. 86 at p. 5; Lennox, No. 87 at pp. 5–6) AHRI and Hussmann stated that the \$11 cost adder applied to higher efficiency unit coolers seems low, particularly for larger capacity units. (AHRI, No. 86 at p. 8; Hussmann, No. 88 at p. 2) For this final rule analysis, DOE reviewed its cost modeling methodology considering these comments regarding underestimated costs. Upon reviewing product literature and the representative units being modeled, DOE updated several inputs to the unit cooler cost modeling, which may be better aligned with industry's cost estimates. Regarding the \$11 cost adder, DOE maintained the methodology used to develop the cost adder. With updates to material pricing, DOE still found that \$11 was the average cost adder and that the cost adder did not vary significantly with capacity. *See* chapter 5 of the final rule TSD for further details on the updates made to MPC modeling for unit coolers. For further discussion of the capital conversion costs associated with additional tube rows, *see* section IV.J.3.a of this document.

Assigning Costs to Efficiency Levels

In the September 2023 NOPR analysis, DOE developed cost-efficiency curves for unit coolers by correlating cost with AWEF2 for groups of similar units within designated capacity ranges. As discussed previously, the changes made in this final rule analysis to adjust the fan power of some units in the unit cooler performance database will result in a different relationship between cost and AWEF2. As DOE was developing these new relationships, it identified a

change in methodology that would increase the number of units considered in the cost analysis and more closely align the incremental costs of each efficiency level to the increased manufacturer production cost of adding additional tube rows to unit cooler heat exchangers. Whereas DOE's NOPR analysis previously correlated costs directly with AWEF2, DOE estimated costs for efficiency levels above baseline would be associated with tube row increases for this final rule.

Additionally, DOE slightly revised baseline costs for each representative unit to use more data from the unit cooler database in an effort to assign more representative costs to the units analyzed. The updated costs are presented in Appendix 5A of the final rule TSD and the details of the revised cost methodology are discussed in chapter 5 of the final rule TSD.

g. Capital Expenditures Represented in MPCs

In response to the September 2023 NOPR, Lennox disagreed with the costs associated with components cited for each TSL in the NOPR and sections 5.7 and 5.8 of the NOPR TSD. Lennox stated that the costs must consider current design and capital costs associated to realize the advancements. Lennox commented that moving from four-row to five-row coils or increasing equipment face area will require sweeping changes likely to increase the cost significantly over DOE's estimates. Lennox commented that DOE's estimated cost of larger condenser coils overlooks capital costs, which Lennox stated would be a significant cost factor. (Lennox, No. 70 at pp. 8–9) AHRI and Hussmann also stated that capital costs should be included when estimating costs for unit coolers with more than four tube rows. (AHRI, No. 72 at pp. 3–4; Hussmann, No. 75 at pp. 1–2)

In response to the March 2024 NODA, AHRI reiterated that because unit coolers are optimized around four-row coils, increasing efficiency by adding tube rows would be much more costly than estimated by DOE, considering major tooling and other factors. AHRI and Lennox stated that DOE underestimated cost increases for MPCs and MSPs associated with requirements for walk-ins to use A2L refrigerants, considering tooling, materials, and development costs. (AHRI, No. 86 at pp. 6–7; Lennox, No. 87 at p. 5)

Regarding the tooling and equipment costs, DOE accounts for manufacturing equipment, tooling, and building depreciation in its MPCs and the one-time, upfront investments in property, plant, and equipment necessary to adapt

or change existing production facilities (*i.e.*, capital conversion costs) in its MIA. As such, DOE notes that the depreciation component of the MPCs in the engineering analysis requires estimates of capital investments (*e.g.*, tooling, fixtures, equipment). To estimate those capital investments for the engineering analysis, DOE uses data collected from teardowns and manufacturer interviews and estimated annual production volumes for each equipment class to model a “greenfield” facility—using brand-new equipment that has not yet depreciated through use—which includes the equipment, tooling, and space requirements necessary to carry out the manufacturing processes on a representative unit. *See* chapter 5 of the final rule TSD for additional details on the cost model and estimation of MPCs. Regarding the development costs, DOE accounts for the one-time, upfront investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with new or amended energy conservation standards (*i.e.*, product conversion costs) in its MIA. *See* section IV.J.2.c of this document or chapter 12 of the final rule TSD for additional information on conversion costs.

h. Manufacturer Markups and Shipping Costs

To account for manufacturer non-production costs and profit margin, DOE applies a multiplier (the manufacturer markup) to the MPC. The resulting MSP is the price at which the manufacturer distributes a unit into commerce. DOE developed an average manufacturer markup by examining the annual Securities and Exchange Commission 10-K reports⁶⁰ filed by publicly traded manufacturers whose combined equipment range includes walk-ins. DOE also relied on data published in the June 2014 Final Rule and information gathered from manufacturer interviews to develop the initial manufacturer markup estimates. DOE maintained the industry average manufacturer markups used in the September 2023 NOPR and March 2024 NODA for this final rule analysis. *See* chapter 12 of the final rule TSD or section IV.J.2.d of this document for additional detail on the manufacturer markups.

In the September 2023 NOPR analysis, DOE estimated a per-unit shipping cost for each dedicated

condenser and single-package dedicated system representative unit at each efficiency level based on the size and weight of the given unit. 88 FR 60746, 60784. Design options such as larger condenser coils resulted in larger per unit shipping costs due to the increased size and weight associated with the design option. These shipping costs were incorporated into consumer prices. DOE did not estimate a per-unit shipping cost for unit coolers because DOE assumed that higher efficiency unit coolers would not require increased shipping costs as a result of additional tube rows or other efficiency-improving technologies; therefore, there would be no incremental shipping cost associated with higher efficiency levels. As discussed in section IV.C.2.f of this document, DOE accounted for the incremental cost of efficiency improving technologies for unit coolers as part of the manufacturing production cost. DOE maintained its shipping cost methodology for refrigeration systems from the March 2024 NODA. For further discussion on the methodology used for estimating shipping costs, as well as some minor analytical updates made to the shipping costs for non-display doors and panels, *see* chapter 5 of the final rule TSD.

3. Cost-Efficiency Results

The results of the engineering analysis are reported as cost-efficiency curves in the form of maximum daily energy consumption (in kWh/day) versus MSP (in dollars) for doors, R-value (in h-ft²-°F/Btu) versus MSP (in dollars) for panels, and AWEF2 (in Btu/(W-h)) versus MSP (in dollars) for refrigeration systems. The methodology for developing the curves started with determining the energy consumption or efficiency for baseline equipment and MPCs for this equipment. For the equipment classes that used the design option approach, DOE implemented design options above baseline using the ratio of cost to savings and implemented only one design option at each efficiency level. Design options were implemented until all available technologies were employed (*i.e.*, at a max-tech level). For the equipment classes that used the efficiency level approach, DOE increased the efficiency level using the ratio of cost to savings above baseline until the maximum efficiency level was reached. *See* chapter 5 of the final rule TSD for additional details on the engineering analysis and appendix 5A of the final rule TSD for complete cost-efficiency results.

D. Markups Analysis

The markups analysis develops appropriate markups (*e.g.*, distributor markups, retailer markups, contractor markups) in the distribution chain and sales taxes to convert the MSP estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin.

DOE developed baseline and incremental markups for each actor in the distribution chain. Baseline markups are applied to the price of products with baseline efficiency, while incremental markups are applied to the difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental markup is typically less than the baseline markup and is designed to maintain similar per-unit operating profit before and after new or amended standards.⁶¹

Regarding its markup analysis in the September 2023 NOPR analysis, DOE received comments from AHRI, Hussmann, and Lennox.

Lennox commented that the NOPR Table IV.22 indicates a significantly discounted incremental markup from the baseline markup, which Lennox stated is not aligned with business practices. Lennox commented that significantly reduced margins can cause manufacturers to exit the market. Lennox commented that businesses strive to maintain margin percentages to meet investor expectations for return on investment. Lennox additionally commented that when previous DOE rulemakings have impacted equipment manufactured by Lennox, the increased cost associated with increased efficiency standard levels has not resulted in lower markup percentages. Lennox recommended that DOE apply a consistent markup level reflective of the current market markup to reflect current practices to maintain investor expectations in terms of return on investment. (Lennox, No. 70 at pp. 5–6)

In response to Lennox, DOE notes that, as previously mentioned, the incremental markup is meant to reflect the changes in a firm’s variable costs that are associated with improving efficiency and change as a function of

⁶¹ Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same markup for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in markets that are reasonably competitive, it is unlikely that standards would lead to a sustainable increase in profitability in the long run.

⁶⁰ U.S. Securities and Exchange Commission, *Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system*. Available at www.sec.gov/edgar/search/ (last accessed May 7, 2024).

equipment MSP. These incremental markups are determined for each agent in the distribution channel and described in detail in chapter 6 of the final rule TSD. With regard to capturing the businesses practice of maintaining margins to meet investor expectations, DOE refers to the manufacturer markup, which is applied to the MPCs to arrive at the MSPs and captures a manufacturer's profit margin (constant markup). The MSPs derived in the engineering analysis and used in the LCC and PBP analyses and NIA reflect a constant manufacturer markup which assumes that manufacturers would be able to maintain the same amount of profit as a percentage of revenues at all efficiency levels within an equipment class. See section IV.C.2.h or section IV.J.3.b of this document for additional information.

As part of this analysis, DOE identifies key market participants and distribution channels. For walk-in coolers and freezers, the main parties in the distribution chain are: direct-to-consumer sales (national accounts), HVAC and refrigeration contractors, walk-in cooler and walk-in freezer distributors, OEMs, and wholesalers. The magnitude, in terms of units shipped through each channel, is shown in Table IV.29.

In the context of this analysis, OEMs are mostly manufacturers of envelope insulation panels who may also sell and install entire walk-in units to final consumers. Manufacturers of entire walk-in units assemble a combination of purchased and manufactured

components at either the manufacturer's plant or at the customer site. Table IV.29 shows the distribution channels DOE defined for this analysis. Table IV.30 summarizes the baseline markups and incremental markups developed for walk-in equipment. The markups shown in this table reflect national average values for the given markup. In the subsequent LCC analysis, regional markup multipliers were developed and used to capture regional variation in mechanical contractor markups as well as State-to-State differences in sales taxes. Also, in the LCC analysis, the relative shipments to new construction and to the replacement market vary by equipment class, resulting in some slight differences between sales-weighted average baseline and average incremental markups by equipment class. After identifying the six distribution channels listed in Table IV.29, DOE relied on economic data from the U.S. Census Bureau⁶² and other sources⁶³ to determine how prices are marked up as equipment is passed from the manufacturer to the customer.

Lennox, supported by AHRI, commented that its analysis of e-commerce channels for dedicated condensing equipment, unit coolers, and single-package refrigeration unit systems demonstrates (today) that e-commerce is a channel used to source refurbished used equipment. Lennox stated that dedicated condensing units and unit coolers require knowledgeable personnel to specify the equipment. Further, Lennox commented that EPA's technology transition to low-GWP

refrigerants including A2Ls and CO₂ coming to the market can increase the complexity of selection (of equipment) substantially, which may adversely affect the rate of e-commerce adoption. Additionally, Lennox commented that single-package refrigeration units, on the other hand, could have increased e-commerce adoption because of the self-contained nature of the equipment and its simpler application. (Lennox, No. 70 at pp. 7–8; AHRI, No. 72 at p. 11)

Lennox commented it is not aware of readily available information on the size of the e-commerce channel. (*Id.*) Hussmann commented that few of its customers leverage e-commerce in limited applications through internal systems, and they are an insignificant driver in terms of sales. (Hussmann, No. 75 at p. 11)

For this final rule analysis, DOE agrees with Lennox's (and AHRI's) position that the e-commerce distribution channel is primarily used for refurbished/used equipment and that e-commerce may become a viable means of distribution of dedicated condensing and unit cooler equipment in the future. However, DOE notes that refurbished/used equipment is outside the scope of this rulemaking and therefore not considered in this analysis and that future distribution through e-commerce is uncertain. Because of these uncertainties, DOE has not included the e-commerce distribution channel in this analysis and has maintained the approach used in the September 2023 NOPR analysis.

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Table IV.29 Distribution Channel Weights

Distribution Channel	Dedicated Condensing Units and Unit Coolers	Display Doors	Panels and Non-Display Doors	Single-Packaged Dedicated Systems	Unit Coolers for Multiplex*
Direct (National Account)	0.03	0.30	0.45	-	0.45
Contractors	0.03	0.14	0.11	0.5	0.01
Distributors	0.34	0.56	0.44	0.5	0.05
OEM	0.18	-	-	0.75	0.05
Wholesale	0.42	-	-	0.15	0.45
Grand Total	1.00	1.00	1.00	1.00	1.00

* Unit coolers are sold into applications where they are connected to both dedicated and multiplex condensing systems. While multiplex condensing systems are not currently within scope, unit coolers connected to them are.

⁶² U.S. Census Bureau. Electrical, Hardware, Plumbing, and Heating Equipment and Supplies:

2020. 2020. Washington, DC Report No. EC-02-421-17.

⁶³ Heating, Air Conditioning & Refrigeration Distributors International. 2012 Profit Report (2011 Data). 2012. Columbus, OH.

Table IV.30 Distribution Channel Shares and Markups

Equipment Class Code	Equipment Family	Baseline Markup	Incremental Markup
DC.L.O	DC	2.03	1.37
DC.L.I	DC	2.03	1.37
DC.M.O	DC	2.03	1.37
DC.M.I	DC	2.03	1.37
UC.L	UC	2.03	1.37
UC.M	UC	2.03	1.37
UC.L – Multiplex	UC	1.98	1.46
UC.M – Multiplex	UC	1.98	1.46
FP.L	P and NDD	1.32	1.19
PS.L	P and NDD	1.32	1.19
PS.M	P and NDD	1.32	1.19
NM.L	P and NDD	1.32	1.19
NM.M	P and NDD	1.32	1.19
NO.L	P and NDD	1.32	1.19
NO.M	P and NDD	1.32	1.19
DW.L	DD	1.71	1.29
DW.M	DD	1.71	1.29
SP.M.I	SP	1.53	1.18
SP.M.O	SP	1.53	1.18
SP.L.I	SP	1.53	1.18
SP.L.O	SP	1.53	1.18
SP.H.I	SP	1.53	1.18
SP.H.O	SP	1.53	1.18
SP.H.I.D	SP	1.53	1.18
SP.H.O.D	SP	1.53	1.18

Key: DC = dedicated condensing unit; UC = unit cooler; P = panel, NDD = non-display door; DW = display door, SP = single-packaged dedicated system.

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Chapter 6 of the final rule TSD provides details on DOE's development of markups for walk-in coolers and freezers.

E. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of walk-in coolers and freezers at different efficiencies in representative U.S. commercial buildings, and to assess the energy savings potential of increased walk-in efficiency. The energy use analysis estimates the range of energy use for walk-ins in the field (*i.e.*, as they are actually used by consumers) stated as annual energy consumption ("AEC").

The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards. DOE's methodology for this final rule is unchanged from that presented in its September 2023 NOPR analysis.

1. Trial Standard Levels

In the September 2023 NOPR, DOE analyzed the benefits and burdens of three trial standard levels ("TSLs") for the considered walk-in doors, panels, and refrigeration systems. These TSLs were developed by combining specific efficiency levels for each of the equipment classes analyzed by DOE in

the engineering analysis. TSL 3 in the September 2023 NOPR represented the efficiency levels that use the combination of design options for each representative unit at the maximum technologically feasible level. TSLs 1 and 2 in the September 2023 NOPR represented combinations of efficiency levels of all representative units that each provided progressively more energy savings while delivering a positive savings benefit to consumers. At TSLs 1 and 2, the efficiency levels for non-display doors and structural panels were constrained such that improvements to insulation were harmonized across non-display doors and structural panels to avoid a circumstance where DOE would

propose a standard where one component would necessitate increased insulation thickness, but not the other. Thus, the efficiency levels at TSLs 1 and 2 were aligned to reflect design options where the insulation thickness is harmonized and results in positive NPV for both non-display doors and structural panels. Aligning the insulation thickness of non-display doors and panels avoids a potential unintended consequence where the installation of replacement non-display doors could trigger the replacement of some, or all, of the attached walk-in enclosure panels because the thickness of the components do not match. DOE sought comment in the September 2023 NOPR on its assumptions and rationale for harmonizing panel and non-display door thicknesses at a given TSL. 88 FR 60746, 60786.

In response to the September 2023 NOPR, RSG stated agreement with DOE's proposal to harmonize panel and door thickness as this move should have a positive impact across the industry. (RSG, No. 69 at p. 2) Kolpak also agreed that panels and non-display doors should be of the same thickness so that the doors and panels are flush. (Kolpak, No. 66, Attachment 1 at p. 2) In light of the comments received from RSG and Kolpak, DOE maintained its approach from the September 2023 NOPR harmonizing structural panel and door insulation thicknesses for a given TSL.

ASAP *et al.* recommended that DOE revisit the proposed efficiency levels for certain single-packaged equipment classes. ASAP *et al.* referenced DOE's stated intent for TSL 2 (*i.e.*, the proposed level) to represent the combination of design options that results in the greatest energy savings with a positive net present value at 7 percent for a given equipment class. ASAP *et al.* asserted for several single-packaged equipment classes, it appears that the proposed standards do not reflect DOE's intended criteria for TSL 2. In particular, ASAP *et al.* stated that the following equipment classes for WICF refrigeration systems could be revisited: (1) in the case of outdoor medium-temperature single-packaged dedicated systems (SP.M.O), DOE proposed efficiency level "EL" 1, but EL 3 appears to be cost-effective; (2) in the case of outdoor low-temperature single-packaged dedicated systems (SP.L.O), DOE proposed the baseline level, but EL 2 appears to be cost-effective; (3) in the case of indoor high-temperature single-packaged dedicated systems (SP.H.I), DOE's LCC results show positive savings at TSL 3 (equivalent to EL 2 for both representative units), and it is unclear whether DOE has selected the

correct EL to satisfy the TSL 2 criteria for this equipment class; and (4) in the case of ducted indoor and outdoor, high-temperature single-packaged dedicated systems (SP.H.I.D and SP.H.O.D) equipment classes, TSL 2 is stated to represent EL 6 (4.83 AWEF) for the SP.H.O.D 7 kBtu/h representative unit, but the proposed standard is only 4.41 AWEF, which does not correspond to any evaluated EL. (ASAP *et al.*, No. 77 at p. 6)

Similarly, the CA IOUs recommended that DOE consider crankcase heater controls and enhanced thermal insulation design options in TSL 2 for low-temperature outdoor single-packaged systems (SP.L.O). The CA IOUs stated that, according to DOE's engineering analysis, the crankcase heater controls increase the efficiency of outdoor low-temperature packaged systems with minimal additional cost, and that improved thermal insulation improves AWEF2 with minimal cost. (CA IOUs, No. 76 at p. 11)

As mentioned previously, in the September 2023 NOPR, TSL 2 represented combinations of efficiency levels that provided progressively more energy savings than TSL 1 while maintaining positive savings benefit to consumers. 88 FR 60746, 60786. In the March 2024 NODA, DOE analyzed three slightly different TSLs than what was analyzed in the September 2023 NOPR. In the March 2024 NODA, TSL 1 represented the efficiency levels that yield AWEF2 values closest to those AWEF2 values that align with TSL 2 from the September 2023 NOPR, and TSL 3 represented max-tech efficiency levels. DOE notes that while LCC analysis results often can correlate with national impact analysis ("NIA") results, this is not always the case. In the case of non-ducted high-temperature single-packaged dedicated systems analyzed in the September 2023 NOPR, the LCC savings were positive, but the NIA results were negative for TSL 3. 88 FR 60746, 60850. Additionally, in light of the comments received by ASAP *et al.* and the CA IOUs, DOE analyzed a new intermediate TSL 2 in the March 2024 NODA. Specifically, DOE mapped: (1) EL 8 to TSL 2 for SP.M.O.002 and EL 3 to TSL 2 for SP.M.O.009; (2) EL 2 to TSL 2 for SP.L.O, which represents a level with crankcase heater controls; (3) EL 2 to TSL 2 for SP.H.I.; (4) EL 2 and 6 to TSL 2 for SP.H.I.D and SP.H.O.D, respectively. In the case of non-ducted high-temperature single-packaged dedicated systems analyzed in the September 2023 NOPR, the LCC savings were positive, but the NIA results were negative for TSL 3. 89 FR 18555, 18565–18566. In this final rule, DOE is

adopting TSL 2 for refrigeration systems, which as discussed in this paragraph is consistent with the suggestions of ASAP *et al.*

Regarding ASAP *et al.*'s comment about the ducted indoor and outdoor, high-temperature single-packaged dedicated systems, DOE's engineering and economic analysis was based on representative external static pressures for the evaporator and condenser sections of the system. However, when developing the equation for the proposed standards, DOE applied an additional adjustment factor to the AWEF2 value that corresponds to TSL 2 to account for the potential range in external static pressures that could be allowed for different systems. As such, the AWEF2 values that result from the equation proposed in the September 2023 NOPR are lower than the AWEF2 values that correspond to the representative units at TSL 2, to account for additional energy that would be used in a test to deliver the higher external static pressure (half of the maximum allowed for the system, in accordance with the test procedure) for such systems that have higher pressure capability. These adjustment factors were based on the highest external static pressure available on the market for the given equipment class. DOE adopted this approach rather than set standards for ducted high-temperature dedicated systems that vary both with capacity and external static pressure capability.

In the March 2024 NODA, DOE presented three TSLs for refrigeration systems and non-display doors. For refrigeration systems, TSL 3 included the efficiency levels that use the combination of design options for each representative unit at the max-tech level. TSL 1 represented the efficiency levels in the NODA that yielded AWEF2 values closest to those AWEF2 values of the proposed standards (TSL 2) in the September 2023 NOPR. TSL 2 was an intermediate TSL that was higher than TSL 1 but below the max-tech level. For non-display doors, TSL 3 included the efficiency levels that used the combination of design options for each representative unit at the max-tech level. TSL 1 and TSL 2 were intermediate TSLs between baseline and TSL 3. 89 FR 18555, 18565–18567.

In this final rule, DOE analyzed three TSLs for walk-in doors, panels, and refrigeration systems. For display doors and panels, DOE analyzed the same three TSLs as it did in the September 2023 NOPR, where TSL 3 was the max-tech efficiency levels and TSL 1 and 2 were set to the baseline because the consumer savings were negative for all the other available efficiency levels. To

summarize here for display doors connected to a TSL 2 refrigeration system: For low-temperature display doors at EL 1, the improvement from 3-pane glass with argon fill to 3-pane glass with krypton fill results in an average LCC impact of $-\$5$ with 67 percent of consumers having a net cost. At EL 2 (max-tech), the improvement for low-temperature display doors from 3-pane glass with krypton fill to 2-pane vacuum-insulated glass results in an average LCC impact of $-\$1,062$ with 100 percent of consumers having a net cost. For medium-temperature display doors at EL 1, the improvement from 2-pane glass with argon fill to 3-pane glass with argon fill results in an average LCC impact of $-\$29$ with 94 percent of consumers having a net cost. At EL 2 (max-tech), the improvement for medium-temperature display doors from 2-pane glass with argon fill to 2-pane vacuum-insulated glass results in an average LCC impact of $-\$1,304$ with 100 percent of consumers having a net

cost. For panels connected to a TSL 2 refrigeration system: For low-temperature floor panels (PF.L) at EL 1, the improvement from 3.5 inches of insulation to 4 inches of insulation results in an average LCC impact of $-\$0.16$ per ft² with 91 percent of consumers having a net cost. At EL 2 with the improvement to 5 inches of insulation the average LCC impact is $-\$0.19$ per ft² with 74 percent of consumers having a net cost. At EL 3 (max tech) with the improvement to 6 inches of insulation the average LCC impact is $-\$0.52$ per ft² with 83 percent of consumers having a net cost. For low-temperature structural panels (PS.L) at EL 1, the improvement from 4 inches of insulation to 5 inches of insulation results in an average LCC impact of $-\$0.10$ per ft² with 67 percent of consumers having a net cost. At EL 2 (max tech) with the improvement to 6 inches of insulation the average LCC impact is $-\$0.24$ per ft² with 70 percent of consumers having a net cost. For

medium-temperature structural panels (PS.M) at EL 1, the improvement from 3.5 inches of insulation to 4 inches of insulation results in an average LCC impact of $-\$0.47$ per ft² with 100 percent of consumers having a net cost. At EL 2 with the improvement to 5 inches of insulation the average LCC impact is $-\$1.37$ per ft² with 100 percent of consumers having a net cost. At EL 3 (max tech) with the improvement to 6 inches of insulation the average LCC impact is $-\$2.37$ per ft² with 100 percent of consumers having a net cost. Detailed consumer results are presented by EL in appendix 8C of this final rule TSD.

For non-display doors, dedicated condensing units, and single-packaged dedicated systems, DOE generally analyzed the same three TSLs as it did in the March 2024 NODA.⁶⁴ For unit coolers, DOE generally analyzed the same three TSLs as it did in the September 2023 NOPR.⁶⁵

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Table IV.31 Envelope Components Efficiency Level by Representative Unit Mapping for TSL 3

Equipment Class	TSL 3
Display Doors	
DW.L	2
DW.M	2
Non-display Doors	
NM.L	5
NM.M	6
NO.L	5
NO.M	6
Panels	
PF.L	3
PS.L	2
PS.M	3

⁶⁴ DOE notes that in this final rule, TSL 2 for low-temperature, outdoor dedicated condensing units matches the mapping of the March 2024 NODA TSL 1, not the March 2024 NODA TSL 2. This difference

only changed the efficiency level mapping of the highest capacity representative unit.

⁶⁵ For the highest capacity representative unit of medium-temperature unit coolers the efficiency

level mapped in TSL 1 and 2 has changed from efficiency level 2 in the September 2023 NOPR to efficiency level 0 in this final rule.

Table IV.32 Refrigeration Systems Efficiency Level by Representative Unit Mapping for TSL 3

Equipment Class	Capacity (kBtu/h)								
	2	3	6	7	9	25	54	75	124
Dedicated Condensing Systems									
DC.L.I		2			1	3	2		
DC.L.O		3			5	8	5	4	
DC.M.I					1	3	4	3	
DC.M.O					8	8	9	8	9
Single-packaged Dedicated Condensing Systems									
SP.H.I	2			2					
SP.H.I.D	2			2					
SP.H.O	6			6					
SP.H.O.D	6			6					
SP.L.I	7		2						
SP.L.O	4		4						
SP.M.I	5				3				
SP.M.O	9				5				
Unit Coolers									
UC.H					1	1			
UC.H.D					1	1			
UC.L		2			2	2	2	2	
UC.M		2			2	2	2	2	

Table IV.33 Envelope Components Efficiency Level by Representative Unit Mapping for TSL 2

Equipment Class	TSL 2
Display Doors	
DW.L	0
DW.M	0
Non-display Doors	
NM.L	3
NM.M	3
NO.L	3
NO.M	3
Panels	
PF.L	0
PS.L	0
PS.M	0

Table IV.34 Refrigeration Systems Efficiency Level by Representative Unit Mapping for TSL 2

Equipment Class	Capacity (kBtu/h)								
	2	3	6	7	9	25	54	75	124
Dedicated Condensing Systems									
DC.L.I		1			0	2	1		
DC.L.O		2			4	7	4	2	
DC.M.I					0	2	3	2	
DC.M.O					3	3	4	3	4
Single-packaged Dedicated Condensing Systems									
SP.H.I	2			2					
SP.H.I.D	2			2					
SP.H.O	5			5					
SP.H.O.D	6			6					
SP.L.I	4		1						
SP.L.O	2		2						
SP.M.I	3				1				
SP.M.O	8				3				
Unit Coolers									
UC.H					0	0			
UC.H.D					1	1			
UC.L		2			2	2	2	2	
UC.M		2			2	2	2	0	

Table IV.35 Envelope Components Efficiency Level by Representative Unit Mapping for TSL 1

Equipment Class	TSL 1
Display Doors	
DW.L	0
DW.M	0
Non-display Doors	
NM.L	1
NM.M	1
NO.L	1
NO.M	1
Panels	
PF.L	0
PS.L	0
PS.M	0

Table IV.36 Refrigeration Systems Efficiency Level by Representative Unit Mapping for TSL 1

Equipment Class	Capacity (kBtu/h)								
	2	3	6	7	9	25	54	75	124
Dedicated Condensing Systems									
DC.L.I		1			0	2	1		
DC.L.O		2			4	7	4	2	
DC.M.I					0	2	2	2	
DC.M.O					2	2	2	2	2
Single-packaged Dedicated Condensing Systems									
SP.H.I	1			2					
SP.H.I.D	2			2					
SP.H.O	5			5					
SP.H.O.D	5			6					
SP.L.I	4		1						
SP.L.O	0		1						
SP.M.I	3				1				
SP.M.O	8				3				
Unit Coolers									
UC.H					0	0			
UC.H.D					1	1			
UC.L		1			2	1	2	1	
UC.M		2			1	2	1	0	

When setting standards equations that vary with capacity for refrigeration systems of walk-ins, DOE used as a guide the efficiency levels of the selected TSL. The AWEF2 values associated with these efficiency levels can vary as a function of representative capacity. For example, for the outdoor, medium-temperature dedicated condensing units, DOE analyzed five representative units (at five different capacities). At each TSL, each representative unit may be mapped to a different efficiency level that may correspond to a different AWEF2 value. Once a TSL has been selected to propose or adopt, DOE developed an equation to define the selected standard level at all capacities (not just the representative capacities analyzed). The equation aligns with the efficiency levels of the representative units associated with the selected TSL. The equation may take the form of a set of equations to more closely follow the analyzed ELs. To avoid setting a standard made up of an excessive number of equations, DOE may use a line providing a best fit through a set of

efficiency levels and capacities. In this final rule, DOE is setting standards equations for refrigeration systems as a function of capacity for most equipment classes by using sets of equations that provide a balance of limiting the number of equations covering the relevant capacity range and maintaining reasonable consistency with the AWEF2 associated with the selected TSL. For medium-temperature unit coolers, the finalized standard represents fewer equations than presented in the March 2024 NODA, while also considering both the September 2023 NOPR and March 2024 NODA comments and not overshooting the representative capacity efficiency levels associated with the selected TSL.

DOE used a line of best fit that is a function of door surface area to develop the non-display door standards equations presented in the September 2023 NOPR, March 2024 NODA, and this final rule. Each equipment class for doors has three representative units (small, medium, and large surface area). Similar to refrigeration systems, at each TSL, each representative unit is mapped to an efficiency level that corresponds to

a different DEC value. For the TSL that is selected, DOE used a line of best fit through the DEC values of each representative unit to determine the first two terms of the standard equations. For the remaining terms of the standard equations, which correspond to the allowances for additional electrical components, DOE developed coefficients to represent the additional energy consumption allowance for a component which are then multiplied by a 1 or a 0 based on the presence or absence of that component in a basic model. DOE maintained this approach for setting the amended standards equations for non-display doors in this final rule.

2. Energy Use of Envelope Components

DOE used the results of the engineering analysis to determine the annual electrical energy consumption of each walk-in envelope component (*i.e.*, panels, non-display doors, and display doors). For panels, the AEC is calculated as the energy consumption per unit area of the panel for heat infiltration through the panel or door. For doors that use electricity directly from electricity-

consuming components (*i.e.*, lighting and/or anti-sweat heaters), DOE calculated the associated increased refrigeration load from the electricity-consuming components and added it to the total to obtain the daily refrigeration load. This refrigeration load was divided by the annual energy efficiency ratio (“AEER”) of the shipment-weighted average of refrigeration system equipment classes grouped by temperature rating to estimate the associated energy use. DOE multiplied the daily electrical energy consumption by the number of days per year to obtain the AEC. DOE then determined the total

electrical energy consumption associated with each envelope component by (1) calculating the refrigeration energy consumption required to compensate for heat infiltration through the envelope based on the assumed connected refrigeration system, and (2) adding any direct electrical energy consumed by component. The refrigeration load was calculated by multiplying the U-factor for the component by the reference temperature difference between the exterior and the interior, as specified in the DOE test procedure.

DOE notes that the energy savings from improved insulation or reduced heat infiltration would be realized as reduced load on the attached refrigeration systems; however, for the purpose of reporting savings to determine any potential amended standard, these energy savings are attributed to the individual envelope component in question.

DOE did not receive any comments regarding its energy use analysis pertaining to envelope components and has therefore maintained its approach from the September 2023 NOPR analysis.

Table IV.37 Applied AEERs by Equipment Class

Equipment Class	Baseline	Trial Standard Level		
		1	2	3
DC.L.I	5.53	5.67	5.67	5.98
DC.L.O	8.24	8.39	8.39	9.69
DC.M.I	11.63	12.15	12.32	13.40
DC.M.O	16.07	16.21	16.72	21.90
SP.L.I	4.29	4.76	4.76	4.95
SP.L.O	6.54	6.62	6.65	6.90
SP.M.I	11.38	12.09	12.09	12.25
SP.M.O	15.64	16.47	16.47	16.58

3. Energy Use of Refrigeration Systems

DOE calculated the AEC of the refrigeration system assuming it is matched to a walk-in envelope with the appropriate refrigeration load. Further, DOE assumes that this refrigeration load is fixed in both the no-new standards and amended standards cases.

The engineering analysis uses a design-option approach that, for each design-option combination, adds a feature that increases efficiency. Hence, equipment class can be represented by a group of efficiency level indicators matching the engineering design option.

For each equipment class, the engineering analysis evaluates the performance of the dedicated condensing unit, unit cooler, or single-packaged dedicated system, and for each representative capacity, the performance data are passed to the energy use calculation. The data and equations used to calculate the annual energy use depend on the type of equipment and are available in chapters 7, 8, and associated appendices of the TSD. The unit coolers that are not attached to dedicated condensing units are assumed to be paired with a

compressor rack with constant net capacity; these are referred to as multiplex applications. Low-temperature unit coolers include the impact of energy consumption during the defrost cycle. For refrigeration systems, the net capacity is affected by the design options added, so at each efficiency level the run hours are adjusted to ensure that the amount of heat removed is constant across all efficiency levels. For outdoor systems, the compressor and condenser performance are also affected by ambient temperature, and this effect is incorporated into the energy use calculation. Detailed equations and input data are presented for each equipment type in chapter 7 of this final rule TSD.

a. Nominal Daily Run Hours

The daily run hours for baseline units are assumed to be 16 hours for medium- and high-temperature systems and 18 hours for low-temperature systems based on guidelines typically used in sizing refrigeration systems. DOE assumed that systems were sized at design temperatures of 95 °F for outdoor

units and 90 °F for indoor units. DOE also assumed an oversize factor of 20 percent is included, which has the effect of reducing the daily run hours by a factor of $\frac{1}{1.2}$. These assumptions are unchanged from the June 2014 Final Rule and the July 2017 Final Rule. 79 FR 32050, 32083; 82 FR 31808, 31842. During the rest of the time, the system is in off-mode, so the only energy consumption is from the controls, crankcase heat, and evaporator fan.

AHRI commented that DOE’s application of 16 hours per day run time is significantly low. AHRI suggested using, based on engineering manual guidelines for a range of applications, the following nominal run-time hours: (AHRI, No. 72 at p. 11)

- 35 °F room with no timer: 16 hours,
 - 35 °F room with timer: 16 hours,
 - Blast coolers/freezers with positive defrost: 18 hours,
 - Storage freezer 18 hours,
 - Coolers with hot gas or electric defrost 18 hours, and
 - 50 °F rooms and higher with coil temperatures above 32 °F: 20–22 hours.
- (Id.)

Additionally, NRAC presented the following run-time hours: high-temperature 20 hours, medium-temperature 16 hours, and low-temperature 18 hours. (NRAC, No. 73 at p. 2)

In response to AHRI and NRAC, DOE notes that the run-time guidelines provided for low- and medium-temperature equipment are in alignment with those used by DOE in the September 2023 NOPR analysis. With regard to the comments regarding the run-time hours of high-temperature equipment, DOE notes that the values submitted by AHRI are identical to those submitted by Lennox in the September 2023 NOPR where it was

noted that the run-time guidelines Lennox provided were specifically for determining the box cooling load for prep-room applications; and DOE then noted that these guidelines encompass equipment not currently covered by the standard. 88 FR 60746, 60789. It continues that DOE’s response is still valid, where applying 16 hours as the nominal run-time hours for high-temperature single-packaged dedicated condensing systems and unit coolers is appropriate as a modeling assumption because the intended cooling temperature of high-temperature equipment is like that of medium-temperature systems at 35 °F. 88 FR 60746, 60789.

For this final rule, DOE is maintaining its modeling assumption of 16 hours per day of nominal daily run hours for high-temperature equipment and maintaining its modeling assumptions from the September 2023 NOPR for all other classes. DOE notes that it will continue in its subgroup analysis to examine high-temperature equipment where the nominal run time is 20 hours per day to approximate consumers with walk-ins with high warm air-infiltration (e.g., prep rooms) as a separate consumer subgroup analysis. See section IV.I.1 of this document. DOE’s applied run-time hours are shown in Table IV.38.

Table IV.38 Applied Nominal Daily Run Hours

Temperature	Hours per day
Low	18
High	16
Medium	16

4. Estimated Annual Energy Consumption for the equipment considered in this final rule.

Table IV.39 through Table IV.42 show the average annual energy consumption

Table IV.39 Annual Energy Consumption Estimates for Panels (kWh/year per ft²)

Equipment Class	Connected Refrigeration System	Baseline	TSL 1	TSL 2	TSL 3
PF.L	Baseline	5.9	5.9	5.9	4.1
	TSL 1	5.8	5.8	5.8	4.0
	TSL 2	5.8	5.8	5.8	4.0
	TSL 3	5.3	5.3	5.3	3.6
PS.L	Baseline	7.9	7.9	7.9	5.8
	TSL 1	7.7	7.7	7.7	5.7
	TSL 2	7.7	7.7	7.7	5.7
	TSL 3	7.0	7.0	7.0	5.2
PS.M	Baseline	4.4	2.2	2.2	1.5
	TSL 1	2.2	2.2	2.2	1.5
	TSL 2	2.1	2.1	2.1	1.5
	TSL 3	1.8	1.8	1.8	1.2

Table IV.40 Annual Energy Consumption Estimates for Display Doors (kWh/year)

Equipment Class	Connected Refrigeration System	Baseline	TSL 1	TSL 2	TSL 3
DW.L	Baseline	2,693	2,693	2,693	2,323
	TSL 1	2,655	2,655	2,655	2,291
	TSL 2	2,654	2,654	2,654	2,291
	TSL 3	2,470	2,470	2,470	2,140
DW.M	Baseline	783	783	783	710
	TSL 1	774	774	774	703
	TSL 2	763	763	763	694
	TSL 3	685	685	685	628

Table IV.41 Annual Energy Consumption Estimates for Non-display Doors (kWh/year)

Equipment Class	Connected Refrigeration System	Baseline	TSL 1	TSL 2	TSL 3
NM.L	Baseline	3,353	2,357	1,385	1,207
	TSL 1	3,316	2,328	1,367	1,192
	TSL 2	3,316	2,328	1,367	1,192
	TSL 3	3,141	2,189	1,279	1,121
NM.M	Baseline	891	478	284	246
	TSL 1	883	472	281	243
	TSL 2	873	464	276	239
	TSL 3	802	410	243	213
NO.L	Baseline	5,282	3,514	2,160	1,790
	TSL 1	5,223	3,468	2,130	1,767
	TSL 2	5,222	3,468	2,130	1,767
	TSL 3	4,942	3,250	1,989	1,659
NO.M	Baseline	1,700	833	477	382
	TSL 1	1,685	823	470	378
	TSL 2	1,667	809	463	372
	TSL 3	1,535	713	407	333

Table IV.42 Annual Energy Consumption Estimates for Refrigeration Systems (kWh/year)

Equipment Class	Baseline	TSL 1	TSL 2	TSL 3
DC.L.I	26,535	25,887	25,887	24,538
DC.L.O	40,826	40,093	40,093	34,715
DC.M.I	12,235	11,709	11,545	10,615
DC.M.O	17,794	17,633	17,097	13,054
SP.H.I	2,275	2,035	1,999	1,999
SP.H.I.D	3,897	3,258	3,258	3,258
SP.H.O	3,184	2,820	2,820	2,769
SP.H.O.D	5,264	4,159	4,147	4,147
SP.L.I	6,522	5,877	5,877	5,652
SP.L.O	8,629	8,515	8,476	8,176
SP.M.I	6,356	5,979	5,979	5,903
SP.M.O	5,952	5,650	5,650	5,613
UC.H	4,625	4,625	4,625	4,571
UC.H.D	6,588	6,159	6,159	6,159
UC.L	45,993	43,845	43,190	43,190
UC.M	17,333	16,975	16,865	16,785

Chapter 7 of the final rule TSD provides further details on DOE's energy use analysis for walk-ins.

F. Life-Cycle Cost and Payback Period Analysis

DOE conducted LCC and PBP analyses to evaluate the economic impacts on individual consumers of potential energy conservation standards for walk-ins. The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (MSP, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.

- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change

in annual operating cost for the year that amended or new standards are assumed to take effect.

For any given efficiency level, DOE measures the change in LCC relative to the LCC in the no-new-standards case, which reflects the estimated efficiency distribution of walk-ins in the absence of new or amended energy conservation standards. In contrast, the PBP for a given efficiency level is measured relative to the baseline product.

1. Consumer Sample

For each considered efficiency level in each equipment class, DOE calculated the LCC and PBP for a nationally representative set of commercial consumers. As stated previously, DOE developed household samples from the 2018 Commercial Buildings Energy Consumption Survey ("CBECS 2018").⁶⁶ For each sample, DOE determined the energy consumption for the walk-ins and the appropriate energy price. By developing a representative sample of commercial consumers, the analysis captured the variability in energy consumption and energy prices associated with the use of walk-ins.

Inputs to the LCC calculation include the installed cost to the consumer,

operating expenses, the lifetime of the product, and a discount rate. Inputs to the calculation of total installed cost include the cost of the equipment—which includes MPCs, manufacturer markups, retailer and distributor markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include AEC, energy prices and price projections, repair and maintenance costs, equipment lifetimes, and discount rates. Inputs to the PBP calculation include the installed cost to the consumer and first year operating expenses. DOE created distributions of values for equipment lifetime, discount rates, and sales taxes, with probabilities attached to each value, to account for their uncertainty and variability.

The computer model DOE uses to calculate the LCC relies on Monte Carlo simulations to incorporate uncertainty and variability into the analysis. The Monte Carlo simulations randomly sample input values from the probability distributions and walk-ins user samples. The model calculates the LCC for equipment at each trial standard level per simulation run. The analytical results include a distribution of 30,000 data points for refrigeration systems and 10,000 data points for envelope components, showing the range of LCC savings for a given efficiency level relative to the no-new-standards case

⁶⁶ U.S. Energy Information Administration. *Commercial Buildings Energy Consumption Survey 2018, 2022*.

efficiency distribution. In performing an iteration of the Monte Carlo simulation for a given consumer, product efficiency is chosen based on its probability. If the chosen equipment's efficiency is greater than or equal to the efficiency of the standard level under consideration, the LCC calculation reveals that a consumer is not impacted by the standard level. By accounting for consumers who are already projected to purchase more-efficient products in a given case, DOE avoids overstating the potential benefits from increasing equipment efficiency.

DOE calculated the LCC and PBP for consumers of walk-ins as if each were to purchase new equipment in the expected year of required compliance with new or amended standards. Amended standards would apply to walk-ins manufactured after December 31, 2028 for refrigeration equipment, and January 1, 2028 for envelope components after the date on which any new or amended standard is published.⁶⁷ (42 U.S.C. 6313(f)(5)(B)(i)) At this time, DOE estimates publication of a final rule in late 2024; therefore, for purposes of its analysis, DOE used 2028

as the first year of compliance with any amended standards for walk-ins for envelope components, and 2029 for refrigeration systems because the compliance date is late in the calendar year.

Table IV.43 summarizes the approach and data DOE used to derive inputs to the LCC and PBP calculations. The subsections that follow provide further discussion. Details of the model, and of all the inputs to the LCC and PBP analyses, are contained in chapter 8 of the TSD and its appendices.

Table IV.43 Summary of Inputs and Methods for the LCC and PBP Analysis*

Inputs	Source/Method
Equipment Cost	Derived by multiplying MPCs by manufacturer and retailer markups and sales tax, as appropriate. Adjusted the price provided in 2024\$ in the engineering analysis to 2023\$. ⁶⁸ Used historical data to derive a price scaling index to project product costs in the high and low benefits case – cost is assumed constant in the reference case
Installation Costs	Additional costs associated with control commissioning.
Annual Energy Use	The total annual energy use multiplied by the buildings containing WICF. Variability: Based on the CBECS 2018.
Energy Prices	Electricity: Based on EEI average rate data for 2023. Variability: Regional energy prices determined for 4 census regions.
Energy Price Trends	Based on <i>AEO2023</i> price projections.
Maintenance Costs	Assumed no change with efficiency level.
Repair Costs	Assumed to change with efficiency level
Product Lifetime	Average: between 8.5 and 12 years.
Discount Rates	Approach involves identifying all possible debt or asset classes that might be used to purchase the considered appliances or might be affected indirectly. Primary data source was the Federal Reserve Board's Survey of Consumer Finances.
Compliance Date	Envelope Components: January 1, 2028, Refrigeration Systems: December 31, 2028 (Analytical: January 1, 2029)

* References for the data sources mentioned in this table are provided in the sections following the table or in chapter 8 of the final rule TSD. Energy price trends, product lifetimes, and discount rates are not used for the PBP calculation.

2. Equipment Cost

To calculate consumer equipment costs, DOE multiplied the MSPs developed in the engineering analysis

by the markups described previously (along with sales taxes). DOE used different markups for baseline equipment and higher-efficiency equipment because DOE applies an

incremental markup to the increase in MSP associated with higher-efficiency equipment.

Senneca and Frank Door commented that there were inconsistencies between

⁶⁷ Refrigeration equipment refers to equipment classified under this rulemaking as: dedicated condensing systems, single-packaged dedicated

condensing systems, and unit coolers (see section IV.A.1.c of this document). Envelope components refer to the equipment classified under this

rulemaking as: display doors, non-display doors, and panels (see sections IV.A.1.a and IV.A.1.b of this document).

DOE's documentation of the applied historical price index between the September 2023 NOPR and TSD as DOE cited multiple producer price index ("PPI") indices. Senneca and Frank Door further noted that in their opinion, any PPI index would be inappropriate for projecting the future price of non-display doors. (Senneca and Frank Door, No. 78 at pp. 8–10)

DOE's analysis limits the impacts of potential future price uncertainty as it pertains to the cost impacts to consumers and more broadly to the Nation. For WICFs, DOE identified two potential historical producer price indices to create upper and lower analytical bounds on walk-in prices, which DOE used to inform its decision in this final rule. DOE notes that it has not applied any price trends in its reference case, indicating that prices will remain static relative to inflation into the future—as it did in the September 2023 NOPR. In response to Senneca and Frank Door's comment that there were inconsistencies between the documentation and applied price indices in the TSD and September 2023 NOPR, DOE acknowledges the typographical error in the September 2023 NOPR notice, *Table IV.35 Excerpt from PPI industry data for Air-conditioning, refrigeration, and forced air heating equipment mfg-Refrigeration condensing units, all refrigerants, except*

ammonia (complete), not seasonally adjusted (ID PCU3334153334155) which is corrected here in this final rule; see Table IV.44. While Senneca and Frank Door is of the opinion any PPI index would be inappropriate for projecting the future price of non-display doors, they did not provide an alternative methodology that they considered appropriate; nor did they provide information or data which DOE could use with its current methodology. DOE notes that the PPI series of historical data used in the September 2023 NOPR was series PCU3334153334153 for *Commercial refrigerators and related equipment*, ("CRE") while not specifically for walk-in doors, include the production of doors for commercial refrigerators—which are both solid and transparent in design and an appropriate analog for walk-in non-display, and display doors. In the absence of more specific information, DOE will continue to use the PPI trend for CRE (PPI PCU3334153334153) that includes equipment with solid (non-display) doors.

For this final rule analysis, DOE continued to use the same methodology as the September 2023 NOPR to determine the high and low trends, where DOE examined historical PPI data for commercial refrigerators and related equipment manufacturing available between 1980 and a portion of 2024

from the BLS.⁶⁹ ⁷⁰ Even though this PPI series may also contain prices of refrigeration equipment other than walk-ins, this is the most disaggregated price series that are representative of walk-ins. DOE assumes that this PPI is a close proxy to historical price trends for walk-ins. The PPI data reflect nominal prices, adjusted for product quality changes. The inflation-adjusted (deflated) price index for commercial refrigerators and related equipment manufacturing was calculated by dividing the PPI series by the Gross Domestic Product Chained Price Index.

As in the September 2023 NOPR a spike in the trend of annual real prices between 2021 and 2022 can be observed. However, when the PPI is examined at a month-by-month level, the nominal PPI from 2022 through 2024 shows the PPI to leveling off. Additionally, the engineering analysis was conducted in 2024 and captures this increase in terms of walk-in equipment prices. DOE notes that it has captured the impact of this spike, if it were realized, as a constant increase in real prices in the low economic benefits scenario results shown in section V.C of this document.

⁶⁹ At the time of writing data were available through April of 2024.

⁷⁰ Product series ID: PCU3334153334153. Available at www.bls.gov/ppi/.

Table IV.44 Excerpt from PPI industry data for Air-conditioning, refrigeration, and forced air heating equipment mfg-Commercial refrigerators and related equipment, not seasonally adjusted (ID PCU3334153334153)

Year	Period	Label	Observation Value	1-Month % Change
2021	M01	2021 Jan	248.40	0.9
2021	M02	2021 Feb	249.80	0.6
2021	M03	2021 Mar	255.10	2.1
2021	M04	2021 Apr	256.40	0.5
2021	M05	2021 May	263.40	2.7
2021	M06	2021 Jun	269.40	2.3
2021	M07	2021 Jul	273.59	1.6
2021	M08	2021 Aug	275.10	0.6
2021	M09	2021 Sep	283.17	2.9
2021	M10	2021 Oct	296.90	4.8
2021	M11	2021 Nov	299.69	0.9
2021	M12	2021 Dec	307.78	2.7
2022	M01	2022 Jan	328.94	6.9
2022	M02	2022 Feb	339.72	3.3
2022	M03	2022 Mar	346.80	2.1
2022	M04	2022 Apr	365.32	5.3
2022	M05	2022 May	367.63	0.6
2022	M06	2022 Jun	369.44	0.5
2022	M07	2022 Jul	382.04	3.4
2022	M08	2022 Aug	382.04	0.0
2022	M09	2022 Sep	382.04	0.0
2022	M10	2022 Oct	388.50	1.7
2022	M11	2022 Nov	390.56	0.5
2022	M12	2022 Dec	390.56	0.0
2023	M01	2023 Jan	392.04	0.4
2023	M02	2023 Feb	392.04	0.0
2023	M03	2023 Mar	400.79	2.2
2023	M04	2023 Apr	400.79	0.0
2023	M05	2023 May	400.79	0.0
2023	M06	2023 Jun	399.66	-0.3
2023	M07	2023 Jul	399.66	0.0
2023	M08	2023 Aug	399.66	0.0
2023	M09	2023 Sep	399.66	0.0
2023	M10	2023 Oct	401.62	0.5
2023	M11	2023 Nov	401.62	0.0
2023	M12	2023 Dec	401.62	0.0
2024	M01	2024 Jan	397.91	-0.9
2024	M02	2024 Feb	403.05	1.3
2024	M03	2024 Mar	403.05	0.0
2024	M04	2024 Apr	403.05	0.0

ASAP *et al.* requested that DOE harmonize its approach to projecting

future prices of equipment with variable-speed controllers with its

ongoing rulemaking for Commercial Refrigerators, Freezers, and Refrigerator-

Freezers (“CRE”). 88 FR 70238. (ASAP et al., No. 77 at p. 3)

In response to ASAP *et al.*, which requested that DOE include the declining price trend for variable-speed controllers as it has applied in its CRE

analysis, DOE has not included this trend in its reference case, consistent with the analysis presented in the September 2023 NOPR, but has included it in the high benefits sensitivity scenario. Further, the MPCs

of the controllers themselves to which the trend is applied are not significant enough when compared to the total LCC impacts that they would change DOE’s policy decision regarding amended standards, see Table IV.45.

Table IV.45 Control Costs as a Fraction of MPC

Equipment Class	Nominal Capacity (kBtu/h)	EL	Design Option	Controls MPC (\$)	MPC (\$)	% of MPC
DC.L.I	3	2	CMPVS	80	1,405	6%
	9	1	CMPVS	80	2,797	3%
	25	3	CMPVS	80	5,794	1%
	54	2	CMPVS	80	14,210	1%
DC.L.O	3	3	CMPVS	85	2,001	4%
	9	3	VSCF	8	1,984	0%
	9	5	CMPVS	88	3,051	3%
	25	5	VSCF	15	3,964	0%
	25	8	CMPVS	103	6,487	2%
	54	3	VSCF	28	9,260	0%
	54	5	CMPVS	108	15,065	1%
	75	4	CMPVS	126	54,951	0%
DC.M.I	9	1	CMPVS	80	1,739	5%
	25	3	CMPVS	80	2,563	3%
	54	4	CMPVS	80	4,164	2%
	75	3	CMPVS	80	5,606	1%
DC.M.O	9	6	VSCF	7	1,393	0%
	9	8	CMPVS	87	2,016	4%
	25	6	VSCF	17	2,114	1%
	25	8	CMPVS	96	2,985	3%
	54	7	VSCF	25	3,665	1%

	54	9	CMPVS	105	4,963	2%
	75	6	VSCF	45	4,315	1%
	75	8	CMPVS	127	5,989	2%
	124	7	VSCF	55	8,957	1%
	124	9	CMPVS	138	11,564	1%
SP.H.O	2	5	VSCF	4	1,112	0%
	7	4	VSCF	7	2,025	0%
SP.H.O.D	2	5	VSCF	8	1,184	1%
	7	5	VSCF	17	2,082	1%
SP.L.I	2	7	CMPVS	80	2,279	3%
	6	2	CMPVS	80	3,113	3%
SP.L.O	2	4	CMPVS	83	2,073	4%
	6	4	CMPVS	90	3,249	3%
SP.M.I	2	5	CMPVS	80	1,475	5%
	9	3	CMPVS	80	2,798	3%
SP.M.O	2	4	VSCF	4	1,076	0%
	2	9	CMPVS	83	1,608	5%
	9	3	VSCF	11	2,323	0%
	9	5	CMPVS	90	2,931	3%

DOE received no other comments on its future price trend. For this analysis, DOE maintained the same approach for determining future equipment prices as in the September 2023 NOPR and assumed that equipment prices would be constant over time in terms of real dollars, *i.e.*, constant 2023 prices.

a. Application of the Low-GWP Refrigerant Transition to Specific Regions

As discussed in section IV.C.1.e of this document, the States of California and Washington require the use of sub-150-GWP refrigerants. As discussed in section IV.C.2.c of this document, DOE has determined that an increase in MSP to use sub-150-GWP refrigerants will affect dedicated condensing systems of 25 kBtu/h capacity as a function

increased efficiency. In the September 2023 NOPR, DOE conducted its LCC analysis at the geographic level of census regions, where the region containing the States of California and Washington is the Western Region (Region 4).⁷¹ To approximate any additional costs to consumers derived from the State level initiatives in California and Washington associated with moving to low-GWP refrigerants, DOE applied the cost of the additional design options determined in section IV.C.1.e of this document to the fraction of consumers in the Western Census Region based on population as a sensitivity analysis, see appendix 8E of

⁷¹ See www2.census.gov/geo/pdfs/maps-data/maps/reference/us_regdiv.pdf.

the final rule TSD.⁷² These weights and additional design option costs are shown in Table IV.46. DOE notes that these additional consumer costs are the results of state regulations and would be incurred in the absence of this final rule.

⁷² See www.census.gov/data/tables/time-series/demo/popest/2020s-state-total.html.

Table IV.46 Low-GWP Refrigerant Cost Adders

EC	Capacity (kBtu/h)	Census Region	EL	TSL	Cost Adder (\$)	Weight
DC.M.O	25	4	0	Baseline	1.56	0.59
					0	0.41
			2	1	86.22	0.59
					0	0.41
			3	2	128.25	0.59
					0	0.41
DC.M.I			0	Baseline	95.21	0.59
					0	0.41
			2	1 & 2	389.72	0.59
					0	0.41

3. Installation Cost

a. Refrigeration Systems

Installation cost includes labor, overhead, and any miscellaneous materials and parts needed to install the product. In the September 2023 NOPR, DOE found that the data from RSMeans 2023⁷³ (“RSMeans”) did not indicate that installation costs would be impacted with increased efficiency improvement. 88 FR 60746, 60794.

However, for refrigeration systems in the September 2023 NOPR DOE tentatively concluded that in the

standards case there would be costs associated with improvements to controls. 88 FR 60746, 60795. As this rulemaking covers walk-in equipment where each type of equipment is considered a “package” unto itself, and any control or sensor improvement would be part of said package; therefore, there would be no additional costs for control installation, but there would be additional costs for control configuration prior to equipment commissioning. RSMeans shows that the amount of time to configure most controls is half an hour of labor, while for variable-capacity HVAC drives—used as a proxy for variable-capacity refrigeration compressors—the amount

of labor is 2 hours. DOE assumed the average nonunion shop rate to be \$154 (2023\$) per hour.⁷⁴ The difference in approach from the September 2023 NOPR and this final rule is that DOE has removed the commission charges associated with the crankcase heater and variable-speed condenser fan motors design options (CCHC, VSCF) as these are factory configured to provide optimal operation. DOE did not find any evidence that control configuration scales with equipment capacity and did not include any additional control configuration costs related to equipment costs. 88 FR 60746, 60795.

⁷³ Reed Construction Data, *RSMeans Facilities Maintenance & Repair 2023 Cost Data Book*, 2023.

⁷⁴ See series 230953103620 and 230953103680.

Table IV.47 Example Installation Costs by TSL for Low-Temperature Dedicated Condensing Systems

Representative Unit	TSL	Installation Cost
DC.L.I - 003	0	0
DC.L.I - 003	1	0
DC.L.I - 003	2	0
DC.L.I - 003	3	308
DC.L.I - 009	0	0
DC.L.I - 009	1	0
DC.L.I - 009	2	0
DC.L.I - 009	3	308
DC.L.I - 025	0	0
DC.L.I - 025	1	0
DC.L.I - 025	2	0
DC.L.I - 025	3	308
DC.L.I - 054	0	0
DC.L.I - 054	1	0
DC.L.I - 054	2	0
DC.L.I - 054	3	308
DC.L.O - 003	0	0
DC.L.O - 003	1	0
DC.L.O - 003	2	0
DC.L.O - 003	3	308
DC.L.O - 009	0	0
DC.L.O - 009	1	154
DC.L.O - 009	2	154
DC.L.O - 009	3	462
DC.L.O - 025	0	0
DC.L.O - 025	1	154
DC.L.O - 025	2	154
DC.L.O - 025	3	462
DC.L.O - 054	0	0
DC.L.O - 054	1	154
DC.L.O - 054	2	154
DC.L.O - 054	3	462
DC.L.O - 075	0	0
DC.L.O - 075	1	0
DC.L.O - 075	2	77
DC.L.O - 075	3	154

b. Cooler and Freezer Panels

In the September 2023 NOPR, DOE included an added \$0.50 per ft² of installation cost for panels with greater than 4 inches of insulation thickness to

cover the cost of facing the panel with non-corrosive steel. 88 FR 60746, 60796.

ASAP *et al.* and RBA commented they were concerned that DOE is adding additional unwarranted installation costs for panel insulation greater than 4

inches, and that DOE's analysis appeared to assume that all walk-in panels with insulation greater than 4 inches would have a \$0.50 per ft² installation cost increase associated with required thermal barriers for non-

sprinklered building installations. ASAP *et al.* and RBA commented that the metal facing requirement is only relevant for non-sprinklered buildings, which they expect to represent a very small portion of walk-in installations—walk-ins under 400 ft² in area. Additionally, ASAP *et al.* and RBA commented that metal facing requirement to be inclusive of panels with 4 inches of insulation in non-sprinklered buildings. (ASAP *et al.*, No. 77 at p. 5; RBA, No. 68 at pp. 1–2)

DOE revised the installation cost for medium-temperature structural panels: since DOE assumes a baseline low-temperature panel is 4 inches thick, there would be no additional installation charges for low-temperature panels in the amended standards case. To address additional installation costs for medium-temperature structural panels for WICF under 400 ft² DOE maintained the installation cost of \$0.50 per ft² for medium-temperature panels equal to or greater than 4 inches thick and applied the additional installation costs to the fraction of small businesses in the consumer sample (*see* chapter 8 of the final rule TSD).

For further information on the derivation of installation costs, *see* chapter 7 of the final rule TSD.

4. Annual Energy Consumption

For each consumer from the consumer sample (*see* section IV.F.1 of this document), DOE determined the energy consumption for walk-ins of the different efficiency levels determined in the engineering analysis (*see* section IV.C of this document) for each TSL (*see* section IV.E.1 of this document) using the approach described previously in section IV.E of this document.

5. Energy Prices

Because marginal electricity price more accurately captures the incremental savings associated with a change in energy use from higher efficiency, it provides a better representation of incremental changes

in consumer costs than average electricity prices. Therefore, DOE applied average electricity prices for the energy use of the equipment purchased in the no-new-standards case, and marginal electricity prices for the incremental change in energy use associated with the other efficiency levels considered.

DOE derived electricity prices in 2023 using data from Edison Electric Institute's Typical Bills and Average Rates reports.⁷⁵ ⁷⁶ Based upon comprehensive, industry-wide surveys, this semi-annual report presents typical monthly electric bills and average kilowatt-hour costs to the customer as charged by investor-owned utilities. For the commercial sector, DOE calculated electricity prices using the methodology described in Coughlin and Beraki (2019).⁷⁷

For this final rule, DOE maintained the methodology it used in the September 2023 NOPR analysis where electricity prices vary by sector and region. In the analysis, variability in electricity prices is chosen to be consistent with the way the consumer economic and energy use characteristics are defined in the LCC analysis for walk-ins. DOE derived average and marginal annual non-residential (commercial and industrial) electricity prices using data from EIA's Form EIA-861 database (based on "Annual Electric Power Industry Report"),⁷⁸ Edison Electric Institute's Typical Bills and Average Rates Reports, and information from utility tariffs. Electricity tariffs for

non-residential consumers can be very complex, with the principal difference from residential rates being the incorporation of demand charges. The presence of demand charges means that two consumers with the same monthly electricity consumption may have very different bills, depending on their peak demand. For this analysis, DOE used marginal electricity prices to estimate the impact of demand charges for consumers of walk-ins and EIA's most recent publication of *Annual Energy Outlook 2023* ("AEO2023") to estimate future energy prices (*see* section IV.F.5.a of this document). DOE developed discount rates from estimates of the finance cost for consumers and commercial businesses that purchase walk-ins. More detail on the methodology used to calculate the marginal electricity rates can be found in appendix 8B of the final rule TSD.

⁷⁵ Edison Electric Institute, *Typical Bills and Average Rates—Summer 2023*, 2024, ISBN: 978-1-938066-08-5.

⁷⁶ Edison Electric Institute, *Typical Bills and Average Rates—Winter 2023*, 2023, ISBN: 978-1-938066-05-4.

⁷⁷ Coughlin, K. and B. Beraki. 2019. Non-residential Electricity Prices: A Review of Data Sources and Estimation Methods. Lawrence Berkeley National Lab. Berkeley, CA. Report No. LBNL-2001203. Available at ees.lbl.gov/publications/non-residential-electricity-prices.

⁷⁸ Available at www.eia.doe.gov/cneaf/electricity/page/eia861.html.

Table IV.48 Marginal and Average Electricity Prices by Census Division and Sector Size (2023\$/kWh)

Sector	Average Electricity Price \$/kWh	Marginal Electricity Price \$/kWh	Census Region
Large Food Sales	0.194	0.170	1
Large Food Service	0.100	0.083	
Large Other	0.117	0.097	
Small Food Sales	0.134	0.107	
Small Food Service	0.194	0.170	
Small Other	0.100	0.083	
Large Food Sales	0.117	0.097	2
Large Food Service	0.134	0.107	
Large Other	0.194	0.170	
Small Food Sales	0.100	0.083	
Small Food Service	0.117	0.097	
Small Other	0.134	0.107	
Large Food Sales	0.203	0.186	3
Large Food Service	0.127	0.117	
Large Other	0.144	0.132	
Small Food Sales	0.165	0.153	
Small Food Service	0.203	0.186	
Small Other	0.127	0.117	
Large Food Sales	0.144	0.132	4
Large Food Service	0.165	0.153	
Large Other	0.203	0.186	
Small Food Sales	0.127	0.117	
Small Food Service	0.144	0.132	
Small Other	0.165	0.153	

BILLING CODE 6410-01-C**a. Future Electricity Prices**

To estimate energy prices in future years in the September 2023 NOPR analysis, DOE multiplied the 2022 energy prices by the projection of annual average price changes for each of the nine census divisions from the Reference case in *AEO2023*, which has an end year of 2050.⁷⁹ To estimate price trends after 2050, DOE assumed constant real prices at the 2050 rate. 88 FR 60747, 60797.

Senneca and Frank Door commented that there is no basis for DOE to assume that energy prices will remain static after 2050, noting that the prices would

fluctuate. (Senneca and Frank Door, No. 78 at pp. 6–7) DOE agrees with Senneca and Frank Door that when average annual electricity prices are observable in retrospect, they indeed fluctuate. The future price projection estimated in *AEO2023* is a modelled projection, and AEO has determined that its projections beyond 2050 are too uncertain to include at this time. DOE is required to estimate the value of energy savings in its analysis and needs a price of electricity for future years beyond 2050 to accomplish this task. For DOE to add manufactured fluctuations to this projection for the sake of aesthetics would introduce unneeded uncertainties to this analysis. Finally, by maintaining constant prices at 2050 levels, DOE is in effect minimizing the benefits of this rulemaking because the price at 2050 is the lowest over the period from 2022 to 2050. For this final

rule, DOE will maintain the use of static 2050 prices in its future commercial electricity prices for years beyond the horizon of the *AEO2023* projection.

6. Maintenance and Repair Costs

Repair costs are associated with repairing or replacing equipment components that have failed in an appliance; maintenance costs are associated with maintaining the operation of the equipment. Typically, small incremental increases in equipment efficiency entail no, or only minor, changes in repair and maintenance costs compared to baseline efficiency equipment.

DOE received comments regarding its modeling assumptions for maintenance and repair costs where DOE applied to each an annual cost of 10 percent in response to the September 2023 NOPR. 88 FR 60746, 60797.

⁷⁹ EIA. *Annual Energy Outlook 2023 with Projections to 2050*. Available at www.eia.gov/forecasts/aeo/ (last accessed February 13, 2023). Note: *AEO2023* is the most recent edition as the EIA is not publishing a 2024 edition.

AHRI commented that the technologies listed are currently used today but could not comment on actual dollars associated with them. (AHRI, No. 72 at p. 11) RSG commented that shifts toward WICF technologies described in the screening analysis (*see* chapter 4 of the TSD) would most certainly increase maintenance and repair costs by significant amounts. RSG added that these costs would be for specialized component sourcing/availability, specialized service training, special safety concerns, and mitigation, etc. (RSG, No. 69 at p. 2) Hussmann agreed with the views presented by AHRI regarding information about the maintenance and repair costs of WICFs with the technologies described in section IV.C of the September 2023 NOPR. (Hussmann, No. 75 at p. 11)

ASAP *et al.*, the CA IOUs, and Senneca and Frank Door, commented that they disagreed with the applied maintenance and repair costs. (ASAP *et al.*, No. 77 at p. 4; CA IOUs, No. 76 at pp. 11–12; Senneca and Frank Door, No. 78 at p. 7)

Senneca and Frank Door provided no details regarding the appropriateness of the applied maintenance and repair costs.

ASAP *et al.* commented that the assumed maintenance costs contributed heavily to negative LCC savings at higher efficiency levels. ASAP *et al.* further encouraged DOE to examine its commercial air conditioning rule—where it was assumed that maintenance costs did not increase with improved efficiency; and in its CRE NOPR where additional labor (\$15 per year) was considered for the cleaning of microchannel condenser coils.^{80 81} ASAP *et al.* encouraged DOE to adopt maintenance costs modeling assumptions where additional costs would only apply to larger condenser coil design options. (ASAP *et al.*, No. 77 at p. 4)

The CA IOUs requested that DOE reconsider its maintenance cost modeling assumptions. The CA IOUs commented DOE's assumption that maintenance and repair costs are equal to 10 percent of the unit total cost per

year is not accurate. The CA IOUs commented that the maintenance costs for condenser coil cleaning are not directly proportional to coil size (or cost); rather, the cost is due to the refrigeration technician's labor to access the walk-in condenser coil. The CA IOUs provided information on typical refrigeration technician charges of \$100 to \$250 per hour depending on the region, with a minimum of an hour for any service call, while other technicians have a “flat truck roll fee” ranging between \$50 and \$150 per service call.⁸² Further, the CA IOUs maintained that the labor-cost difference to clean a small or a larger coil is therefore relatively small compared to the total cost of arriving on site and cleaning condenser coils. The CA IOUs added that the maintenance costs for refrigerant leak repair and recharging depend on the condensing unit location relative to the unit cooler (refrigerant piping length). (CA IOUs, No. 76 at p. 11)

The CA IOUs further commented that other components like EEVs and variable-speed condenser fans improve efficiency and may increase unit costs but can also increase the life of componentry due to the reduced number of times the fan cycles on and off. The CA IOUs recommended evaluating the repair cost of refrigeration components (*i.e.*, contactors, start relays, fan motors, expansion valves, thermostats) based on the component's average useful life and the component's price and maintenance costs based on reliable data sources such as average labor rates, time, and fixed charges by refrigeration technicians. (CA IOUs, No. 76 at p. 12)

This comment aligns with AHRI's comment that increased repair and maintenance costs would be commensurate with the increased usage rate employed to achieve minimum efficiency. (AHRI, No. 72 at p. 11)

AHRI and Hussmann commented that electronically commutated variable-speed condenser fan motors require an electronic control module. AHRI and Hussmann commented that use of this sort of motor requires the use of diagnostic tools to troubleshoot the ECM, which would add to costs and servicing of systems. AHRI and Hussmann added that such motors are normally programmed at the factory for parameters such as head pressure and the outdoor ambient temperature along with run-time. AHRI and Hussmann commented that therefore, DOE should also consider costs for this for both

OEMs and service technicians as part of the analysis. (AHRI, No. 72 at p. 7; Hussmann, No. 75 at p. 11)

Based on the comments received, DOE revisited its maintenance costs modeling assumptions for this final rule analysis.

For panels, maintenance activities encompass periodic cleaning and visual inspection for damage. DOE is only considering improvements to efficiency by increasing the thickness of polyurethane foam for cooler and freezer panels. When examining the per ft² of MPC for panels, DOE's analysis shows that the cost delta between baseline and max tech panel thickness is approximately \$1 (one) per ft². DOE finds the material cost for repair to be marginal and without significant difference to the no-new-standards case; as such, DOE did not apply repair costs as a function of panel efficiency.

Display door and non-display door maintenance activities encompass periodic cleaning, visual inspection of all components, lubrication, and component adjustments to account for wear from use (*e.g.*, adjusting the door sweep, fastener tightness). There is no indication that the time required to perform these activities would be a function of improved efficiency.^{83 84 85 86}

Similarly, for refrigeration systems, maintenance activities encompass—but are not limited to—visual periodic inspection of all components for wear (*e.g.*, fastener tightness, component pitting), cycle-check of all modes, lubrication, and cleaning (motor, evaporator, condenser coils, drains/lines, etc.). *Ibid.*

Based on the comments received and manufacturer's literature cited, DOE has concluded that maintenance costs are unlikely to materially change with improved efficiency for walk-in panels and non-display doors. For refrigeration systems, DOE agrees with the CA IOUs and ASAP *et al.* that there may be a potential increased labor associated with cleaning refrigeration systems; however, it would be marginal when compared to the cost of dispatching a technician to perform the periodic maintenance. DOE has therefore concluded that the difference in maintenance costs between equipment in the no-new-standards and the

⁸⁰ U.S. Department of Energy, *Energy Conservation Program: Energy Conservation Standards for Air-Cooled Commercial Package Air Conditioners and Heat Pumps Direct Final Rule*, EERE–2022–BT–STD–0015, May 2024, <https://www.regulations.gov/document/EERE-2022-BT-STD-0015>.

⁸¹ U.S. Department of Energy, *Energy Conservation Program: Energy Conservation Standards for Commercial Refrigerators, Freezers, and Refrigerator-Freezers Notice of Proposed Rulemaking*, EERE–2017–BT–STD–0007, October 2023, <https://www.regulations.gov/document/EERE-2017-BT-STD-0007-0056>.

⁸² A truck roll is changed when a field technician gets dispatched to a customer or other field agent's location to solve a problem with an asset.

⁸³ frankdoor.com/plugins/pdfJS/web/viewer.html?file=/webFiles/files/3/Installation/DropTrac%20Installation.pdf.

⁸⁴ frankdoor.com/plugins/pdfJS/web/viewer.html?file=/webFiles/files/10/Installation/Torsion%20Springs.pdf.

⁸⁵ imperialbrown.com/sites/default/files/2017-10/ICC5%20Full%20Manual%20Book_130130.pdf.

⁸⁶ norlake.com/wp-content/uploads/2020/07/132617-Walk-in-Manual.pdf.

amended standards case would be minimal and is not included in this final rule. To account for the circumstances described by AHRI and Hussmann where additional repair costs may be required for troubleshooting some components DOE has continued to apply the 10 percent MPC per year to account for the increase in material and labor (troubleshooting) cost associated with troubleshooting and remedying functional issues.

7. Equipment Lifetimes

Because the basis for the lifetime estimates in the literature for walk-in equipment is uncertain, DOE used distributions to estimate the lifetimes of walk-in systems and envelope components in the field. The resulting survival function, which DOE assumed has the form of a cumulative Weibull distribution, provides an average and median appliance lifetime. DOE used different Weibull distributions to estimate the lifetimes for similar equipment types.

DOE received multiple comments regarding the lifetimes of walk-ins. AHRI and Lennox stated that walk-in lifetimes were generally understood to

be 7 to 9 years—depending on usage and maintenance. (AHRI, No. 72 at pp. 5–6 and No. 86 at p. 9; Lennox, No. 70 at p. 6 and No. 87 at pp. 3–4)

NAFEM agreed with DOE's lifetimes of 20 years for insulated panels and doors. (NAFEM, No. 67 at p. 3) ASAP *et al.* commented that DOE should consider increasing the lifetimes of walk-in panels, citing an industry report estimating door and panel lifetimes to be between 12 and 25 years—as well as the fact that manufacturers offer warranties of 15 to 20 years for walk-in panels—suggesting that the expected lifetimes of walk-in panels significantly exceed DOE's estimations. (ASAP *et al.*, No. 77 at p. 4) By way of support, ASAP *et al.* provided the warranty agreement from PAR Engineering Inc., which offers a 20-year warranty on its panel installations.⁸⁷ In response to ASAP *et al.* and NAFEM, DOE notes that it represents lifetimes as a distribution of values, and for panels in the September 2023 NOPR this distribution was characterized with a minimum, maximum, and average lifetime of 2, 25 and 12 years respectively. Further DOE examined the warranty periods from other manufacturers and found that for

panels, these ranged from 1 year^{88 89} through the 20 years, with warranties offered to the original purchasers of panels typically in the 10- to 15-year range.^{90 91 92 93 94 95 96 97 98}

Based on the comments received and literature examined DOE is maintaining the lifetime from the September 2023 NOPR for all doors and panels. DOE notes that the lifetimes, for modeling purposes, are characterized as a distribution and this distribution for panels accounts for lifetimes greater than 20 years. For this final rule DOE updated the lifetimes for refrigeration equipment to the values shown in Table IV.49.

Additionally, DOE maintained the modeling assumption of a minimum service lifetime of 2 years for all equipment classes. This reflects the fact that many units are purchased with a warranty that effectively guarantees that the unit will remain in operation during the warranty period. 88 FR 60746, 60798.

Table IV.49 shows the revised (*italicized*) minimum, maximum and average lifetimes for walk-in envelope components and refrigeration systems.

Table IV.49 Lifetimes for Walk-In Equipment (years)

Equipment Category	Analysis	WICF Equipment Lifetimes (years)			
		Display Doors	Panels	Non-display Doors	Refrigeration Equipment
Minimum Lifetime	NOPR	2	2	2	2
	Final Rule	2	2	2	2
Average Lifetime	NOPR	12	12	8.5	<i>10.5</i>
	Final Rule	12	12	8.5	8.5
Maximum Lifetime	NOPR/Final Rule	25	25	12	20

As discussed in section IV.B.1.b of this document, although better thermally insulating frame systems for non-display doors exist on the market, some stakeholder comments suggested that such frame designs may have

reduced structural rigidity compared to traditional (e.g., wood) framing systems. While the presence of this design feature in the walk-in market does indicate its suitability in a range of current applications and suggests it does

not have a detrimental impact on product performance or lifetime, DOE is also aware that there is variability in structural loads that walk-in doors may be subject to (see generally discussion during the NOPR public meeting as part

⁸⁷ www.commercialcooling.com/wp-content/uploads/Commercial-Cooling-20-Year-Standard-Panel-Warranty.pdf (Last Accessed: May 10, 2024).

⁸⁸ kpsglobal.com/terms-and-conditions/for-sale-warranty/ (Last Accessed: May 30, 2024).

⁸⁹ aicheatexchangers.com/wp-content/uploads/2020/09/AIC-Warranty-Statement-LWI-17-02.pdf (Last accessed: May 30, 2024).

⁹⁰ <https://norlake.com/wp-content/uploads/2020/07/walk-in-refrigeration-warranties-089604.pdf> (Last Accessed: May 30, 2024).

⁹¹ https://assets.welbilt.com/m/2b0660daf5344f58/original/Warranty-Policy.pdf?__hstc=70905295.ac632688bb7470ba06bf11662e737cbd.1717093685617.1717093685617.1&__hssc=70905295.1.1717093685617&__hsfp=3523199817 (Last Accessed: May 30, 2024).

⁹² <https://www.kolpak.com/Service/Kolpak-Warranty> (Last Accessed: May 30, 2024).

⁹³ https://imperialbrown.com/sites/default/files/2017-09/Walk-ins%20Warranty_0.pdf (Last Accessed: May 30, 2024).

⁹⁴ <https://www.everidge.com/wp-content/uploads/2018/08/ThermalRite-Warranty-Final-6.4.2020.pdf> (Last Accessed: May 30, 2024).

⁹⁵ https://leerinc.com/wp-content/uploads/2021/10/Leer-Inc.-Walk-In-Warranty-Packet_v0921.pdf (Last Accessed: May 30, 2024).

⁹⁶ <https://www.uscooler.com/support/warranty/> (Last Accessed: May 30, 2024).

⁹⁷ http://www.americanpanel.com/materials/Service/APC-Walk-in-Warranty_02-22.pdf (Last Accessed: May 30, 2024).

⁹⁸ http://www.ballyrefboxes.com/Bally_FAQ/Bally_warranty.asp (Last Accessed: May 30, 2024).

of the previous rulemaking cycle for this equipment, EERE–2008–BT–STD–0015–0088 at pp. 238–241) and recognizes that there may be remaining uncertainty regarding the structural suitability of the best thermally-insulating frame systems available on the market in certain applications, and the extent to which structural performance of the door frame may affect product lifetime. More specifically, in the absence of structural performance data, DOE cannot be certain whether the differences in non-display door framing systems currently in the market are due to manufacturer design preferences or specific durability requirements; *e.g.*, large sliding doors manufactured separately from the walk-in in which they are installed may warrant a frame with greater structural durability than doors manufactured together with the surrounding panels as a complete system. If these framing system decisions are driven by durability considerations in such specific cases then establishing standards that DOE expects would necessitate thermally-improved frame designs could result in the need for earlier replacement of certain non-display doors in such applications. Those additional replacement costs would outweigh the savings in operating costs brought about through energy efficiency improvements.

Given the application-specific nature of this aspect of non-display door design and construction, DOE does not have information on the frequency with which earlier replacement might be required in certain circumstances, or how much sooner such a replacement might be required compared to the average 8.5 year service lifetime assumed in this analysis. Hence, DOE cannot accurately estimate the magnitude of the lifetime impact (if any) of the thermally-improved frame design option, and has not included it in its analysis. Given these uncertainties, DOE instead developed an upper bound sensitivity analysis for consideration as part of the selection of standard levels. The sensitivity analysis assumes that in certain circumstances a consumer might experience a reduction in lifetime. As there is no data or information that DOE is aware of regarding the relationship between the structural performance of the door frame and how it may affect product lifetime DOE made the modelling assumption for this sensitivity that lifetimes could be reduced by as much as one-half, *i.e.*, requiring replacement at 4.3 years instead of 8.5 years. For example, for a baseline low-temperature motorized non-display door (NO.L), connected to a TSL 2 refrigeration system, the total installed cost is estimated to be \$6,931 with an average lifetime of 8.5 years (see

Table IV.49). In a circumstance where the consumer of a low-temperature motorized non-display door (NO.L) with the thermally improved frame design were to experience a reduction in lifetime by one-half (from 8.5 years to 4.3 years), the consumer would be faced with having to purchase a new standards-case door to maintain the same service lifetime as a non-display door without the thermally improved frame design. As shown in Table IV.50, for those consumers, this would decrease their overall life-cycle cost savings benefits under such a circumstance due to the need to purchase and install replacement equipment earlier than they would have under the no-new-standards case. At TSL 3, this could reduce the LCC savings benefits to a loss over the 8.5-year timespan of approximately –\$8,369. Similarly, for a NO.L at TSL 2 the decrease in overall life-cycle costs savings benefits could be reduced to –\$7,935. DOE notes that this sensitivity is not intended to be representative of the non-display door market as a whole nor any specific segment of the market, but to address stakeholder concerns regarding the robustness of thermally improved frames in certain circumstances and as a consideration in assessing the benefits and burdens of this rule, as discussed in section V.C.1.b. of this document.

Table IV.50 Sensitivity of LCC Savings with a 4.3-year Lifetime while maintaining an 8.5-year Service Requirement (2023\$)

TSL	Equipment Class			
	NM.M	NM.L	NO.M	NO.L
2	-3,497	-2,628	-8,991	-7,935
3	-4,135	-3,135	-9,734	-8,369

8. Discount Rates

The discount rate is the rate at which future expenditures are discounted to estimate their present value. DOE employs a two-step approach in calculating discount rates for analyzing customer economic impacts (*e.g.*, LCC). The first step is to assume that the actual cost of capital approximates the appropriate customer discount rate. The second step is to use the capital asset pricing model (“CAPM”) to calculate the equity capital component of the customer discount rate. For this final rule, DOE estimated a statistical distribution of commercial customer discount rates of walk-in consumers by calculating the cost of capital for the different types of walk-in owners.

DOE’s method views the purchase of a higher-efficiency appliance as an investment that yields a stream of energy cost savings. DOE derived the discount rates for the LCC analysis by estimating the cost of capital for companies that purchase walk-ins. For private firms, the weighted average cost of capital (“WACC”) is commonly used to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so their cost of capital is the weighted average of the cost to the firm of equity and debt financing, as estimated from financial data for publicly traded firms in the

sectors that purchase walk-ins.⁹⁹ As discount rates can differ across industries, DOE estimates separate discount rate distributions for a number of aggregate sectors with which elements of the LCC building sample can be associated.

AHRI commented that in a recent refrigerator rulemaking, AHAM brought to DOE’s attention the fact it does not take into account operating costs, including energy, as deductible business expenses for Federal and some State income taxes. AHRI cited equation 8.6

⁹⁹ Previously, Damodaran Online provided firm-level data, but now only industry-level data is available, as compiled from individual firm data, for the period of 1998–2018. The data sets note the number of firms included in the industry average for each year.

from the Energy Efficiency Program for Consumer Products and Commercial and Industrial Equipment: Walk-In Coolers and Walk-In Freezers TSD, which explicitly refers to the tax effects on the cost of debt for commercial customers. AHRI asked if DOE has modified its LCC model to include the effects of the deductibility of operating costs for income tax purposes for commercial customers in its LCC analysis, and if not, why not? (AHRI, No. 72 at p. 8)

In the February 2023 NOPR for Energy Conservation Program: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers, AHAM commented that operating costs and the depreciation of capital investments are deductible costs for commercial end-users from Federal and State corporate income taxes. Further, AHAM suggested that DOE should incorporate the effects of tax deductibility in the LCC analysis. 89 FR 3026, 3053–3054. DOE maintains its response from the January 2024 Direct Final Rule for Energy Conservation Program: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers, where DOE noted that in the comment, the estimation of commercial discount rates accounts for the tax deductibility of the energy costs and capital investment depreciation and therefore the net present value of the future operating

cost savings in the LCC analysis already reflect that effect. 89 FR 3026, 3054. Therefore, DOE did not modify its LCC model for this final rule.

DOE received no further comments on its discount rate methodology and analysis used in the September 2023 NOPR analysis and maintained its approach for this final rule. See chapter 8 of this final rule TSD for further details on the development of consumer discount rates.

9. Energy Efficiency Distribution in the No-New-Standards Case

To accurately estimate the share of consumers that would be affected by a potential energy conservation standard at a particular efficiency level, DOE's LCC analysis considered the projected distribution (market shares) of equipment efficiencies under the no-new-standards case (*i.e.*, the case without amended or new energy conservation standards) in the compliance year. This approach reflects the fact that some consumers may purchase equipment with efficiencies greater than the baseline levels in the absence of new or amended standards.

To estimate the energy efficiency distribution of walk-ins for 2028 and 2029, DOE used information provided from stakeholders and records from DOE's CCMS database. The estimated market shares for the no-new-standards case for walk-in cooler and freezer

panels and doors are shown in Table IV.51. See chapter 8 of the final rule TSD for further information on the derivation of the efficiency distributions. DOE did not change its approach from the March 2024 NODA in this final rule analysis.

AHRI commented that it has yet to observe customer demand for higher efficiency walk-in equipment (dedicated condensing systems, unit coolers, and single-packaged units) versus equipment meeting the baseline (current) walk-ins standard. (AHRI, No. 72 at p. 12)

Regarding refrigeration systems, DOE agrees with the statement from AHRI, and continues with the modeling assumption from the September 2023 NOPR that all walk-in cooler and freezer refrigeration systems would be at baseline in the no-new-standards case. For non-display doors and panels (for which DOE did not receive any comments in response to the September 2023 NOPR or March 2024 NODA), DOE will continue to apply the rates of more-efficient designs found in DOE's CCMS database.¹⁰⁰ DOE related the fraction of designs in the CCMS database to the different panel and non-display door efficiency levels based on the percentage reduction in daily energy consumption (kWh/day) (see sections IV.C.1.c and IV.C.1.d of this document). 88 FR 60746, 60798–60799.

Table IV.51 Distribution of Efficiencies in the No-New-Standards Case for Panel and Non-Display Doors by Efficiency Level

Efficiency Level	Equipment Classes						
	NM.L	NM.M	NO.L	NO.M	PF.L	PS.L	PS.M
0	72%	62%	100%	97%	34%	64%	51%
1	13%	7%	0%	3%	48%	25%	23%
2	11%	9%	0%	0%	13%	11%	19%
3	0%	2%	0%	0%	6%		8%
4	0%	2%	0%	0%			
5	4%	1%	0%	0%			
6		17%		0%			

The LCC Monte Carlo simulations draw from the efficiency distributions and randomly assign an efficiency to the walk-in coolers and freezers purchased by each sample consumer in the no-new-standards case. The resulting percent shares within the sample match

the market shares in the efficiency distributions.

10. Payback Period Analysis

The payback period is the amount of time (expressed in years) it takes the consumer to recover the additional installed cost of more-efficient

equipment, compared to baseline equipment, through energy cost savings. Payback periods that exceed the life of the equipment mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation for each efficiency level are the change in

¹⁰⁰ U.S. Department of Energy. *Compliance Certification Database*. 2023.

www.regulations.doe.gov/certification-data/ (last accessed Feb. 1, 2023).

total installed cost of the product and the change in the first-year annual operating expenditures relative to the baseline. DOE refers to this as a “simple PBP” because it does not consider changes over time in operating cost savings. The PBP calculation uses the same inputs as the LCC analysis when deriving first-year operating costs.

As noted previously, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the first year’s energy savings resulting from the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii)) For each considered efficiency level, DOE determined the value of the first year’s energy savings by calculating the energy savings in accordance with the applicable DOE test procedure, and multiplying those savings by the average energy price projection for the year in which compliance with the amended standards would be required.

G. Shipments Analysis

DOE uses projections of annual equipment shipments to calculate the national impacts of potential amended or new energy conservation standards on energy use, NPV, and future manufacturer cash flows.¹⁰¹ The shipments model takes an accounting approach, tracking market shares of each equipment class and the vintage of units in the stock. Stock accounting uses equipment shipments as inputs to estimate the age distribution of in-service equipment stocks for all years. The age distribution of in-service equipment stocks is a key input to calculations of both the NES and NPV, because operating costs for any year depend on the age distribution of the stock.

As in the September 2023 NOPR, to calculate projected shipments of each equipment type, DOE uses a two-step approach. In the first step, the annual shipments of completed walk-in installations (hereafter referred to as “boxes”) of all types are calculated using a stock model, where principal inputs are commercial floor space projections and the average lifetime of a

walk-in box. In the second step, the various types of refrigeration systems and envelopes are partitioned over the shipments of the entire market for boxes.

DOE modeled the shipments of walk-in boxes to three commercial building sectors: food sales, food service, and *other*. Projections of the growth in floor space for each of these sectors are taken from the *AEO2023* Reference case.¹⁰² To estimate the lifetime of walk-in boxes, DOE used the distribution from the LCC (see chapter 8 of this final rule TSD).

Shipments of walk-in coolers and freezers are driven by new purchases and stock replacements due to failures. In each year, the model calculates total stock by vintage and then estimates the number of units that will fail. The number of units that fail determines the replacement shipments in that year. Shipments to new installations are determined by market saturation (number of boxes per square foot) multiplied by the new floor space constructed in that year. As walk-in boxes have been in use for several decades, DOE assumed that market saturations are constant.

AHRI, supported by Hussmann and Lennox, commented that historical data do not suggest a move to “larger” equipment, specifically; they have observed growth across multiple product lines, including “smaller” capacity products. AHRI, Hussmann, and Lennox commented that there is a gap in considering the small unit (less than 1 horsepower) market size as an artifact of having left this out in original assessments and possibly omitting market contributors such as wine cellars, and this would inappropriately skew market percentages toward larger sizes. (AHRI, No. 72 at p. 12; Hussmann, No. 75 at p. 11; Lennox, No. 70 at p. 8)

DOE thanks AHRI, Hussmann and Lennox for their comments regarding the growth of “smaller” capacity units. However, no information or data were provided by the commenters and there is no publicly available data on the subject that DOE can credibly analyze. For this analysis, DOE continued to maintain the constant market shares for refrigeration equipment as presented in the September 2023 NOPR analysis.

1. Price Elasticity

Economic theory suggests that changes in the price of walk-in

components resulting from this standard could potentially affect the number of shipments due to the price elasticity of demand. This might take the form of either a decrease in shipments in cases where purchase costs increase or an increase in shipments in cases where life-cycle costs decrease. But this general economic theory applies differently in different contexts and, based on the information available to DOE, indicates that shipments will not be meaningfully affected by today’s final rule.

RSG commented that in its experience, increased equipment costs for more-efficient equipment may drive a reduction in new sales and the necessity of maintaining current equipment and/or buying old or used equipment, stunting the benefits of improved efficiency regulations. (RSG, No. 69 at p. 2)

For this analysis, DOE continues to use the assumption in the September 2023 NOPR analysis that a decrease in shipments is unlikely in the walk-in market. DOE maintains that changes in purchasing behavior are unlikely due to the essential nature of the equipment and the lack of available substitutes. Moreover, the substantial savings to consumers over the lifetime of the equipment is expected to positively affect consumer purchasing incentives. DOE examined the impacts of amended standards on shipments as a sensitivity in appendix 9A of the final rule TSD. This sensitivity shows that the potential impact from increased prices for the amended standards to be a reduction in overall FFC energy savings of 1.07 and 0.35 percent for refrigeration systems and envelope components, respectively. Based on these considerations, and the lack of contradictory information, DOE continues to assume that the shipments do not change between the base case and amended standards case.

2. Shipments Results

The projected walk-in box shipments results shown in Table IV.52 are inclusive of the different analytical compliance dates for envelope components (2028) and refrigeration systems (2029). The analysis accounts for envelope component shipments from 2028 through 2057, and for refrigeration systems from 2029 (the analytical start) through 2058.

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¹⁰¹ DOE uses data on manufacturer shipments as a proxy for national sales, as aggregate data on sales are lacking. In general one would expect a close correspondence between shipments and sales.

¹⁰² U.S. Energy Information Administration. *Annual Energy Outlook 2023*.

Table IV.52 Projected Shipments of WICF Boxes for Select Years 2028–2058

Year	Food Sales	Food Service	Other	Total
2028	24,570	34,664	92,387	151,621
2029	24,617	34,847	92,907	152,371
2030	24,774	35,203	93,873	153,849
2035	25,761	37,350	98,700	161,811
2040	26,415	38,884	102,655	167,954
2045	27,279	40,832	107,376	175,487
2050	27,938	42,357	111,863	182,158
2055	28,607	43,854	115,758	188,219
2057	28,962	44,576	117,847	191,384
2058	28,989	44,709	118,110	191,807

H. National Impact Analysis

The NIA assesses the national energy savings (“NES”) and the NPV from a national perspective of total consumer costs and savings that would be expected to result from new or amended standards at specific efficiency levels.¹⁰³ (“Consumer” in this context refers to consumers of the equipment being regulated.) DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual equipment shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, equipment costs, and NPV of consumer benefits over the lifetime of walk-in

refrigeration systems sold from 2029 through 2058, and walk-in panels and doors sold from 2028 through 2057.¹⁰⁴

DOE evaluates the impacts of new or amended standards by comparing a case without such standards with standards-case projections. The no-new-standards case characterizes energy use and consumer costs for each equipment class in the absence of new or amended energy conservation standards. For this projection, DOE considers historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compares

the no-new-standards case with projections characterizing the market for each equipment class if DOE adopted new or amended standards at specific energy efficiency levels (*i.e.*, the TSLs or standards cases) for that class. For the standards cases, DOE considers how a given standard would likely affect the market shares of equipment with efficiencies greater than the standard.

DOE uses a software model to calculate the energy savings and the national consumer costs and savings from each TSL. The NIA model uses typical values (as opposed to probability distributions) as inputs.

Table IV.53 summarizes the inputs and methods DOE used for the NIA analysis for the final rule. Discussion of these inputs and methods follows the table. *See* chapter 10 of the final rule TSD for further details.

¹⁰³ The NIA accounts for impacts in the United States and U.S. territories.

¹⁰⁴ Because the anticipated compliance date is late in the year for refrigeration systems, December 31, 2028, for analytical purposes, DOE conducted the analysis for shipments during the period 2029–2058. Similarly, the anticipated compliance date for panels and doors, January 1, 2028, for analytical purposes, DOE conducted the analysis for shipments during the period 2028–2057.

Table IV.53 Summary of Inputs and Methods for the National Impact Analysis

Inputs	Method
Shipments	Annual shipments from shipments model.
Compliance Date of Standard	December 31, 2028 (2029 Analytical year) for Systems, January 1, 2028, for Envelopes
Efficiency Trends	Constant
Annual Energy Consumption per Unit	Annual weighted-average values are a function of energy use at each TSL.
Total Installed Cost per Unit	- Annual weighted-average values are a function of cost at each TSL. - Incorporates projection of future equipment prices based on historical data.
Annual Energy Cost per Unit	Annual weighted-average values as a function of the annual energy consumption per unit and energy prices.
Repair and Maintenance Cost per Unit	A repair is function of design option for Systems, no change for Envelopes. Maintenance costs is constant for all equipment.
Energy Price Trends	<i>AEO2023</i> projections (to 2050) and constant thereafter.
Energy Site-to-Primary and FFC Conversion	A time-series conversion factor based on <i>AEO2023</i> .
Discount Rate	3 percent and 7 percent
Present Year	2024

BILLING CODE 6410-01-C**1. Product Efficiency Trends**

A key component of the NIA is the trend in energy efficiency projected for the no-new-standards case and each of the amended-standards cases. Section IV.F.9 of this document describes how DOE developed an energy efficiency distribution for the no-new-standards case (which yields a shipment-weighted average efficiency) for each of the considered equipment classes for the year of anticipated compliance with an amended or new standard. To project the trend in efficiency absent amended standards for walk-in coolers and freezers over the entire shipments projection period, DOE maintained constant efficiencies.

DOE used the shipments-weighted energy efficiency distribution for 2028 for envelope components and 2029 for refrigeration systems (the assumed date

of compliance with a new standard) as a starting point. To represent the distribution of walk-in energy efficiencies in 2028 and 2029, DOE used the same market shares as used in the no-new-standards case for the LCC analysis (*see* section IV.C.1 of this document). The approach is further described in chapter 10 of the final rule TSD.

For the standards cases, DOE used a “roll-up” scenario to establish the shipment-weighted efficiency for the year that standards are assumed to become effective (2028 and 2029). In this scenario, the market shares of products in the no-new-standards case that do not meet the standard under consideration would “roll up” to meet the new standard level, and the market share of products above the standard would remain unchanged.

DOE did not receive any comments regarding a future shift toward more-

efficient walk-ins, and maintained the modeling assumptions from the September 2023 NOPR where efficiency would remain constant over time in this analysis. 88 FR 60746, 60801.

2. National Energy Savings

The NES analysis involves a comparison of national energy consumption of the considered equipment between each potential standards case (“TSL”) and the case with no new or amended energy conservation standards. DOE calculated the national energy consumption by multiplying the number of units (stock) of each equipment (by vintage or age) by the unit energy consumption (also by vintage). DOE calculated annual NES based on the difference in national energy consumption for the no-new-standards case and for each higher-efficiency standard case. DOE estimated energy consumption and savings based

on site energy and converted the electricity consumption and savings to primary energy (*i.e.*, the energy consumed by power plants to generate site electricity) using annual conversion factors derived from *AEO2023*. Cumulative energy savings are the sum of the NES for each year over the timeframe of the analysis.

Use of higher-efficiency equipment is sometimes associated with a direct rebound effect, which refers to an increase in utilization of the equipment due to the increase in efficiency and reduction in operating cost. DOE did not find any data on the rebound effect specific to walk-ins. Further, due to the nature of the walk-ins used in commercial applications, those using the equipment would not likely have knowledge of the equipment's efficiency and would not likely alter their usage behavior based on the equipment's efficiency—an assumption agreed with by AHRI, Hussmann, and RSG. (AHRI, No. 72 at p. 12; Hussmann, No. 75 at p. 11; RSG, No. 69 at p. 2) Because of this, as in the September 2023 NOPR, DOE has not applied a rebound effect for this analysis. 88 FR 60746, 60801.

In 2011, in response to the recommendations of a committee on “Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards” appointed by the National Academy of Sciences, DOE announced its intention to use FFC measures of energy use and greenhouse gas and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (August 18, 2011). After evaluating the approaches discussed in the August 18, 2011 document, DOE published a statement of amended policy in which DOE explained its determination that EIA's National Energy Modeling System (“NEMS”) is the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (August 17, 2012). NEMS is a public domain, multi-sector, partial equilibrium model of the U.S. energy sector¹⁰⁵ that EIA uses to prepare its *Annual Energy Outlook*. The FFC factors incorporate losses in production and delivery in the case of natural gas (including fugitive emissions) and additional energy used to produce and deliver the various fuels used by power plants. The approach used for deriving FFC measures of energy use and

emissions is described in appendix 10B of the final rule TSD.

3. Net Present Value Analysis

The inputs for determining the NPV of the total costs and benefits experienced by consumers are: (1) total annual installed cost, (2) total annual operating costs (which include energy costs and repair and maintenance costs), and (3) a discount factor to calculate the present value of costs and savings. DOE calculates net savings each year as the difference between the no-new-standards case and each standards case in terms of total savings in operating costs versus total increases in installed costs. DOE calculates operating cost savings over the lifetime of equipment shipped during the projection period.

As discussed in section IV.F.2 of this document, DOE developed walk-in price trends based on historical PPI data. DOE applied the same trends to project prices for each equipment class at each considered TSL. As discussed in section IV.F DOE maintained constant real prices throughout this analysis. DOE's projection of equipment prices is described in appendix 10C of the final rule TSD.

To evaluate the effect of uncertainty regarding the price trend estimates, DOE investigated the impact of different equipment price projections on the consumer NPV for the considered TSLs for WICFs. In addition to the default price trend, DOE considered two equipment price sensitivity cases: (1) a price decline case based on lower 95-percent of the estimated parameter from exponential fit using the commercial refrigerator PPI from 1980 to 2023 and (2) a price increase case based on the upper 95-percent of the estimated parameter from exponential fit using the commercial refrigerator PPI from 2005 to 2023. The derivation of these price trends and the results of these sensitivity cases are described in appendix 10C of the final rule TSD.

The operating cost savings are energy cost savings, which are calculated using the estimated energy savings in each year and the projected price of the appropriate form of energy. To estimate energy prices in future years, DOE multiplied the average regional energy prices by the projection of annual national-average commercial energy price changes in the Reference case from *AEO2023*, which has an end year of 2050. To estimate price trends after 2050, DOE used constant real prices at 2050 levels. As part of the NIA, DOE also analyzed scenarios that used inputs from variants of the *AEO2023* Reference case that have lower and higher economic growth. Those cases have

lower and higher energy price trends compared to the Reference case. NIA results based on these cases are presented in appendix 10C of the final rule TSD.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine their present value. For this final rule, DOE estimated the NPV of consumer benefits using both a 3-percent and a 7-percent real discount rate. DOE uses these discount rates in accordance with guidance provided by the Office of Management and Budget (“OMB”) to Federal agencies on the development of regulatory analysis.¹⁰⁶ The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the “social rate of time preference,” which is the rate at which society discounts future consumption flows to their present value.

I. Consumer Subgroup Analysis

In analyzing the potential impact of new or amended energy conservation standards on consumers, DOE evaluates the impact on identifiable subgroups of consumers that may be disproportionately affected by a new or amended national standard. The purpose of a subgroup analysis is to determine the extent of any such disproportional impacts. DOE evaluates impacts on particular subgroups of consumers by analyzing the LCC impacts and PBP for those particular consumers from alternative standard levels. The principal users of WICF are food and beverage sales and service. For this final rule, DOE analyzed the impacts of the considered standard levels on the following two subgroups: (1) consumers with high warm air-infiltration applications, and (2) small businesses.

1. High Warm Air-Infiltration Applications

In response to comments to the September 2023 NOPR DOE is maintaining the subgroup to approximate the impacts for businesses where walk-ins are operated in environments with higher warm air-

¹⁰⁵ For more information on NEMS, refer to *The National Energy Modeling System: An Overview 2023*, DOE/EIA-0581(2023), May 2023. Available at [https://www.eia.gov/outlooks/aeo/nems/overview/pdf/0581\(2023\).pdf](https://www.eia.gov/outlooks/aeo/nems/overview/pdf/0581(2023).pdf) (last accessed July 3, 2024).

¹⁰⁶ U.S. Office of Management and Budget. *Circular A-4: Regulatory Analysis*. Available at www.whitehouse.gov/omb/information-for-agencies/circulars (last accessed May 31, 2024). DOE used the prior version of Circular A-4 (September 17, 2003) in accordance with the effective date of the November 9, 2023 version.

infiltration. This would have the effect of putting a greater cooling load on the refrigeration equipment, thus increasing run hours. For this subgroup DOE has assumed 20 daily run hours for all refrigeration system equipment.

AHRI and Lennox commented that it would be feasible to expect that customers operating in regions where electricity is more expensive than the national average and in high warm air applications will be incentivized to reduce their energy cost to purchase a refrigeration system with efficiencies higher than a customer operating in regions where the electricity costs are lower than or at the average national rate. (AHRI, No.72 at p. 12; Lennox, No. 70 at p. 8) DOE agrees with AHRI and Lennox’s comments that consumers in regions with higher electricity prices may be incentivized to purchase more efficient equipment. However, this is at

odds with other comments from AHRI where it has yet to observe customer demand for higher efficiency walk-in equipment (dedicated condensing systems, unit coolers, and single-packaged units) versus equipment meeting the base (current) walk-ins standard. (AHRI, No. 72 at p. 12) As neither AHRI or Lennox submitted any evidence to support the notion of changing consumer purchase or operating behavior, and, as discussed in IV.F.9 DOE agrees with the statement from AHRI, and continues with the modeling assumption from the September 2023 NOPR did not include regional variations in purchasing or operating behaviors.

The results of this analysis can be found in Table V.51, which show increased benefits for all equipment in terms of LCC savings. This is a direct

result of the increased hours of operation.

2. Small Businesses

This subgroups analysis used subsets of the CBECS 2018 sample composed of businesses that are small businesses in the consumer sample (*see* section IV.F.1 of this document for a full discussion of the consumer sample). DOE used the LCC and PBP model to estimate the impacts of the considered efficiency levels on these subgroups. DOE used adjusted electricity costs and discount rates to better reflect the costs experienced by small businesses. DOE did not receive any comments regarding the small business subgroup analysis from the September 2023 NOPR and maintained the same approach for this final rule.

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Table IV.54 Electricity Costs for Small Businesses (2023\$/kWh)

Sector	Region	Average	Marginal
Small Food Sales	1	0.203	0.186
Small Food Service		0.203	0.186
Small Other		0.203	0.186
Small Food Sales	2	0.127	0.117
Small Food Service		0.127	0.117
Small Other		0.127	0.117
Small Food Sales	3	0.144	0.132
Small Food Service		0.144	0.132
Small Other		0.144	0.132
Small Food Sales	4	0.165	0.153
Small Food Service		0.165	0.153
Small Other		0.165	0.153

Table IV.55 Distribution of Discount Rates for Small Businesses

Sector	Discount Rate (%)	Weight
Small Food Sales	0.06	0.03
	0.07	0.10
	0.07	0.46
	0.08	0.24
	0.09	0.05
	0.10	0.05
	0.12	0.05
	0.12	0.02
Small Food Service	0.14	0.02
	0.08	0.05
	0.08	0.33
	0.09	0.37
	0.10	0.10
	0.11	0.04
	0.12	0.07
	0.13	0.03
	0.03	0.00
Small Other	0.00	0.00
	0.04	0.02
	0.06	0.04
	0.06	0.09
	0.07	0.12
	0.09	0.18
	0.09	0.19

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The results of the small business subgroup analysis show increased consumer benefit across most equipment, as shown in Table V.49 through Table V.51. The increase in benefits is driven by the higher electricity prices attributed to small business customers.

Chapter 11 in the final rule TSD describes the consumer subgroup analysis.

*J. Manufacturer Impact Analysis***1. Overview**

DOE performed an MIA to estimate the financial impacts of amended energy conservation standards on manufacturers of walk-ins and to estimate the potential impacts of such standards on direct employment and manufacturing capacity. The MIA has both quantitative and qualitative aspects and includes analyses of projected industry cash flows, the INPV,

investments in research and development (“R&D”) and manufacturing capital, and domestic manufacturing employment. Additionally, the MIA seeks to determine how amended energy conservation standards might affect manufacturing employment, capacity, and competition, as well as how standards contribute to overall regulatory burden. Finally, the MIA serves to identify any disproportionate impacts on manufacturer subgroups, including small business manufacturers.

The quantitative part of the MIA primarily relies on the GRIM, an industry cash flow model with inputs specific to this rulemaking. The key GRIM inputs include data on the industry cost structure, unit production costs, equipment shipments, manufacturer markups, and investments in R&D and manufacturing capital required to produce compliant equipment. The key GRIM outputs are

the INPV, which is the sum of industry annual cash flows over the analysis period, discounted using the industry-weighted average cost of capital, and the impact to domestic manufacturing employment. The model uses standard accounting principles to estimate the impacts of more-stringent energy conservation standards on a given industry by comparing changes in INPV and domestic manufacturing employment between a no-new-standards case and the various standards cases. To capture the uncertainty relating to manufacturer pricing strategies following amended standards, the GRIM estimates a range of possible impacts under different manufacturer markup scenarios.

The qualitative part of the MIA addresses manufacturer characteristics and market trends. Specifically, the MIA considers such factors as a potential standard’s impact on manufacturing capacity, competition within the

industry, the cumulative impact of other DOE and non-DOE regulations and impacts on manufacturer subgroups. The complete MIA is outlined in chapter 12 of the final rule TSD.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE prepared a profile of the walk-in manufacturing industry based on the market and technology assessment, preliminary manufacturer interviews, and publicly available information. This included a top-down analysis of walk-in door, panel, and refrigeration system manufacturers that DOE used to derive preliminary financial inputs for the GRIM (e.g., revenues; materials, labor, overhead, and depreciation expenses; selling, general, and administrative expenses (“SG&A”); and R&D expenses). DOE also used public sources of information to further calibrate its initial characterization of the walk-in manufacturing industry, including company filings of form 10-K from the SEC,¹⁰⁷ corporate annual reports, the U.S. Census Bureau’s *Annual Survey of Manufactures* (“ASM”),¹⁰⁸ and reports from Dun & Bradstreet.¹⁰⁹

In Phase 2 of the MIA, DOE prepared a framework industry cash-flow analysis to quantify the potential impacts of amended energy conservation standards. The GRIM uses several factors to determine a series of annual cash flows starting with the announcement of the standard and extending over a 30-year period following the compliance date of the standard. These factors include annual expected revenues, costs of sales, SG&A and R&D expenses, taxes, and capital expenditures. In general, energy conservation standards can affect manufacturer cash flow in three distinct ways: (1) creating a need for increased investment, (2) raising production costs per unit, and (3) altering revenue due to higher per-unit prices and changes in sales volumes.

In addition, during Phase 2, DOE developed interview guides to distribute to manufacturers of walk-ins in order to develop other key GRIM inputs, including product and capital conversion costs, and to gather

additional information on the anticipated effects of energy conservation standards on revenues, direct employment, capital assets, industry competitiveness, and subgroup impacts.

In Phase 3 of the MIA, DOE conducted structured, detailed interviews with representative manufacturers. During these interviews, DOE discussed engineering, manufacturing, procurement, and financial topics to validate assumptions used in the GRIM and to identify key issues or concerns. As part of Phase 3, DOE also evaluated subgroups of manufacturers that may be disproportionately impacted by amended standards or that may not be accurately represented by the average cost assumptions used to develop the industry cash flow analysis. Such manufacturer subgroups may include small business manufacturers, low-volume manufacturers, niche players, and/or manufacturers exhibiting a cost structure that largely differs from the industry average. DOE identified one subgroup for a separate impact analysis: small business manufacturers. The small business subgroup is discussed in section VI.B of this document, “Review under the Regulatory Flexibility Act,” and in chapter 12 of the final rule TSD.

2. Government Regulatory Impact Model and Key Inputs

DOE uses the GRIM to quantify the changes in cash flow due to new or amended standards that result in a higher or lower industry value. The GRIM uses a standard, annual discounted cash-flow analysis that incorporates manufacturer costs, markups, shipments, and industry financial information as inputs. The GRIM models changes in costs, distribution of shipments, investments, and manufacturer margins that could result from an amended energy conservation standard. The GRIM spreadsheet uses the inputs to arrive at a series of annual cash flows, beginning in 2024 (the base year of the analysis) and continuing to 2057, 30 years after the 2028 compliance date for doors and panels. For refrigeration systems, the GRIM arrives at a series of annual cash flows beginning in 2024 (the base year of the analysis) and continuing to 2058, 30 years after the modeled 2029 compliance date. DOE calculated INPVs by summing the stream of annual discounted cash flows during this period. For manufacturers of walk-in doors, panels, and refrigeration systems, DOE used a real discount rate of 9.4 percent, 10.5 percent, and 10.2 percent, respectively, which was derived from

industry financials and then modified according to feedback received during manufacturer interviews.

The GRIM calculates cash flows using standard accounting principles and compares changes in INPV between the no-new-standards case and each standards case. The difference in INPV between the no-new-standards case and a standards case represents the financial impact of the new or amended energy conservation standard on manufacturers. As discussed previously, DOE developed critical GRIM inputs using a number of sources, including publicly available data, results of the engineering analysis, results of the shipments analysis, and information gathered from industry stakeholders during the course of manufacturer interviews. The GRIM results are presented in section V.B.2 of this document. Additional details about the GRIM, the discount rate, and other financial parameters can be found in chapter 12 of the final rule TSD.

a. Manufacturer Production Costs

Manufacturing more efficient equipment is typically more expensive than manufacturing baseline equipment due to the use of more complex components, which are typically more costly than baseline components. The changes in the MPCs of covered products can affect the revenues, gross margins, and cash flow of the industry. In this rulemaking, DOE relied on a design-option approach for doors, panels, dedicated condensing units, and single-packaged dedicated systems. DOE relies on both a design-option and an efficiency-level approach for unit coolers, depending on the equipment class. For a complete description of the MPCs, see chapter 5 of the final rule TSD or section IV.C of this document.

b. Shipments Projections

The GRIM estimates manufacturer revenues based on total unit shipment projections and the distribution of those shipments by efficiency level. Changes in sales volumes and efficiency mix over time can significantly affect manufacturer finances. For this analysis, the GRIM uses the NIA’s annual shipment projections derived from the shipments analysis from 2024 (the base year) extending 30 years after the expected compliance date. The shipments model takes an accounting approach, tracking market shares of each equipment class and the vintage of units in the stock. Stock accounting uses equipment shipments as inputs to estimate the age distribution of in-service equipment stocks for all years.

¹⁰⁷ U.S. Securities and Exchange Commission, *Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system*. Available at www.sec.gov/edgar/search/ (last accessed March 7, 2024).

¹⁰⁸ U.S. Census Bureau, *Annual Survey of Manufactures*. “Summary Statistics for Industry Groups and Industries in the U.S (2022).” Available at www.census.gov/data/tables/time-series/econ/asm/2018-2021-asm.html (last accessed March 7, 2024).

¹⁰⁹ The Dun & Bradstreet Hoovers login is available at app.dnbhoovers.com (last accessed March 7, 2024).

To calculate projected shipments of each equipment type, DOE uses a two-step approach. In the first step, the annual shipments of completed WICF installations (also referred to as “boxes”) of all types are calculated using a stock model, with principal inputs that include commercial floor space projections and the average lifetime of a WICF box. In the second step, the various types of refrigeration systems and envelopes are partitioned over the shipments of the entire market for boxes. *See* chapter 9 of the final rule TSD for additional details or section IV.G of this document.

c. Capital and Product Conversion Costs

New or amended energy conservation standards could cause manufacturers to incur conversion costs to bring their production facilities and equipment designs into compliance. DOE evaluated the level of conversion-related expenditures that would be needed to comply with each considered efficiency level in each equipment class. For the MIA, DOE classified these conversion costs into two major groups: (1) capital conversion costs; and (2) product conversion costs. Capital conversion costs are investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new compliant product designs can be fabricated and assembled. Product conversion costs are investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with new or amended energy conservation standards.

DOE relied on information derived from manufacturer interviews, equipment teardown analyses, and the engineering models, as well as data collected in support of the June 2014 Final Rule, to evaluate the level of capital and product conversion costs manufacturers would likely incur at the considered standard levels. In interviews, DOE asked manufacturers to estimate the capital conversion costs (e.g., changes in production processes, equipment, and tooling) to implement the various design options. The data generated from the equipment teardown and engineering analyses were used to estimate the capital investment in equipment, tooling, and conveyor required of OEMs at each efficiency level, considering such factors as product design, raw materials, purchased components, and the fabrication method. Changes in equipment, tooling, and conveyor, supplemented by feedback from confidential manufacturer interviews, were then used to estimate capital conversion costs. In interviews, DOE also asked manufacturers to estimate the redesign effort and engineering resources required at various efficiency levels to quantify the product conversion costs. Manufacturer data were aggregated to protect confidential information.

For manufacturers of refrigeration systems, DOE also included the costs associated with appendix C1, as finalized in the May 2023 TP Final Rule, 88 FR 28780. Using individual model counts from the CCD and efficiency distribution assumptions in the shipments analysis, DOE estimated the industry costs associated with re-rating

compliant models in accordance with appendix C1.

For this final rule, DOE refined its capital and product conversion cost analysis but generally maintained its methodology from the September 2023 NOPR. Specifically, DOE updated its conversion cost estimates from the September 2023 NOPR to 2023\$ for this final rule. For capital conversion costs, DOE incorporated updated estimates of equipment, tooling, conveyor, and space generated from the equipment teardown and engineering teardown analyses. For refrigeration systems, DOE conducted further research into the specific production equipment currently being used by walk-in OEMs to fabricate tube-and-fin heat exchangers and incorporated updated equipment specifications and costs. In response to comments, DOE adjusted its analysis to more accurately account for how implementing design options on representative units of different capacities would contribute to capital conversion cost estimates. As a result of these updates, DOE found that unit coolers would require capital conversion costs beyond the retooling cost estimated in the September 2023 NOPR. For unit coolers, in response to stakeholder comments, DOE revised its capital conversion cost analysis to reflect the assumed distribution of row number frequency using results from its unit cooler database (*see* Table IV.56). For product conversion costs, DOE incorporated the most recent BLS wage data into its estimates.¹¹⁰ *See* chapter 12 of the final rule TSD for further details on the updates made to conversion cost estimates.

Table IV.56 Coil Row Frequency From Unit Cooler Database

Number of Rows	Distribution
2	4.0%
3	22.0%
4	52.1%
5	21.8%

For product conversion costs, in response to stakeholder comments to the September 2023 NOPR regarding the increase in testing and certification costs associated with new safety standards (*i.e.*, UL 60335–2–89) (*see* AHRI, No. 72 at pp. 2–3 and No. 86 at p. 3), DOE also doubled refrigeration system product conversion costs

associated with UL testing and industry certification for this final rule.

In general, DOE assumes all conversion-related investments occur between the year of publication of the final rule and the year by which manufacturers must comply with the amended standard. The conversion cost figures used in the GRIM can be found

in section V.B.2 of this document. For additional information on the estimated capital and product conversion costs, *see* chapter 12 of the final rule TSD.

d. Manufacturer Markup Scenarios

MSPs include direct manufacturing production costs (*i.e.*, labor, materials, and overhead estimated in DOE’s MPCs)

¹¹⁰ Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook,

Mechanical Engineers. (May 2023) Available at: www.bls.gov/ooh/architecture-and-engineering/

mechanical-engineers.htm. (Last accessed June 20, 2024).

and all non-production costs (*i.e.*, SG&A, R&D, and interest), along with profit. To calculate the MSPs in the GRIM, DOE applied manufacturer markups to the MPCs estimated in the engineering analysis for each equipment class and efficiency level. Modifying these manufacturer markups in the standards case yields different sets of impacts on manufacturers. For the MIA, DOE modeled two standards-case scenarios to represent uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of amended energy conservation standards: (1) a preservation of gross margin percentage scenario; and (2) a preservation of operating profit scenario. These scenarios lead to different manufacturer markup values that, when applied to the MPCs, result in varying revenue and cash flow impacts. DOE addresses comments in response to the September 2023 NOPR related to its manufacturer markup scenarios in section IV.J.3.b of this document.

Under the preservation of gross margin percentage scenario, DOE applied a uniform “gross margin percentage” across all efficiency levels, which assumes that manufacturers would be able to maintain the same amount of profit as a percentage of revenues at all efficiency levels within an equipment class. If MPCs increase with efficiency, this scenario implies that the per-unit dollar profit will increase. Consistent with the September 2023 NOPR and March 2024 NODA, DOE assumed a gross margin percentage of 31 percent for display doors, 33 percent for non-display doors, 24 percent for panels, and 26 percent for refrigeration systems.¹¹¹ Manufacturers tend to believe it is optimistic to assume that they would be able to maintain the same gross margin percentage if their production costs increase, particularly for minimally efficient equipment. Therefore, this scenario represents a high bound of industry profitability under amended energy conservation standards. To address manufacturer concerns about reduced margins and profitability under potential amended standards, DOE also analyzes a preservation of operating profit scenario.

In the preservation of operating profit scenario, if the cost of production goes up under a standards case, manufacturers are generally required to

reduce their manufacturer markups to a level that maintains base-case operating profit. DOE implemented this scenario in the GRIM by adjusting the manufacturer markups at each TSL to yield approximately the same earnings before interest and taxes in the standards case as in the no-new-standards case in the year after the expected compliance date of the amended standards. The implicit assumption behind this scenario is that the industry can only maintain its operating profit in absolute dollars after the standard takes effect. Therefore, operating profit in percentage terms is typically reduced between the no-new-standard case and the standards cases.

A comparison of industry financial impacts under the two manufacturer markup scenarios is presented in section V.B.2.a of this document.

3. Discussion of MIA Comments

a. Conversion Costs

Kolpak commented that increasing door and/or panel thickness would decrease manufacturing capacity, increase manufacturing costs, and increase its carbon footprint. (Kolpak, No. 66 at p. 2) RSG stated general agreement with DOE’s estimates of capital conversion costs at each TSL analyzed in the September 2023 NOPR for WICF doors, panels, and refrigeration systems. RSG commented that the highest impact for walk-in non-display doors and panels would be attributed to increased insulation thickness. RSG estimated one new charging station would be required at each manufacturing location at a cost of approximately \$200,000. (RSG, No. 69 at pp. 2–3)

DOE agrees with commenters that increasing non-display door and/or panel thickness would increase production costs and could impact manufacturing capacity due to longer cure times. DOE accounts for these factors in its MPCs (*see* section IV.C of this document or chapter 5 of the final rule TSD) and conversion cost analysis (*see* section IV.J.2.c of this document or chapter 12 of the final rule TSD).

Husmann commented that DOE’s assumption regarding the September 2023 NOPR capital conversion costs between TSL 1 and TSL 2 will be similar is faulty in the case of unit coolers, because moving to five-row coils will require a much larger investment than just moving up to four coils, due to current manufacturer optimization around two- to four-row coils. (Husmann, No. 75 at p. 12) AHRI similarly commented that DOE’s assumption that for unit coolers, the

capital conversion costs between TSL 1 and TSL 2 presented in the September 2023 NOPR will be similar because they can rely on similar tooling investments is incorrect, as moving to five-row coils will require a much larger capital investment than just moving up to four-row coils. AHRI stated that manufacturers have optimized around two- to four-row coils and requiring a switch to five rows represents a major change that has not been accounted for. (AHRI, No. 72 at p. 13)

In the September 2023 NOPR, DOE did not consider that adding additional rows to the unit cooler heat exchanger would require an increase in cabinet size when determining the MPCs and capital investments associated with each efficiency level. DOE based this assumption on manufacturers’ unit cooler product catalogs, which included unit cooler case dimensions. In response to stakeholder comments to the September 2023 NOPR, DOE updated its analysis in the March 2024 NODA and assumed that the unit cooler case would have to be expanded to accommodate an additional row at the max-tech efficiency level for every unit cooler representative unit and presented updated unit cooler cost efficiency curves in the March 2024 NODA support document.¹¹² In response to comments to the March 2024 NODA regarding underestimating incremental costs associated with additional rows, DOE reexamined its cost modeling for unit coolers for this final rule. Based on further review of product literature and its modeling of representative units, DOE updated several inputs to the unit cooler cost modeling, which may be better aligned with industry’s cost estimates. The updated costs are presented in appendix 5A of the final rule TSD and details of the revised cost methodology are discussed in chapter 5 of the final rule TSD. For this final rule, DOE also revised its capital conversion cost estimates for unit coolers to reflect the additional tooling and equipment costs associated with incorporating additional rows to unit cooler heat exchangers. DOE further revised its capital conversion cost estimates for unit coolers to account for the estimated row frequency distribution of models on the market. *See* section V.B.2.a of this document and chapter 12 of the final rule TSD for unit cooler conversion cost estimates.

¹¹¹ The gross margin percentages of 31 percent, 33 percent, 24 percent, and 26 percent are based on manufacturer markups of 1.45, 1.50, 1.32, and 1.35, respectively.

¹¹² “Detailed Data for Engineering Analysis and National Impact Analysis for the Notice Of Data Availability Pertaining to Walk-in Coolers And Walk-In Freezers.” Available at www.regulations.gov/document/EERE-2017-BT-STD-0009-0079.

AHRI and Lennox stated that it was difficult to provide feedback on the September 2023 NOPR refrigeration system conversion cost estimates at each TSL due to discrepancies in the design options assumed at baseline and the costs associated with higher efficiency levels. AHRI and Lennox generally disagreed with the component costs presented in the September 2023 NOPR as they stated that costs needed to reflect state-of-the-art design and true capital costs to realize the advancements. AHRI and Lennox commented that the costs at efficiency levels that necessitate larger heat exchangers should include the capital costs, which would be a significant cost factor. AHRI and Lennox cited as an example moving from four-row to five-row coils, or increasing face area, which would require sweeping changes due to capital costs beyond what is indicated in appendix 5A.5 of the September 2023 NOPR TSD. (AHRI, No. 72 at p. 13; Lennox, No. 70 at pp. 8–9)

In response to the March 2024 NODA, AHRI reiterated that because unit coolers are optimized around four-row coils, increasing efficiency by adding tube rows would be much more costly than estimated by DOE, considering major tooling and other factors. AHRI and Lennox stated that DOE underestimated cost increases for MPCs and MSPs associated with requirements for walk-ins to use A2L refrigerants, considering tooling, materials, and development costs. (AHRI, No. 86 at pp. 6–7; Lennox, No. 87 at p. 5)

Regarding the underlying assumptions of the WICF refrigeration system engineering analysis, *see* section IV.C of this document or chapter 5 of the final rule TSD for details on the analyzed design options and efficiency levels. Regarding the capital investments associated with increasing the size of the heat exchanger, DOE accounts for the incremental increase in manufacturing equipment, tooling, and building depreciation in its MPCs and the one-time, upfront investments in property, plant, and equipment necessary to adapt or change existing production facilities (*i.e.*, capital conversion costs) in its MIA. As such, DOE notes that the production costs derived in the engineering analysis already include estimates of capital investments in the form of depreciation costs. *See* section IV.C.2.g of this document for further discussion on how DOE estimates depreciation costs and chapter 5 of the final rule TSD for additional details on the cost model and estimation of MPCs. *See* chapter 12 of the final rule TSD for the breakdown of production costs (*i.e.*, material, labor,

depreciation, overhead) used in the MIA.

b. Manufacturer Markup Scenarios

In terms of baseline assumptions, AHRI commented it is unclear whether DOE preserved margin percentage in its financial calculations, and, if not, AHRI commented the correct approach should be to preserve margin percentage and not just margin dollars. (AHRI, No. 72 at pp. 5–6)

For the September 2023 NOPR, DOE analyzed two manufacturer markup scenarios in its MIA: (1) the preservation of gross margin percentage and (2) the preservation of operating profit. DOE assumed a fixed gross margin percentage in its LCC and PBP analyses for the September 2023 NOPR. In other words, the LCC and PBP results reflect the conservative assumption that manufacturers would preserve gross margin percentage (not just per-unit dollars), which aligns with AHRI's suggestion. DOE maintained that approach for this final rule analysis.

c. Manufacturing Capacity Constraints

RSG stated its agreement that meeting higher efficiency levels than what was proposed in the September 2023 NOPR for walk-in non-display doors and panels would impact its capacity and capability to deliver product by the 2027 compliance date analyzed in the September 2023 NOPR. As an example, RSG commented that each additional inch of foamed non-display door or panel can double production time according to internal manufacturing studies. (RSG, No. 69 at p. 3)

DOE agrees with commenters that increasing non-display door and/or panel thickness would impact manufacturing capacity due to longer cure times. As with standards proposed in the September 2023 NOPR, the design options analyzed for the efficiency levels adopted in this final rule do not include increased insulation thickness for non-display doors or panels.

AHRI stated agreement with DOE's analysis that the limited number of suppliers of vacuum-insulated glass, along with the associated substantial cost increase for the conversion, would sharply limit the availability of walk-in display doors and non-display doors within the compliance timeframe proposed in the September 2023 NOPR. (AHRI, No. 72 at p. 13)

Aligned with the standards proposed in the September 2023 NOPR, DOE notes that it is not adopting more-stringent efficiency levels for display doors in this final rule. *See* section V.B.2.c of this document for a

discussion on manufacturing capacity and section V.C.1 for a discussion of the analyzed TSLs and their associated benefits and burdens.

DuPont commented that its specialty XPS production lines have historically been capacity constrained. DuPont commented that should panel efficiency standards be increased, WICF-specific XPS capacity with increased insulation thickness would be reduced. DuPont stated that more stringent efficiency levels for WICFs would result in increases in insulation procurement to sustain demand. DuPont included a table to demonstrate this, showing volume increases of 14 percent (to meet EL 1) to 71 percent (to meet max-tech) for coolers and 25 percent (to meet EL 1) to 50 percent (to meet max-tech) for freezers, based on thicker insulation requirements. DuPont commented that if XPS production volume remained consistent and there were no alternative insulation product to XPS, given key specialty XPS technical performance properties in this WICF application, then increased WICF efficiency standards could result in a proportionate decrease in WICF panel and non-display door area production capacity, due to XPS supply constraints. DuPont supported the panel and non-display door efficiency levels proposed in the September 2023 NOPR, noting that requiring increased insulation thickness would potentially create a WICF supply shortage. (DuPont, No. 74 at pp. 1–2)

In this final rule, DOE is adopting TSL 1 for non-display doors and no-new-standards for panels, which DOE believes manufacturers can meet without increasing insulation thickness of non-display doors and panels. As such, DOE does not expect there would be capacity constraints related to sourcing XPS for walk-ins as a direct result of this rulemaking.

Regarding constraints for walk-in systems, RSG noted that component availability, especially regarding A2L special components (*e.g.*, compressors, sensors, *etc.*), seem to be tracking for general availability by 2026. RSG commented that 2027 is likely the earliest viable compliance date to harmonize industry, design, test, and regulation. (RSG, No. 69 at p. 3)

AHRI and Lennox commented that there would likely be significant manufacturing constraints and engineering resource constraints if DOE requires manufacturers to comply with energy efficiency standards for walk-in refrigeration systems by 2027 (the compliance year analyzed in the September 2023 NOPR). Specifically, AHRI and Lennox stated that some

manufacturers have limited internal laboratory capacity and are obligated to use third-party laboratories, which are currently at maximum capacity. AHRI and Lennox further stated that until the transition to low-GWP refrigerants is complete, tests cannot be suspended and rooms modified to support the May 2023 TP Final Rule—a process that could delay WICF production by 8 to 12 months. In addition to the engineering and testing time, AHRI and Lennox noted that manufacturing and related component fabrication and reconfiguration of production lines would require a significant amount of effort while manufacturers are preoccupied with ramping up testing and production of low-GWP walk-in refrigeration systems. AHRI and Lennox also commented that current supply chain challenges and long lead times from component suppliers could delay the building of prototypes and subsequent laboratory testing. AHRI and Lennox emphasized that the standards proposed in the September 2023 NOPR calling for an efficiency increase of up to 15 percent might require a complete redesign of the product. (AHRI, No. 72 at p. 14; Lennox, No. 70 at p. 9) Hussmann commented that it agrees with the views presented by AHRI. (Hussmann, No. 75 at pp. 12–13)

AHRI commented that the standards proposed in the September 2023 NOPR makes it difficult to have a complete equipment offering, particularly for low-temperature condensing units and, to some extent, unit coolers. AHRI commented it expects major application gaps even with extensive unit redesign and utilization of all major, identified energy-saving measures. (AHRI, No. 72 at p. 20)

DOE recognizes that testing and redesigning walk-in refrigeration systems to comply with EPA's refrigerant regulations and DOE's amended energy conservation standards requires engineering time, laboratory resources, and capital investment. DOE analyzed the potential impacts of the December 2022 EPA Technology Transitions NOPR in its September 2023 NOPR. Based on the December 2022 EPA Technology Transitions NOPR, DOE modeled the walk-in refrigeration system industry transitioning to low-GWP refrigerants prior to EPA's proposed January 1, 2025 compliance date. However, EPA has since finalized refrigerant restrictions affecting walk-in refrigeration systems with a January 1, 2026 compliance date (*i.e.*, the October 2023 EPA Technology Transitions Final Rule). As such, walk-in refrigeration system manufacturers will have an additional year to comply with the

October 2023 EPA Technology Transitions Final Rule compared to the timeline detailed in the December 2022 EPA Technology Transitions NOPR. Furthermore, in this final rule, DOE is adopting a compliance date of December 31, 2028 (modeled as 2029, the first full year of compliance) for refrigeration systems to help alleviate potential laboratory and engineering resource constraints related to the dual development associated with EPA and DOE regulations. *See* section III.A.2 of this document for additional discussion on the DOE compliance date.

d. Cumulative Regulatory Burden

RSG cited innovation and design cycle as the primary challenges posed by cumulative regulatory burden. RSG commented that DOE proposals can place manufacturers in a cycle of chasing the regulation, with less focused time and freedom to innovate for better overall solutions. (RSG, No. 69 at p. 3) Lennox commented that manufacturers face a significant cumulative regulatory burden resulting from multiple DOE standards and equipment-specific regulatory actions taken by other Federal agencies, which will negatively affect WICF manufacturers by causing OEMs to invest more time, money, and resources in testing and manufacturing products to comply with the DOE standards. Lennox recommended that DOE consider the impact of related State regulations, safety codes, and various standards changes when proposing new or amended standards for walk-ins. (Lennox, No. 70 at pp. 10–11)

NRAC commented that refrigerant regulation (*e.g.*, October 2023 EPA Technology Transitions Final Rule) and changes to safety standards (*i.e.*, UL 60335–2–89) contribute to cumulative regulatory burden and will require significant engineering resources and laboratory testing. (NRAC, No. 73 at p. 3)

AHRI and Hussmann commented that there is significant cumulative regulatory burden associated with DOE energy conservation standards, EPA regulations (*i.e.*, transition to low-GWP refrigerants, PFAS/PFOA regulations), and changes to safety standards, as well as various State regulations. AHRI and Hussmann commented that these changes require engineering resources, validation testing, verification costs, establishment of new supply chains, and independent laboratory testing. AHRI and Hussmann noted that DOE's proposed changes to medium electric motors¹¹³ and small, non-small electric

motors standards (also referred to as “expanded scope electric motors”)¹¹⁴ also contribute to cumulative regulatory burden. AHRI and Hussmann commented that these motor regulations may require equipment changes to account for larger motors, additional testing, safety agency approval, backward compatibility for the replacement market, and a cost increase to go along with the higher efficiency motors. (AHRI, No. 72 at p. 16; Hussmann, No. 75 at p. 14)

AHRI commented that its members are weighing a range of decisions and design changes due to regulations requiring low-GWP refrigerants. AHRI commented that manufacturers do not consider the October 2023 EPA Technology Transitions Final Rule and DOE energy conservation standards rulemakings as independent of each other; AHRI commented that taken together, the EPA and DOE regulatory actions impose an unreasonable burden and are at high risk of resulting in requirements that are nearly impossible to meet in the required timeframes. AHRI commented that manufacturers are experiencing heavy backlog and extensive time to market because certification organizations and laboratories have limited resources. AHRI requested that DOE account for the fact that all commercial refrigeration equipment must meet UL–60335–2–89, which will replace current safety standards in 2024 and which will require more resources, time, and laboratory facilities. (AHRI, No. 72 at pp. 2–3 and No. 86 at p. 3)

Regarding cumulative regulatory burden, DOE analyzes cumulative regulatory burden pursuant to section 13(g) of the Process Rule. (10 CFR 431.4; 10 CFR 430, subpart C, appendix A, section 13(g)). DOE analyzes and considers the impact on manufacturers of multiple product/equipment-specific Federal regulatory actions. DOE notes that regulations not yet finalized are not considered as cumulative regulatory burden, as the timing, cost, and impacts of unfinalized rules are speculative. However, to aid stakeholders in identifying potential cumulative regulatory burden, DOE lists rulemakings that have proposed rules with tentative compliance dates, compliance levels, and compliance cost estimates. The results of this analysis

DOE prescribed the energy conservation standards for electric motors manufactured on and after June 1, 2027. 88 FR 36066.

¹¹⁴ In a proposed rule published on December 15, 2023 (“December 2023 ESEM NOPR”), DOE proposed energy conservation standards for expanded scope electric motors manufactured on and after January 1, 2029. 88 FR 87062.

¹¹³ In a direct final rule published on June 1, 2023 (“June 2023 Electric Motors Direct Final Rule”),

can be found in section V.B.2.e of this document.

Regarding EPA refrigerant regulations, as discussed in prior sections, DOE recognizes that redesigning walk-in refrigeration system designs to comply with the October 2023 EPA Technology Transitions Final Rule and DOE's amended energy conservation standards requires significant engineering resources and capital investment. DOE accounts for these impacts in its cumulative regulatory burden analysis. DOE analyzed the potential impacts of the December 2022 EPA Technology Transitions NOPR in its September 2023 NOPR. Based on the December 2022 EPA Technology Transitions NOPR, DOE modeled the WICF refrigeration system industry transitioning to low-GWP refrigerants prior to EPA's proposed January 1, 2025 compliance date. However, EPA has since finalized refrigerant restrictions affecting walk-ins (*i.e.*, the October 2023 EPA Technology Transitions Final Rule). EPA finalized a January 1, 2026 compliance date for the refrigeration categories that apply to walk-in refrigeration systems (*i.e.*, remote condensing units and cold storage warehouse systems).

DOE accounts for industry refrigerant transition expenses in its GRIM in the no-new-standards case and standards cases. Although refrigerant transition costs are independent of DOE adopting new and amended standards, DOE incorporates these expenses into its GRIM to better reflect the state of industry finances and annual cashflow. For the September 2023 NOPR, DOE relied on a range of sources, including feedback gathered during confidential manufacturer interviews, in response to the June 2022 Preliminary Analysis. In response to written comments to the September 2023 NOPR, DOE revised its refrigerant transition R&D estimates. *See* section V.B.2.e of this document for additional discussion of how DOE accounts for cumulative regulatory burden in its analysis.

Regarding State refrigerant regulations, those transition costs would be reflected in the refrigerant transition costs estimated in this final rule. DOE notes that since most State refrigerant regulations generally align with the October 2023 EPA Technology Transitions Final Rule GWP restrictions for walk-ins, DOE does not expect that individual State refrigerant regulations would significantly contribute to refrigerant transition costs beyond what was assessed for the October 2023 EPA Technology Transitions Final Rule. DOE notes that two States have established lower GWP limits for certain walk-in refrigeration systems as compared to the

October 2023 EPA Technology Transition Final Rule. Specifically, California and Washington prohibited refrigerants with a GWP of 150 or greater for new retail food refrigeration equipment and cold storage warehouses containing more than 50 lbs of refrigerant, which includes certain WICF refrigeration systems, as of January 1, 2022 in California¹¹⁵ and as of January 1, 2025 in the State of Washington.¹¹⁶ DOE developed cost adders for certain representative units, consistent with the March 2024 NODA, for this final rule. *See* subsection "Refrigerants Analyzed" of section IV.C.1.e of this document for additional information about WICF refrigeration systems designed to use refrigerants with a GWP of 150 or less. *See* section IV.F.2.a of this document for DOE's sensitivity analysis of sub-150 GWP refrigerants on consumers.

Regarding stakeholders' comments on the increase in per-unit testing burden as a result of the transition to UL 60335–2–89, DOE updated its product conversion costs and its refrigerant transition R&D expenses to reflect the increase in testing burden. As discussed in section IV.J.2.c of this document, DOE doubled the costs associated with testing and certifying to the new UL safety standard in response to written comments and secondary research.

Regarding potential PFAS/PFOA regulations restricting the use of certain A2L refrigerants, DOE notes that EPA has not yet proposed any regulations concerning the use of PFAS in refrigerants. Furthermore, DOE notes that the October 2023 EPA Technology Transitions Final Rule finalized restrictions for WICF refrigeration systems using a GWP limit approach, which inherently permits the use of any substitutes consistent with the restrictions. DOE also notes that EPA's "PFAS Strategic Roadmap" sets timelines for specific actions and outlines EPA's commitments to new policies to safeguard public health, protect the environment, and hold polluters accountable.¹¹⁷

Regarding the June 2023 Electric Motors Direct Final Rule, DOE did not observe motors that would fall under

the scope of the June 2023 Electric Motors Direct Final Rule in its testing and teardowns of WICF refrigeration systems conducted in support of this rulemaking. While it is possible that larger capacity dedicated condensing units or unit coolers incorporate a motor subject to the June 2023 Electric Motors Direct Final Rule, DOE does not have sufficient evidence to conclude that these in-scope motors are significantly used for WICF applications. Regarding the December 2023 ESEM NOPR, DOE acknowledges that some walk-in refrigeration systems may currently incorporate motors subject to standards proposed in the December 2023 ESEM NOPR. However, the compliance date analyzed in this final rule precedes the proposed ESEM standard compliance date (January 1, 2029) and, based on the design option pathway analyzed in the WICF engineering analysis, WICF refrigeration systems would likely require a motor that is outside the scope of the December 2023 ESEM NOPR (*e.g.*, an electronically commutated motor) to meet the efficiency levels adopted in this final rule. Furthermore, as DOE did not identify any walk-in manufacturers that also manufacture ESEMs, DOE did not include the December 2023 ESEM NOPR in its cumulative regulatory burden analysis.

e. Refrigerant Transition Costs

RSG noted that its analysis shows a significant increase in cost across most areas of operation and production to accommodate low-GWP refrigerants, including (but not limited to) production capital, system/end-product cost, laboratory testing, agency certification, engineering resources, and manufacturing operations and safety. RSG commented that DOE has assured that care will be taken to consider the financial impact on manufacturers and customers alike with such proposed regulation amendments. (RSG, No. 69 at p. 3) NRAC commented that the transition to low-GWP refrigerants, as required by EPA, would increase engineering efforts and laboratory testing by 40 to 50 percent. NRAC commented that certification costs will increase and additional components will be required for refrigerant mitigation; however, those costs are still uncertain and cannot currently be quantified. (NRAC, No. 73 at p. 3)

AHRI and Lennox commented that DOE's estimate of \$14.5 million in R&D and \$15.0 million in capital expenditures related to the transition to low-GWP refrigerants presented in the September 2023 NOPR seems reasonable if industry has facility modifications already complete and

¹¹⁵ California Air Resource Board, "California Significant New Alternatives Policy (SNAP)." Available at ww2.arb.ca.gov/our-work/programs/california-significant-new-alternatives-policy-snap/retail-food-refrigeration (last accessed May 23, 2024).

¹¹⁶ State of Washington Department of Ecology, WAC 173–443–040. Available at app.leg.wa.gov/WAC/default.aspx?cite=173-443-040 (last accessed May 23, 2024).

¹¹⁷ U.S. Environmental Protection Agency, "Per- and Polyfluoroalkyl Substances (PFAS)." Available at: www.epa.gov/pfas (last accessed May 31, 2024).

development in final stages as of the end of 2023, assuming transitions across the industry are primarily to A2L and A3 refrigerants. However, AHRI and Lennox commented that if these measures are not in place by the end of 2023, development expenses and laboratory capital expenses could be much higher since third-party testing expenses have likely increased by 30 to 40 percent since the manufacturer interviews were conducted. AHRI and Lennox asserted that if the transition is more heavily weighted to CO₂, then the overall cost could be approximately doubled for lab facilities, 50 percent more for manufacturing, and 50 percent more for laboratory testing. AHRI and Lennox provided a cost breakdown of R&D (engineering efforts 40 percent; lab testing hours 30 percent; third-party testing 20 percent; certification costs 10 percent) and capital investment (tooling 45 percent; new charging equipment 10 percent; lab upgrades 35 percent; personnel training 5 percent; leak detection systems 5 percent) for the refrigerant transition. (AHRI, No. 72 at pp. 14–15; Lennox, No. 70 at p. 10)

In response to the September 2023 NOPR, AHRI and Hussmann provided cost categories associated with transitioning walk-in refrigeration systems and production facilities to accommodate low-GWP refrigerants. This list included: (a) contracting with safety agencies to understand requirements; (b) testing, product changes, certification, and creation of new files for A2L using a new safety standard (*i.e.*, UL 60335–2–89); (c) acquiring necessary equipment associated with new safety-standard testing; (d) laboratory upgrades, such as new sensors, ventilation equipment, storage facilities, facilities to accommodate higher pressures, calorimeters, and load skids to work with A2L and CO₂ refrigerants; (f) new equipment such as vacuum pumps, reclaim equipment, and leak detectors as well as technician training to safely use flammable refrigerants; (g) building and insuring or contracting special buildings for required safety tests; (h) development, testing, and contracting with safety agencies to find, test, qualify, and certify items for a mitigation control system to sense for leaks, control safety aspects, and to implement mitigation actions; and (i) engineering efforts, including sizing and selecting all new components, updating all drawings and BOMs, creating all new items such as warning labels and installation instructions, and providing training to customers and technicians.

(AHRI, No. 72 at pp. 15–16, Hussmann, No. 75 at p. 13–14)

In response to AHRI, Lennox, and Hussmann, DOE notes that it appreciates the level of detail provided regarding the costs and categories of expenses associated with transitioning to low-GWP refrigerants. In the September 2023 NOPR, DOE assumed that the transition to low-GWP refrigerants would require industry to invest approximately \$14.5 million in R&D and \$15.0 million in capital expenditures (*e.g.*, investments in new charging equipment, leak detection systems, *etc.*) between 2023 (the September 2023 NOPR reference year) and 2025 (the proposed EPA compliance date for WICF refrigeration systems covered by this rulemaking). In response to stakeholder comments, DOE revised its R&D estimates to account for higher third-party laboratory testing costs. DOE also adjusted the timeline of when manufacturers would need to make investments related to the refrigerant transition to align with the revised compliance dates for walk-in refrigeration systems in the October 2023 EPA Technology Transitions Final Rule. As such, for this final rule, DOE models that the transition to low-GWP refrigerants would require industry to invest approximately \$15.7 million in R&D and \$12.4 million in capital expenditures from 2024 (the final rule reference year) and 2026 (the EPA compliance date for WICF refrigeration systems covered by this rulemaking). As with the September 2023 NOPR, DOE notes that its refrigerant transition estimates of \$15.7 million in R&D and \$12.4 million in capital expenditures reflect an estimate of *future* investments industry would incur to comply with Federal or State refrigerant regulations. Therefore, estimated investments made in 2023 or earlier are not reflected in the GRIM. DOE acknowledges that manufacturers have already invested a significant amount of time and capital into transitioning walk-in refrigeration systems to low-GWP refrigerants.

K. Emissions Analysis

The emissions analysis consists of two components. The first component estimates the effect of potential energy conservation standards on power sector and site (where applicable) combustion emissions of CO₂, NO_x, SO₂, and Hg. The second component estimates the impacts of potential standards on emissions of two additional greenhouse gases, CH₄ and N₂O, as well as the reductions in emissions of other gases due to “upstream” activities in the fuel production chain. These upstream activities comprise extraction,

processing, and transporting fuels to the site of combustion.

The analysis of electric power sector emissions of CO₂, NO_x, SO₂, and Hg uses emissions intended to represent the marginal impacts of the change in electricity consumption associated with amended or new standards. The methodology is based on results published for the *AEO*, including a set of side cases that implement a variety of efficiency-related policies. The methodology is described in appendix 13A in the final rule TSD. The analysis presented in this notice uses projections from *AEO2023*. Power sector emissions of CH₄ and N₂O from fuel combustion are estimated using Emission Factors for Greenhouse Gas Inventories published by EPA.¹¹⁸

FFC upstream emissions, which include emissions from fuel combustion during extraction, processing, and transportation of fuels, and “fugitive” emissions (direct leakage to the atmosphere) of CH₄ and CO₂, are estimated based on the methodology described in chapter 15 of the final rule TSD.

The emissions intensity factors are expressed in terms of physical units per MWh or MMBtu of site energy savings. For power sector emissions, specific emissions intensity factors are calculated by sector and end use. Total emissions reductions are estimated using the energy savings calculated in the NIA.

1. Air Quality Regulations Incorporated in DOE's Analysis

DOE's no-new-standards case for the electric power sector reflects the *AEO*, which incorporates the projected impacts of existing air quality regulations on emissions. *AEO2023* reflects, to the extent possible, laws and regulations adopted through mid-November 2022, including the emissions control programs discussed in the following paragraphs and the Inflation Reduction Act.¹¹⁹

SO₂ emissions from affected electric generating units (“EGUs”) are subject to nationwide and regional emissions cap-and-trade programs. Title IV of the Clean Air Act sets an annual emissions cap on SO₂ for affected EGUs in the 48 contiguous States and the District of Columbia (“DC”). (42 U.S.C. 7651 *et*

¹¹⁸ Available at www.epa.gov/sites/production/files/2021-04/documents/emission-factors_apr2021.pdf (last accessed July 12, 2021).

¹¹⁹ For further information, see the Assumptions to *AEO2023* report that sets forth the major assumptions used to generate the projections in the Annual Energy Outlook. Available at www.eia.gov/outlooks/aeo/assumptions/ (last accessed May 1, 2024).

seq.) SO₂ emissions from numerous States in the eastern half of the United States are also limited under the Cross-State Air Pollution Rule (“CSAPR”). 76 FR 48208 (Aug. 8, 2011). CSAPR requires these States to reduce certain emissions, including annual SO₂ emissions, and went into effect as of January 1, 2015.¹²⁰ The AEO incorporates implementation of CSAPR, including the update to the CSAPR ozone season program emission budgets and target dates issued in 2016. 81 FR 74504 (Oct. 26, 2016). Compliance with CSAPR is flexible among EGUs and is enforced through the use of tradable emissions allowances. Under existing EPA regulations, for states subject to SO₂ emissions limits under CSAPR, any excess SO₂ emissions allowances resulting from the lower electricity demand caused by the adoption of an efficiency standard could be used to permit offsetting increases in SO₂ emissions by another regulated EGU.

However, beginning in 2016, SO₂ emissions began to fall as a result of the Mercury and Air Toxics Standards (“MATS”) for power plants.¹²¹ 77 FR 9304 (Feb. 16, 2012). The final rule establishes power plant emission standards for mercury, acid gases, and non-mercury metallic toxic pollutants. Because of the emissions reductions under the MATS, it is unlikely that excess SO₂ emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO₂ emissions by another regulated EGU. Therefore, energy conservation standards that decrease electricity generation will generally reduce SO₂ emissions. DOE estimated SO₂ emissions reduction using emissions factors based on AEO2023.

CSAPR also established limits on NO_x emissions for numerous States in the eastern half of the United States. Energy

conservation standards would have little effect on NO_x emissions in those States covered by CSAPR emissions limits if excess NO_x emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in NO_x emissions from other EGUs. In such case, NO_x emissions would remain near the limit even if electricity generation goes down. Depending on the configuration of the power sector in the different regions and the need for allowances, however, NO_x emissions might not remain at the limit in the case of lower electricity demand. That would mean that standards might reduce NO_x emissions in covered States. Despite this possibility, DOE has chosen to be conservative in its analysis and has maintained the assumption that standards will not reduce NO_x emissions in States covered by CSAPR. Standards would be expected to reduce NO_x emissions in the States not covered by CSAPR. DOE used AEO2023 data to derive NO_x emissions factors for the group of States not covered by CSAPR.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE’s energy conservation standards would be expected to slightly reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on AEO2023, which incorporates the MATS.

L. Monetizing Emissions Impacts

As part of the development of this final rule, for the purpose of complying with the requirements of Executive Order 12866, DOE considered the estimated monetary benefits from the reduced emissions of CO₂, CH₄, N₂O, NO_x, and SO₂ that are expected to result from each of the TSLs considered. In order to make this calculation analogous to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of products shipped in the projection period for each TSL. This section summarizes the basis for the values used for monetizing the emissions benefits and presents the values considered in this final rule.

1. Monetization of Greenhouse Gas Emissions

To monetize the climate benefits of reducing GHG emissions, the September 2023 NOPR used the interim social cost of greenhouse gases (“SC–GHG”) estimates presented in the Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990 published in February

2021 by the Interagency Working Group on the SC–GHG (“IWG”) (“2021 interim SC–GHG estimates”). As a member of the IWG involved in the development of the February 2021 interim SC–GHG TSD, DOE agreed that the 2021 interim SC–GHG estimates represented the most appropriate estimate of the SC–GHG until revised estimates were developed reflecting the latest, peer-reviewed science. See 87 FR 78382, 78406–78408 for discussion of the development and details of the 2021 interim SC–GHG estimates. The IWG has continued working on updating the interim estimates but has not published final estimates.

Accordingly, in the regulatory analysis of its December 2023 Final Rule, “Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review,” the EPA estimated climate benefits using a new, updated set of SC–GHG estimates (“2023 SC–GHG estimates”). EPA documented the methodology underlying the new estimates in the RIA for the December 2023 Final Rule and in greater detail in a technical report entitled “Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances” that was presented as Supplementary Material to the RIA.¹²² The 2023 SC–GHG estimates incorporate recent research addressing recommendations of the National Academies of Science, Engineering, and Medicine (National Academies), responses to public comments on an earlier sensitivity analysis using draft SC–GHG estimates included in EPA’s December 2022 proposal in the oil and natural gas sector standards of performance rulemaking, and comments from a 2023 external peer review of the accompanying technical report.¹²³

On December 22, 2023, the IWG issued a memorandum directing that when agencies “consider applying the SC–GHG in various contexts . . . agencies should use their professional judgment to determine which estimates of the SC–GHG reflect the best available evidence, are most appropriate for particular analytical contexts, and best facilitate sound decision-making”

¹²⁰ CSAPR requires states to address annual emissions of SO₂ and NO_x, precursors to the formation of fine particulate matter (“PM_{2.5}”) pollution, in order to address the interstate transport of pollution with respect to the 1997 and 2006 PM_{2.5} National Ambient Air Quality Standards (“NAAQS”). CSAPR also requires certain States to address the ozone season (May–September) emissions of NO_x, a precursor to the formation of ozone pollution, in order to address the interstate transport of ozone pollution with respect to the 1997 ozone NAAQS. 76 FR 48208 (Aug. 8, 2011). EPA subsequently issued a supplemental rule that included an additional five States in the CSAPR ozone season program; 76 FR 80760 (Dec. 27, 2011) (Supplemental Rule), and EPA issued the CSAPR Update for the 2008 ozone NAAQS. 81 FR 74504 (Oct. 26, 2016).

¹²¹ In order to continue operating, coal power plants must have either flue gas desulfurization or dry sorbent injection systems installed. Both technologies, which are used to reduce acid gas emissions, also reduce SO₂ emissions.

¹²² www.epa.gov/system/files/documents/2023-12/ea12866_oil-and-gas-nsp-eg-climate-review-2060-av16-final-rule-20231130.pdf; https://www.epa.gov/system/files/documents/2023-12/epa_scghg_2023_report_final.pdf (last accessed July 3, 2024).

¹²³ www.epa.gov/environmental-economics/scghg.

consistent with OMB Circular A–4 and applicable law.¹²⁴

DOE has been extensively involved in the IWG process and related work on the SC–GHGs for over a decade. This involvement includes DOE’s role as the Federal technical monitor for the seminal 2017 report on the SC–GHG issued by the National Academies, which provided extensive recommendations on how to strengthen and update the SC–GHG estimates.¹²⁵ DOE has also participated in the IWG’s work since 2021. DOE technical experts involved in this work reviewed the 2023 SC–GHG methodology and report in light of the National Academies’ recommendations and DOE’s understanding of the state of the science.

Based on this review, in a July NODA for consumer gas-fired instantaneous water heaters, DOE proposed for public comment its preliminary determination that the updated 2023 SC–GHG estimates, including the approach to discounting, represent a significant improvement in estimating the SC–GHG through incorporating the most recent advancements in the scientific literature and by addressing recommendations on prior methodologies. 89 FR 59693, 59700. In DOE’s final action in the consumer gas-fired instantaneous water heaters rulemaking, DOE will address any comments and make a final determination on whether to apply the updated 2023 SC–GHG estimates in that rulemaking. In this final rule, DOE is presenting estimates using both the updated 2023 SC–GHG values and the interim 2021 interim SC–GHG estimates. While DOE did not present results using the updated 2023 SC–GHG values in the proposal, DOE believes that providing this information here, in addition to results calculated using the 2021 interim SC–GHG values, is appropriate to give the public more complete information regarding the benefits of this rule. DOE notes, however, that the adopted standards would be economically justified using either set of SC–GHG values, and even without inclusion of the estimated monetized benefits of reduced GHG emissions.

As DOE explained in the July NODA, it was the agency’s preliminary assessment that the 2023 SC–GHG

estimates represent a significant improvement because the 2023 SC–GHG estimates implement the key recommendations of the National Academies, and they incorporate the extensive scientific findings and methodological advances that have occurred since the last IWG substantive updates to the methodology in 2013, and the methodologically consistent updates to add estimates for methane and nitrous oxide in 2016.

The 2023 SC–GHG estimates have also been peer-reviewed. As indicated by their statements, the peer reviewers strongly supported the new methodology, calling it “a huge advance,” “a real step change” and “an important improvement” in estimating the SC–GHG, and noting that it addressed the National Academies’ and others’ recommendations and “generally represents well the emerging consensus in the literature.”

DOE also preliminarily determined that the most significant improvements in the 2023 SC–GHG estimates are consistent with the recommendations made by the National Academies. In its report, the National Academies’ principal recommendation was to develop and use “a new framework that would strengthen the scientific basis, provide greater transparency, and improve characterization of the uncertainties of the estimates.”¹²⁶ The IWG’s estimates since 2010 have relied on averaging the values produced by three integrated assessment models, each of which generates a set of SC–GHG estimates based on the inputs and assumptions built into that particular model.¹²⁷ The National Academies recommended an entirely new approach that would “unbundle” this process and instead use a framework in which each step of the SC–GHG calculation is developed as one of four separate but integrated “modules”: the socioeconomic module, the climate module, the damages module, and the discounting module. The report provided detailed recommendations on developing and using these modules, including how to address discounting, socioeconomic projections, climate modeling, and uncertainty.

In the July 2024 NODA, DOE preliminarily concluded that the 2023 SC–GHG estimates are consistent with

the National Academies’ (2017) recommendations and represent major scientific advancements over the IWG’s approach. In addition, DOE supported the incorporation of more recent scientific findings and data throughout the development of each of the 2023 SC–GHG modules and the underlying components of those modules.

Thus, in accordance with the IWG memo, and having reviewed the 2023 SC–GHG methodologies and updates, DOE preliminarily determined that the updated 2023 SC–GHG estimates reflect the best available scientific and analytical evidence and methodologies, are accordingly the most appropriate for analytical use, and best facilitate sound decision-making by substantially improving the transparency of the estimates and representations of uncertainty inherent in such estimates. For this final rule, DOE used these updated 2023 SC–GHG values to monetize the climate benefits of the emissions reductions associated at each TSL for walk-in coolers and freezers. In future rulemakings, DOE will continue to evaluate the scientific literature and use our professional judgment to apply the SC–GHG estimates that are most appropriate to use at that time.

The September 2023 NOPR for walk-in coolers and freezers was developed and published prior to EPA’s December 2023 final rule and accordingly used the 2021 interim SC–GHG estimates published by the IWG, rather than the updated 2023 SC–GHG estimates. As noted above, DOE preliminarily found in the July NODA that using the 2023 SC–GHG estimates provides a better-informed range of potential climate benefits associated with amended standards. However, for consistency with September 2023 NOPR, DOE also provides the SC–GHG associated with this rule based on the interim 2021 interim SC–GHG estimates, in addition to the 2023 SC–GHG estimates, for the purposes of the summary results presented in sections I.C and V.B and V.C of this final rule.

The 2023 EPA technical report presents SC–GHG values for emissions years through 2080; therefore, DOE did not monetize the climate benefits of GHG emissions reductions occurring after 2080 when using the 2023 estimates for the SC–GHG. DOE expects additional climate impacts to accrue from GHG emissions changes post 2080, but due to a lack of readily available SC–GHG estimates for emissions years beyond 2080 and the relatively small emission effects expected from those years, DOE has not monetized these additional impacts in this analysis. Similarly, the interim 2021 interim SC–

¹²⁴ <https://www.whitehouse.gov/wp-content/uploads/2023/12/IWG-Memo-12.22.23.pdf> (last accessed July 3, 2024).

¹²⁵ Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide | The National Academies Press. (available at: <https://nap.nationalacademies.org/catalog/24651/valuing-climate-damages-updating-estimation-of-the-social-cost-of>) (last accessed July 3, 2024).

¹²⁶ Report Recommends New Framework for Estimating the Social Cost of Carbon | National Academies (available at: <https://www.nationalacademies.org/news/2017/01/report-recommends-new-framework-for-estimating-the-social-cost-of-carbon>) (last accessed July 3, 2023).

¹²⁷ See https://www.epa.gov/system/files/documents/2023-12/epa_scghg_2023_report_final.pdf, 6. (last accessed July 3, 2023).

GHG estimates include values through 2070. DOE expects additional climate benefits to accrue for products still operating after 2070, but a lack of available SC-GHG estimates published by the IWG for emissions years beyond 2070 prevents DOE from monetizing these potential benefits in this analysis.

The overall climate benefits are generally greater when using the higher, updated 2023 SC-GHG estimates, compared to the climate benefits calculated using the older 2021 interim SC-GHG estimates, which were used in the September 2023 NOPR. The net benefits of the rule are positive, however, under either SC-GHG calculation methodology; in fact, the net benefits of the rule are positive without including any monetized climate benefits at all. The adopted standards

would be economically justified even without inclusion of the estimated monetized benefits of reduced GHG emissions using either methodology, therefore the conclusions of the analysis (as presented in section V.C of this document) are not dependent on which set of estimates of the SC-GHG are used in the analysis or on the use of the SC-GHG at all. The adopted standard level would remain the same under either SC-GHG calculation methodology.

DOE's derivations of the SC-CO₂, SC-N₂O, and SC-CH₄ values used for this final rule are discussed in the following sections, and the results of DOE's analyses estimating the benefits of the reductions in emissions of these GHGs are presented in section IV.K of this document.

a. Social Cost of Carbon

The SC-CO₂ values used for this final rule are presented using two sets of SC-GHG estimates. One set is the 2023 SC-GHG estimates published by the EPA, which are shown in Table IV.57 in 5-year increments from 2020 to 2050.¹²⁸ The set of annual values that DOE used is presented in appendix 14A of the final rule TSD. These estimates include values out to 2080. DOE expects additional climate benefits to accrue for products still operating after 2080, but a lack of available SC-CO₂ estimates for emissions years beyond 2080 prevents DOE from monetizing these potential benefits in this analysis.

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Table IV.57. Annual SC-CO₂ Values Based on 2023 SC-GHG Estimates, 2020–2050 (2020\$ per Metric Ton CO₂)¹²⁶

Emissions Year	Near-term Ramsey Discount Rate		
	2.5%	2.0%	1.5%
2020	117	193	337
2025	130	212	360
2030	144	230	384
2035	158	248	408
2040	173	267	431
2045	189	287	456
2050	205	308	482

¹²⁸ www.epa.gov/system/files/documents/2023-12/eo12866_oil-and-gas-nsps-eg-climate-review-

[2060-av16-final-rule-20231130.pdf](https://www.epa.gov/system/files/documents/2023-12/2060-av16-final-rule-20231130.pdf); www.epa.gov/

[system/files/documents/2023-12/epa_scghg_2023_report_final.pdf](https://www.epa.gov/system/files/documents/2023-12/epa_scghg_2023_report_final.pdf) (last accessed July 3, 2024).

DOE also presents results using interim SC-CO₂ values based on the values developed for the February 2021 SC-GHG TSD, which are shown in Table IV.58 in 5-year increments from

2020 to 2050. The set of annual values that DOE used, which was adapted from estimates published by EPA in 2021,¹²⁹ is presented in appendix 14A of the final rule TSD. These estimates are

based on methods, assumptions, and parameters identical to the estimates published by the IWG (which were based on EPA modeling), and include values for 2051 to 2070.

Table IV.58. Annual SC-CO₂ Values Based on 2021 Interim SC-GHG 2020–2050 (2020\$ per Metric Ton CO₂)¹²⁷

Year	Discount Rate and Statistic			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
2020	14	51	76	152
2025	17	56	83	169
2030	19	62	89	187
2035	22	67	96	206
2040	25	73	103	225
2045	28	79	110	242
2050	32	85	116	260

DOE multiplied the CO₂ emissions reduction estimated for each year by the SC-CO₂ value for that year for both sets of SC-CO₂ estimates. DOE adjusted the values to 2023\$ using the implicit price deflator for gross domestic product (“GDP”) from the Bureau of Economic Analysis. To calculate a present value of the stream of monetary values, DOE

discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SC-CO₂ values in each case.

b. Social Cost of Methane and Nitrous Oxide

The SC-CH₄ and SC-N₂O values used for this final rule are presented using two sets of SC-GHG estimates. One set

is the 2023 SC-GHG estimates published by the EPA. Table IV.59 shows the updated sets of SC-CH₄ and SC-N₂O estimates in 5-year increments from 2020 to 2050. The full set of annual values used is presented in appendix 14A of the final rule TSD. These estimates include values out to 2080.

Table IV.59. Annual SC-CH₄ and SC-N₂O Values Based on 2023 SC-GHG Estimates, 2020–2050 (2020\$ per Metric Ton)¹²⁶

Emissions Year	SC-CH ₄			SC-N ₂ O		
	Near-term Ramsey Discount Rate			Near-term Ramsey Discount Rate		
	2.5%	2.0%	1.5%	2.5%	2.0%	1.5%
2020	1,300	1,600	2,300	35,200	54,100	87,300
2025	1,600	2,000	2,700	40,000	60,300	95,200
2030	1,900	2,400	3,200	44,700	66,400	103,100
2035	2,300	2,800	3,700	49,600	72,600	111,100
2040	2,700	3,300	4,200	54,500	78,900	119,000
2045	3,100	3,800	4,700	60,100	85,900	127,900
2050	3,500	4,200	5,300	65,600	93,000	136,800

DOE also presents results using interim SC-CH₄ and SC-N₂O values based on the values developed for the February 2021 SC-GHG TSD. Table

IV.60 shows the updated sets of SC-CH₄ and SC-N₂O estimates from the latest interagency update in 5-year increments from 2020 to 2050. The full set of

annual unrounded values used in the calculations is presented in appendix 14A of the final rule TSD. These estimates include values out to 2070.

¹²⁹ See EPA, *Revised 2023 and Later Model Year Light-Duty Vehicle GHG Emissions Standards*:

Regulatory Impact Analysis, Washington, DC, December 2021. Available at nepis.epa.gov/Exe/

[ZyPDF.cgi?Dockey=P1013ORN.pdf](https://www.epa.gov/ghg-repository/ZyPDF.cgi?Dockey=P1013ORN.pdf) (last accessed Feb. 21, 2023).

Table IV.60 Annual SC-CH₄ and SC-N₂O Based on 2021 Interim SC-GHG Estimates, 2020–2050 (2020\$ per Metric Ton)¹²⁷

Year	SC-CH ₄				SC-N ₂ O			
	Discount Rate and Statistic				Discount Rate and Statistic			
	5%	3%	2.5%	3%	5%	3%	2.5 %	3%
	Average	Average	Average	95 th percentile	Average	Average	Average	95 th percentile
2020	670	1500	2000	3900	5800	18000	27000	48000
2025	800	1700	2200	4500	6800	21000	30000	54000
2030	940	2000	2500	5200	7800	23000	33000	60000
2035	1100	2200	2800	6000	9000	25000	36000	67000
2040	1300	2500	3100	6700	10000	28000	39000	74000
2045	1500	2800	3500	7500	12000	30000	42000	81000
2050	1700	3100	3800	8200	13000	33000	45000	88000

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DOE multiplied the CH₄ and N₂O emissions reduction estimated for each year by the SC-CH₄ and SC-N₂O estimates for both sets of SC-GHG. DOE adjusted the values to 2023\$ using the implicit price deflator for GDP from the Bureau of Economic Analysis. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the cases using the specific discount rate that had been used to obtain the SC-CH₄ and SC-N₂O estimates in each case.

2. Monetization of Other Emissions Impacts

For the final rule, DOE estimated the monetized value of NO_x and SO₂ emissions reductions from electricity generation using benefit-per-ton estimates for that sector from the EPA's Benefits Mapping and Analysis Program.¹³⁰ Table 5 of the EPA TSD provides a summary of the health impact endpoints quantified in the analysis. DOE used EPA's values for PM_{2.5}-related benefits associated with NO_x and SO₂ and for ozone-related benefits associated with NO_x for 2025, 2030, 2035, and 2040, calculated with discount rates of 3 percent and 7 percent. DOE used linear interpolation to define values for the years not given in the 2025 to 2040 period; for years beyond 2040, the values are held constant (rather than extrapolated) to be

conservative. DOE combined the EPA regional benefit-per-ton estimates with regional information on electricity consumption and emissions from *AEO2023* to define weighted-average national values for NO_x and SO₂ (see appendix 14B of the final rule TSD).

DOE multiplied the site emissions reduction (in tons) in each year by the associated \$/ton values, and then discounted each series using discount rates of 3 percent and 7 percent as appropriate.

M. Utility Impact Analysis

The utility impact analysis estimates the changes in installed electrical capacity and generation projected to result for each considered TSL. The analysis is based on published output from the NEMS associated with *AEO2023*. NEMS produces the *AEO* Reference case, as well as a number of side cases that estimate the economy-wide impacts of changes to energy supply and demand. For the current analysis, impacts are quantified by comparing the levels of electricity sector generation, installed capacity, fuel consumption and emissions in the *AEO2023* Reference case and various side cases. Details of the methodology are provided in the appendices to chapters 13 and 15 of the final rule TSD.

The output of this analysis is a set of time-dependent coefficients that capture the change in electricity generation, primary fuel consumption, installed capacity, and power sector emissions due to a unit reduction in demand for a given end use. These coefficients are multiplied by the stream of electricity savings calculated in the NIA to provide estimates of selected utility impacts of

potential new or amended energy conservation standards.

N. Employment Impact Analysis

DOE considers employment impacts in the domestic economy as one factor in selecting a standard. Employment impacts from new or amended energy conservation standards include both direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the equipment subject to standards. The MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more-efficient appliances. Indirect employment impacts from standards consist of the net jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, caused by (1) reduced spending by consumers on energy, (2) reduced spending on new energy supply by the utility industry, (3) increased consumer spending on the products to which the new standards apply and other goods and services, and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's BLS. BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS

¹³⁰ U.S. Environmental Protection Agency. "Estimating the Benefit per Ton of Reducing Directly-Emitted PM_{2.5}, PM_{2.5} Precursors and Ozone Precursors from 21 Sectors." Available at www.epa.gov/benmap/estimating-benefit-ton-reducing-directly-emitted-pm25-pm25-precursors-and-ozone-precursors.

indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy.¹³¹ Bureau of Economic Analysis input-output multipliers also show a lower labor intensity per million dollars of activity for utilities as compared to other industries.¹³² There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (*i.e.*, the utility sector) to more labor-intensive sectors (*e.g.*, the retail and service sectors). Thus, the BLS data suggest that net national employment may increase due to shifts in economic activity resulting from energy conservation standards.

DOE estimated indirect national employment impacts for the standard levels considered in this final rule using an input/output model of the U.S. economy called Impact of Sector Energy Technologies version 4 (“ImSET”).¹³³ ImSET is a special-purpose version of the “U.S. Benchmark National Input-Output” (“I-O”) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I-O model having structural coefficients that characterize economic flows among 187 sectors most relevant to industrial, commercial, and residential building energy use.

DOE notes that ImSET is not a general equilibrium forecasting model, and it notes the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may overestimate actual job impacts over the long run for this rule. Therefore, DOE used ImSET only to generate results for near-term timeframes (2033 for walk-in envelope components, and 2034 for walk-in refrigeration systems), where these uncertainties are reduced. For more details on the employment impact analysis, *see* chapter 16 of the final rule TSD.

V. Analytical Results and Conclusions

The following section addresses the results from DOE’s analyses with respect to the considered energy conservation standards for walk-ins. It addresses the TSLs examined by DOE, the projected impacts of each of these levels if adopted as energy conservation standards for walk-ins, and the standards levels that DOE is adopting in this final rule. Additional details regarding DOE’s analyses are contained in the final rule TSD supporting this document.

A. Trial Standard Levels

In general, DOE typically evaluates potential new or amended standards for products and equipment by grouping individual efficiency levels for each class into TSLs. Use of TSLs allows DOE to identify and consider manufacturer cost interactions between the equipment classes, to the extent that there are such interactions, and price elasticity of consumer purchasing decisions that may change when different standard levels are set.

In the analysis conducted for this final rule, DOE analyzed the benefits and burdens of three TSLs for walk-ins. DOE developed TSLs that combine efficiency levels for each analyzed equipment class. These TSLs are discussed in section IV.E.1 of this document.

B. Economic Justification and Energy Savings

1. Economic Impacts on Individual Consumers

DOE analyzed the economic impacts on walk-in consumers by looking at the effects that potential amended standards at each TSL would have on the LCC and PBP. DOE also examined the impacts of potential standards on selected consumer subgroups. These analyses are discussed in the following sections.

a. Life-Cycle Cost and Payback Period

In general, higher-efficiency products affect consumers in two ways: (1) purchase price increases, and (2) annual operating costs decrease. Inputs used for calculating the LCC and PBP include total installed costs (*i.e.*, product price plus installation costs), and operating costs (*i.e.*, annual energy use, energy prices, energy price trends, repair costs, and maintenance costs). The LCC calculation also uses product lifetime and a discount rate. Chapter 8 of the final rule TSD provides detailed information on the LCC and PBP analyses.

Table V.1 through Table V.48 show the LCC and PBP results for the TSLs considered for each equipment class. In the first of the pair of tables, the simple payback is measured relative to the baseline product. In the second table, the impacts are measured relative to the efficiency distribution in the no-new-standards case in the compliance year (see section IV.F.9 of this document). Because some consumers purchase products with higher efficiency in the no-new-standards case, the average savings are less than the difference between the average LCC of the baseline equipment and the average LCC at each TSL. The savings refer only to consumers who are affected by a standard at a given TSL. Those who already purchase a product with efficiency at or above a given TSL are not affected. Consumers for whom the LCC increases at a given TSL experience a net cost. To aid the reader the LCC and PBP results for the amended standards have been *italicized*.

Display Doors

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¹³¹ See U.S. Bureau of Labor Statistics. *Industry Output and Employment*. Available at <https://www.bls.gov/emp/data/industry-out-and-emp.htm> (last accessed August 19, 2024).

¹³² See U.S. Department of Commerce-Bureau of Economic Analysis. *Regional Input-Output Modeling System (RIMS II) User's Guide*. Available at: bea.gov/resources/methodologies/RIMSII-user-guide (last accessed August 19, 2024).

¹³³ Livingston, O.V., et al. 2015. *ImSET 4.0: Impact of Sector Energy Technologies Model Description and User's Guide*. Pacific Northwest National Laboratory. PNNL-24563.

Table V.1 Average LCC and PBP Results for Medium-Temperature Display Doors (DW.M)

TSL	Connected Refrigeration System TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	Baseline	2,278	91	744	3,022	n/a	12.0
	1	2,278	90	735	3,013	n/a	12.0
	2	2,278	89	725	3,003	n/a	12.0
	3	2,278	80	651	2,929	n/a	12.0
1	Baseline	2,278	91	744	3,022	n/a	12.0
	1	2,278	90	735	3,013	n/a	12.0
	2	2,278	89	725	3,003	n/a	12.0
	3	2,278	80	651	2,929	n/a	12.0
2	Baseline	2,278	91	744	3,022	n/a	12.0
	1	2,278	90	735	3,013	n/a	12.0
	2	2,278	89	725	3,003	n/a	12.0
	3	2,278	80	651	2,929	n/a	12.0
3	Baseline	3,639	84	685	4,323	187.8	12.0
	1	3,639	83	677	4,316	191.4	12.0
	2	3,639	82	669	4,307	196.0	12.0
	3	3,639	74	604	4,243	236.9	12.0

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.2 Average LCC Savings Relative to the No-New-Standards Case for Medium-Temperature Display Doors (DW.M)

TSL	Connected Refrigeration System TSL	% Consumers with Net Cost	Average Savings - Impacted Consumers (2023\$)
1	Baseline	n/a	n/a
	1	n/a	n/a
	2	n/a	n/a
	3	n/a	n/a
2	Baseline	n/a	n/a
	1	n/a	n/a
	2	n/a	n/a
	3	n/a	n/a
3	Baseline	100	-1,301
	1	100	-1,303
	2	100	-1,304
	3	100	-1,314

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.3 Average LCC and PBP Results for Low-Temperature Display Doors (DW.L)

TSL	Connected Refrigeration System TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	Baseline	2,461	314	2,581	5,042	n/a	12.1
	1	2,461	310	2,544	5,004	n/a	12.1
	2	2,461	310	2,544	5,004	n/a	12.1
	3	2,461	288	2,367	4,828	n/a	12.1
1	Baseline	2,461	314	2,581	5,042	n/a	12.1
	1	2,461	310	2,544	5,004	n/a	12.1
	2	2,461	310	2,544	5,004	n/a	12.1
	3	2,461	288	2,367	4,828	n/a	12.1
2	Baseline	2,461	314	2,581	5,042	n/a	12.1
	1	2,461	310	2,544	5,004	n/a	12.1
	2	2,461	310	2,544	5,004	n/a	12.1
	3	2,461	288	2,367	4,828	n/a	12.1
3	Baseline	3,819	277	2,278	6,098	36.8	12.1
	1	3,819	273	2,247	6,066	37.5	12.1
	2	3,819	273	2,247	6,066	37.5	12.1
	3	3,819	255	2,097	5,917	41.3	12.1

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.4 Average LCC Savings Relative to the No-New-Standards Case for Low-Temperature Display Doors (DW.L)

TSL	Connected Refrigeration System TSL	% Consumers with Net Cost	Average Savings - Impacted Consumers (2023\$)
1	Baseline	n/a	n/a
	1	n/a	n/a
	2	n/a	n/a
	3	n/a	n/a
2	Baseline	n/a	n/a
	1	n/a	n/a
	2	n/a	n/a
	3	n/a	n/a
3	Baseline	100	-1,056
	1	100	-1,062
	2	100	-1,062
	3	100	-1,089

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.5 Average LCC and PBP Results for Medium-Temperature Manual Non-Display Doors (NM.M)

TSL	Connected Refrigeration System TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	Baseline	2,638	105	627	3,266	n/a	8.0
	1	2,638	104	622	3,260	n/a	8.0
	2	2,638	103	615	3,253	n/a	8.0
	3	2,638	95	564	3,203	n/a	8.0
1	Baseline	2,719	63	378	3,098	1.9	8.0
	1	2,719	62	374	3,093	2.0	8.0
	2	2,719	62	368	3,088	2.0	8.0
	3	2,719	55	328	3,048	2.0	8.0
2	Baseline	2,796	44	261	3,057	2.6	8.0
	1	2,796	43	258	3,054	2.6	8.0
	2	2,796	42	255	3,050	2.6	8.0
	3	2,796	38	227	3,023	2.8	8.0
3	Baseline	3,078	40	238	3,316	6.7	8.0
	1	3,078	39	236	3,314	6.8	8.0
	2	3,078	39	232	3,311	6.9	8.0
	3	3,078	35	209	3,287	7.4	8.0

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Non-Display Doors

Table V.6 Average LCC Savings Relative to the No-New-Standards Case for Medium-Temperature Manual Non-Display Doors (NM.M)

TSL	Connected Refrigeration System TSL	% Consumers with Net Cost	Average Savings - Impacted Consumers (2023\$)
1	Baseline	6	275
	1	6	273
	2	6	270
	3	7	254
2	Baseline	10	324
	1	10	320
	2	11	315
	3	12	280
3	Baseline	54	9
	1	55	4
	2	55	-1
	3	60	-41

* The savings represent the average LCC for affected DOE adjusted the values to 2023\$ using the implicit price deflator for GDP from the Bureau of Economic Analysis consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.7 Average LCC and PBP Results for Low-Temperature Manual Non-Display Doors (NM.L)

TSL	Connected Refrigeration System TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	Baseline	2,524	394	2,353	4,878	n/a	8.0
	1	2,524	389	2,327	4,852	n/a	8.0
	2	2,524	389	2,327	4,852	n/a	8.0
	3	2,524	369	2,205	4,729	n/a	8.0
1	Baseline	2,621	293	1,754	4,375	1.0	8.0
	1	2,621	290	1,733	4,353	1.0	8.0
	2	2,621	290	1,732	4,353	1.0	8.0
	3	2,621	273	1,631	4,252	1.0	8.0
2	Baseline	2,727	195	1,169	3,896	1.0	8.0
	1	2,727	193	1,154	3,882	1.0	8.0
	2	2,727	193	1,154	3,882	1.0	8.0
	3	2,727	181	1,084	3,811	1.1	8.0
3	Baseline	2,992	177	1,062	4,054	2.2	8.0
	1	2,992	175	1,049	4,041	2.2	8.0
	2	2,992	175	1,049	4,041	2.2	8.0
	3	2,992	165	989	3,980	2.3	8.0

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.8 Average LCC Savings Relative to the No-New-Standards Case for Low-Temperature Manual Non-Display Doors (NM.L)

TSL	Connected Refrigeration System TSL	% Consumers with Net Cost	Average Savings - Impacted Consumers (2023\$)
1	Baseline	2	690
	1	2	683
	2	2	683
	3	2	654
2	Baseline	2	1,198
	1	2	1,185
	2	2	1,185
	3	2	1,121
3	Baseline	7	1,035
	1	7	1,019
	2	7	1,019
	3	8	945

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.9 Average LCC and PBP Results for Medium-Temperature Motorized Non-Display Doors (NO.M)

TSL	Connected Refrigeration System TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	Baseline	6,904	199	1,189	8,092	n/a	8.0
	1	6,904	198	1,178	8,082	n/a	8.0
	2	6,904	195	1,165	8,069	n/a	8.0
	3	6,904	180	1,073	7,977	n/a	8.0
1	Baseline	7,032	112	670	7,702	1.5	8.0
	1	7,032	111	662	7,694	1.5	8.0
	2	7,032	109	652	7,684	1.5	8.0
	3	7,032	97	581	7,613	1.6	8.0
2	Baseline	7,147	76	456	7,603	2.0	8.0
	1	7,147	75	451	7,598	2.0	8.0
	2	7,147	74	445	7,592	2.0	8.0
	3	7,147	67	398	7,545	2.1	8.0
3	Baseline	7,490	67	400	7,890	4.4	8.0
	1	7,490	66	396	7,886	4.5	8.0
	2	7,490	65	390	7,881	4.5	8.0
	3	7,490	59	353	7,844	4.9	8.0

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.10 Average LCC Savings Relative to the No-New-Standards Case for Medium-Temperature Motorized Non-Display Doors (NO.M)

TSL	Connected Refrigeration System TSL	% Consumers with Net Cost	Average Savings - Impacted Consumers (2023\$)
1	Baseline	3	403
	1	3	400
	2	3	397
	3	3	375
2	Baseline	6	501
	1	6	496
	2	6	489
	3	7	443
3	Baseline	31	214
	1	32	208
	2	33	200
	3	37	144

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.11 Average LCC and PBP Results for Low-Temperature Motorized Non-Display Doors (NO.L)

TSL	Connected Refrigeration System TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	Baseline	6,931	620	3,676	10,608	n/a	7.9
	1	6,931	613	3,635	10,567	n/a	7.9
	2	6,931	613	3,635	10,566	n/a	7.9
	3	6,931	580	3,440	10,371	n/a	7.9
1	Baseline	7,064	442	2,622	9,686	0.7	7.9
	1	7,064	436	2,589	9,653	0.8	7.9
	2	7,064	436	2,589	9,653	0.8	7.9
	3	7,064	410	2,431	9,495	0.8	7.9
2	Baseline	7,193	306	1,815	9,008	0.8	7.9
	1	7,193	302	1,791	8,984	0.8	7.9
	2	7,193	302	1,791	8,984	0.8	7.9
	3	7,193	283	1,679	8,872	0.9	7.9
3	Baseline	7,476	268	1,594	9,070	1.6	7.9
	1	7,476	265	1,575	9,050	1.6	7.9
	2	7,476	265	1,575	9,050	1.6	7.9
	3	7,476	249	1,482	8,958	1.7	7.9

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.12 Average LCC Savings Relative to the No-New-Standards Case for Low-Temperature Motorized Non-Display Doors (NO.L)

TSL	Connected Refrigeration System TSL	% Consumers with Net Cost	Average Savings - Impacted Consumers (2023\$)
1	Baseline	1	922
	1	1	914
	2	1	914
	3	1	876
2	Baseline	1	1,600
	1	1	1,583
	2	1	1,583
	3	1	1,500
3	Baseline	4	1,538
	1	4	1,516
	2	4	1,516
	3	5	1,413

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Panels

Table V.13 Average LCC and PBP Results for Medium-Temperature Structural Panels (PS.M) per ft²

TSL	Connected Refrigeration System TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	Baseline	13.98	0.26	2.13	16.11	n/a	12.0
	1	13.98	0.26	2.09	16.07	n/a	12.0
	2	13.98	0.25	2.04	16.03	n/a	12.0
	3	13.98	0.21	1.69	15.67	n/a	12.0
1	Baseline	13.98	0.26	2.13	16.11	n/a	12.0
	1	13.98	0.26	2.09	16.07	n/a	12.0
	2	13.98	0.25	2.04	16.03	n/a	12.0
	3	13.98	0.21	1.69	15.67	n/a	12.0
2	Baseline	13.98	0.26	2.13	16.11	n/a	12.0
	1	13.98	0.26	2.09	16.07	n/a	12.0
	2	13.98	0.25	2.04	16.03	n/a	12.0
	3	13.98	0.21	1.69	15.67	n/a	12.0
3	Baseline	16.35	0.19	1.58	17.93	34.9	12.0
	1	16.35	0.19	1.55	17.90	35.6	12.0
	2	16.35	0.18	1.51	17.86	36.4	12.0
	3	16.35	0.15	1.25	17.60	44.0	12.0

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.14 Average LCC Savings Relative to the No-New-Standards Case for Medium-Temperature Structural Panels (PS.M) per ft²

TSL	Connected Refrigeration System TSL	% Consumers with Net Cost	Average Savings - Impacted Consumers (2023\$)
1	Baseline	n/a	n/a
	1	n/a	n/a
	2	n/a	n/a
	3	n/a	n/a
2	Baseline	n/a	n/a
	1	n/a	n/a
	2	n/a	n/a
	3	n/a	n/a
3	Baseline	100	-2.33
	1	100	-2.35
	2	100	-2.37
	3	100	-2.49

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table . Average LCC and PBP Results for Low-Temperature Structural Panels (PS.L) per ft²

TSL	Connected Refrigeration System TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	Baseline	14.40	0.92	7.57	21.97	n/a	12.0
	1	14.40	0.91	7.43	21.82	n/a	12.0
	2	14.40	0.91	7.43	21.82	n/a	12.0
	3	14.40	0.82	6.74	21.14	n/a	12.0
1	Baseline	14.40	0.92	7.57	21.97	n/a	12.0
	1	14.40	0.91	7.43	21.82	n/a	12.0
	2	14.40	0.91	7.43	21.82	n/a	12.0
	3	14.40	0.82	6.74	21.14	n/a	12.0
2	Baseline	14.40	0.92	7.57	21.97	n/a	12.0
	1	14.40	0.91	7.43	21.82	n/a	12.0
	2	14.40	0.91	7.43	21.82	n/a	12.0
	3	14.40	0.82	6.74	21.14	n/a	12.0
3	Baseline	16.27	0.72	5.91	22.17	9.2	12.0
	1	16.27	0.71	5.79	22.06	9.4	12.0
	2	16.27	0.71	5.79	22.06	9.4	12.0
	3	16.27	0.64	5.26	21.53	10.3	12.0

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table . Average LCC Savings Relative to the No-New-Standards Case for Low-Temperature Structural Panels (PS.L) per ft²

TSL	Connected Refrigeration System TSL	% Consumers with Net Cost	Average Savings - Impacted Consumers (2023\$)
1	Baseline	n/a	n/a
	1	n/a	n/a
	2	n/a	n/a
	3	n/a	n/a
2	Baseline	n/a	n/a
	1	n/a	n/a
	2	n/a	n/a
	3	n/a	n/a
3	Baseline	68	-0.20
	1	70	-0.24
	2	70	-0.24
	3	79	-0.45

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.15 Average LCC and PBP Results for Low-Temperature Floor Panels (PF.L) per ft²

TSL	Connected Refrigeration System TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
		Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	Baseline	14.30	0.69	5.69	19.99	n/a	12.0
	1	14.30	0.68	5.58	19.88	n/a	12.0
	2	14.30	0.68	5.58	19.88	n/a	12.0
	3	14.30	0.62	5.07	19.37	n/a	12.0
1	Baseline	14.30	0.69	5.69	19.99	n/a	12.0
	1	14.30	0.68	5.58	19.88	n/a	12.0
	2	14.30	0.68	5.58	19.88	n/a	12.0
	3	14.30	0.62	5.07	19.37	n/a	12.0
2	Baseline	14.30	0.69	5.69	19.99	n/a	12.0
	1	14.30	0.68	5.58	19.88	n/a	12.0
	2	14.30	0.68	5.58	19.88	n/a	12.0
	3	14.30	0.62	5.07	19.37	n/a	12.0
3	Baseline	16.17	0.51	4.18	20.36	10.2	12.0
	1	16.17	0.50	4.10	20.28	10.4	12.0
	2	16.17	0.50	4.10	20.28	10.4	12.0
	3	16.17	0.45	3.73	19.90	11.4	12.0

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.16 Average LCC Savings Relative to the No-New-Standards Case for Low-Temperature Floor Panels (PF.L) per ft²

TSL	Connected Refrigeration System TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	Baseline	n/a	n/a
	1	n/a	n/a
	2	n/a	n/a
	3	n/a	n/a
2	Baseline	n/a	n/a
	1	n/a	n/a
	2	n/a	n/a
	3	n/a	n/a
3	Baseline	82	-0.49
	1	83	-0.52
	2	83	-0.52
	3	88	-0.70

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Dedicated Condensing Units

Table V.17 Average LCC and PBP Results for Dedicated Condensing Units, Low Temperature, Indoor (DC.L.I)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	7,283	2,990	18,377	25,660	n/a	8.5
1	7,404	2,928	18,009	25,414	2.0	8.5
2	7,404	2,928	18,009	25,414	2.0	8.5
3	10,545	2,800	17,356	27,901	20.3	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.18 Average LCC Savings Relative to the No-New-Standards Case for Dedicated Condensing Units, Low Temperature, Indoor (DC.L.I)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	3	381
2	3	381
3	99	-2,241

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.19 Average LCC and PBP Results for Dedicated Condensing Units, Low Temperature, Outdoor (DC.L.O)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	25,081	4,566	28,313	53,395	n/a	8.4
1	25,391	4,495	27,892	53,282	4.4	8.4
2	25,391	4,495	27,892	53,282	4.4	8.4
3	36,330	3,991	25,317	61,647	24.2	8.4

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.20 Average LCC Savings Relative to the No-New-Standards Case for Dedicated Condensing Units, Low Temperature, Outdoor (DC.L.O)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	36	112
2	36	112
3	93	-8,252

* The savings represent the average LCC for affected consumers. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.21 Average LCC and PBP Results for Dedicated Condensing Units, Medium Temperature, Indoor (DC.M.I)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	4,066	1,395	8,544	12,609	n/a	8.5
1	4,225	1,345	8,242	12,468	3.2	8.5
2	4,287	1,330	8,152	12,439	3.5	8.5
3	5,673	1,240	7,662	13,335	11.4	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.22 Average LCC Savings Relative to the No-New-Standards Case for Dedicated Condensing Units, Medium Temperature, Indoor (DC.M.I)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	5	548
2	6	660
3	87	-726

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.23 Average LCC and PBP Results for Dedicated Condensing Units, Medium Temperature, Outdoor (DC.M.O)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year’s Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	6,097	1,995	12,364	18,460	n/a	8.5
1	6,101	1,979	12,270	18,371	0.3	8.5
2	6,196	1,929	11,966	18,162	1.5	8.5
3	8,928	1,549	9,752	18,681	6.7	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.24 Average LCC Savings Relative to the No-New-Standards Case for Dedicated Condensing Units, Medium Temperature, Outdoor (DC.M.O)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	0	90
2	3	298
3	76	-220

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Single-Packaged Dedicated Systems

Table V.25 Average LCC and PBP Results for Single-packaged Dedicated Systems, High Temperature, Ducted, Indoor (SP.H.I.D)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	2,935	514	2,945	5,880	n/a	8.5
1	2,994	436	2,518	5,512	0.8	8.5
2	2,994	436	2,518	5,512	0.8	8.5
3	2,994	436	2,518	5,512	0.8	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.26 Average LCC Savings Relative to the No-New-Standards Case for Single-packaged Dedicated Systems, High Temperature, Ducted, Indoor (SP.H.I.D)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	0	368
2	0	368
3	0	368

* The savings represent the average LCC for affected consumers. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.27 Average LCC and PBP Results for Single-packaged Dedicated Systems, High Temperature, Ducted, Outdoor (SP.H.O.D)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	3,896	694	3,985	7,881	n/a	8.4
1	4,273	560	3,252	7,525	2.9	8.4
2	4,320	558	3,245	7,565	3.2	8.4
3	4,320	558	3,245	7,565	3.2	8.4

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.28 Average LCC Savings Relative to the No-New-Standards Case for Single-packaged Dedicated Systems, High Temperature, Ducted, Outdoor (SP.H.O.D)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	13	356
2	24	316
3	24	316

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.29 Average LCC and PBP Results for Single-packaged Dedicated Systems, High Temperature, Indoor (SP.H.I)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year’s Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	2,836	300	1,768	4,604	n/a	8.5
1	2,850	271	1,607	4,457	0.5	8.5
2	2,860	266	1,582	4,442	0.7	8.5
3	2,860	266	1,582	4,442	0.7	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.30 Average LCC Savings Relative to the No-New-Standards Case for Single-packaged Dedicated Systems, High Temperature, Indoor (SP.H.I)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	1	147
2	1	161
3	1	161

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.31 Average LCC and PBP Results for Single-packaged Dedicated Systems, High Temperature, Outdoor (SP.H.O)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	3,887	421	2,465	6,352	n/a	8.4
1	4,022	376	2,222	6,244	3.1	8.4
2	4,022	376	2,222	6,244	3.1	8.4
3	4,249	370	2,195	6,444	7.5	8.4

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.32 Average LCC Savings Relative to the No-New-Standards Case for Single-packaged Dedicated Systems, High Temperature, Outdoor (SP.H.O)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	17	108
2	17	108
3	79	-92

* The savings represent the average LCC for affected consumers. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.33 Average LCC and PBP Results for Single-packaged Dedicated Systems, Low Temperature, Indoor (SP.L.I)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	3,850	861	4,991	8,841	n/a	8.5
1	4,000	783	4,556	8,556	2.0	8.5
2	4,000	783	4,556	8,556	2.0	8.5
3	5,324	755	4,455	9,779	16.1	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.34 Average LCC Savings Relative to the No-New-Standards Case for Single-packaged Dedicated Systems, Low Temperature, Indoor (SP.L.I)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	6	285
2	6	285
3	100	-937

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.35 Average LCC and PBP Results for Single-packaged Dedicated Systems, Low Temperature, Outdoor (SP.L.O)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year’s Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	4,969	1,138	6,591	11,560	n/a	8.5
1	4,970	1,124	6,513	11,483	0.1	8.5
2	4,972	1,120	6,487	11,458	0.2	8.5
3	6,376	1,083	6,333	12,709	33.3	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.36 Average LCC Savings Relative to the No-New-Standards Case for Single-packaged Dedicated Systems, Low Temperature, Outdoor (SP.L.O)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	0	102
2	0	101
3	100	-1,150

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.37 Average LCC and PBP Results for Single-packaged Dedicated Systems, Medium Temperature, Indoor (SP.M.I)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	4,152	839	4,876	9,027	n/a	8.5
1	4,272	793	4,623	8,895	2.7	8.5
2	4,272	793	4,623	8,895	2.7	8.5
3	5,431	784	4,612	10,043	29.2	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.38 Average LCC Savings Relative to the No-New-Standards Case for Single-packaged Dedicated Systems, Medium Temperature, Indoor (SP.M.I)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	13	132
2	13	132
3	100	-1,016

* The savings represent the average LCC for affected consumers. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.39 Average LCC and PBP Results for Single-packaged Dedicated Systems, Medium Temperature, Outdoor (SP.M.O)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	4,884	785	4,590	9,475	n/a	8.5
1	5,020	748	4,387	9,406	3.8	8.5
2	5,020	748	4,387	9,406	3.8	8.5
3	6,279	744	4,407	10,686	47.4	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.40 Average LCC Savings Relative to the No-New-Standards Case for Single-packaged Dedicated Systems, Medium Temperature, Outdoor (SP.M.O)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	18	68
2	18	68
3	100	-1,212

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Unit Coolers

Table V.41 Average LCC and PBP Results for Unit Coolers, High Temperature (UC.H)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year’s Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	3,195	569	3,362	6,556	n/a	8.5
1	3,195	569	3,362	6,556	n/a	8.5
2	3,195	569	3,362	6,556	n/a	8.5
3	3,342	563	3,334	6,676	33.8	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.42 Average LCC Savings Relative to the No-New-Standards Case for Unit Coolers, High Temperature (UC.H)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	n/a	n/a
2	n/a	n/a
3	95	-120

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.43 Average LCC and PBP Results Unit Coolers, High Temperature, Ducted (UC.H.D)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	3,273	810	4,759	8,032	n/a	8.5
1	3,326	763	4,492	7,818	1.2	8.5
2	3,326	763	4,492	7,818	1.2	8.5
3	3,326	763	4,492	7,818	1.2	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.44 Average LCC Savings Relative to the No-New-Standards Case for Unit Coolers, High Temperature, Ducted (UC.H.D)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	2	214
2	2	214
3	2	214

* The savings represent the average LCC for affected consumers. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.45 Average LCC and PBP Results for Unit Coolers, Low Temperature (UC.L)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year's Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	3,445	5,287	31,707	35,152	n/a	8.5
1	3,671	5,076	30,455	34,126	1.1	8.5
2	3,771	5,011	30,077	33,848	1.2	8.5
3	3,771	5,011	30,077	33,848	1.2	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.46 Average LCC Savings Relative to the No-New-Standards Case for Unit Coolers, Low Temperature (UC.L)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	5	1,026
2	8	1,304
3	8	1,304

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.47 Average LCC and PBP Results Unit Coolers, Medium Temperature (UC.M)

TSL	Average Costs (2023\$)				Simple Payback Period (years)	Average Lifetime (years)
	Installed Cost	1 st Year’s Operating Cost	Lifetime Operating Cost	Life-Cycle Cost		
0	2,767	2,009	12,131	14,898	n/a	8.5
1	2,915	1,974	11,926	14,841	4.4	8.5
2	2,976	1,963	11,863	14,840	4.7	8.5
3	3,065	1,955	11,819	14,884	5.8	8.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.48 Average LCC Savings Relative to the No-New-Standards Case for Unit Coolers, Medium Temperature (UC.M)

TSL	% Consumers with Net Cost	Average Savings – Impacted Consumers (2023\$)
1	38	65
2	43	66
3	52	15

* The savings represent the average LCC for affected consumers. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

b. Consumer Subgroup Analysis

In the consumer subgroup analysis, DOE estimated the impact of the considered TSLs on high warm air-infiltration applications, and small businesses. Table V.51 through Table V.53 compare the average LCC savings and PBP at each efficiency level for the consumer subgroups with similar

metrics for the reduced consumer sample for all equipment classes and representative units. In most cases, the average LCC savings and PBP for small business and applications with high amount of warm-air infiltration at the considered trial standard levels are not substantially different from the average for all consumers. In those cases where

the results differ, the selected subgroups tend to have greater benefits due to in the case of the small business subgroup: higher electricity costs; and in the case of the warm-air infiltration subgroup: increased hours of operation.

Chapter 11 of the final rule TSD presents the complete LCC and PBP results for the subgroups.

Table V.49 Comparison of LCC Savings and PBP for Consumer Subgroups for Walk-in Doors

Equipment Class	Reference			Small Businesses		
	TSL 1	TSL 2	TSL 3	TSL 1	TSL 2	TSL 3
<i>Consumer Average LCC Savings – Impacted Consumers (2023\$)</i>						
Used in Conjunction with a Baseline Refrigeration System						
DW.L	n/a	n/a	-1,056	n/a	n/a	-994
DW.M	n/a	n/a	-1,301	n/a	n/a	-1,292
NM.L	690	1,198	1,035	834	1,462	1,322
NM.M	275	324	9	337	411	101
NO.L	922	1,600	1,538	1,104	1,934	1,919
NO.M	403	501	214	486	619	342
Used in Conjunction with a TSL 1 Refrigeration System						
DW.L	n/a	n/a	-1,062	n/a	n/a	-1,008
DW.M	n/a	n/a	-1,303	n/a	n/a	-1,294
NM.L	683	1,185	1,019	819	1,430	1,285
NM.M	273	320	4	334	406	95
NO.L	914	1,583	1,516	1,086	1,893	1,867
NO.M	400	496	208	482	612	333
Used in Conjunction with a TSL 2 Refrigeration System						
DW.L	n/a	n/a	-1,062	n/a	n/a	-1,008
DW.M	n/a	n/a	-1,304	n/a	n/a	-1,295
NM.L	683	1,185	1,019	819	1,430	1,285
NM.M	270	315	-1	332	402	90
NO.L	914	1,583	1,516	1,086	1,893	1,867
NO.M	397	489	200	480	607	327
Used in Conjunction with a TSL 3 Refrigeration System						
DW.L	n/a	n/a	-1,089	n/a	n/a	-1,039
DW.M	n/a	n/a	-1,314	n/a	n/a	-1,306
NM.L	654	1,121	945	785	1,355	1,199

NM.M	254	280	-41	313	362	45
NO.L	876	1,500	1,413	1,042	1,796	1,748
NO.M	375	443	144	455	553	263
<i>% Consumers with Net Cost</i>						
Used in Conjunction with a Baseline Refrigeration System						
DW.L	n/a	n/a	100	n/a	n/a	100
DW.M	n/a	n/a	100	n/a	n/a	100
NM.L	2	2	7	0	1	4
NM.M	6	10	54	3	7	39
NO.L	1	1	4	0	0	2
NO.M	3	6	31	2	4	19
Used in Conjunction with a TSL 1 Refrigeration System						
DW.L	n/a	n/a	100	n/a	n/a	100
DW.M	n/a	n/a	100	n/a	n/a	100
NM.L	2	2	7	0	1	4
NM.M	6	10	55	4	7	39
NO.L	1	1	4	0	0	2
NO.M	3	6	32	2	4	20
Used in Conjunction with a TSL 2 Refrigeration System						
DW.L	n/a	n/a	100	n/a	n/a	100
DW.M	n/a	n/a	100	n/a	n/a	100
NM.L	2	2	7	0	1	4
NM.M	6	11	55	4	7	39
NO.L	1	1	4	0	0	2
NO.M	3	6	33	2	4	20
Used in Conjunction with a TSL 3 Refrigeration System						
DW.L	n/a	n/a	100	n/a	n/a	100
DW.M	n/a	n/a	100	n/a	n/a	100
NM.L	2	2	8	0	1	4
NM.M	7	12	60	4	7	45
NO.L	1	1	5	0	0	3
NO.M	3	7	37	2	4	24
<i>Simple Payback Period (years)</i>						
Used in Conjunction with a Baseline Refrigeration System						
DW.L	n/a	n/a	36.8	n/a	n/a	28.3
DW.M	n/a	n/a	187.8	n/a	n/a	150.9
NM.L	1.0	1.0	2.2	0.8	0.8	1.7
NM.M	1.9	2.6	6.7	1.6	2.1	5.5
NO.L	0.7	0.8	1.6	0.6	0.7	1.2
NO.M	1.5	2.0	4.4	1.2	1.6	3.6
Used in Conjunction with a TSL 1 Refrigeration System						
DW.L	n/a	n/a	37.5	n/a	n/a	29.4
DW.M	n/a	n/a	191.4	n/a	n/a	154.1

NM.L	1.0	1.0	2.2	0.8	0.8	1.8
NM.M	2.0	2.6	6.8	1.6	2.1	5.6
NO.L	0.8	0.8	1.6	0.6	0.7	1.3
NO.M	1.5	2.0	4.5	1.2	1.6	3.6
Used in Conjunction with a TSL 2 Refrigeration System						
DW.L	n/a	n/a	37.5	n/a	n/a	29.4
DW.M	n/a	n/a	196.0	n/a	n/a	156.7
NM.L	1.0	1.0	2.2	0.8	0.8	1.8
NM.M	2.0	2.6	6.9	1.6	2.1	5.6
NO.L	0.8	0.8	1.6	0.6	0.7	1.3
NO.M	1.5	2.0	4.5	1.2	1.6	3.7
Used in Conjunction with a TSL 3 Refrigeration System						
DW.L	n/a	n/a	41.3	n/a	n/a	32.3
DW.M	n/a	n/a	236.9	n/a	n/a	188.4
NM.L	1.0	1.1	2.3	0.8	0.9	1.8
NM.M	2.0	2.8	7.4	1.7	2.3	6.0
NO.L	0.8	0.9	1.7	0.6	0.7	1.3
NO.M	1.6	2.1	4.9	1.3	1.7	3.9

Table V.50 Comparison of LCC Savings and PBP for Consumer Subgroups for Walk-in Panels

Equipment Class	Reference			Small Businesses		
	TSL 1	TSL 2	TSL 3	TSL 1	TSL 2	TSL 3
<i>Consumer Average LCC Savings – Impacted Consumers (2023\$)</i>						
Used in Conjunction with a Baseline Refrigeration System						
PF.L	n/a	n/a	-0.49	n/a	n/a	-0.12
PS.L	n/a	n/a	-0.20	n/a	n/a	-0.06
PS.M	n/a	n/a	-2.33	n/a	n/a	-2.59
Used in Conjunction with a TSL 1 Refrigeration System						
PF.L	n/a	n/a	-0.52	n/a	n/a	-0.21
PS.L	n/a	n/a	-0.24	n/a	n/a	-0.14
PS.M	n/a	n/a	-2.35	n/a	n/a	-2.60
Used in Conjunction with a TSL 2 Refrigeration System						
PF.L	n/a	n/a	-0.52	n/a	n/a	-0.21
PS.L	n/a	n/a	-0.24	n/a	n/a	-0.03
PS.M	n/a	n/a	-2.37	n/a	n/a	-2.62
Used in Conjunction with a TSL 3 Refrigeration System						
PF.L	n/a	n/a	-0.70	n/a	n/a	-0.41
PS.L	n/a	n/a	-0.45	n/a	n/a	-0.32
PS.M	n/a	n/a	-2.49	n/a	n/a	-2.75
<i>% Consumers with Net Cost</i>						
Used in Conjunction with a Baseline Refrigeration System						
PF.L	n/a	n/a	82	n/a	n/a	63
PS.L	n/a	n/a	68	n/a	n/a	41
PS.M	n/a	n/a	100	n/a	n/a	100
Used in Conjunction with TSL 1 Refrigeration System						
PF.L	n/a	n/a	83	n/a	n/a	69
PS.L	n/a	n/a	70	n/a	n/a	48
PS.M	n/a	n/a	100	n/a	n/a	100
Used in Conjunction with a TSL 2 Refrigeration System						
PF.L	n/a	n/a	83	n/a	n/a	69
PS.L	n/a	n/a	70	n/a	n/a	48
PS.M	n/a	n/a	100	n/a	n/a	100
Used in Conjunction with a TSL 3 Refrigeration System						
PF.L	n/a	n/a	88	n/a	n/a	81
PS.L	n/a	n/a	79	n/a	n/a	63
PS.M	n/a	n/a	100	n/a	n/a	100
<i>Simple Payback Period (years)</i>						
Used in Conjunction with a Baseline Refrigeration System						
PF.L	n/a	n/a	10.2	n/a	n/a	7.9
PS.L	n/a	n/a	9.2	n/a	n/a	7.2
PS.M	n/a	n/a	34.9	n/a	n/a	30.4

Used in Conjunction with a TSL 1 Refrigeration System						
PF.L	n/a	n/a	10.4	n/a	n/a	8.2
PS.L	n/a	n/a	9.4	n/a	n/a	7.5
PS.M	n/a	n/a	35.6	n/a	n/a	31.0
Used in Conjunction with a TSL 2 Refrigeration System						
PF.L	n/a	n/a	10.4	n/a	n/a	8.2
PS.L	n/a	n/a	9.4	n/a	n/a	7.5
PS.M	n/a	n/a	36.4	n/a	n/a	31.5
Used in Conjunction with a TSL 3 Refrigeration System						
PF.L	n/a	n/a	11.4	n/a	n/a	9.0
PS.L	n/a	n/a	10.3	n/a	n/a	8.2
PS.M	n/a	n/a	44.0	n/a	n/a	37.9

Table V.51 Comparison of LCC Savings and PBP for Consumer Subgroups for Walk-in Refrigeration Systems

Equipment Class	Reference			Small Businesses			Warm Air		
	TSL 1	TSL 2	TSL 3	TSL 1	TSL 2	TSL 3	TSL 1	TSL 2	TSL 3
<i>Consumer Average LCC Savings – Impacted Consumers (2023\$)</i>									
DC.L.I	381	381	-2,241	393	393	-1,181	462	462	-2,114
DC.L.O	112	112	-8,252	163	163	-916	131	131	-7,942
DC.M.I	548	660	-726	516	516	-772	853	1,057	-491
DC.M.O	90	298	-220	88	198	-288	57	343	403
SP.H.I	147	161	161	147	161	161	188	208	208
SP.H.I.D	368	368	368	368	368	368	475	475	475
SP.H.O	108	108	-92	108	108	-92	123	123	-68
SP.H.O.D	356	316	316	356	316	316	496	458	458
SP.L.I	285	285	-937	285	285	-937	323	323	-880
SP.L.O	102	101	-1,150	102	101	-1,150	81	80	-1,148
SP.M.I	132	132	-1,016	132	132	-1,016	198	198	-937
SP.M.O	68	68	-1,212	68	68	-1,212	73	73	-1,201
UC.H	n/a	n/a	-120	n/a	n/a	-117	n/a	n/a	-113
UC.H.D	214	214	214	235	235	235	272	272	272
UC.L	1,026	1,304	1,304	1,505	1,934	1,934	1,140	1,451	1,451
UC.M	65	66	15	158	182	108	108	123	74
<i>% Consumers with Net Cost</i>									
DC.L.I	3	3	99	1	1	98	2	2	99
DC.L.O	36	36	93	36	36	89	36	36	91
DC.M.I	5	6	87	3	3	89	3	4	83
DC.M.O	0	3	76	0	1	76	0	2	64
SP.H.I	1	1	1	1	1	1	1	1	1
SP.H.I.D	0	0	0	0	0	0	0	0	0
SP.H.O	17	17	79	17	17	79	15	15	71
SP.H.O.D	13	24	24	13	24	24	8	18	18
SP.L.I	6	6	100	6	6	100	5	5	100
SP.L.O	0	0	100	0	0	100	0	0	100
SP.M.I	13	13	100	13	13	100	8	8	100
SP.M.O	18	18	100	18	18	100	18	18	100
UC.H	n/a	n/a	95	n/a	n/a	94	n/a	n/a	88
UC.H.D	2	2	2	2	2	2	1	1	1
UC.L	5	8	8	1	2	2	5	7	7
UC.M	38	43	52	19	22	34	33	37	46
<i>Simple Payback Period (years)</i>									
DC.L.I	2.0	2.0	20.3	1.1	1.1	15.7	1.7	1.7	18.0
DC.L.O	4.4	4.4	24.2	3.9	3.9	8.4	4.2	4.2	21.8
DC.M.I	3.2	3.5	11.4	3.3	3.3	12.3	2.6	2.7	8.9
DC.M.O	0.3	1.5	6.7	0.2	0.9	6.9	0.4	1.4	5.4

SP.H.I	0.5	0.7	0.7	0.5	0.7	0.7	0.4	0.6	0.6
SP.H.I.D	0.8	0.8	0.8	0.8	0.8	0.8	0.6	0.6	0.6
SP.H.O	3.1	3.1	7.5	3.1	3.1	7.5	2.9	2.9	6.9
SP.H.O.D	2.9	3.2	3.2	2.9	3.2	3.2	2.4	2.7	2.7
SP.L.I	2.0	2.0	16.1	2.0	2.0	16.1	1.8	1.8	14.5
SP.L.O	0.1	0.2	33.3	0.1	0.2	33.3	0.1	0.2	33.1
SP.M.I	2.7	2.7	29.2	2.7	2.7	29.2	2.1	2.1	22.2
SP.M.O	3.8	3.8	47.4	3.8	3.8	47.4	3.7	3.7	44.5
UC.H	n/a	n/a	33.8	n/a	n/a	29.4	n/a	n/a	26.2
UC.H.D	1.2	1.2	1.2	1.0	1.0	1.0	0.9	0.9	0.9
UC.L	1.1	1.2	1.2	0.8	0.8	0.8	1.0	1.1	1.1
UC.M	4.4	4.7	5.8	2.8	3.2	4.2	3.7	4.0	4.9

c. Rebuttable-Presumption Payback

As discussed in section IV.F of this document, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for a product that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. In calculating a rebuttable presumption payback period for each of the considered TSLs, DOE used discrete values, and as required by EPCA, based

the energy use calculation on the DOE test procedure for walk-in coolers and freezers. In contrast, the PBPs presented in section V.B.1.a were calculated using distributions that reflect the range of energy use in the field.

Table V.52 through Table V.54 presents the rebuttable-presumption payback periods for the considered TSLs for walk-in coolers and freezers. While DOE examined the rebuttable-presumption criterion, it considered whether the standard levels considered

for this rule are economically justified through a more detailed analysis of the economic impacts of those levels, pursuant to 42 U.S.C. 6295(o)(2)(B)(i), which considers the full range of impacts to the consumer, manufacturer, Nation, and environment. The results of that analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level, thereby supporting or rebutting the results of any preliminary determination of economic justification.

Table V.52 Rebuttable-Presumption Payback Periods for Walk-in Doors

Equipment Class	TSL		
	1	2	3
<i>Used in Conjunction with a Baseline Refrigeration System</i>			
DW.L	n/a	n/a	36.8
DW.M	n/a	n/a	187.8
NM.L	1.0	1.0	2.2
NM.M	1.9	2.6	6.7
NO.L	0.7	0.8	1.6
NO.M	1.5	2.0	4.4
<i>Used in Conjunction with a TSL 1 Refrigeration System</i>			
DW.L	n/a	n/a	37.5
DW.M	n/a	n/a	191.4
NM.L	1.0	1.0	2.2
NM.M	2.0	2.6	6.8
NO.L	0.8	0.8	1.6
NO.M	1.5	2.0	4.5
<i>Used in Conjunction with a TSL 2 Refrigeration System</i>			
DW.L	n/a	n/a	37.5
DW.M	n/a	n/a	196.0
NM.L	1.0	1.0	2.2
NM.M	2.0	2.6	6.9
NO.L	0.8	0.8	1.6
NO.M	1.5	2.0	4.5
<i>Used in Conjunction with a TSL 3 Refrigeration System</i>			
DW.L	n/a	n/a	41.3
DW.M	n/a	n/a	236.9
NM.L	1.0	1.1	2.3
NM.M	2.0	2.8	7.4
NO.L	0.8	0.9	1.7
NO.M	1.6	2.1	4.9

Table V.53 Rebuttable-Presumption Payback Periods for Walk-in Panels

Equipment Class	TSL		
	1	2	3
<i>Used in Conjunction with a Baseline Refrigeration System</i>			
PF.L	n/a	n/a	10.2
PS.L	n/a	n/a	9.2
PS.M	n/a	n/a	34.9
<i>Used in Conjunction with a TSL 1 Refrigeration System</i>			
PF.L	n/a	n/a	10.4
PS.L	n/a	n/a	9.4
PS.M	n/a	n/a	35.6
<i>Used in Conjunction with a TSL 2 Refrigeration System</i>			
PF.L	n/a	n/a	10.4
PS.L	n/a	n/a	9.4
PS.M	n/a	n/a	36.4
<i>Used in Conjunction with a TSL 3 Refrigeration System</i>			
PF.L	n/a	n/a	11.4
PS.L	n/a	n/a	10.3
PS.M	n/a	n/a	44.0

Table V.54 Rebuttable-Presumption Payback Periods for Refrigeration Systems

Equipment Class	TSL		
	1	2	3
<i>Dedicated Condensing Units</i>			
DC.L.I	158.5	158.5	38.3
DC.L.O	7.5	7.5	54.3
DC.M.I	318.6	160.8	38.3
DC.M.O	0.2	5.4	35.3
<i>Single-packaged Dedicated Systems</i>			
SP.H.I	2.9	2.5	2.5
SP.H.I.D	1.6	1.6	1.6
SP.H.O	3.5	3.5	8.8
SP.H.OD	2.9	3.3	3.3
SP.L.I	4.9	4.9	24.9
SP.L.O	0.1	0.1	15.1
SP.M.I	5.7	5.7	28.7
SP.M.O	4.2	4.2	22.3
<i>Unit Coolers</i>			
UC.H	n/a	n/a	37.2
UC.H.I.D	1.2	1.2	1.2
UC.L	1.0	1.1	1.1
UC.M	5.2	5.7	6.8

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of amended energy conservation standards on manufacturers of walk-ins. The next section describes the expected impacts on manufacturers at each considered TSL. Chapter 12 of the final rule TSD explains the analysis in further detail.

a. Industry Cash Flow Analysis Results

In this section, DOE provides GRIM results from the analysis, which examines changes in the industry that would result from a standard. The following tables summarize the estimated financial impacts (represented by changes in INPV) of potential amended energy conservation standards on manufacturers of walk-ins, as well as the conversion costs that DOE estimates manufacturers of walk-ins would incur at each TSL.

The impacts of potential amended energy conservation standards were analyzed under two scenarios: (1) the

preservation of gross margin percentage, and (2) the preservation of operating profit, as discussed in section IV.J.2.d of this document. The preservation of gross margin percentages applies a “gross margin percentage” of 31 percent for display doors, 33 percent for non-display doors, 24 percent for panels, and 26 percent for refrigeration systems, across all efficiency levels.¹³⁴ This scenario assumes that a manufacturer’s per-unit dollar profit would increase as MPCs increase in the standards cases and often represents the upper bound to industry profitability under potential amended energy conservation standards.

The preservation of operating profit scenario reflects manufacturers’ concerns about their inability to maintain margins as MPCs increase to reach more stringent efficiency levels. In

¹³⁴ The gross margin percentages of 31 percent, 33 percent, 24 percent, and 26 percent are based on manufacturer markups of 1.45, 1.50, 1.32, and 1.35, respectively.

this scenario, while manufacturers make the necessary investments required to convert their facilities to produce compliant equipment, operating profit does not change in absolute dollars and decreases as a percentage of revenue. The preservation of operating profit scenario typically results in the lower (or more severe) bound to impacts of potential amended standards on industry.

Each of the modeled scenarios results in a unique set of cash flows and corresponding INPV for each TSL. INPV is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period. For walk-in display doors, non-display doors, and panels, the analysis period is 2024–2057 (30 years after the modeled 2028 compliance year). For refrigeration systems, the analysis period is 2024–2058 (30 years after the modeled 2029 compliance year). The “change in INPV” results refer to the difference in industry value between the no-new-

standards case and standards case at each TSL. To provide perspective on the short-run cash flow impact, DOE includes a comparison of free cash flow between the no-new-standards case and the standards case at each TSL in the year before amended standards would take effect. This figure provides an understanding of the magnitude of the required conversion costs relative to the cash flow generated by the industry in the no-new-standards case.

Conversion costs are one-time investments for manufacturers to bring

their manufacturing facilities and product designs into compliance with potential amended standards. As described in section IV.J.2.c of this document, conversion cost investments occur between the year of publication of the final rule and the year by which manufacturers must comply with the new standard. The conversion costs can have a significant impact on the short-term cash flow of the industry and generally result in lower free cash flow in the period between the publication of

the final rule and the compliance date of potential amended standards. Conversion costs are independent of the manufacturer markup scenarios and are not presented as a range in this analysis.

Table V.55, Table V.56, Table V.57, and Table V.58 show the MIA results for each TSL for walk-in display door, non-display door, panel, and refrigeration system industries, respectively.

Doors

Display Doors

Table V.55 Manufacturer Impact Analysis Results for Walk-In Display Doors

	Unit	No-New-Standards Case	TSL 1	TSL 2	TSL 3
INPV	2023\$ Million	218.7	218.7	218.7	148.5 to 287.7
Change in INPV*	%	-	-	-	(32.1) to 31.5
Free Cash Flow* (2027)	2023\$ Million	17.0	17.0	17.0	3.7
Change in Free Cash Flow* (2027)	%	-	-	-	(78.4)
Product Conversion Costs	2023\$ Million	-	-	-	32.2
Capital Conversion Costs	2023\$ Million	-	-	-	5.2
Total Conversion Costs	2023\$ Million	-	-	-	37.4

* Parentheses (-) negative values.

At TSL 1 and TSL 2, the standard for all walk-in display door equipment classes (DW.L, DW.M) are set to the baseline efficiency level (*i.e.*, EL 0). As a result, there are no changes to INPV, no changes in industry free cash flow, and no conversion costs.

At TSL 3, the standard represents the max-tech energy efficiency for all equipment classes. The change in INPV is expected to range from -32.1 percent to 31.5 percent. At this level, free cash flow is estimated to decrease by 78.4 percent compared to the no-new-standards case value of \$17.0 million in the year 2027, the year before the standards year. DOE estimates that no display door shipments currently meet the max-tech efficiency levels.

DOE expects manufacturers of display doors would likely need to incorporate

vacuum-insulated glass as a substitute for the prescriptive minimum design of double-pane or triple-pane insulated glass packs for medium-temperature doors (DW.M) and low-temperature doors (DW.L), respectively. For the 10 OEMs that manufacture walk-in display doors, implementing vacuum-insulated glass would require significant engineering resources and testing time to ensure adequate durability of their doors in all commercial settings. In interviews, manufacturers emphasized that there are currently a very limited number of suppliers of vacuum-insulated glass. Door manufacturers expressed concerns that the 3-year conversion period between the publication of the final rule and the compliance date of the amended energy

conservation standard might be insufficient to design and test a full portfolio of vacuum-insulated doors that meet the max-tech efficiencies and maintain their internal metrics over the door lifetime. Of the 10 OEMs that manufacture walk-in display doors, five are small, domestic businesses. DOE estimates capital conversion costs of \$5.2 million and product conversion costs of \$32.2 million. Conversion costs total \$37.4 million.

At TSL 3, the shipment-weighted average MPC for all display doors is expected to increase by 80.7 percent relative to the no-new-standards case shipment-weighted average MPC for all display doors in 2028. In the preservation of gross margin percentage scenario, the increase in cashflow from the higher MSP outweighs the \$37.4

million in conversion costs, causing a significant positive change in INPV at TSL 3 under this scenario. Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn

additional profit from their investments. In this scenario, the manufacturer markup decreases in 2028, the analyzed compliance year. This reduction in the manufacturer markup and the \$37.4 million in conversion costs incurred by manufacturers cause a significant negative change in INPV at TSL 3 under

the preservation of operating profit scenario. See section IV.J.2.d of this document or chapter 12 of the final rule TSD for additional details about the manufacturer markup scenarios.

Non-Display Doors

Table V.56 Manufacturer Impact Analysis Results for Walk-In Non-Display Doors

	Unit	No-New-Standards Case	TSL 1	TSL 2	TSL 3
INPV	2023\$ Million	508.4	506.4 to 511.9	475.6 to 495.3	415.8 to 475.3
Change in INPV*	%	-	(0.4) to 0.7	(6.5) to (2.6)	(18.2) to (6.5)
Free Cash Flow* (2027)	2023\$ Million	40.3	39.8	24.8	(2.9)
Change in Free Cash Flow* (2027)	%		(1.2)	(38.4)	(107.2)
Product Conversion Costs	2023\$ Million	-	1.4	5.8	23.8
Capital Conversion Costs	2023\$ Million	-	0.0	30.0	77.9
Total Conversion Costs	2023\$ Million	-	1.4	35.7	101.7

* Parentheses indicate (-) negative values.

At TSL 1, the standard represents EL 1 for all non-display door equipment classes. The change in INPV is expected to range from -0.4 percent to 0.7 percent. At this level, free cash flow is estimated to decrease by 1.2 percent compared to the no-new-standards case value of \$40.3 million in the year 2027, the year before the standards year.

DOE expects that all non-display door equipment classes (*i.e.*, NM.L, NM.M, NO.L, NO.M) would likely require anti-sweat heater controls. Currently, approximately 32.0 percent of non-display-door shipments meet the TSL 1 efficiencies. DOE does not expect manufacturers would incur significant capital investments at this TSL as new equipment or tooling is likely not required. Product conversion costs may be necessary to update and test new non-display-door designs. DOE estimates total conversion costs of \$1.4 million, all of which are product conversion costs.

At TSL 1, the shipment-weighted average MPC for non-display doors is expected to increase by 1.5 percent relative to the no-new-standards case

shipment-weighted average MPC for non-display doors in 2028. In the preservation of gross margin percentage scenario, the minor increase in cash flow from the higher MSP slightly outweighs the \$1.4 million in conversion costs, causing a slightly positive change in INPV at TSL 1 under this scenario. Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments. In this scenario, the manufacturer markup decreases in 2028, the analyzed compliance year. This reduction in the manufacturer markup and the \$1.4 million in conversion costs incurred by manufacturers cause a slightly negative change in INPV at TSL 1 under the preservation of operating profit scenario.

At TSL 2, the standard represents EL 3 for all non-display door equipment classes. The change in INPV is expected to range from -6.5 percent to -2.6 percent. At this level, free cash flow is estimated to decrease by 38.4 percent

compared to the no-new-standards case value of \$40.3 million in the year 2027, the year before the standards year.

At TSL 2, DOE expects that all non-display doors (*i.e.*, NM.L, NM.M, NO.L, NO.M) would likely require anti-sweat heater controls, improved framing systems, and reduced anti-sweat heat. Currently, approximately 14.2 percent of non-display-door shipments meet TSL 2 efficiencies. Capital conversion costs may be necessary to purchase additional foaming equipment to incorporate thermally-improved frame designs for all non-display doors. Product conversion costs may be necessary to update and test new non-display-door designs. DOE estimates capital conversion costs of \$30.0 million and product conversion costs of \$5.8 million. Conversion costs total \$35.7 million.

At TSL 2, the shipment-weighted average MPC for non-display doors is expected to increase by 5.1 percent relative to the no-new-standards case shipment-weighted average MPC for non-display doors in 2028. In the preservation of gross margin percentage

scenario, the increase in cash flow from the higher MSP is slightly outweighed by the \$35.7 million in conversion costs, causing a slightly negative change in INPV at TSL 2 under this scenario. Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments. In this scenario, the manufacturer markup decreases in 2028, the analyzed compliance year. This reduction in the manufacturer markup and the \$35.7 million in conversion costs incurred by manufacturers cause a negative change in INPV at TSL 2 under the preservation of operating profit scenario.

At TSL 3, the standard represents the max-tech efficiency levels for all equipment classes. The change in INPV is expected to range from – 18.2 percent to – 6.5 percent. At this level, free cash flow is estimated to decrease by 107.2 percent compared to the no-new-standards case value of \$40.3 million in the year 2027, the year before the standards year.

The design options DOE analyzed at TSL 3 for non-display doors included anti-sweat heater controls, improved framing systems, reduced anti-sweat heat, and insulation thickness of at least

6 inches. DOE estimates that approximately 11.1 percent of non-display door shipments currently meet the max-tech efficiency levels. For the 51 OEMs that manufacture walk-in non-display doors, increasing insulation thickness from the assumed baseline thickness of 3.5 inches for medium-temperature (*i.e.*, NM.M, NO.M) and 4 inches for low-temperature (*i.e.*, NM.L, NO.L) non-display doors to 6 inches would likely require purchasing new foaming equipment, since most manufacturers are only able to manufacture non-display doors up to 5 inches thick. Additionally, non-display-door manufacturers were concerned about the flow of foam and the curing time of foam at max-tech. New foaming equipment to accommodate 6-inch non-display doors would require significant capital investment and is a key driver of capital conversion costs. Of the 51 non-display-door OEMs identified, 44 are small, domestic businesses. DOE estimates capital conversion costs of \$77.9 million and product conversion costs of \$23.8 million. Conversion costs total \$101.7 million.

At TSL 3, the large conversion costs result in a free cash flow dropping below zero in the years before the standards year. The negative free cash flow calculation indicates

manufacturers may need to access cash reserves or outside capital to finance conversion efforts.

At TSL 3, the shipment-weighted average MPC for all non-display doors is expected to increase by 15.5 percent relative to the no-new-standards case shipment-weighted average MPC for non-display doors in 2028. In the preservation of gross margin percentage scenario, the increase in cash flow from the higher MSP is outweighed by the \$101.7 million in conversion costs, causing a negative change in INPV at TSL 3 under this scenario. Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments. In this scenario, the manufacturer markup decreases in 2028, the analyzed compliance year. This reduction in the manufacturer markup and the \$101.7 million in conversion costs incurred by manufacturers cause a large negative change in INPV at TSL 3 under the preservation of operating profit scenario.

Panels

Table V.57 Manufacturer Impact Analysis Results for Walk-In Panels

	Unit	No-New-Standards Case	TSL 1	TSL 2	TSL 3
INPV	2023\$ Million	926.0	926.0	926.0	670.4 to 780.5
Change in INPV*	%	-	-	-	(27.6) to (15.7)
Free Cash Flow* (2027)	2023\$ Million	82.9	82.9	82.9	(49.3)
Change in Free Cash Flow* (2027)	%	-	-	-	(159.5)
Product Conversion Costs	2023\$ Million	-	-	-	78.8
Capital Conversion Costs	2023\$ Million	-	-	-	234.0
Total Conversion Costs	2023\$ Million	-	-	-	312.7

*Parentheses indicate (-) negative values.

At TSL 1 and TSL 2, the standard for all walk-in panel equipment classes is set to the baseline efficiency level (*i.e.*, EL 0). As a result, there are no changes

to INPV, no changes in industry free cash flow, and no conversion costs.

At TSL 3, the standard represents the max-tech energy efficiency for all

equipment classes. The change in INPV is expected to range from – 27.6 percent to – 15.7 percent. At this level, free cash flow is estimated to decrease by 159.5

percent compared to the no-new-standards case value of \$82.9 million in the year 2027, the year before the standards year. Currently, approximately 8.1 percent of domestic panel shipments meet the efficiencies required at TSL 3.

The design options DOE analyzed at max-tech include increasing insulation thickness to 6 inches across all equipment classes. At this level, DOE assumes all manufacturers will need to purchase new foaming equipment. Increasing the insulation thickness for all panel equipment classes to 6 inches would require significant capital investment. Like non-display doors, most manufacturers are currently able to manufacture panels up to 5 inches thick. A standard level necessitating 6-inch panels would likely require new, costly foaming equipment for all manufacturers. Additionally, DOE estimates that every additional inch of foam increases panel cure times by roughly 10 minutes, which means that manufacturers would likely need to

purchase additional equipment to maintain existing throughput. Some OEMs may need to invest in additional manufacturing space to accommodate the extra foaming stations. Of the 43 walk-in panel OEMs, 38 OEMs are small, domestic businesses. In interviews, manufacturers expressed concern about industry's ability to source the necessary foaming equipment to maintain existing production capacity within the 3-year compliance period due to the long lead times and limited number of foam fixture suppliers. DOE estimates capital conversion costs of \$234.0 million and product conversion costs of \$78.8 million. Conversion costs total \$312.7 million.

At TSL 3, the large conversion costs result in a free cash flow dropping below zero in the years before the standards year. The negative free cash flow calculation indicates manufacturers may need to access cash reserves or outside capital to finance conversion efforts.

At TSL 3, the shipment-weighted average MPC for all panels is expected to increase by 16.4 percent relative to the no-new-standards case shipment-weighted average MPC for all panels in 2028. In the preservation of gross margin percentage scenario, the increase in cash flow from the higher MSP is outweighed by the \$312.7 million in conversion costs, causing a negative change in INPV at TSL 3 under this scenario. Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments. In this scenario, the manufacturer markup decreases in 2028, the analyzed compliance year. This reduction in the manufacturer markup and the \$312.7 million in conversion costs incurred by manufacturers cause a large negative change in INPV at TSL 3 under the preservation of operating profit scenario.

Refrigeration Systems

Table V.58 Manufacturer Impact Analysis Results for Walk-In Refrigeration Systems

	Unit	No-New-Standards Case	TSL 1	TSL 2	TSL 3
INPV	2023\$ Million	542.0	492.3 to 502.5	480.8 to 496.2	360.8 to 570.8
Change in INPV*	%	-	(9.2) to (7.3)	(11.3) to (8.4)	(33.4) to 5.3
Free Cash Flow (2028)*	2023\$ Million	49.7	20.5	14.4	(8.4)
Change in Free Cash Flow (2028)*	%	-	(58.6)	(70.9)	(117.0)
Product Conversion Costs	2023\$ Million	-	41.5	49.4	83.6
Capital Conversion Costs	2023\$ Million	-	33.2	40.7	65.6
Total Conversion Costs	2023\$ Million	-	74.6	90.1	149.1

* Parentheses indicate (-) negative values.

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At TSL 1, the change in INPV is expected to range from -9.2 percent to -7.3 percent. At this level, free cash flow is estimated to decrease by 58.6 percent compared to the no-new-

standards case value of \$49.7 million in the year 2028, the year before the standards year. Currently, DOE has no evidence of significant shipments meeting efficiency levels above the baseline efficiency level (*i.e.*, EL 0).

DOE expects that at TSL 1, manufacturers would likely need to incorporate the following design options: for low- and medium-temperature indoor dedicated condensing system equipment

classes¹³⁵ would generally require larger condenser coils; low- and medium-temperature outdoor dedicated condensing system equipment classes would generally require self-regulating crankcase heater controls with a temperature switch; low-temperature outdoor dedicated condensing systems would also generally require ambient subcooling circuits; some low- and medium-temperature single-packaged dedicated system equipment classes would require electronically commutated condenser fan motors; high-temperature outdoor single-packaged dedicated condensing systems would generally require self-regulating crankcase heater controls with a temperature switch and variable-speed condenser fans; and most high-temperature indoor single-packaged dedicated condensing systems would generally require up to 1.5 inches of thermal insulation and electronically commutated condenser fan motors. DOE expects that at TSL 1, most unit cooler equipment classes would incorporate improved evaporator coil designs. See section IV.E.1 of this document for the efficiency levels by representative unit for TSL 1. See chapter 12 of the final rule TSD for a table of analyzed design options above baseline for each considered representative capacity by TSL.

Capital conversion costs are driven by incorporating design options such as larger condenser coils, improved evaporator coils, and/or ambient subcooling circuits, which would likely necessitate new tooling for updated baseplate designs across some refrigeration system capacities and equipment classes. Implementing these design options would also require notable engineering resources and testing time as manufacturers redesign models. Manufacturers would also need to qualify, source, and test new high-efficiency components. DOE estimates capital conversion costs of \$33.2 million and product conversion costs of \$41.5 million. Conversion costs total \$74.6 million.

At TSL 1, the shipment-weighted average MPC for all refrigeration systems is expected to increase by 2.7 percent relative to the no-new-standards case shipment-weighted average MPC for all refrigeration systems in 2029. In the preservation of gross margin percentage scenario, the increase in cash flow from the higher MSP is outweighed by the \$74.6 million in conversion costs,

causing a negative change in INPV at TSL 1 under this scenario. Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments. In this scenario, the manufacturer markup decreases in 2029, the analyzed compliance year. This reduction in the manufacturer markup and the \$74.6 million in conversion costs incurred by manufacturers cause a negative change in INPV at TSL 1 under the preservation of operating profit scenario.

At TSL 2, the change in INPV is expected to range from –11.3 percent to –8.4 percent. At this level, free cash flow is estimated to decrease by 70.9 percent compared to the no-new-standards case value of \$49.7 million in the year 2028, the year before the standards year.

At TSL 2, DOE expects that manufacturers would likely incorporate similar design options as TSL 1. For most representative capacities analyzed, the efficiency levels and associated design options are the same at TSL 1 and TSL 2. However, at TSL 2 for DC.M.O, DOE expects manufacturers would likely need to incorporate electronically commutated condenser fan motors, in addition to the design options analyzed at TSL 1. DOE further expects that some DC.M.O units may need to incorporate improved compressors to meet the efficiency levels required. At TSL 2, more unit cooler equipment classes would need to incorporate the max-tech design options compared to TSL 1. See section IV.E.1 of this document for the efficiency levels by representative unit for TSL 2. See chapter 12 of the final rule TSD for a table of analyzed design options above baseline for each considered representative capacity by TSL.

DOE expects industry would incur more capital conversion costs at TSL 2 compared to TSL 1 as more unit cooler equipment classes would incorporate the max-tech design options (*i.e.*, would require evaporator coils 5 rows deep). DOE expects manufacturers would incur more product conversion costs compared to TSL 1 as they update and test more refrigeration system capacities across their portfolio. DOE estimates capital conversion costs of \$40.7 million and product conversion costs of \$49.4 million. Conversion costs total \$90.1 million.

At TSL 2, the shipment-weighted average MPC for all refrigeration systems is expected to increase by 4.1 percent relative to the no-new-standards case shipment-weighted average MPC

for all walk-in refrigeration systems in 2029. In the preservation of gross margin percentage scenario, the increase in cash flow from the higher MSP is outweighed by the \$90.1 million in conversion costs, causing a negative change in INPV at TSL 2 under this scenario. Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments. In this scenario, the manufacturer markup decreases in 2029, the analyzed compliance year. This reduction in the manufacturer markup and the \$90.1 million in conversion costs incurred by manufacturers cause a negative change in INPV at TSL 2 under the preservation of operating profit scenario.

At TSL 3, the standard represents the max-tech efficiency for all equipment classes. The change in INPV is expected to range from –33.4 percent to 5.3 percent. At this level, free cash flow is estimated to decrease by 117.0 percent compared to the no-new-standards case value of \$49.7 million in the year 2028, the year before the standards year.

At TSL 3, all manufacturers would need to incorporate all analyzed design options to meet the efficiencies required. DOE expects that medium- and low-temperature dedicated condensing system equipment classes would require larger condenser coils, variable-capacity compressors, and electronically commutated variable-speed condenser fan motors. Additionally, low- and medium-temperature outdoor dedicated condensing system equipment classes would generally require self-regulating crankcase heater controls with a temperature switch and ambient subcooling circuits. DOE anticipates that low- and medium-temperature single-packaged dedicated system equipment classes would also require larger evaporator coils, variable-speed evaporator fans, and thermal insulation up to 4 inches in thickness. DOE expects that lower-capacity low- and medium-temperature single-packaged dedicated condensing units would require propane compressors. DOE expects that high-temperature dedicated condensing system equipment classes would require the same design options as medium- and low-temperature dedicated condensing systems, except for larger condensing coils and variable-capacity compressors. Additionally, DOE expects that high-temperature single-packaged dedicated condensing systems would require up to 1.5 inches of thermal insulation and would not

¹³⁵ Dedicated condensing system equipment classes include dedicated condensing units, matched-pair refrigeration systems (consisting of a paired dedicated condensing unit and unit cooler) and single-packaged dedicated systems.

require larger evaporator coils or variable-speed evaporator fans. Finally, DOE anticipates that low-, medium-, and high-temperature unit cooler equipment classes would require evaporator coils 5 rows deep at TSL 3. See section IV.E.1 of this document for the efficiency levels by representative unit for TSL 3. See chapter 12 of the final rule TSD for a table of analyzed design options above baseline for each considered representative capacity by TSL. Currently, DOE has no evidence of significant shipments meeting the max-tech levels. As such, DOE assumes that all manufacturers would need to redesign their refrigeration system models to incorporate a range of design options to meet TSL 3 efficiencies. Capital conversion costs are driven by incorporating design options such as larger condenser coils, improved evaporator coils, and/or ambient subcooling circuits, which would likely necessitate new tooling for updated baseplate designs across the full range of refrigeration system capacities and equipment classes. Implementing these design options would also require notable engineering resources and testing time as manufacturers redesign models and potentially increase the footprint of refrigeration systems to accommodate larger condensers and/or evaporators.

Manufacturers would also need to qualify, source, and test new high-efficiency components. For medium- and low-temperature dedicated condensing system equipment classes that would likely require variable-capacity compressors to meet the max-tech levels, manufacturers could face challenges sourcing variable-capacity compressors across their portfolio of capacity offerings, since the availability of variable-capacity compressors for walk-in applications is limited. At the time of this final rule publication, the few variable-capacity compressor product lines DOE identified are not advertised for the North American market. Additionally, the identified product lines may not have a sufficient range of available compressor capacities to replace compressors in all walk-in applications. DOE estimates capital conversion costs of \$65.6 million and product conversion costs of \$83.6 million. Conversion costs total \$149.1 million.

At TSL 3, the shipment-weighted average MPC for all refrigeration systems is expected to increase by 54.4 percent relative to the no-new-standards case shipment-weighted average MPC for all refrigeration systems in 2029. In the preservation of gross margin percentage scenario, the increase in cash

flow from the higher MSP outweighs the \$149.1 million in conversion costs, causing a positive change in INPV at TSL 3 under this scenario. Under the preservation of operating profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments. In this scenario, the manufacturer markup decreases in 2029, the analyzed compliance year. This reduction in the manufacturer markup and the \$149.1 million in conversion costs incurred by manufacturers cause a significant negative change in INPV at TSL 3 under the preservation of operating profit scenario.

b. Direct Impacts on Employment

To quantitatively assess the potential impacts of amended energy conservation standards on direct employment in the walk-in industry, DOE used the GRIM to estimate the domestic labor expenditures and number of direct employees in the no-new-standards case and in each of the standards cases during the analysis period. DOE calculated these values using statistical data from the 2021 ASM,¹³⁶ BLS employee compensation data,¹³⁷ results of the engineering analysis, and manufacturer interviews.

Labor expenditures related to product manufacturing depend on the labor intensity of the product, the sales volume, and an assumption that wages remain fixed in real terms over time. The total labor expenditures in each year are calculated by multiplying the total MPCs by the labor percentage of MPCs. The total labor expenditures in the GRIM were then converted to total production employment levels by dividing production labor expenditures by the average fully burdened wage multiplied by the average number of hours worked per year per production worker. To do this, DOE relied on the ASM inputs: Production Workers' Annual Wages, Production Workers' Annual Hours, Production Workers for Pay Period, and Number of Employees. DOE also relied on the BLS employee compensation data to determine the fully burdened wage ratio. The fully burdened wage ratio factors in paid leave, supplemental pay, insurance,

retirement and savings, and legally required benefits.

The number of production employees is then multiplied by the U.S. labor percentage to convert total production employment to total domestic production employment. The U.S. labor percentage represents the industry fraction of domestic manufacturing production capacity for the covered equipment. This value is derived from manufacturer interviews, equipment database analysis, and publicly available information. Consistent with the September 2023 NOPR, DOE estimates that approximately 90 percent of doors, 95 percent of panels, and 70 percent of refrigeration systems are manufactured domestically.

The domestic production employees estimate covers production line workers, including line supervisors, who are directly involved in fabricating and assembling products within the OEM facility. Workers performing services that are closely associated with production operations, such as materials handling tasks using forklifts, are also included as production labor. DOE's estimates only account for production workers who manufacture the specific equipment covered by this final rule.

Non-production workers account for the remainder of the direct employment figure. The non-production employees estimate covers domestic workers who are not directly involved in the production process, such as sales, engineering, human resources, and management. Using the amount of domestic production workers calculated above, non-production domestic employees are extrapolated by multiplying the ratio of non-production workers in the industry compared to production employees. DOE assumes that this employee distribution ratio remains constant between the no-new-standards case and standards cases.

In evaluating the impact of energy efficiency standards on employment, DOE performed separate analyses on all three walk-in component manufacturer industries: doors, panels, and refrigeration systems.

Using the GRIM, DOE estimates in the absence of amended energy conservation standards there would be 4,346 domestic production and non-production workers for walk-in doors and 7,858 domestic production and non-production workers for walk-in panels in 2028. For refrigeration systems, DOE estimates in the absence of amended energy conservation standards there would be 1,018 domestic production and non-production workers in 2029, using the GRIM. Table V.59, Table V.60, and

¹³⁶ U.S. Census Bureau. December 2022. (2021) *Annual Survey of Manufactures*. "Summary Statistics for Industry Groups and Industries." Available at www.census.gov/data/tables/time-series/econ/asm/2018-2021-asm.html (last accessed March 8, 2024).

¹³⁷ U.S. Bureau of Labor Statistics. December 15, 2023. *Employer Costs for Employee Compensation*. Available at www.bls.gov/news.release/archives/eccec_12152023.pdf (last accessed March 8, 2024).

Table V.61 show the range of the impacts of potential amended energy conservation standards on U.S.

manufacturing employment in the door,

panel, and refrigeration systems markets, respectively.

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Table V.59 Direct Employment Impacts for Domestic Walk-In Door Manufacturers in 2028

	No-New-Standards Case	Trial Standard Levels		
		1	2	3
Direct Employment in 2028* (Production Workers + Non-Production Workers)	4,346	1,156 to 4,360	1,156 to 4,660	1,156 to 4,827
Potential Changes in Direct Employment in 2028*	-	(3,190) to 14	(3,190) to 314	(3,190) to 481

* DOE presents a range of potential employment impacts. Numbers in parentheses denote negative values.

Table V.60 Direct Employment Impacts for Domestic Walk-In Panel Manufacturers in 2028

	No-New-Standards Case	Trial Standard Levels		
		1	2	3
Direct Employment in 2028* (Production Workers + Non-Production Workers)	7,858	7,858	7,858	2,091 to 8,014
Potential Changes in Direct Employment in 2028*	-	-	-	(5,767) to 156

* DOE presents a range of potential employment impacts. Numbers in parentheses denote negative values.

Table V.61 Direct Employment Impacts for Domestic Walk-In Refrigeration System Manufacturers in 2029

	No-New-Standards Case	Trial Standard Levels		
		1	2	3
Direct Employment in 2029* (Production Workers + Non-Production Workers)	1,018	271 to 1,044	271 to 1,057	271 to 1,142
Potential Changes in Direct Employment in 2029*	-	(747) to 26	(747) to 39	(747) to 124

* DOE presents a range of potential employment impacts. Numbers in parentheses denote negative values.

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The direct employment impacts shown in Table V.59 through Table V.61 represent the potential domestic employment changes that could result following the compliance date of amended energy conservation standards. The upper-bound estimate corresponds to the change in the number of domestic workers that would result from amended energy conservation standards if manufacturers continued to produce the same scope of covered equipment within the United States after compliance takes effect (DOE models a 2028 compliance year for walk-in display doors, non-display doors, and panels, and a 2029

compliance year for refrigeration systems). To establish a conservative lower bound, DOE assumes all manufacturers would shift production to foreign countries with lower costs of labor. For walk-in doors, DOE expects that the likelihood of manufacturers moving production locations due to the adopted TSL are low. For display doors, DOE is not adopting more stringent standards in this final rule. For non-display doors, DOE expects manufacturers would be able to meet the adopted level (*i.e.*, TSL 1 for non-display doors) with existing equipment. DOE's engineering analysis indicates that non-display door manufacturers could reach TSL 1 by incorporating anti-

sweat heater controls, which does not require new equipment or significant capital investment. For walk-in panels, DOE is not adopting more stringent standards in this final rule. For walk-in refrigeration systems, some manufacturers currently produce at least a portion of their walk-in refrigeration systems in countries with lower labor costs. At the adopted level (*i.e.*, TSL 2 for refrigeration systems), DOE expects some manufacturers would need to invest in new equipment and tooling to incorporate larger or improved heat exchanger designs. If standards necessitate large expenditures to re-tool facilities, it is possible some manufacturers would reevaluate

domestic production siting options. However, DOE notes that manufacturers of walk-in refrigeration systems did not express specific concerns about changes to domestic production employment in response to the September 2023 NOPR or the March 2024 NODA.

Additional detail on the analysis of direct employment can be found in chapter 12 of the final rule TSD. Additionally, the employment impacts discussed in this section are independent of the employment impacts from the broader U.S. economy, which are documented in chapter 16 of the final rule TSD.

c. Impacts on Manufacturing Capacity Doors

Display Doors

In interviews, display door manufacturers indicated that implementing vacuum-insulated glass across all equipment classes and configurations would require significant engineering resources and testing time to ensure adequate durability in all commercial settings. Manufacturers also emphasized that there are currently a very limited number of suppliers of vacuum-insulated glass for WICF applications. In interviews, manufacturers expressed concerns that the 3-year time period between the announcement of the final rule and the compliance date of the amended energy conservation standard might be insufficient to design and test a full portfolio of new doors. In this final rule, DOE is not adopting more stringent standards for walk-in display door equipment classes.

Non-Display Doors

The production of non-display doors is very similar to the production of panels and faces the same capacity challenges as panels, which is discussed in the following paragraphs. As indicated in the panel discussion, DOE does not anticipate capacity constraints at a standard that moves manufacturers to 5 inches of thickness. In this final rule, DOE is not adopting standard levels that would likely necessitate increasing insulation thickness of non-display doors. Therefore, DOE does not expect manufacturers will face long-term capacity constraints due to the standard levels detailed in this final rule.

Panels

Manufacturers indicated that design options that necessitate thicker panels could lead to longer production times for panels. In general, every additional inch of foam increases cure times by

roughly 10 minutes. Based on information from manufacturer interviews and the engineering analysis, DOE understands that a number of manufacturers are able to produce panels above the baseline today and that a standard based on 5-inch panels is not likely to lead to equipment shortages in the industry. However, a standard that necessitates 6-inch panels for any of the panel equipment class would require manufacturers to add foaming equipment to maintain throughput due to longer curing times or to purchase all new tooling to enable production if the manufacturer's current equipment cannot accommodate 6-inch panels. In this final rule, DOE is not adopting more stringent standards for walk-in panel equipment classes.

Refrigeration Systems

Manufacturers raised concerns about technical resource constraints due to overlapping regulations. In confidential interviews and public comments in response to the September 2023 NOPR and March 2024 NODA, manufacturers asserted that due to the October 2023 EPA Technology Transitions Final Rule (compliance required for walk-ins starting January 1, 2026), they may face resource constraints should DOE maintain a 3-year compliance period and set more stringent standards that necessitate the redesign of the majority of models. These manufacturers stated that meeting the October 2023 EPA Technology Transitions Final Rule would take significant amounts of engineering resources, laboratory time, and investment.

Based on manufacturer feedback from confidential interviews and publicly available information, DOE expects the walk-in refrigeration system industry would need to invest approximately \$28.1 million over a 2-year time period (2024–2025) to redesign models for low-GWP refrigerants and retrofit manufacturing facilities to accommodate flammable refrigerants in order to comply with EPA's refrigerant regulation. Should amended standards require significant product development or capital investment, the 3-year period between the announcement of the final rule and the compliance date of the amended energy conservation standard might be insufficient to complete the dual development needed to meet both EPA and DOE regulations.

As discussed in section III.A.2 of this document, DOE is extending the compliance lead-in period and requiring compliance with amended DOE standards for refrigeration systems on December 31, 2028 instead of 3-years after this final rule is published in the

Federal Register, mitigating concerns about resource constraints. Additionally, as compared to the December 2022 EPA Technology Transitions NOPR, EPA provided an additional year to comply with its GWP restrictions for WICFs (January 1, 2026 instead of January 1, 2025).

d. Impacts on Subgroups of Manufacturers

Using average cost assumptions to develop industry cash flow estimates may not capture the differential impacts among subgroups of manufacturers. Small manufacturers, niche players, or manufacturers exhibiting a cost structure that differs substantially from the industry average could be affected disproportionately. DOE investigated small businesses as a manufacturer subgroup that could be disproportionately impacted by energy conservation standards and could merit additional analysis. DOE did not identify any other adversely impacted manufacturer subgroups for this rulemaking based on the results of the industry characterization.

DOE analyzes the impacts on small businesses in a separate analysis in section VI.B of this document as part of the Regulatory Flexibility Analysis. In summary, the Small Business Administration ("SBA") defines a "small business" as having 1,250 employees or less for NAICS 333415, "Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing." For a discussion of the impacts on the small business manufacturer subgroup, see the Regulatory Flexibility Analysis in section VI.B of this document and chapter 12 of the final rule TSD.

e. Cumulative Regulatory Burden

One aspect of assessing manufacturer burden involves looking at the cumulative impact of multiple DOE standards and the product/equipment-specific regulatory actions of other Federal agencies that affect the manufacturers of a covered product or equipment. While any one regulation may not impose a significant burden on manufacturers, the combined effects of several existing or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory

burden as part of its rulemakings pertaining to appliance efficiency. DOE evaluates equipment/product-specific regulations that will take effect approximately 3 years before the modeled 2028 compliance year for doors and panels and 3 years after the modeled 2029 compliance year for refrigeration systems (2025–2032).

The DOE energy conservation standards regulations potentially contributing to cumulative regulatory burden are presented in Table V.62. In addition to the proposed and adopted energy conservation standards rulemakings identified, DOE also considers refrigerant regulations, such as the October 2023 EPA Technology

Transitions Final Rule, in its cumulative regulatory burden analysis. DOE discusses these refrigerant regulations in the subsection, “Refrigerant Regulations” included in this section.

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Table V.62 Compliance Dates and Expected Conversion Expenses of Federal Energy Conservation Standards Affecting Walk-in Cooler and Freezer OEMs

Federal Energy Conservation Standard	Number of OEMs*	Number of OEMs Affected by Today's Rule**	Approx. Standards Compliance Year	Industry Conversion Costs (Millions)	Industry Conversion Costs / Equipment Revenue***
Automatic Commercial Ice Makers† 88 FR 30508 (May 11, 2023)	23	3	2027	\$15.9 (2022\$)	0.6%
Room Air Conditioners 88 FR 34298 (May 26, 2023)	8	2	2026	\$24.8 (2021\$)	0.4%
Consumer Pool Heaters 88 FR 34624 (May 30, 2023)	20	1	2028	\$48.4 (2021\$)	1.5%
Microwave Ovens 88 FR 39912 (June 20, 2023)	18	2	2026	\$46.1 (2021\$)	0.7%
Consumer Boilers† 88 FR 55128 (August 14, 2023)	24	2	2030	\$98.0 (2022\$)	3.6%
Commercial Water Heating Equipment 88 FR 69686 (October 6, 2023)	15	1	2026	\$42.7 (2022\$)	5.3%
Commercial Refrigerators, Refrigerator-Freezers, and Freezers† 88 FR 70196 (October 10, 2023)	89	11	2028	\$226.4 (2022\$)	1.6%
Dehumidifiers† 88 FR 76510 (November 6, 2023)	20	1	2028	\$6.9 (2022\$)	0.4%
Consumer Furnaces 88 FR 87502 (December 18, 2023)	14	4	2028	\$162.0 (2022\$)	1.8%
Refrigerators, Refrigerator-Freezers, and Freezers 89 FR 3026 (January 17, 2024)	63	1	2029 and 2030‡	\$830.3 (2022\$)	1.3%
Consumer Conventional Cooking Products 89 FR 11548 (February 14, 2024)	35	1	2028	\$66.7 (2022\$)	0.3%
Consumer Water Heaters 89 FR 37778 (May 6, 2024)	16	1	2029	\$239.8 (2022\$)	1.9%
Miscellaneous Refrigeration Products 89 FR 38762 (May 7, 2024)	49	2	2029	\$130.7 (2022\$)	2.9%

* This column presents the total number of OEMs identified in the energy conservation standard rule that is contributing to cumulative regulatory burden.

** This column presents the number of OEMs producing walk-in doors, panels, or refrigeration systems that are also listed as OEMs in the identified energy conservation standard that is contributing to cumulative regulatory burden.

*** This column presents industry conversion costs as a percentage of equipment revenue during the conversion period. Industry conversion costs are the upfront investments manufacturers must make to sell compliant products/equipment. The revenue used for this calculation is the revenue from just the covered product/equipment associated with each row. The conversion period is the time frame over which conversion costs are made and lasts from the publication year of a final rule to the compliance year of the energy conservation standard. The conversion period typically ranges from 3- to 5 years, depending on the rulemaking.

† These rulemakings are at the NOPR stage, and all values are subject to change until finalized through publication of a final rule.

‡ For the refrigerators, refrigerator-freezers, and freezers energy conservation standards direct final rule, the compliance year (2029 or 2030) varies by equipment class.

Refrigerant Regulations

The October 2023 EPA Technology Transitions Final Rule restricts the use of hydrofluorocarbons in specific sectors or subsectors, including use in walk-in refrigeration systems. Consistent with the September 2023 NOPR, DOE considered the impacts of the refrigerant transition in this final rule analysis. DOE understands that switching from non-flammable to flammable refrigerants requires time and investment to redesign walk-in refrigeration systems and upgrade production facilities to accommodate the additional structural and safety precautions required. As discussed in sections IV.C.1.e and IV.C.1.f of this document, DOE expects manufacturers will likely need to transition to an A2L or A3 refrigerant or CO₂ to comply with upcoming refrigerant regulations prior to the expected December 31, 2028¹³⁸ compliance date of any potential energy conservation standards. In this final rule, DOE maintained the refrigerants analyzed in the September 2023 NOPR analysis for dedicated condensing units, single-packaged dedicated condensing systems, and unit coolers. Consistent with the March 2024 NODA, DOE reviewed the EERs of R-454C compressors with capacities representative of walk-in refrigeration systems to assess the potential impact of State-level sub-150 GWP requirements. See the “Refrigerants Analyzed” subsections in sections IV.C.1.e and IV.C.1.f of this document for additional information about the refrigerants analyzed in the WICF refrigeration system engineering analysis.

DOE considers the cost associated with the refrigerant transition in its GRIM in the no-new-standards case and

standards case because investments required to transition to low-GWP refrigerants in response to the October 2023 EPA Technology Transition Final Rule necessitates a level of investment beyond typical annual R&D and capital expenditures. DOE considers the expenses associated with the refrigerant transition as independent of DOE actions related to any new and amended energy conservation standards. In other words, manufacturers would need to comply with the October 2023 EPA Technology Transitions Final Rule regardless of whether or not DOE amended standards. For the September 2023 NOPR, DOE relied on manufacturer feedback in confidential interviews, a report prepared for EPA,¹³⁹ and written comments from AHRI in response to the June 2022 Preliminary Analysis to estimate the industry refrigerant transition costs. For this final rule, DOE refined its R&D estimate to reflect feedback from written comments in response to the September 2023 NOPR. DOE also updated its refrigerant transition capital expenditure estimates from the September 2023 NOPR to 2023\$ for this final rule. Furthermore, DOE adjusted the timeline of when manufacturers would need to make investments related to the refrigerant transition to align with the revised compliance dates for walk-in refrigeration systems in the October 2023 EPA Technology Transitions Final Rule.

Based on feedback, DOE assumed that the transition to low-GWP refrigerants would require industry to invest approximately \$15.7 million in R&D and

\$12.4 million in capital expenditures (e.g., investments in new charging equipment, leak detection systems, etc.) from 2024 (the final rule reference year) and 2026 (EPA compliance date). Consistent with the September 2023 NOPR, DOE notes that its refrigerant transition estimates of \$15.7 million in R&D and \$12.4 million capital expenditures reflect an estimate of *future* investments industry would incur to comply with Federal or State refrigerant regulations. DOE acknowledges that manufacturers have already invested a significant amount of time and capital into transitioning WICF refrigeration systems to low-GWP refrigerants. However, as the GRIM developed for this rulemaking only analyzes future cashflows, starting with the reference year of the analysis (2024) and continuing 30 years after the analyzed compliance year, the MIA conducted for this final rule only reflects changes in annual cash flow and associated refrigerant transition expenses starting in 2024.

3. National Impact Analysis

This section presents DOE’s estimates of the national energy savings and the NPV of consumer benefits that would result from each of the TSLs considered as potential amended standards.

a. National Energy Savings

To estimate the energy savings attributable to potential amended standards for walk-in coolers and freezers, DOE compared their energy consumption under the no-new-standards case to their anticipated energy consumption under each TSL. The savings are measured over the entire lifetime of products purchased in the 30-year period that begins in the year of anticipated compliance with amended standards (2028–2057 for

¹³⁸ Modeled as 2029 (the first full year of compliance) in this final rule.

¹³⁹ See pp. 5–113 of the “Global Non-CO₂ Greenhouse Gas Emission Projections & Marginal Abatement Cost Analysis: Methodology Documentation” (2019). Available at www.epa.gov/sites/default/files/2019-09/documents/nonco2_methodology_report.pdf.

envelope components, and 2029–2058 for refrigeration systems) Table V.63 through Table V.65 present DOE's

projections of the national energy savings for each TSL considered for walk-in coolers and freezers. The

savings were calculated using the approach described in section IV.H of this document.

Table V.63 Cumulative National Energy Savings for Walk-in Coolers and Freezer Doors; 30 Years of Shipments 2028–2057

Energy Savings	Connected Refrigeration System	Trial Standard Level for WICF Doors		
		1	2	3
Primary Energy Savings (Quads)	Baseline	0.562	0.975	1.190
	TSL 1	0.558	0.967	1.178
	TSL 2	0.557	0.964	1.172
	TSL 3	0.535	0.913	1.095
FFC Energy Savings (Quads)	Baseline	0.577	1.002	1.222
	TSL 1	0.574	0.993	1.210
	TSL 2	0.572	0.990	1.204
	TSL 3	0.550	0.938	1.124

Table V.64 Cumulative National Energy Savings for Walk-in Coolers and Freezer Panels; 30 Years of Shipments 2028–2057

Energy Savings	Connected Refrigeration System	Trial Standard Level for WICF Panels		
		1	2	3
Primary Energy Savings (Quads)	Baseline	n/a	n/a	0.584
	TSL 1	n/a	n/a	0.573
	TSL 2	n/a	n/a	0.567
	TSL 3	n/a	n/a	0.492
FFC Energy Savings (Quads)	Baseline	n/a	n/a	0.600
	TSL 1	n/a	n/a	0.589
	TSL 2	n/a	n/a	0.582
	TSL 3	n/a	n/a	0.506

Note: The entry “n/a” means not applicable because there is no change in the standard at certain TSLs

Table V.65 Cumulative National Energy Savings for Walk-in Coolers and Freezer Refrigeration Systems; 30 Years of Shipments 2029–2058

Energy Savings	Trial Standard Level		
	1	2	3
Primary Energy Savings (Quads)	0.66	1.00	3.30
FFC Energy Savings (Quads)	0.67	1.03	3.39

OMB Circular A–4¹⁴⁰ requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using 9 years, rather than 30 years, of

product shipments. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.¹⁴¹ The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to walk-ins. Thus, such results are presented for

informational purposes only and are not indicative of any change in DOE's analytical methodology. The NES sensitivity analysis results based on a 9-year analytical period are presented in Table V.66 through Table V.68. The impacts are counted over the lifetime of walk-ins purchased over the periods of 2028–2057 for envelope components, and 2029–2058 for refrigeration systems.

Table V.66 Cumulative National Energy Savings for Walk-in Coolers and Freezer Doors; 9 Years of Shipments (2028–2036)

Energy Savings	Connected Refrigeration System	Trial Standard Level for WICF Doors		
		1	2	3
Primary Energy Savings (Quads)	Baseline	0.151	0.261	0.318
	TSL 1	0.150	0.259	0.315
	TSL 2	0.149	0.258	0.313
	TSL 3	0.144	0.244	0.292
FFC Energy Savings (Quads)	Baseline	0.155	0.269	0.327
	TSL 1	0.154	0.266	0.324
	TSL 2	0.154	0.265	0.322
	TSL 3	0.148	0.251	0.301

Table V.67 Cumulative National Energy Savings for Walk-in Coolers and Freezer Panels; 9 Years of Shipments (2028–2036)

Energy Savings	Connected Refrigeration System	Trial Standard Level for WICF Panels		
		1	2	3
Primary Energy Savings (Quads)	Baseline	n/a	n/a	0.160
	TSL 1	n/a	n/a	0.157
	TSL 2	n/a	n/a	0.156
	TSL 3	n/a	n/a	0.135
FFC Energy Savings (Quads)	Baseline	n/a	n/a	0.165
	TSL 1	n/a	n/a	0.162
	TSL 2	n/a	n/a	0.160
	TSL 3	n/a	n/a	0.139

Note: The entry “n/a” means not applicable because there is no change in the standard at certain TSLs

¹⁴⁰ U.S. Office of Management and Budget. *Circular A–4: Regulatory Analysis*. Available at www.whitehouse.gov/omb/information-for-agencies/circulars (last accessed May 31, 2024). DOE used the prior version of Circular A–4 (September 17, 2003) in accordance with the effective date of the November 9, 2023 version.

¹⁴¹ EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)) While adding a 6-year review to the 3-year

compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6-year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some products, the compliance period is 5 years rather than 3 years.

Table V.68 Cumulative National Energy Savings for Walk-in Coolers and Freezer Refrigeration Systems; 9 Years of Shipments (2029–2037)

Energy Savings	Trial Standard Level		
	1	2	3
Primary Energy Savings (Quads)	0.180	0.276	0.909
FFC Energy Savings (Quads)	0.185	0.284	0.934

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for consumers that would result from the

TSLs considered for walk-ins.¹⁴² In accordance with OMB Circular A–4, DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. Table V.69 through Table V.71

shows the consumer NPV results with impacts counted over the lifetime of products purchased during the periods of 2028–2057 for envelope components, and 2029–2058 for refrigeration systems.

Table V.69 Cumulative Net Present Value of Consumer Benefits for Walk-in Coolers and Freezer Doors; 30 Years of Shipments 2028–2057 (billion 2023\$)

Discount Rate	Connected Refrigeration System	Trial Standard Level for WICF Doors		
		1	2	3
3 percent	Baseline	2.10	3.49	-5.83
	TSL 1	2.09	3.45	-5.89
	TSL 2	2.08	3.44	-5.92
	TSL 3	1.98	3.20	-6.28
7 percent	Baseline	0.95	1.55	-3.65
	TSL 1	0.94	1.54	-3.68
	TSL 2	0.93	1.53	-3.69
	TSL 3	0.89	1.42	-3.86

¹⁴² See section IV.H.3 of this document for the more detailed discussion on the NPV of consumer costs and benefits.

Table V.70 Cumulative Net Present Value of Consumer Benefits Walk-in Coolers and Freezer Panels; 30 Years of Shipments 2028–2057 (billion 2023\$)

Discount Rate	Connected Refrigeration System	Trial Standard Level for WICF Panels		
		1	2	3
3 percent	Baseline	n/a	n/a	-3.80
	TSL 1	n/a	n/a	-3.85
	TSL 2	n/a	n/a	-3.88
	TSL 3	n/a	n/a	-4.22
7 percent	Baseline	n/a	n/a	-2.38
	TSL 1	n/a	n/a	-2.40
	TSL 2	n/a	n/a	-2.41
	TSL 3	n/a	n/a	-2.57

Note: The entry “n/a” means not applicable because there is no change in the standard at certain TSLs

The NPV results based on the aforementioned 9-year analytical period are presented in Table V.72 through Table V.74. The impacts are counted over the lifetime of products purchased

during the periods of 2028–2036 for envelope components, and 2029–2037 for refrigeration systems. As mentioned previously, such results are presented for informational purposes only and are

not indicative of any change in DOE’s analytical methodology or decision criteria.

Table V.71 Cumulative Net Present Value of Consumer Benefits for Walk-in Coolers and Freezer Refrigeration Systems; 30 Years of Shipments 2029–2057 (billion 2023\$)

Discount Rate	Trial Standard Level		
	1	2	3
3 percent	1.76	2.66	-8.07
7 percent	0.71	1.07	-4.92

Table V.72 Cumulative Net Present Value of Consumer Benefits for Walk-in Coolers and Freezer Doors; 9 Years of Shipments 2028–2036 (*billion 2023\$*)

Discount Rate	Connected Refrigeration System	Trial Standard Level for WICF Doors		
		1	2	3
3 percent	Baseline	0.76	1.27	-2.09
	TSL 1	0.76	1.25	-2.11
	TSL 2	0.75	1.25	-2.12
	TSL 3	0.72	1.16	-2.25
7 percent	Baseline	0.46	0.76	-1.78
	TSL 1	0.46	0.75	-1.80
	TSL 2	0.46	0.75	-1.80
	TSL 3	0.43	0.69	-1.89

Table V.73 Cumulative Net Present Value of Consumer Benefits for Walk-in Coolers and Freezer Panels; 9 Years of Shipments 2028–2036 (*billion 2023\$*)

Discount Rate	Connected Refrigeration System	Trial Standard Level for WICF Panels		
		1	2	3
3 percent	Baseline	n/a	n/a	-1.40
	TSL 1	n/a	n/a	-1.42
	TSL 2	n/a	n/a	-1.43
	TSL 3	n/a	n/a	-1.56
7 percent	Baseline	n/a	n/a	-1.18
	TSL 1	n/a	n/a	-1.19
	TSL 2	n/a	n/a	-1.20
	TSL 3	n/a	n/a	-1.28

Note: The entry “n/a” means not applicable because there is no change in the standard at certain TSLs

Table V.74 Cumulative Net Present Value of Consumer Benefits for Walk-in Coolers and Freezer Refrigeration Systems; 9 Years of Shipments 2029–2037 (*billion 2023\$*)

Discount Rate	Trial Standard Level		
	1	2	3
3 percent	0.657	0.995	-2.898
7 percent	0.354	0.535	-2.418

document). DOE also conducted a sensitivity analysis that considered one scenario with a lower rate of price decline than the reference case and one scenario with a higher rate of price decline than the reference case. The results of these alternative cases are presented in appendix 10C of the final rule TSD. In the high-price-decline case, the NPV of consumer benefits is higher than in the default case. In the low-price-decline case, the NPV of consumer benefits is lower than in the default case.

c. Indirect Impacts on Employment

DOE estimates that amended energy conservation standards for walk-ins will reduce energy expenditures for consumers of those products, with the resulting net savings being redirected to other forms of economic activity. These expected shifts in spending and economic activity could affect the demand for labor. As described in section IV.N of this document, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered. There are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term timeframes (2028 through 2032 for envelope components and 2029 through 2033 for refrigeration systems), where these uncertainties are reduced.

The results suggest that the adopted standards are likely to have a negligible impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the final

rule TSD presents detailed results regarding anticipated indirect employment impacts.

4. Impact on Utility or Performance of Products

As discussed in section III.F.1.d of this document, DOE has concluded that the standards adopted in this final rule will not lessen the utility or performance of the walk-ins under consideration in this rulemaking. In performing the engineering analysis, DOE considers design options that would not lessen the utility or performance of the individual classes of equipment. (42 U.S.C. 6295(o)(2)(B)(i)(IV) and 42 U.S.C. 6316(a)) As presented in the screening analysis (chapter 4 of the final rule TSD), DOE eliminates from consideration any design options that reduce the utility of the equipment. Further, DOE is aware that manufacturers currently offer units with expected performance that meets or exceeds the adopted standards for some equipment classes.

5. Impact of Any Lessening of Competition

DOE considered any lessening of competition that would be likely to result from new or amended standards. As discussed in section III.F.1.e of this document, EPCA directs the Attorney General of the United States (“Attorney General”) to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination in writing to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. To assist the Attorney General in making this

determination, DOE provided the Department of Justice (“DOJ”) with copies of the NOPR and the TSD for review. In its assessment letter responding to DOE, DOJ concluded that the proposed energy conservation standards for walk-ins are unlikely to have a significant adverse impact on competition. DOE is publishing the Attorney General’s assessment at the end of this final rule.

6. Need of the Nation To Conserve Energy

Enhanced energy efficiency, where economically justified, improves the Nation’s energy security, strengthens the economy, and reduces the environmental impacts (costs) of energy production. Reduced electricity demand due to energy conservation standards is also likely to reduce the cost of maintaining the reliability of the electricity system, particularly during peak-load periods. Chapter 15 in the final rule TSD presents the estimated impacts on electricity generating capacity, relative to the no-new-standards case, for the TSLs that DOE considered in this rulemaking.

Energy conservation resulting from potential energy conservation standards for walk-ins is expected to yield environmental benefits in the form of reduced emissions of certain air pollutants and GHGs. Table V.75 through Table V.77 provide DOE’s estimate of cumulative emissions reductions expected to result from the TSLs considered in this rulemaking. The emissions were calculated using the multipliers discussed in section IV.L. DOE reports annual emissions reductions for each TSL in chapter 13 of the final rule TSD.

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Table V.75 Cumulative Emissions Reduction for Walk-in Cooler and Freezer Doors Shipped in 2028–2057

	Connected Refrigeration System	Trial Standard Level for WICF Doors		
		1	2	3
Electric Power Sector Emissions				
CO ₂ (million metric tons)	Baseline	9.55	16.57	20.18
	TSL 1	9.49	16.43	19.97
	TSL 2	9.46	16.37	19.87
	TSL 3	9.10	15.52	18.56
CH ₄ (thousand tons)	Baseline	0.71	1.24	1.50
	TSL 1	0.71	1.23	1.49
	TSL 2	0.71	1.22	1.48
	TSL 3	0.68	1.16	1.38
N ₂ O (thousand tons)	Baseline	0.10	0.17	0.21
	TSL 1	0.10	0.17	0.21
	TSL 2	0.10	0.17	0.21
	TSL 3	0.09	0.16	0.19
SO ₂ (thousand tons)	Baseline	3.16	5.49	6.69
	TSL 1	3.15	5.44	6.62
	TSL 2	3.14	5.43	6.59
	TSL 3	3.02	5.14	6.15
NO _x (thousand tons)	Baseline	4.57	7.93	9.64
	TSL 1	4.54	7.86	9.54
	TSL 2	4.53	7.84	9.49
	TSL 3	4.36	7.43	8.87
Hg (tons)	Baseline	0.02	0.04	0.05
	TSL 1	0.02	0.04	0.05
	TSL 2	0.02	0.04	0.05
	TSL 3	0.02	0.04	0.04
Upstream Emissions				
CO ₂ (million metric tons)	Baseline	0.96	1.67	2.04
	TSL 1	0.96	1.65	2.01
	TSL 2	0.95	1.65	2.00
	TSL 3	0.92	1.56	1.87
CH ₄ (thousand tons)	Baseline	87.29	151.50	184.79
	TSL 1	86.75	150.21	182.87
	TSL 2	86.52	149.70	181.99
	TSL 3	83.18	141.91	169.98
N ₂ O (thousand tons)	Baseline	0.00	0.01	0.01
	TSL 1	0.00	0.01	0.01
	TSL 2	0.00	0.01	0.01
	TSL 3	0.00	0.01	0.01
SO ₂ (thousand tons)	Baseline	0.06	0.10	0.12

	TSL 1	0.06	0.10	0.12
	TSL 2	0.06	0.10	0.12
	TSL 3	0.06	0.10	0.11
NO _x (thousand tons)	Baseline	14.97	25.98	31.69
	TSL 1	14.88	25.76	31.36
	TSL 2	14.84	25.68	31.21
	TSL 3	14.27	24.34	29.15
Hg (tons)	Baseline	0.00	0.00	0.00
	TSL 1	0.00	0.00	0.00
	TSL 2	0.00	0.00	0.00
	TSL 3	0.00	0.00	0.00
<i>Total FFC Emissions</i>				
CO ₂ (million metric tons)	Baseline	10.51	18.24	22.21
	TSL 1	10.44	18.08	21.98
	TSL 2	10.42	18.02	21.88
	TSL 3	10.01	17.08	20.44
CH ₄ (thousand tons)	Baseline	88.00	152.73	186.29
	TSL 1	87.46	151.44	184.36
	TSL 2	87.23	150.92	183.47
	TSL 3	83.86	143.07	171.36
N ₂ O (thousand tons)	Baseline	0.10	0.18	0.22
	TSL 1	0.10	0.18	0.22
	TSL 2	0.10	0.18	0.21
	TSL 3	0.10	0.17	0.20
SO ₂ (thousand tons)	Baseline	3.22	5.59	6.81
	TSL 1	3.20	5.55	6.74
	TSL 2	3.20	5.53	6.71
	TSL 3	3.07	5.24	6.27
NO _x (thousand tons)	Baseline	19.54	33.91	41.33
	TSL 1	19.42	33.62	40.90
	TSL 2	19.37	33.51	40.71
	TSL 3	18.62	31.77	38.02
Hg (tons)	Baseline	0.02	0.04	0.05
	TSL 1	0.02	0.04	0.05
	TSL 2	0.02	0.04	0.05
	TSL 3	0.02	0.04	0.04

Note: Negative values refer to an increase in emissions.

Table V.76 Cumulative Emissions Reduction for Walk-in Cooler and Freezer Panels Shipped in 2028–2057

	Connected Refrigeration System	Trial Standard Level for WICF Panels		
		1	2	3
Electric Power Sector Emissions				
CO ₂ (million metric tons)	Baseline	n/a	n/a	9.79
	TSL 1	n/a	n/a	9.61
	TSL 2	n/a	n/a	9.49
	TSL 3	n/a	n/a	8.25
CH ₄ (thousand tons)	Baseline	n/a	n/a	0.72
	TSL 1	n/a	n/a	0.71
	TSL 2	n/a	n/a	0.70
	TSL 3	n/a	n/a	0.61
N ₂ O (thousand tons)	Baseline	n/a	n/a	0.10
	TSL 1	n/a	n/a	0.10
	TSL 2	n/a	n/a	0.10
	TSL 3	n/a	n/a	0.08
SO ₂ (thousand tons)	Baseline	n/a	n/a	3.24
	TSL 1	n/a	n/a	3.17
	TSL 2	n/a	n/a	3.14
	TSL 3	n/a	n/a	2.73
NO _x (thousand tons)	Baseline	n/a	n/a	4.62
	TSL 1	n/a	n/a	4.53
	TSL 2	n/a	n/a	4.48
	TSL 3	n/a	n/a	3.89
Hg (tons)	Baseline	n/a	n/a	0.02
	TSL 1	n/a	n/a	0.02
	TSL 2	n/a	n/a	0.02
	TSL 3	n/a	n/a	0.02
Upstream Emissions				
CO ₂ (million metric tons)	Baseline	n/a	n/a	1.00
	TSL 1	n/a	n/a	0.98
	TSL 2	n/a	n/a	0.97
	TSL 3	n/a	n/a	0.84
CH ₄ (thousand tons)	Baseline	n/a	n/a	90.47
	TSL 1	n/a	n/a	88.77
	TSL 2	n/a	n/a	87.74
	TSL 3	n/a	n/a	76.22
N ₂ O (thousand tons)	Baseline	n/a	n/a	0.00
	TSL 1	n/a	n/a	0.00

	TSL 2	n/a	n/a	0.00
	TSL 3	n/a	n/a	0.00
SO ₂ (thousand tons)	Baseline	n/a	n/a	0.06
	TSL 1	n/a	n/a	0.06
	TSL 2	n/a	n/a	0.06
	TSL 3	n/a	n/a	0.05
NO _x (thousand tons)	Baseline	n/a	n/a	15.51
	TSL 1	n/a	n/a	15.22
	TSL 2	n/a	n/a	15.04
	TSL 3	n/a	n/a	13.07
Hg (tons)	Baseline	n/a	n/a	0.00
	TSL 1	n/a	n/a	0.00
	TSL 2	n/a	n/a	0.00
	TSL 3	n/a	n/a	0.00
<i>Total FFC Emissions</i>				
CO ₂ (million metric tons)	Baseline	n/a	n/a	10.79
	TSL 1	n/a	n/a	10.58
	TSL 2	n/a	n/a	10.46
	TSL 3	n/a	n/a	9.09
CH ₄ (thousand tons)	Baseline	n/a	n/a	91.20
	TSL 1	n/a	n/a	89.48
	TSL 2	n/a	n/a	88.44
	TSL 3	n/a	n/a	76.83
N ₂ O (thousand tons)	Baseline	n/a	n/a	0.11
	TSL 1	n/a	n/a	0.10
	TSL 2	n/a	n/a	0.10
	TSL 3	n/a	n/a	0.09
SO ₂ (thousand tons)	Baseline	n/a	n/a	3.30
	TSL 1	n/a	n/a	3.23
	TSL 2	n/a	n/a	3.20
	TSL 3	n/a	n/a	2.78
NO _x (thousand tons)	Baseline	n/a	n/a	20.13
	TSL 1	n/a	n/a	19.75
	TSL 2	n/a	n/a	19.53
	TSL 3	n/a	n/a	16.96
Hg (tons)	Baseline	n/a	n/a	0.02
	TSL 1	n/a	n/a	0.02
	TSL 2	n/a	n/a	0.02
	TSL 3	n/a	n/a	0.02

Note: Negative values refer to an increase in emissions, and the entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.77 Cumulative Emissions Reduction for Walk-in Cooler and Freezer Refrigeration Systems Shipped in 2029–2058

	Trial Standard Level		
	1	2	3
<i>Electric Power Sector Emissions</i>			
CO ₂ (million metric tons)	10.93	16.70	54.95
CH ₄ (thousand tons)	0.81	1.23	4.06
N ₂ O (thousand tons)	0.11	0.17	0.56
SO ₂ (thousand tons)	3.61	5.51	18.15
NO _x (thousand tons)	5.15	7.87	25.88
Hg (tons)	0.02	0.04	0.13
<i>Upstream Emissions</i>			
CO ₂ (million metric tons)	1.11	1.70	5.60
CH ₄ (thousand tons)	101.28	154.72	509.22
N ₂ O (thousand tons)	0.00	0.01	0.02
SO ₂ (thousand tons)	0.07	0.10	0.34
NO _x (thousand tons)	17.37	26.53	87.31
Hg (tons)	0.00	0.00	0.00
<i>Total FFC Emissions</i>			
CO ₂ (million metric tons)	12.04	18.40	60.55
CH ₄ (thousand tons)	102.09	155.95	513.28
N ₂ O (thousand tons)	0.12	0.18	0.59
SO ₂ (thousand tons)	3.68	5.62	18.49
NO _x (thousand tons)	22.51	34.39	113.20
Hg (tons)	0.03	0.04	0.13

As part of the analysis for this rule, DOE estimated monetized climate benefits likely to result from the reduced emissions of CO₂ that DOE estimated for each of the considered TSLs for walk-in coolers and freezers.

Section IV.L of this document discusses the two separate sets of SC–CO₂ estimates that DOE used.

Table V.78 through Table V.83 present the value of CO₂ emissions reduction at each TSL for each of the

SC–CO₂ cases. The time-series of annual values is presented for the selected TSL in chapter 14 of the final rule TSD.

Table V.78 Present Value of CO₂ Emissions Reduction for Walk-in Doors Shipped in 2028–2057 (2023 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-CO ₂ Case		
		Near-term Ramsey Discount Rate		
		2.5%	2.0%	1.5%
		<i>billion 2023\$</i>		
1	Baseline	1.34	2.27	4.01
	TSL 1	1.33	2.25	3.99
	TSL 2	1.32	2.25	3.98
	TSL 3	1.27	2.16	3.83
2	Baseline	2.32	3.93	6.97
	TSL 1	2.30	3.90	6.91
	TSL 2	2.29	3.88	6.88
	TSL 3	2.17	3.68	6.52
3	Baseline	2.82	4.78	8.48
	TSL 1	2.79	4.73	8.39
	TSL 2	2.77	4.71	8.35
	TSL 3	2.59	4.40	7.80

Table V.79 Present Value of CO₂ Emissions Reduction for Walk-in Panels Shipped in 2028–2057 (2023 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-CO ₂ Case		
		Near-term Ramsey Discount Rate		
		2.5%	2.0%	1.5%
		<i>billion 2023\$</i>		
1	Baseline	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a
2	Baseline	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a
3	Baseline	1.35	2.30	4.09
	TSL 1	1.32	2.25	4.01
	TSL 2	1.31	2.23	3.96
	TSL 3	1.14	1.94	3.44

Note: the entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.80 Present Value of CO₂ Emissions Reduction for Walk-in Refrigeration Systems Shipped in 2029–2058 (2023 estimates of SC-GHG)

TSL	SC-CO ₂ Case		
	Near-term Ramsey Discount Rate		
	2.5%	2.0%	1.5%
	<i>billion 2023\$</i>		
1	1.50	2.56	4.56
2	2.30	3.91	6.96
3	7.56	12.88	22.92

Table V.81 Present Value of CO₂ Emissions Reduction for Walk-in Doors Shipped in 2028–2057 (2021 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-CO ₂ Case			
		Discount Rate and Statistics			
		5%	3%	2.5%	3%
		Average	Average	Average	95 th percentile
		<i>billion 2023\$</i>			
1	Baseline	0.12	0.50	0.77	1.51
	TSL 1	0.12	0.49	0.77	1.50
	TSL 2	0.12	0.49	0.76	1.50
	TSL 3	0.11	0.47	0.73	1.44
2	Baseline	0.21	0.86	1.34	2.62
	TSL 1	0.21	0.85	1.33	2.60
	TSL 2	0.20	0.85	1.32	2.59
	TSL 3	0.19	0.81	1.25	2.45
3	Baseline	0.25	1.05	1.62	3.18
	TSL 1	0.25	1.04	1.61	3.15
	TSL 2	0.25	1.03	1.60	3.13
	TSL 3	0.23	0.96	1.49	2.92

Table V.82 Present Value of CO₂ Emissions Reduction for Walk-in Panels Shipped in 2028–2057 (2021 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-CO ₂ Case			
		Discount Rate and Statistics			
		5%	3%	2.5%	3%
		Average	Average	Average	95 th percentile
		<i>billion 2023\$</i>			
1	Baseline	n/a	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a	n/a
2	Baseline	n/a	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a	n/a
3	Baseline	0.12	0.50	0.77	1.50
	TSL 1	0.12	0.49	0.76	1.48
	TSL 2	0.11	0.48	0.75	1.46
	TSL 3	0.10	0.42	0.65	1.27

Note: the entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.83 Present Value of CO₂ Emissions Reduction for Walk-in Refrigeration Systems Shipped in 2029–2058 (2021 estimates of SC-GHG)

TSL	SC-CO ₂ Case			
	Discount Rate and Statistics			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
	<i>billion 2023\$</i>			
1	0.13	0.55	0.86	1.67
2	0.20	0.84	1.31	2.56
3	0.65	2.77	4.32	8.42

As discussed in section IV.L.2, DOE estimated the climate benefits likely to result from the reduced emissions of methane and N₂O that DOE estimated for each of the considered TSLs for

walk-ins Table V.84 through Table V.89 present the value of the CH₄ emissions reduction at each TSL, and Table V.90 through Table V.95 present the value of the N₂O emissions reduction at each

TSL. The time-series of annual values is presented for the selected TSL in chapter 14 of the final rule TSD.

Table V.84 Present Value of Methane Emissions Reduction for Walk-in Doors Shipped in 2028–2057 (2023 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-CH ₄ Case		
		Near-term Ramsey Discount Rate		
		2.5%	2.0%	1.5%
		<i>billion 2023\$</i>		
1	Baseline	0.17	0.23	0.32
	TSL 1	0.17	0.22	0.32
	TSL 2	0.17	0.22	0.32
	TSL 3	0.16	0.22	0.30
2	Baseline	0.29	0.39	0.55
	TSL 1	0.29	0.39	0.55
	TSL 2	0.29	0.39	0.55
	TSL 3	0.27	0.37	0.52
3	Baseline	0.35	0.48	0.68
	TSL 1	0.35	0.47	0.67
	TSL 2	0.35	0.47	0.67
	TSL 3	0.33	0.44	0.62

Table V.85 Present Value of Methane Emissions Reduction for Walk-in Panels Shipped in 2028–2057 (2023 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-CH ₄ Case		
		Near-term Ramsey Discount Rate		
		2.5%	2.0%	1.5%
		<i>billion 2023\$</i>		
1	Baseline	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a
2	Baseline	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a
3	Baseline	0.17	0.24	0.33
	TSL 1	0.17	0.23	0.33
	TSL 2	0.17	0.23	0.32
	TSL 3	0.15	0.20	0.28

Note: the entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.86 Present Value of Methane Emissions Reduction for Walk-in Refrigeration Systems Shipped in 2029–2058 (2023 estimates of SC-GHG)

TSL	SC-CH ₄ Case		
	Near-term Ramsey Discount Rate		
	2.5%	2.0%	1.5%
	<i>billion 2023\$</i>		
1	0.19	0.26	0.37
2	0.30	0.40	0.57
3	0.98	1.33	1.88

Table V.87 Present Value of Methane Emissions Reduction for Walk-in Doors Shipped in 2028–2057 (2021 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-CH ₄ Case			
		Discount Rate and Statistics			
		5%	3%	2.5%	3%
		Average	Average	Average	95 th percentile
		<i>billion 2023\$</i>			
1	Baseline	0.05	0.13	0.18	0.35
	TSL 1	0.05	0.13	0.18	0.35
	TSL 2	0.05	0.13	0.18	0.34
	TSL 3	0.04	0.13	0.17	0.33
2	Baseline	0.08	0.23	0.32	0.60
	TSL 1	0.08	0.23	0.31	0.60
	TSL 2	0.08	0.23	0.31	0.60
	TSL 3	0.07	0.21	0.30	0.57
3	Baseline	0.10	0.28	0.39	0.73
	TSL 1	0.09	0.27	0.38	0.73
	TSL 2	0.09	0.27	0.38	0.72
	TSL 3	0.09	0.26	0.35	0.68

Table V.88 Present Value of Methane Emissions Reduction for Walk-in Panels Shipped in 2028–2057 (2021 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-CH ₄ Case			
		Discount Rate and Statistics			
		5%	3%	2.5%	3%
		Average	Average	Average	95 th percentile
		<i>billion 2023\$</i>			
1	Baseline	n/a	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a	n/a
2	Baseline	n/a	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a	n/a
3	Baseline	0.05	0.13	0.19	0.35
	TSL 1	0.04	0.13	0.18	0.35
	TSL 2	0.04	0.13	0.18	0.34
	TSL 3	0.04	0.11	0.16	0.30

Note: the entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.89 Present Value of Methane Emissions Reduction for Walk-in Refrigeration Systems Shipped in 2029–2058 (2021 estimates of SC-GHG)

TSL	SC-CH ₄ Case			
	Discount Rate and Statistics			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
	<i>billion 2023\$</i>			
1	0.05	0.15	0.21	0.40
2	0.08	0.23	0.32	0.60
3	0.25	0.75	1.05	1.99

Table V.90 Present Value of Nitrous Oxide Emissions Reduction for Walk-in Doors Shipped in 2028–2057 (2023 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-N ₂ O Case		
		Near-term Ramsey Discount Rate		
		2.5%	2.0%	1.5%
		<i>billion 2023\$</i>		
1	Baseline	0.004	0.006	0.010
	TSL 1	0.004	0.006	0.010
	TSL 2	0.004	0.006	0.010
	TSL 3	0.004	0.006	0.010
2	Baseline	0.007	0.011	0.017
	TSL 1	0.007	0.010	0.017
	TSL 2	0.007	0.010	0.017
	TSL 3	0.006	0.010	0.016
3	Baseline	0.008	0.013	0.021
	TSL 1	0.008	0.013	0.021
	TSL 2	0.008	0.013	0.021
	TSL 3	0.007	0.012	0.020

Table V.91 Present Value of Nitrous Oxide Emissions Reduction for Walk-in Panels Shipped in 2028–2057 (2023 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-N ₂ O Case		
		Near-term Ramsey Discount Rate		
		2.5%	2.0%	1.5%
		<i>billion 2023\$</i>		
1	Baseline	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a
2	Baseline	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a
3	Baseline	0.004	0.006	0.010
	TSL 1	0.004	0.006	0.010
	TSL 2	0.004	0.006	0.010
	TSL 3	0.003	0.005	0.009

Note: the entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.92 Present Value of Nitrous Oxide Emissions Reduction for Walk-in Refrigeration Systems Shipped in 2029–2058 (2023 estimates of SC-GHG)

TSL	SC-N ₂ O Case		
	Near-term Ramsey Discount Rate		
	2.5%	2.0%	1.5%
	<i>billion 2023\$</i>		
1	0.00	0.01	0.01
2	0.01	0.01	0.02
3	0.02	0.03	0.06

Table V.93 Present Value of Nitrous Oxide Emissions Reduction for Walk-in Doors Shipped in 2028–2057 (2021 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-N ₂ O Case			
		Discount Rate and Statistics			
		5%	3%	2.5%	3%
		Average	Average	Average	95 th percentile
		<i>billion 2023\$</i>			
1	Baseline	0.000	0.002	0.003	0.005
	TSL 1	0.000	0.002	0.003	0.005
	TSL 2	0.000	0.002	0.003	0.005
	TSL 3	0.000	0.002	0.003	0.004
2	Baseline	0.001	0.003	0.005	0.008
	TSL 1	0.001	0.003	0.005	0.008
	TSL 2	0.001	0.003	0.005	0.008
	TSL 3	0.001	0.003	0.004	0.007
3	Baseline	0.001	0.004	0.006	0.010
	TSL 1	0.001	0.004	0.006	0.010
	TSL 2	0.001	0.004	0.006	0.010
	TSL 3	0.001	0.003	0.005	0.009

Table V.94 Present Value of Nitrous Oxide Emissions Reduction for Walk-in Panels Shipped in 2028–2057 (2021 estimates of SC-GHG)

TSL	Connected Refrigeration System	SC-N ₂ O Case			
		Discount Rate and Statistics			
		5%	3%	2.5%	3%
		Average	Average	Average	95 th percentile
		<i>billion 2023\$</i>			
1	Baseline	n/a	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a	n/a
2	Baseline	n/a	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a	n/a
3	Baseline	0.000	0.002	0.003	0.005
	TSL 1	0.000	0.002	0.003	0.005
	TSL 2	0.000	0.002	0.003	0.004
	TSL 3	0.000	0.001	0.002	0.004

Note: the entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.95 Present Value of Nitrous Oxide Emissions Reduction for Walk-in Refrigeration Systems Shipped in 2029–2058 (2021 estimates of SC-GHG)

TSL	SC-N ₂ O Case			
	Discount Rate and Statistics			
	5%	3%	2.5%	3%
	Average	Average	Average	95 th percentile
	<i>billion 2023\$</i>			
1	0.00	0.00	0.00	0.01
2	0.00	0.00	0.00	0.01
3	0.00	0.01	0.01	0.03

DOE is well aware that scientific and economic knowledge about the contribution of CO₂ and other GHG emissions to changes in the future global climate and the potential resulting damages to the global and U.S. economy continue to evolve rapidly. DOE, together with other Federal agencies, will continue to review methodologies for estimating the monetary value of reductions in CO₂ and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public

record for this and other rulemakings, as well as other methodological assumptions and issues. DOE notes, however, that the adopted standards would be economically justified even without inclusion of monetized benefits of reduced GHG emissions.

DOE also estimated the monetary value of the economic benefits associated with NO_x and SO₂ emissions reductions anticipated to result from the considered TSLs for walk-ins. The dollar-per-ton values that DOE used are discussed in section IV.L of this

document. Table V.96 presents the present value for NO_x emissions reduction for each TSL calculated using 7-percent and 3-percent discount rates, and Table V.97 presents similar results for SO₂ emissions reductions. The results in these tables reflect application of EPA’s low dollar-per-ton values, which DOE used to be conservative. The time-series of annual values is presented for the selected TSL in chapter 14 of the final rule TSD.

Table V.96 Present Value of NO_x Emissions Reduction for Walk-in Doors Shipped in 2028–2057

TSL	Connected Refrigeration System	7% Discount Rate	3% Discount Rate
		<i>million 2023\$</i>	
1	Baseline	1,011.6	430.2
	TSL 1	1,005.3	427.5
	TSL 2	1,002.6	426.4
	TSL 3	964.0	409.9
2	Baseline	1,754.8	745.7
	TSL 1	1,739.9	739.4
	TSL 2	1,733.9	736.9
	TSL 3	1,643.6	698.5
3	Baseline	2,128.4	899.2
	TSL 1	2,106.5	890.0
	TSL 2	2,096.4	885.7
	TSL 3	1,958.8	827.9

Table V.97 Present Value of SO₂ Emissions Reduction for Walk-in Doors Shipped in 2028–2057

TSL	Connected Refrigeration System	7% Discount Rate	3% Discount Rate
		<i>million 2023\$</i>	
1	Baseline	233.2	100.8
	TSL 1	231.7	100.2
	TSL 2	231.1	99.9
	TSL 3	222.2	96.1
2	Baseline	404.4	174.8
	TSL 1	401.0	173.3
	TSL 2	399.6	172.7
	TSL 3	378.8	163.7
3	Baseline	490.2	210.6
	TSL 1	485.2	208.4
	TSL 2	482.9	207.5
	TSL 3	451.2	193.9

Table V.98 Present Value of NO_x Emissions Reduction for Walk-in Panels Shipped in 2028–2057

TSL	Connected Refrigeration System	7% Discount Rate	3% Discount Rate
		<i>million 2023\$</i>	
1	Baseline	n/a	n/a
	TSL 1	n/a	n/a
	TSL 2	n/a	n/a
	TSL 3	n/a	n/a
2	Baseline	n/a	n/a
	TSL 1	n/a	n/a
	TSL 2	n/a	n/a
	TSL 3	n/a	n/a
3	Baseline	1,005.1	407.8
	TSL 1	986.2	400.1
	TSL 2	974.7	395.4
	TSL 3	846.7	343.5

Note: the entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.99 Present Value of SO₂ Emissions Reduction for Walk-in Panels Shipped in 2028–2057

TSL	Connected Refrigeration System	7% Discount Rate	3% Discount Rate
		<i>million 2023\$</i>	
1	Baseline	n/a	n/a
	TSL 1	n/a	n/a
	TSL 2	n/a	n/a
	TSL 3	n/a	n/a
2	Baseline	n/a	n/a
	TSL 1	n/a	n/a
	TSL 2	n/a	n/a
	TSL 3	n/a	n/a
3	Baseline	230.4	94.9
	TSL 1	226.1	93.2
	TSL 2	223.5	92.1
	TSL 3	194.1	80.0

Note: the entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.100 Present Value of NO_x Emissions Reduction for Walk-in Refrigeration Systems Shipped in 2029–2058

TSL	7% Discount Rate	3% Discount Rate
	million 2023\$	
1	1,118.1	446.9
2	1,709.1	683.6
3	5,623.9	2,248.9

Table V.101 Present Value of SO₂ Emissions Reduction for Walk-in Refrigeration Systems Shipped in 2029–2058

TSL	3% Discount Rate	7% Discount Rate
	million 2023\$	
1	255.8	103.7
2	391.0	158.7
3	1,286.6	521.9

Not all the public health and environmental benefits from the reduction of GHGs, NO_x, and SO₂ are captured in the values above, and additional unquantified benefits from the reductions of those pollutants as well as from the reduction of direct PM and other co-pollutants may be significant. DOE has not included monetary benefits of the reduction of Hg emissions because the amount of reduction is very small.

7. Other Factors

The Secretary of Energy, in determining whether a standard is

economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) No other factors were considered in this analysis.

8. Summary of Economic Impacts

Table V.102 through Table V.107 presents the NPV values that result from adding the estimates of the economic benefits resulting from reduced GHG and NO_x and SO₂ emissions to the NPV of consumer benefits calculated for each TSL considered in this rulemaking. The consumer benefits are domestic U.S. monetary savings that occur as a result

of purchasing the covered equipment, and are measured for the lifetime of walk-in envelope components shipped in 2028–2057, and walk-in refrigeration systems shipped in 2029–2058. The climate benefits associated with reduced GHG emissions resulting from the adopted standards are global benefits, and are also calculated based on the lifetime of walk-in envelope components shipped in 2028–2057, and walk-in refrigeration systems shipped in 2029–2058.

Table V.102 Consumer NPV Combined with Present Value of Climate Benefits and Health Benefits for Walk-in Doors (2023 SC-GHG estimates)

TSL	Connected Refrigeration System	2.5% Near-term Ramsey DR	2.0% Near-term Ramsey DR	1.5% Near-term Ramsey DR
<i>Using 3% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>				
1	Baseline	4.85	5.84	7.69
	TSL 1	4.82	5.80	7.64
	TSL 2	4.81	5.79	7.62
	TSL 3	4.60	5.54	7.30
2	Baseline	8.27	9.99	13.19
	TSL 1	8.19	9.89	13.07
	TSL 2	8.16	9.86	13.02
	TSL 3	7.67	9.28	12.28
3	Baseline	-0.03	2.06	5.96
	TSL 1	-0.15	1.92	5.78
	TSL 2	-0.21	1.86	5.70
	TSL 3	-0.94	0.98	4.57
<i>Using 7% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>				
1	Baseline	2.98	3.97	5.82
	TSL 1	2.96	3.95	5.78
	TSL 2	2.95	3.94	5.77
	TSL 3	2.83	3.77	5.53
2	Baseline	5.09	6.81	10.01
	TSL 1	5.04	6.75	9.92
	TSL 2	5.02	6.72	9.89
	TSL 3	4.73	6.34	9.34
3	Baseline	0.64	2.73	6.63
	TSL 1	0.56	2.64	6.50
	TSL 2	0.53	2.59	6.44
	TSL 3	0.09	2.01	5.60

Table V.103 Consumer NPV Combined with Present Value of Climate Benefits and Health Benefits for Walk-in Doors (2021 Interim SC-GHG estimates)

TSL	Connected Refrigeration System	5% Average SC-GHG case	3% Average SC-GHG case	2.5% Average SC-GHG case	2.5% Average SC-GHG case
<i>Using 3% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>					
1	Baseline	3.51	3.98	4.30	5.21
	TSL 1	3.49	3.95	4.27	5.17
	TSL 2	3.48	3.94	4.26	5.16
	TSL 3	3.32	3.76	4.07	4.94
2	Baseline	5.94	6.75	7.31	8.88
	TSL 1	5.88	6.68	7.24	8.80
	TSL 2	5.86	6.65	7.21	8.76
	TSL 3	5.49	6.25	6.78	8.25
3	Baseline	-2.87	-1.89	-1.20	0.71
	TSL 1	-2.95	-1.98	-1.30	0.58
	TSL 2	-2.99	-2.03	-1.35	0.53
	TSL 3	-3.55	-2.65	-2.02	-0.26
<i>Using 7% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>					
1	Baseline	1.64	2.11	2.43	3.34
	TSL 1	1.63	2.09	2.42	3.32
	TSL 2	1.62	2.09	2.41	3.31
	TSL 3	1.55	1.99	2.30	3.17
2	Baseline	2.76	3.57	4.13	5.71
	TSL 1	2.73	3.53	4.09	5.65
	TSL 2	2.72	3.52	4.08	5.63
	TSL 3	2.55	3.30	3.83	5.30
3	Baseline	-2.20	-1.22	-0.53	1.38
	TSL 1	-2.24	-1.27	-0.59	1.30
	TSL 2	-2.26	-1.29	-0.61	1.26
	TSL 3	-2.52	-1.62	-0.99	0.77

Table V.104 Consumer NPV Combined with Present Value of Climate Benefits and Health Benefits for Walk-in Panels (2023 SC-GHG estimates)

TSL	Connected Refrigeration System	2.5% Near-term Ramsey DR	2.0% Near-term Ramsey DR	1.5% Near-term Ramsey DR
<i>Using 3% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>				
1	Baseline	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a
2	Baseline	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a
3	Baseline	-1.04	-0.03	1.87
	TSL 1	-1.14	-0.15	1.71
	TSL 2	-1.20	-0.22	1.61
	TSL 3	-1.89	-1.04	0.55
<i>Using 7% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>				
1	Baseline	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a
2	Baseline	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a
3	Baseline	-0.35	0.67	2.56
	TSL 1	-0.41	0.59	2.44
	TSL 2	-0.45	0.54	2.37
	TSL 3	-0.86	0.00	1.59

Note: the entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

Table V.105 Consumer NPV Combined with Present Value of Climate Benefits and Health Benefits for Walk-in Panels (2021 Interim SC-GHG estimates)

TSL	Connected Refrigeration System	5% Average SC-GHG case	3% Average SC-GHG case	2.5% Average SC-GHG case	2.5% Average SC-GHG case
<i>Using 3% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>					
1	Baseline	n/a	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a	n/a
2	Baseline	n/a	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a	n/a
3	Baseline	-2.40	-1.93	-1.60	-0.70
	TSL 1	-2.48	-2.02	-1.70	-0.81
	TSL 2	-2.53	-2.07	-1.75	-0.88
	TSL 3	-3.04	-2.65	-2.37	-1.61
<i>Using 7% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>					
1	Baseline	n/a	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a	n/a
2	Baseline	n/a	n/a	n/a	n/a
	TSL 1	n/a	n/a	n/a	n/a
	TSL 2	n/a	n/a	n/a	n/a
	TSL 3	n/a	n/a	n/a	n/a
3	Baseline	-1.71	-1.24	-0.91	-0.01
	TSL 1	-1.75	-1.29	-0.96	-0.08
	TSL 2	-1.77	-1.31	-0.99	-0.12
	TSL 3	-2.00	-1.61	-1.33	-0.57

Note: the entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

Table V.106 Consumer NPV Combined with Present Value of Climate Benefits and Health Benefits for Walk-in Refrigeration Systems (2023 SC-GHG estimates)

Category	TSL 1	TSL 2	TSL 3
<i>Using 3% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>			
2.5% Near-term Ramsey DR	4.84	7.36	7.40
2.0% Near-term Ramsey DR	5.97	9.09	13.08
1.5% Near-term Ramsey DR	8.08	12.31	23.70
<i>Using 7% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>			
2.5% Near-term Ramsey DR	2.96	4.51	6.41
2.0% Near-term Ramsey DR	4.09	6.24	12.09
1.5% Near-term Ramsey DR	6.20	9.47	22.71

Table V.107 Consumer NPV Combined with Present Value of Climate Benefits and Health Benefits for Walk-in Refrigeration Systems (2021 Interim SC-GHG estimates)

Category	TSL 1	TSL 2	TSL 3
<i>Using 3% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>			
5% Average SC-GHG case	3.32	5.04	-0.25
3% Average SC-GHG case	3.84	5.83	2.38
2.5% Average SC-GHG case	4.21	6.40	4.23
2.5% Average SC-GHG case	5.21	7.93	9.28
<i>Using 7% Discount Rate for Consumer NPV and Health Benefits (billion 2023\$)</i>			
5% Average SC-GHG case	1.44	2.19	-1.24
3% Average SC-GHG case	1.96	2.99	1.39
2.5% Average SC-GHG case	2.33	3.55	3.24
3% 95th percentile SC-GHG case	3.33	5.08	8.28

C. Conclusion

When considering new or amended energy conservation standards, the standards that DOE adopts for any type (or class) of covered equipment must be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also

result in significant conservation of energy. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3)(B))

For this final rule, DOE considered the impacts of new and amended standards for walk-ins at each TSL, beginning with the maximum technologically feasible level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

To aid the reader as DOE discusses the benefits and/or burdens of each TSL, tables in this section present a summary

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

1. Benefits and Burdens of TSLs Considered for Walk-In Cooler and Walk-In Freezer Standards

a. Refrigeration Systems

The efficiency levels contained in each TSL are shown in Table V.108 and described in section IV.E.1 of this document. Table V.109 and Table V.110 summarize the quantitative impacts

estimated for each TSL for walk-in refrigeration systems. The national impacts are measured over the lifetime of walk-ins purchased in the 30-year period that begins in the anticipated year of compliance with amended standards (2029–2058 The energy	savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle results. DOE is presenting monetized benefits of GHG emissions reductions in accordance with the applicable Executive orders, and DOE would reach the same conclusion	presented in this notice in the absence of the estimated benefits from reductions in GHG emissions, including the estimates published by EPA in December 2023 or the Interim Estimates presented by the Interagency Working Group in 2021.

Table V.108 Walk-in Refrigeration System Efficiency Levels by Trial Standard Level

Type	Equipment Class	Capacity (kBtu/h)	TSL 1	TSL 2	TSL 3
Dedicated Condensing Systems	DC.L.I	3	1	1	2
	DC.L.I	9	0	0	1
	DC.L.I	25	2	2	3
	DC.L.I	54	1	1	2
	DC.L.O	3	2	2	3
	DC.L.O	9	4	4	5
	DC.L.O	25	7	7	8
	DC.L.O	54	4	4	5
	DC.L.O	75	2	2	4
	DC.M.I	9	0	0	1
	DC.M.I	25	2	2	3
	DC.M.I	54	2	3	4
	DC.M.I	75	2	2	3
	DC.M.O	9	2	3	8
	DC.M.O	25	2	3	8
	DC.M.O	54	2	4	9
	DC.M.O	75	2	3	8
	DC.M.O	124	2	4	9
Single- Packaged Dedicated Condensing Systems	SP.H.I	2	1	2	2
	SP.H.I	7	2	2	2
	SP.H.I.D	2	2	2	2
	SP.H.I.D	7	2	2	2
	SP.H.O	2	5	5	6
	SP.H.O	7	5	5	6
	SP.H.O.D	2	5	6	6
	SP.H.O.D	7	6	6	6
	SP.L.I	2	4	4	7
	SP.L.I	6	1	1	2
	SP.L.O	2	0	2	4
	SP.L.O	6	1	2	4
	SP.M.I	2	3	3	5
	SP.M.I	9	1	1	3
	SP.M.O	2	8	8	9
	SP.M.O	9	3	3	5
Unit Coolers	UC.H	9	0	0	1
	UC.H	25	0	0	1

Type	Equipment Class	Capacity (kBtu/h)	TSL 1	TSL 2	TSL 3
	UC.H.D	9	1	1	1
	UC.H.D	25	1	1	1
	UC.L	3	1	2	2
	UC.L	9	2	2	2
	UC.L	25	1	2	2
	UC.L	54	2	2	2
	UC.L	75	1	2	2
	UC.M	3	2	2	2
	UC.M	9	1	2	2
	UC.M	25	2	2	2
	UC.M	54	1	2	2
	UC.M	75	0	0	2

Table V.109 Summary of Analytical Results for Walk-in Refrigeration System TSLs: National Impacts

Category	TSL 1	TSL 2	TSL 3
Cumulative FFC National Energy Savings			
Quads	0.67	1.03	3.39
Cumulative FFC Emissions Reduction			
CO ₂ (<i>million metric tons</i>)	12.04	18.40	60.55
CH ₄ (<i>thousand tons</i>)	102.09	155.95	513.28
N ₂ O (<i>thousand tons</i>)	0.12	0.18	0.59
SO ₂ (<i>thousand tons</i>)	3.68	5.62	18.49
NO _x (<i>thousand tons</i>)	22.51	34.39	113.20
Hg (<i>tons</i>)	0.03	0.04	0.13
Present Value of Benefits and Costs (3% discount rate, billion 2023\$)			
Consumer Operating Cost Savings	2.54	3.87	7.28
Climate Benefits* (2023 SC-GHG estimate)	2.83	4.33	14.24
Climate Benefits* (2021 interim SC-GHG estimate)	0.70	1.07	3.54
Health Benefits**	1.37	2.10	6.91
Total Benefits† (2023 SC-GHG estimate)	6.75	10.29	28.43
Total Benefits† (2021 interim SC-GHG estimate)	4.62	7.04	17.72
Consumer Incremental Product Costs‡	0.78	1.21	15.34
Consumer Net Benefits	1.76	2.66	-8.07
Total Net Benefits (2023 SC-GHG estimate)	5.97	9.09	13.08
Total Net Benefits (2021 interim SC-GHG estimate)	3.84	5.83	2.38
Present Value of Benefits and Costs (7% discount rate, billion 2023\$)			
Consumer Operating Cost Savings	1.13	1.71	3.24
Climate Benefits* (2023 SC-GHG estimate)	2.83	4.33	14.24
Climate Benefits* (2021 interim SC-GHG estimate)	0.70	1.07	3.54
Health Benefits**	0.55	0.84	2.77
Total Benefits† (2023 SC-GHG estimate)	4.51	6.88	20.25
Total Benefits† (2021 interim SC-GHG estimate)	2.38	3.63	9.54
Consumer Incremental Product Costs‡	0.42	0.64	8.16
Consumer Net Benefits	0.71	1.07	-4.92
Total Net Benefits (2023 SC-GHG estimate)	4.09	6.24	12.09
Total Net Benefits (2021 interim SC-GHG estimate)	1.96	2.99	1.39

Note: This table presents the costs and benefits associated with walk-in refrigeration systems shipped in 2029–2058. These results include benefits to consumers which accrue after 2058 from the products shipped in 2029–2058. Parentheses indicate negative (-) values. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

* Climate benefits are calculated using different estimates of the SC-CO₂, SC-CH₄ and SC-N₂O. Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and another interim set of estimates published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) which were used in the NOPR.) These estimates represent the global SC-GHG. For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3-percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for NO_x and SO₂) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. The health benefits are presented at real discount rates of 3 and 7 percent. Table 5 of the EPA’s Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 21 Sectors TSD provides a summary of the health impact endpoints quantified in the analysis. See section IV.L of this document for more details.

† Total and net benefits include consumer, climate, and health benefits. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 SC-GHG estimates and the average SC-GHG with 3-percent discount rate for the 2021 interim SC-GHG estimates.

† Total and net benefits include consumer, climate, and health benefits. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 estimate and the average SC-GHG with a 3-percent discount rate for the 2021 interim SC-GHG estimate.

‡ Costs include incremental equipment costs as well as installation costs.

**Table V.110 Summary of Analytical Results for Walk-in Coolers and Freezers
Refrigeration System TSLs: Manufacturer and Consumer Impacts**

Category	TSL 1*	TSL 2*	TSL 3*
Manufacturer Impacts			
Industry NPV (<i>million 2023\$</i>) (No-new-standards case INPV = 542.0)	492.3 to 502.5	480.8 to 496.2	360.8 to 570.8
Industry NPV (<i>% change</i>)	(9.2) to (7.3)	(11.3) to (8.4)	(33.4) to 5.3
Consumer Average LCC Savings (2023\$)			
DC.L.I	381	381	(2,241)
DC.L.O	112	112	(8,252)
DC.M.I	548	660	(726)
DC.M.O	90	298	(220)
SP.H.I	147	161	161
SP.H.I.D	368	368	368
SP.H.O	108	108	(92)
SP.H.O.D	356	316	316
SP.L.I	285	285	(937)
SP.L.O	102	101	(1,150)
SP.M.I	132	132	(1,016)
SP.M.O	68	68	(1,212)
UC.H	0	0	(120)
UC.H.D	214	214	214
UC.L	1,026	1,304	1,304
UC.M	65	66	15
Shipment-Weighted Average*	256	370	(861)
Consumer Simple PBP (years)			
DC.L.I	2.0	2.0	20.3
DC.L.O	4.4	4.4	24.2
DC.M.I	3.2	3.5	11.4
DC.M.O	0.3	1.5	6.7
SP.H.I	0.5	0.7	0.7
SP.H.I.D	0.8	0.8	0.8
SP.H.O	3.1	3.1	7.5
SP.H.O.D	2.9	3.2	3.2
SP.L.I	2.0	2.0	16.1
SP.L.O	0.1	0.2	33.3
SP.M.I	2.7	2.7	29.2
SP.M.O	3.8	3.8	47.4
UC.H	0.0	0.0	33.8
UC.H.D	1.2	1.2	1.2
UC.L	1.1	1.2	1.2
UC.M	4.4	4.7	5.8
Shipment-Weighted Average*	2.4	3.0	8.6
Percent of Consumers that Experience a Net Cost (%)			
DC.L.I	3	3	99
DC.L.O	36	36	93
DC.M.I	5	6	87
DC.M.O	0	3	76
SP.H.I	1	1	1

Category	TSL 1*	TSL 2*	TSL 3*
SP.H.I.D	0	0	0
SP.H.O	17	17	79
SP.H.O.D	13	24	24
SP.L.I	6	6	100
SP.L.O	0	0	100
SP.M.I	13	13	100
SP.M.O	18	18	100
UC.H	0	0	95
UC.H.D	2	2	2
UC.L	5	8	8
UC.M	38	43	52
Shipment-Weighted Average*	16	19	64

Parentheses indicate negative (-) values. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

* Weighted by shares of each equipment class in total projected shipments in 2024.

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For walk-in refrigeration systems, DOE first considered TSL 3, which represents the max-tech efficiency levels. At this level, DOE expects that medium- and low-temperature dedicated condensing system equipment classes¹⁴³ would require larger condenser coils, variable capacity compressors, and electronically commutated variable-speed condenser fan motors. Additionally, low- and medium-temperature outdoor dedicated condensing system equipment classes would generally require self-regulating crankcase heater controls with a temperature switch, and ambient subcooling circuits. DOE anticipates that low- and medium-temperature single-packaged dedicated system equipment classes would also require larger evaporator coils, variable speed evaporator fans, and thermal insulation up to 4 inches in thickness. DOE expects that lower-capacity low- and medium-temperature single-packaged dedicated condensing units would require propane compressors. DOE expects that high-temperature dedicated condensing system equipment classes would require the same design options as medium- and low-temperature dedicated condensing systems except for larger condensing coils and variable capacity compressors.¹⁴⁴ Additionally, DOE expects that high-temperature

single-packaged dedicated condensing systems would require up to 1.5 inches of thermal insulation and would not require larger evaporator coils or variable speed evaporator fans.¹⁴⁵ Finally, DOE anticipates that low-, medium-, and high-temperature unit cooler equipment classes would require evaporator coils 5 rows deep at TSL 3.

TSL 3 would save an estimated 3.39 quads of energy, an amount DOE considers significant. Under TSL 3, the NPV of consumer benefit would be –\$4.92 billion using a discount rate of 7 percent, and –\$8.07 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 3 are 60.55 million Mt of CO₂, 18.49 thousand tons of SO₂, 113.20 thousand tons of NO_x, 0.13 tons of Hg, 513.28 thousand tons of CH₄, and 0.59 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions at TSL 3 is \$14.24 billion (associated with the average SC–GHG at a 2-percent near-term Ramsey discount rate using the 2023 SC–GHG estimates) or \$3.54 billion (associated with the average SC–GHG at a 3-percent discount rate using the 2021 interim SC–GHG estimates). The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 3 is \$2.77 billion using a 7-percent discount rate and \$6.91 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 3 is \$12.09 billion (using the 2023 SC–GHG estimates) or \$1.39 billion (using the 2021 interim SC–GHG estimates). Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 3 is \$13.08 billion (using the 2023 SC–GHG estimates) or \$2.38 billion (using the 2021 interim SC–GHG estimates). The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a proposed standard level is economically justified.

At TSL 3, the average LCC impact ranges from a savings of –\$8,252 for low-temperature, outdoor, dedicated condensing units (DC.L.O), to \$1,304 for low-temperature unit coolers (UC.L). The simple payback period ranges from 0.7 years for high-temperature, indoor, single-packaged dedicated systems (SP.H.I) to 47.4 years for medium-temperature, outdoor, single-packaged dedicated systems (SP.M.O). The fraction of consumers experiencing a net LCC cost ranges from 0.4 percent for high-temperature, ducted, indoor, single-packaged dedicated systems (SP.H.I.D) to 100.0 percent for low-

¹⁴³ Dedicated condensing system equipment classes include dedicated condensing units, matched-pair refrigeration systems (consisting of a paired dedicated condensing unit and unit cooler) and single-packaged dedicated systems.

¹⁴⁴ As discussed in section 5.7 of the final rule TSD, DOE did not consider larger condensing coils or variable capacity compressors for high-temperature dedicated condensing systems.

¹⁴⁵ As discussed in section 5.7 of the final rule TSD, DOE did not consider larger evaporator coils or off cycle variable speed evaporator fans for high-temperature single-packaged dedicated condensing systems and only considered improved thermal insulation up to 1.5 inches.

temperature and medium-temperature indoor and outdoor single-packaged dedicated systems.

At TSL 3, the projected change in INPV ranges from a decrease of \$181.1 million to an increase of \$28.9 million, which corresponds to a decrease of 33.4 percent and an increase of 5.3 percent, respectively. DOE estimates that industry must invest \$149.1 million to redesign walk-in refrigeration systems and purchase new tooling to accommodate changes to the condensers and/or evaporators for most analyzed capacities and equipment classes.

Currently, DOE has no evidence of significant shipments meeting the max-tech levels. As such, all manufacturers would need to redesign their walk-in refrigeration system models to incorporate a range of design options to meet TSL 3 efficiencies. Capital conversion costs are driven by incorporating design options such as larger condenser coils, improved evaporator coils, and/or ambient subcooling circuits, which would likely necessitate new tooling for updated baseplate designs across the full range of refrigeration system capacities and equipment classes. DOE expects manufacturers may need to increase the size of the cabinet to incorporate larger condenser coils or additional rows since there might not be sufficient room to increase the size of the heat exchanger within existing case dimensions. Some manufacturers may need to purchase new equipment to maintain current production levels. Implementing these design options would also require notable engineering resources and testing time, as manufacturers redesign models and potentially increase the footprint of refrigeration systems to accommodate larger condensers and/or evaporators.

Manufacturers would also need to qualify, source, and test new high-efficiency components. For medium- and low-temperature dedicated condensing system equipment classes that would likely require variable capacity compressors to meet the max-tech levels, manufacturers could face challenges sourcing variable capacity compressors across their portfolio of capacity offerings since the availability of variable capacity compressors for walk-in applications is limited. At the time of this final rule publication, the few variable capacity compressor product lines DOE identified appear to be primarily advertised for markets outside of North America. Additionally, the identified product lines may not have a sufficient range of available compressor capacities to replace compressors in all walk-in applications.

The Secretary concludes that at TSL 3 for walk-in refrigeration systems, the benefits of energy savings, emissions reductions, and the estimated monetary value of the emissions reductions would be outweighed by the economic burden on many consumers in the form of negative NPV of consumer benefits, and the impacts on manufacturers, including the large conversion costs, and profit margin impacts that could result in a large reduction in INPV. Most consumers of low- and medium-temperature dedicated condensing system and single-packaged dedicated system consumers (ranging from 0.4 to 100.0 percent) would experience a net cost and the average LCC savings would be negative. At this level, there is risk of greater reduction in INPV at max-tech if manufacturers maintain their operating profit in the presence of amended efficiency standards on account of having higher costs but similar profits. Most manufacturers would need to dedicate significant capital and engineering resources to incorporate all analyzed design options across their entire range of equipment classes and capacity offerings. Furthermore, manufacturers may face challenges sourcing variable capacity compressors given the limited availability of variable capacity compressor product lines designed for walk-in applications. Consequently, the Secretary has concluded that TSL 3 is not economically justified.

DOE then considered TSL 2 for walk-in refrigeration systems. DOE expects that for medium- and low-temperature dedicated condensing systems, TSL 2 would not necessitate the use of variable capacity compressors. DOE expects that at TSL 2, all dedicated condensing system equipment classes would generally require electronically commutated condenser fan motors; all outdoor dedicated condensing system equipment would generally require self-regulating crankcase heater controls with a temperature switch; additionally, low-temperature outdoor dedicated condensing system equipment classes would generally require variable-speed condenser fan motors and all but the highest capacity units would generally require ambient subcooling circuits; some medium-temperature outdoor dedicated condensing unit equipment classes would require improved single-speed compressors; low-temperature and indoor medium-temperature dedicated condensing unit equipment classes would generally require larger condenser coils; low- and medium-temperature single-packaged dedicated system equipment classes would

generally require larger evaporator coils and variable speed evaporator fans; lower-capacity medium-temperature single-packaged dedicated condensing systems would generally require propane compressors; higher capacity indoor low-temperature single-packaged dedicated system equipment classes would generally require thermal insulation up to 4 inches in thickness; outdoor medium-temperature single-packaged dedicated system equipment classes would generally require variable speed condenser fans; lower capacity outdoor medium-temperature single-packaged dedicated system equipment classes would generally require thermal insulation up to 4 inches in thickness and ambient subcooling circuits; high-temperature indoor, and outdoor ducted, dedicated condensing system equipment classes would generally incorporate max-tech design options; finally high-temperature outdoor non-ducted dedicated condensing system equipment classes would generally require thermal insulation up to 1.5 inches in thickness, and variable speed condenser fans.

DOE expects that at TSL 2 all unit cooler equipment classes would incorporate the max-tech design options, except for high-temperature non-ducted unit coolers, which would generally require evaporator coils 4 rows deep, and highest-capacity medium-temperature unit coolers, which would generally only require 3-row deep evaporator coils.

TSL 2 would save an estimated 1.03 quads of energy, an amount DOE considers significant. Under TSL 2, the NPV of consumer benefit would be \$1.07 billion using a discount rate of 7 percent, and \$2.66 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 2 are 18.40 million Mt of CO₂, 5.62 thousand tons of SO₂, 34.39 thousand tons of NO_x, 0.04 tons of Hg, 155.95 thousand tons of CH₄, and 0.18 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions at TSL 2 is \$4.33 billion (associated with the average SC-GHG at a 2-percent near-term Ramsey discount rate using the 2023 SC-GHG estimates) or \$1.07 billion (associated with the average SC-GHG at a 3-percent discount rate using the 2021 interim SC-GHG estimates). The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 2 is \$0.84 billion using a 7-percent discount rate and \$2.10 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health

benefits from reduced SO₂ and NO_x emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 2 is \$6.24 billion (using the 2023 SC–GHG estimates) or \$2.99 billion (using the 2021 interim SC–GHG estimates). Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 2 is \$9.09 billion (using the 2023 SC–GHG estimates) or \$5.83 billion (using the 2021 interim SC–GHG estimates). The estimated total NPV is provided for additional information; however, DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At TSL 2, the average LCC impact ranges from a savings of \$66 for medium-temperature unit coolers (UC.M) to \$1,304 for low-temperature unit coolers (UC.L).¹⁴⁶ The simple payback period ranges from 0.2 years for low-temperature, outdoor, single-packaged dedicated systems (SP.L.O) to 4.7 years for medium-temperature unit coolers (UC.M). The fraction of consumers experiencing a net LCC cost ranges from 0 percent for low-temperature, outdoor, single-packaged dedicated systems (SP.L.O) and high-

temperature, indoor, ducted single-packaged dedicated systems (SP.H.I.D) to 42.8 percent for medium temperature unit coolers (UC.M).

At TSL 2, the projected change in INPV ranges from a decrease of \$61.2 million to a decrease of \$45.7 million, which corresponds to decreases of 11.3 percent and 8.4 percent, respectively. DOE estimates that industry must invest \$90.1 million to redesign walk-in refrigeration systems and purchase some new tooling to accommodate changes to the condensers and/or evaporators for select capacities and equipment classes. At this level, DOE expects manufacturers could reach the TSL 2 efficiencies without implementing all the max-tech design options. Specifically, compared to max-tech, only some analyzed dedicated condensing system representative units would have to incorporate larger condenser coils or ambient subcooling, reducing the expected capital and product conversion costs at this level (*i.e.*, all DC.M.O representative units would not require larger condensers or ambient subcooling, which accounts for approximately 50 percent of industry dedicated refrigeration system unit shipments). Additionally, at this level, DOE does not expect manufacturers would need to implement variable capacity compressors, further reducing industry product conversion costs as compared to TSL 3.

After considering the analysis and weighing the benefits and burdens, the Secretary has concluded that a standard set at TSL 2 for refrigeration systems would be economically justified. At this TSL, the average LCC savings for all refrigeration equipment is positive. The

consumers of medium-temperature unit coolers will be most affected with 43 percent of consumers experiencing a net cost, the consumers of the remaining equipment are estimated to experience a net cost between 1 and 36 percent of the time. The FFC national energy savings are significant and the NPV of consumer benefits is positive using both a 3-percent and 7-percent discount rate. Notably, the benefits to consumers vastly outweigh the cost to manufacturers. At TSL 2, the NPV of consumer benefits, even measured at the more conservative discount rate of 7 percent is over 19 times higher than the maximum estimated manufacturers' loss in INPV. The standard levels at TSL 2 are economically justified even without weighing the estimated monetary value of emissions reductions. When those emissions reductions are included—representing \$4.33 billion in climate benefits (associated with the average SC–GHG at a 2-percent near-term Ramsey discount rate using the 2023 SC–GHG estimates) or \$1.07 billion in climate benefits (associated with the average SC–GHG at a 3-percent discount rate using the 2021 interim SC–GHG estimate), and \$2.10 billion (using a 3-percent discount rate) or \$0.84 billion (using a 7-percent discount rate) in health benefits—the rationale becomes stronger still.

Therefore, based on the previous considerations, DOE adopts energy conservation standards for walk-in refrigeration systems at TSL 2. The amended energy conservation standards for walk-in refrigeration systems, which are expressed as AWEF2, are shown in Table V.111.

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¹⁴⁶ For this summary statement of consumer impacts DOE did not include high-temperature unit coolers as DOE is not amending standards for this equipment at this time.

Table V.111 Amended Energy Conservation Standards for Walk-in Refrigeration Systems

Equipment Class	Net Capacity (q_{net})*	Minimum AWEF2* Btu/W-h
Dedicated Condensing System - High-Temperature, Indoor, Non-Ducted	< 7,000 Btu/h	$7.55 \times 10^{-4} \times q_{\text{net}} + 2.37$
	$\geq 7,000$ Btu/h	7.66
Dedicated Condensing System – High-Temperature, Outdoor, Non-Ducted	< 7,000 Btu/h	$1.02 \times 10^{-3} \times q_{\text{net}} + 2.40$
	$\geq 7,000$ Btu/h	9.55
Dedicated Condensing System - High-Temperature, Indoor, Ducted	< 7,000 Btu/h	$2.46 \times 10^{-4} \times q_{\text{net}} + 1.55$
	$\geq 7,000$ Btu/h	3.27
Dedicated Condensing System - High-Temperature, Outdoor, Ducted	< 7,000 Btu/h	$3.60 \times 10^{-4} \times q_{\text{net}} + 1.88$
	$\geq 7,000$ Btu/h	4.39
Dedicated Condensing System other than Single-Packaged - Medium-Temperature, Indoor	< 8,000 Btu/h	5.61
	$\geq 8,000$ Btu/h and < 25,000 Btu/h	$3.35 \times 10^{-5} \times q_{\text{net}} + 5.34$
	$\geq 25,000$ Btu/h	6.18
Dedicated Condensing System other than Single-Packaged - Medium-Temperature, Outdoor	< 25,000 Btu/h	$1.61 \times 10^{-5} \times q_{\text{net}} + 7.26$
	$\geq 25,000$ Btu/h and < 54,000 Btu/h	$7.59 \times 10^{-6} \times q_{\text{net}} + 7.47$
	$\geq 54,000$ Btu/h	7.88
Dedicated Condensing System other than Single-Packaged - Low-Temperature, Indoor	< 9,000 Btu/h	$4.64 \times 10^{-5} \times q_{\text{net}} + 2.18$
	$\geq 9,000$ Btu/h and < 25,000 Btu/h	$2.52 \times 10^{-5} \times q_{\text{net}} + 2.37$
	$\geq 25,000$ Btu/h and < 54,000 Btu/h	$1.45 \times 10^{-6} \times q_{\text{net}} + 2.96$
	$\geq 54,000$ Btu/h	3.04
Dedicated Condensing System other than Single-Packaged - Low-Temperature, Outdoor	< 9,000 Btu/h	$9.93 \times 10^{-5} \times q_{\text{net}} + 2.62$
	$\geq 9,000$ Btu/h and < 25,000 Btu/h	$3.14 \times 10^{-5} \times q_{\text{net}} + 3.23$
	$\geq 25,000$ Btu/h and < 75,000 Btu/h	$4.72 \times 10^{-6} \times q_{\text{net}} + 3.90$
	$\geq 75,000$ Btu/h	4.25
Single-Packaged Dedicated Condensing System - Medium-Temperature, Indoor	< 9,000 Btu/h	$1.00 \times 10^{-4} \times q_{\text{net}} + 4.91$
	$\geq 9,000$ Btu/h	5.81
Single-Packaged Dedicated Condensing System - Medium-Temperature, Outdoor	< 9,000 Btu/h	$3.07 \times 10^{-4} \times q_{\text{net}} + 4.73$
	$\geq 9,000$ Btu/h	7.49
Single-Packaged Dedicated Condensing System - Low-Temperature, Indoor	< 6,000 Btu/h	$8.00 \times 10^{-5} \times q_{\text{net}} + 1.80$
	$\geq 6,000$ Btu/h	2.28
Single-Packaged Dedicated Condensing System - Low-Temperature, Outdoor	< 6,000 Btu/h	$1.39 \times 10^{-4} \times q_{\text{net}} + 1.95$
	$\geq 6,000$ Btu/h	2.78
Unit Cooler - High-Temperature Non-Ducted	< 9,000 Btu/h	10.33
	$\geq 9,000$ Btu/h and < 25,000 Btu/h	$3.83 \times 10^{-4} \times q_{\text{net}} + 6.89$
	$\geq 25,000$ Btu/h	16.45
Unit Cooler - High-Temperature Ducted	< 9,000 Btu/h	6.64
	$\geq 9,000$ Btu/h and < 25,000 Btu/h	$3.70 \times 10^{-4} \times q_{\text{net}} + 3.31$
	$\geq 25,000$ Btu/h	12.57
Unit Cooler - Medium-Temperature	< 54,000 Btu/h	9.65
	$\geq 54,000$ Btu/h and < 75,000 Btu/h	$-3.10 \times 10^{-5} \times q_{\text{net}} + 11.32$
	$\geq 75,000$ Btu/h	9.00
Unit Cooler - Low-Temperature	All	4.57

* Where q_{net} is net capacity as determined in accordance with § 431.304 and certified in accordance with 10 CFR part 429.

b. Doors

Table V.113, Table V.114, Table V.116, and Table V.117 summarize the quantitative impacts estimated for each TSL for walk-in display doors and non-display doors. National impacts for walk-in doors are measured over the lifetime of walk-ins purchased in the 30-year period that begins in the anticipated year of compliance with amended standards (2028–2057). The energy savings, emissions reductions,

and value of emissions reductions refer to full-fuel-cycle results. DOE is presenting monetized benefits of GHG emissions reductions in accordance with the applicable Executive orders, and DOE would reach the same conclusion presented in this notice in the absence of the estimated benefits from reductions in GHG emissions, including the estimates published by EPA in December 2023 or the Interim Estimates presented by the Interagency Working Group in 2021. The efficiency

levels contained in each TSL are described in section IV.E.1 of this document and shown in Table V.112 and Table V.115 for display doors and non-display doors, respectively.

Display Doors

Walk-in display door efficiency levels contained in each TSL are shown in Table V.112 and described in section IV.E.1 of this document and summarize the quantitative impacts estimated for each TSL for walk-in display doors.

Table V.112 Walk-in Display Doors Efficiency Level Mapping by Trial Standard Level

Equipment Class	TSL 1	TSL 2	TSL 3
Low Temperature (DW.L)	0	0	2
Medium Temperature (DW.M)	0	0	2

Table V.113 Summary of Analytical Results for Walk-in Display Door TSLs: National Impacts (Evaluated when used in conjunction with a TSL 2 Refrigeration System)

Category	TSL 1	TSL 2	TSL 3
Cumulative FFC National Energy Savings			
Quads	n/a	n/a	0.13
Cumulative FFC Emissions Reduction			
CO ₂ (million metric tons)	n/a	n/a	2.41
CH ₄ (thousand tons)	n/a	n/a	20.38
N ₂ O (thousand tons)	n/a	n/a	0.02
SO ₂ (thousand tons)	n/a	n/a	0.73
NO _x (thousand tons)	n/a	n/a	4.49
Hg (tons)	n/a	n/a	0.01
Present Value of Benefits and Costs (3% discount rate, billion 2023\$)			
Consumer Operating Cost Savings	n/a	n/a	0.58
Climate Benefits* (2023 SC-GHG estimate)	n/a	n/a	0.57
Climate Benefits* (2021 interim SC-GHG estimate)	n/a	n/a	0.14
Health Benefits**	n/a	n/a	0.27
Total Benefits† (2023 SC-GHG estimate)	n/a	n/a	1.42
Total Benefits† (2021 interim SC-GHG estimate)	n/a	n/a	1.00
Consumer Incremental Product Costs‡	n/a	n/a	8.50
Consumer Net Benefits	n/a	n/a	-7.91
Total Net Benefits (2023 SC-GHG estimate)	n/a	n/a	-7.07
Total Net Benefits (2021 interim SC-GHG estimate)	n/a	n/a	-7.50
Present Value of Benefits and Costs (7% discount rate, billion 2023\$)			
Consumer Operating Cost Savings	n/a	n/a	0.26
Climate Benefits* (2023 SC-GHG estimate)	n/a	n/a	0.57
Climate Benefits* (2021 interim SC-GHG estimate)	n/a	n/a	0.14
Health Benefits**	n/a	n/a	0.11
Total Benefits† (2023 SC-GHG estimate)	n/a	n/a	0.94
Total Benefits† (2021 interim SC-GHG estimate)	n/a	n/a	0.51
Consumer Incremental Product Costs‡	n/a	n/a	4.66
Consumer Net Benefits	n/a	n/a	-4.40
Total Net Benefits (2023 SC-GHG estimate)	n/a	n/a	-3.72
Total Net Benefits (2021 interim SC-GHG estimate)	n/a	n/a	-4.15

Note: This table presents the costs and benefits associated with walk-in display doors shipped in 2028–2057. These results include benefits to consumers which accrue after 2057 from the equipment shipped in 2028–2057.

Parentheses indicate negative (-) values. The entry “n/a” means not applicable because there is no change in the standard at certain TSLs.

* Climate benefits are calculated using different estimates of the global SC-GHG. Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and another set published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) which was used in the NOPR (see section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are

shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA's Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 21 Sectors TSD provides a summary of the health impact endpoints quantified in the analysis. See section IV.L of this document for more details.

† Total and net benefits include consumer, climate, and health benefits. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 estimate and the average SC-GHG with a 3-percent discount rate for the 2021 interim SC-GHG estimate.

‡ Costs include incremental equipment costs as well as installation costs

Table V.114 Summary of Analytical Results for Walk-In Display Doors TSLs: Manufacturer and Consumer Impacts (Evaluated when used in conjunction with a TSL 2 Refrigeration System)

Category	TSL 1*	TSL 2*	TSL 3*
Manufacturer Impacts			
Industry NPV (million 2023\$) (No-new-standards case INPV = 218.7)	218.7	218.7	148.5 to 287.7
Industry NPV (% change)	n/a	n/a	(32.1) to 31.5
Consumer Average LCC Savings (2023\$)			
DW.L	n/a	n/a	(1,062)
DW.M	n/a	n/a	(1,304)
Shipment-Weighted Average*	n/a	n/a	(1,276)
Consumer Simple PBP (years)			
DW.L	n/a	n/a	37.5
DW.M	n/a	n/a	196.0
Shipment-Weighted Average*	n/a	n/a	177.7
Percent of Consumers that Experience a Net Cost			
DW.L	n/a	n/a	100
DW.M	n/a	n/a	100
Shipment-Weighted Average*	n/a	n/a	100

Parentheses indicate negative (-) values. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

* Weighted by shares of each equipment class in total projected shipments in 2024.

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For walk-in display doors, DOE first considered TSL 3, which represents the max-tech efficiency levels. At TSL 3, DOE expects display doors would require the use of vacuum-insulated

glass as a substitute for the prescriptive minimum design of double-pane or triple-pane insulated glass packs for medium-temperature doors and low-temperature doors, respectively. TSL 3

would save an estimated 0.13 quads of energy, an amount DOE considers significant. Under TSL 3, the NPV of consumer benefit would be –\$4.40 billion using a discount rate of 7

percent, and –\$7.91 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 3 are 2.41 million Mt of CO₂, 0.73 thousand tons of SO₂, 4.49 thousand tons of NO_x, 0.01 tons of Hg, 20.38 thousand tons of CH₄, and 0.02 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions at TSL 3 is 1.42 billion (associated with the average SC–GHG at a 2-percent near-term Ramsey discount rate using the 2023 SC–GHG estimates) or \$1.00 billion (associated with the average SC–GHG at a 3-percent discount rate using the 2021 interim SC–GHG estimates). The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 3 is \$0.11 billion using a 7-percent discount rate and \$0.27 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 3 is –\$3.72 billion (using the 2023 SC–GHG estimates) or –\$4.15 billion (using the 2021 interim SC–GHG estimates). Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 3 is –\$7.07 billion (using the 2023 SC–GHG estimates) or –\$7.50 billion (using the 2021 interim SC–GHG estimates). The estimated total NPV is provided for additional information; however, DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At TSL 3, when used in conjunction with a TSL 2 refrigeration system, the average LCC impact ranges from a savings of –\$1,304 for medium-temperature display doors (DW.M), to –\$1,062 for low-temperature display doors (DW.L). The simple payback period ranges from 37.5 years for low-temperature display doors (DW.L) to 196.0 years for medium-temperature display doors (DW.M). The fraction of consumers experiencing a net LCC cost is 100.0 percent for all equipment classes.

At TSL 3 for walk-in display doors, the projected change in INPV ranges from a decrease of \$70.2 million to an increase of \$69.0 million, which corresponds to a decrease of 32.1 percent and an increase of 31.5 percent, respectively. DOE estimates industry would invest \$37.4 million to redesign walk-in display doors to incorporate vacuum-insulated glass.

DOE estimates that there are no walk-in display door shipments that currently meet the max-tech efficiency levels. For the 10 OEMs that manufacture walk-in display doors, implementing vacuum-insulated glass would require significant engineering resources and testing time to ensure adequate durability of their doors in all commercial settings. In interviews, manufacturers emphasized that there are currently a very limited number of suppliers of vacuum-insulated glass. Door manufacturers expressed concerns that the 3-year conversion period between the publication of the final rule and the compliance date of the amended energy conservation standard might be insufficient to design and test a full portfolio of vacuum-insulated doors that meet the max-tech efficiencies and maintain their internal metrics over the door lifetime.

The Secretary concludes that at TSL 3 for all walk-in display doors, the benefits of energy savings, emission reductions, and the estimated monetary

value of the emissions reductions would be outweighed by the economic burden in the form of negative NPV of consumer benefits, and the impacts on manufacturers, including the large conversion costs and profit margin impacts that could result in a large reduction in INPV. No manufacturers currently offer equipment that meet the efficiency levels required at TSL 3. Walk-in display door manufacturers raised concern about their ability to incorporate vacuum insulated glass across all their offerings, while also maintaining important display door performance characteristics, within three years. Consequently, the Secretary has concluded that TSL 3 is not economically justified.

As discussed in section IV.E.1 of this document, DOE did not incorporate the other analyzed efficiency levels above baseline into TSL 2 or TSL 1 since the other analyzed efficiency levels do not yield positive consumer benefits for either of the display door equipment classes (see appendix 8C of the final rule TSD). Absent positive consumer benefits, it is unlikely DOE will determine that there is a sufficient economic basis to support amended standard levels. Here, DOE has determined there is no combination of energy efficiency improvements for display-doors that is economically justified. Therefore, based on the previous considerations, the Secretary is not amending energy conservation standards for walk-in display doors at this time.

Non-Display Doors

Walk-in non-display door efficiency levels contained in each TSL are shown in Table V.115 and described in section IV.E.1 of this document. Table V.116 and Table V.117 summarize the quantitative impacts estimated for each TSL for walk-in non-display doors.

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Table V.115 Walk-in Non-Display Door Efficiency Level Mapping by Trial Standard Level

Equipment Class	TSL 1	TSL 2	TSL 3
Non-Motorized Low Temperature (NM.L)	1	3	5
Non-Motorized Medium Temperature (NM.M)	1	3	6
Motorized Low Temperature (NO.L)	1	3	5
Motorized Medium Temperature (NO.M)	1	3	6

**Table V.116 Summary of Analytical Results for Walk-in Non-display Doors TSLs:
National Impacts (Evaluated when used in conjunction with a TSL 2 Refrigeration System)**

Category	TSL 1	TSL 2	TSL 3
Cumulative FFC National Energy Savings			
Quads	0.57	0.99	1.07
Cumulative FFC Emissions Reduction			
CO ₂ (<i>million metric tons</i>)	10.42	18.02	19.47
CH ₄ (<i>thousand tons</i>)	87.23	150.92	163.09
N ₂ O (<i>thousand tons</i>)	0.10	0.18	0.19
SO ₂ (<i>thousand tons</i>)	3.20	5.53	5.97
NO _x (<i>thousand tons</i>)	19.37	33.51	36.21
Hg (<i>tons</i>)	0.02	0.04	0.04
Present Value of Benefits and Costs (3% discount rate, billion 2023\$)			
Consumer Operating Cost Savings	2.65	4.59	4.96
Climate Benefits* (2023 SC-GHG estimate)	2.48	4.28	4.63
Climate Benefits* (2021 interim SC-GHG estimate)	0.62	1.08	1.17
Health Benefits**	1.23	2.13	2.31
Total Benefits† (2023 SC-GHG estimate)	6.36	11.00	11.89
Total Benefits† (2021 interim SC-GHG estimate)	4.51	7.80	8.43
Consumer Incremental Product Costs‡	0.57	1.15	2.96
Consumer Net Benefits	2.08	3.44	2.00
Total Net Benefits (2023 SC-GHG estimate)	5.79	9.86	8.93
Total Net Benefits (2021 interim SC-GHG estimate)	3.94	6.65	5.47
Present Value of Benefits and Costs (7% discount rate, billion 2023\$)			
Consumer Operating Cost Savings	1.25	2.16	2.33
Climate Benefits* (2023 SC-GHG estimate)	2.48	4.28	4.63
Climate Benefits* (2021 interim SC-GHG estimate)	0.62	1.08	1.17
Health Benefits**	0.53	0.91	0.98
Total Benefits† (2023 SC-GHG estimate)	4.25	7.35	7.95
Total Benefits† (2021 interim SC-GHG estimate)	2.40	4.15	4.48
Consumer Incremental Product Costs‡	0.32	0.63	1.63
Consumer Net Benefits	0.93	1.53	0.71
Total Net Benefits (2023 SC-GHG estimate)	3.94	6.72	6.32
Total Net Benefits (2021 interim SC-GHG estimate)	2.09	3.52	2.86

Note: This table presents the costs and benefits associated with walk-in non-display doors shipped in 2028–2057. These results include benefits to consumers which accrue after 2057 from the equipment shipped in 2028–2057.

* Climate benefits are calculated using different estimates of the global SC-GHG. Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and another set published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) which was used in the NOPR (see section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA’s Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 21 Sectors TSD provides a summary of the health impact endpoints quantified in the analysis. See section IV.L of this document for more details.

† Total and net benefits include consumer, climate, and health benefits. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 estimate and the average SC-GHG with a 3-percent discount rate for the 2021 interim SC-GHG estimate.

‡ Costs include incremental equipment costs as well as installation costs.

Table V.117 Summary of Analytical Results for Walk-in Non-display Doors TSLs: Manufacturer and Consumer Impacts (Evaluated when used in conjunction with a TSL 2 Refrigeration System)

Category	TSL 1*	TSL 2*	TSL 3*
Manufacturer Impacts			
Industry NPV (million 2023\$) (No-new-standards case INPV = 508.4)	506.4 to 511.9	475.6 to 495.3	415.8 to 475.3
Industry NPV (% change)	(0.4) to 0.7	(6.5) to (2.6)	(18.2) to (6.5)
Consumer Average LCC Savings (2023\$)			
NM.L	683	1,185	1,019
NM.M	270	315	(1)
NO.L	914	1,583	1,516
NO.M	397	489	200
Shipment-Weighted Average*	415	616	352
Consumer Simple PBP (years)			
NM.L	1.0	1.0	2.2
NM.M	2.0	2.6	6.9
NO.L	0.8	0.8	1.6
NO.M	1.5	2.0	4.5
Shipment-Weighted Average*	1.6	2.1	5.2
Percent of Consumers that Experience a Net Cost			
NM.L	2	2	7
NM.M	6	11	55
NO.L	1	1	4
NO.M	3	6	33
Shipment-Weighted Average*	4	8	38

Parentheses indicate negative (-) values.

* Weighted by shares of each equipment class in total projected shipments in 2024.

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For walk-in non-display doors, DOE first considered TSL 3, which represents the max-tech efficiency levels. At TSL 3, DOE expects manufacturers would likely need to incorporate the following additional design options: anti-sweat heater controls, improved framing systems filled with polyurethane foam instead of wood, reduced anti-sweat heat, and insulation thickness of 6 inches.

For walk-in non-display doors, TSL 3 would save an estimated 1.07 quads of energy, an amount DOE considers significant. Under TSL 3, the NPV of consumer benefit would be \$0.71 billion using a discount rate of 7 percent, and

\$2.00 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 3 are 19.47 million Mt of CO₂, 5.97 thousand tons of SO₂, 36.21 thousand tons of NO_x, 0.04 tons of Hg, 163.09 thousand tons of CH₄, and 0.19 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emission at TSL 3 is \$4.63 billion (associated with the average SC-GHG at a 2-percent near-term Ramsey discount rate using the 2023 SC-GHG estimates) or 1.17 billion (associated with the average SC-GHG at a 3-percent discount rate using the 2021 interim SC-GHG estimates). The estimated monetary value of the health benefits from reduced SO₂ and NO_x

emissions at TSL 3 is \$0.98 billion using a 7-percent discount rate and \$2.31 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 3 is \$6.32 billion (using the 2023 SC-GHG estimates) or 6.32 billion (using the 2021 interim SC-GHG estimates). Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or

the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 3 is \$8.93 billion year (using the 2023 SC–GHG estimates) or \$5.47 billion (using the 2021 interim SC–GHG estimates). The estimated total NPV is provided for additional information; however, DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At TSL 3, when used in conjunction with a TSL 2 refrigeration system, the average LCC impact ranges from a savings of –\$1 for manual, medium-temperature non-display doors (NM.M), to \$1,516 for motorized low-temperature non-display doors (NO.L). The simple payback period ranges from 1.6 years for motorized low-temperature non-display doors (NO.L) to 6.9 years for manual, medium-temperature non-display doors (NM.M). The fraction of consumers experiencing a net LCC cost ranges from 4 percent for motorized low-temperature non-display doors (NO.L) to 55 percent for manual, medium-temperature non-display doors (NM.M).

At TSL 3, the projected change in INPV ranges from a decrease of \$92.6 million to a decrease of \$33.1 million, which corresponds to decreases of 18.2 percent and 6.5 percent, respectively. DOE estimates industry would invest \$101.7 million to purchase new foaming equipment and tooling to implement thermally-improved frame designs and increase insulation thickness to 6 inches for all walk-in non-display doors.

DOE estimates that approximately 11.1 percent of walk-in non-display door shipments currently meet the max-tech efficiency levels. For the 51 OEMs that manufacture walk-in non-display doors, increasing insulation thickness from the assumed baseline thickness of 3.5 inches for medium-temperature and 4 inches for low-temperature non-display doors to 6 inches would likely require purchasing new foaming equipment since most manufacturers are only able to manufacture non-display doors up to 5 inches thick. Additionally, non-display door manufacturers were concerned about the flow of foam and the curing time of foam at max-tech. At TSL 3, DOE expects that manufacturers would also incorporate thermally-improved frame designs. New foaming equipment to accommodate thermally-improved frame designs and 6-inch non-display doors would require significant capital investment and is a key driver of capital conversion costs. In addition to the impacts that investments in new foaming equipment may have for non-display door manufacturers overall, it would also disproportionately impact

small businesses since nearly all non-display door manufacturers (44 of the 51 OEMs identified) are small businesses and nearly half of the small businesses identified have an estimated annual revenue of less than \$6 million.

Furthermore, of the 51 walk-in non-display door OEMs, 40 OEMs also produce walk-in panels. Most of these OEMs use the same panel foaming systems to produce non-display doors that they use to produce panels; however, panel shipments dwarf shipments of non-display doors. Because the same product lines are used, these OEMs offer non-display doors in the same range of thickness as panels. It is typical to align the thickness of non-display doors and panels to avoid a situation where the walk-in door protrudes from the surrounding panel enclosure. Were the thickness of non-display doors and panels to be different in an installation, consumers may need to prematurely replace the surrounding panels to accommodate a thicker non-display door. Thus, a standard that would likely necessitate 6-inch-thick non-display doors may inadvertently force consumers to purchase some or all panels of the walk-in that are 6-inches thick so that the thickness of the entire walk-in is the same or that there is appropriate structural transition between the door and panels of differing thicknesses. As discussed in section V.C.1.c of this document, panels of 6-inch thickness do not have positive consumer benefits.

At levels that DOE expects would likely necessitate thermally-improved frame designs (*i.e.*, TSL 2 and TSL 3), some manufacturers expressed concerns about potential impacts to equipment performance, including maintaining adequate structural durability. Currently, a variety of framing systems exist on the market. Many non-display doors incorporate wood or other high-strength material framing systems, while others incorporate thermally-improved framing systems filled with polyurethane foam. Such thermally-improved frame designs may have reduced structural rigidity compared to traditional (*e.g.*, wood) framing systems. While the presence of this design feature in the walk-in market does indicate its suitability in a range of current applications without any detrimental impact on product performance or lifetime, DOE recognizes that there may be remaining uncertainty regarding the structural suitability of the best thermally-insulating frame systems available on the market in certain applications. Given these concerns, and lacking structural performance data at

this time that could be used to quantify such differences, DOE cannot be certain whether the differences in non-display door framing systems currently in the market are due to manufacturer design preferences or specific durability requirements (*e.g.*, large sliding doors manufactured separately from the walk-in in which they are installed may warrant a frame with greater structural durability than doors manufactured together with the surrounding panels as a complete system). If the latter, establishing standards that DOE expects would necessitate thermally-improved frame designs could result in the need for earlier replacement of certain non-display doors due to their potentially reduced structural rigidity in such applications. If the structural integrity of a non-display door with thermally improved frame designs were to be compromised this would require earlier replacement than would have otherwise been expected. As discussed previously in the sensitivity analysis in section IV.F.7 of this document, the cost associated with more frequent replacements would far outweigh the operating cost savings over the lifetime of the equipment, reducing the economic justification at TSL 2 and TSL 3.¹⁴⁷

For these reasons, DOE cannot be certain that the thermally-improved framing system associated with TSL 2 and TSL 3 efficiencies would not negatively impact the durability of walk-in non-display doors, and, consequently, these impacts may jeopardize the economic benefits that would be achieved at these efficiency levels. DOE emphasizes that its findings in this regard are based on the data available at this time. Additional data that could become available, as well as future advances in walk-in non-display door technologies and design strategies, could alleviate any such concerns or uncertainties regarding equipment performance and could lead DOE to reach a different conclusion in a future rulemaking.

The Secretary concludes that at TSL 3 for walk-in non-display doors, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the potential for

¹⁴⁷ In installations where the lifetime of the non-display door is reduced as compared to the no-new-standards case, the consumer would bear additional replacement costs that would outweigh the savings in operating costs when considering the same service lifetime as a non-display door without the thermally improved frame design. This can be seen in Table IV.50 where the consumer LCC savings is negative for all non-display doors at TSL 2 or TSL 3.

negative impacts to the durability of non-display doors, which may jeopardize the economic benefits that would be achieved at these efficiency levels, and the impacts on manufacturers, including the conversion costs and profit margin impacts that could result in a reduction in INPV, and the limited number of manufacturers currently offering equipment meeting the efficiency levels required at this TSL, including many small businesses of non-display doors. Manufacturers of non-display doors would need to incorporate thermally-improved frame designs and increase insulation thickness to 6 inches across all equipment classes, necessitating large capital investments. Nearly all the non-display door OEMs identified are small, domestic businesses. Lastly, to purchase walk-in doors at TSL 3, consumers may also be required to purchase some or all panels of their walk-ins at a level that is not economically justified for the thickness of the door and panel to be uniform. Consequently, the Secretary has concluded that TSL 3 is not economically justified.

DOE then considered TSL 2 for walk-in non-display doors, which represents EL 3 for all non-display doors. At TSL 2, DOE expects that manufacturers would likely need to incorporate anti-sweat heater controls, improved framing systems, and reduced anti-sweat heat into all non-display door designs.

TSL 2 would save an estimated 0.99 quads of energy, an amount DOE considers significant. Under TSL 2, the NPV of consumer benefit would be \$1.53 billion using a discount rate of 7 percent, and \$3.44 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 2 are 18.02 million Mt of CO₂, 5.53 thousand tons of SO₂, 33.51 thousand tons of NO_x, 0.04 tons of Hg, 150.92 thousand tons of CH₄, and 0.18 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions at TSL 2 is \$4.28 billion (associated with the average SC-GHG at a 2-percent near-term Ramsey discount rate using the 2023 SC-GHG estimates) or \$1.08 billion (associated with the average SC-GHG at a 3-percent discount rate using the 2021 interim SC-GHG estimates). The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 2 is \$0.91 billion using a 7-percent discount rate and \$2.13 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and either the 2-percent

near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 2 is \$6.72 billion (using the 2023 SC-GHG estimates) or \$3.52 billion (using the 2021 interim SC-GHG estimates). Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 2 is \$9.86 billion (using the 2023 SC-GHG estimates) or \$6.65 billion (using the 2021 interim SC-GHG estimates). The estimated total NPV is provided for additional information; however, DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At TSL 2, when used in conjunction with a TSL 2 refrigeration system, the average LCC impact ranges from a savings of \$315 for manual, medium-temperature non-display doors (NM.M), to \$1,583 for motorized, low-temperature non-display doors (NO.L). The simple payback period ranges from 0.8 years for motorized, low-temperature non-display doors (NO.L) to 2.6 years for manual, medium-temperature non-display doors (NM.M). The fraction of consumers experiencing a net LCC cost ranges from 0.8 percent for motorized, low-temperature non-display doors (NO.L) to 2.6 percent for manual, medium-temperature non-display doors (NM.M).

At TSL 2, the projected change in INPV ranges from a decrease of \$32.8 million to a decrease of \$13.1 million, which corresponds to decreases of 6.5 percent and 2.6 percent, respectively. DOE estimates that industry must invest \$35.7 million to comply with standards for non-display doors set at TSL 2. DOE estimates that approximately 14.2 percent of non-display door shipments currently meet TSL 2 efficiencies. DOE does not expect manufacturers would need to increase insulation thickness to meet the efficiency levels required by TSL 2, however, DOE expects manufacturers may need to purchase new foaming equipment to incorporate thermally-improved frame designs. As previously discussed, investments in new foaming equipment would disproportionately impact small businesses since nearly all non-display door manufacturers are small businesses and nearly half of the small businesses identified have an estimated annual revenue of less than \$6 million.

As discussed previously, manufacturer concerns surrounding the potential impacts to equipment performance, including maintaining adequate structural durability, applies to the efficiency levels required at TSL 2. Although many non-display doors incorporate wood or other high-strength material framing systems, other non-display doors incorporate thermally-improved framing systems filled with polyurethane foam. Such thermally-improved frame designs may have reduced structural rigidity compared to traditional (e.g., wood) framing systems. Based on the data currently available, DOE cannot be certain whether the differences in non-display door framing systems currently in the market are due to manufacturer design preferences or specific durability requirements. If the structural integrity of a non-display door with thermally improved frame designs were to be compromised, necessitating earlier replacement than would have otherwise been expected, the cost associated with more frequent replacements would far outweigh the operating cost savings over the lifetime of the equipment, reducing the economic justification at TSL 2. For these reasons, DOE cannot be certain that the thermally-improved framing system associated with TSL 2 efficiencies would not negatively impact the durability of walk-in non-display doors, and, consequently, these impacts may jeopardize the economic benefits that would be achieved at these efficiency levels. DOE emphasizes that its findings in this regard are based on the data available at this time. Additional data that could become available, as well as future advances in walk-in non-display door technologies and design strategies, could alleviate any such concerns or uncertainties regarding equipment performance and could lead DOE to reach a different conclusion in a future rulemaking.

The Secretary concludes that at TSL 2 for walk-in non-display doors, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the potential for negative impacts to the performance of non-display doors in certain applications, which may jeopardize the economic benefits that would be achieved at TSL 2, and the impacts on manufacturers. Nearly all the non-display door OEMs identified are small, domestic businesses. Manufacturers of non-display doors would need to incorporate thermally-improved frame designs across all equipment classes,

which could necessitate large capital investments relative to the annual revenue of many small businesses. Consequently, the Secretary has concluded that TSL 2 is not economically justified.

DOE then considered TSL 1 for walk-in non-display doors, which represents EL 1 for all non-display doors. At TSL 1, DOE expects that manufacturers would likely need to incorporate anti-sweat heater controls into all non-display door designs.

The cumulative emissions reductions at TSL 1 are 10.42 million Mt of CO₂, 3.20 thousand tons of SO₂, 19.37 thousand tons of NO_x, 0.02 tons of Hg, 87.23 thousand tons of CH₄, and 0.10 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions at TSL 1 is \$2.48 billion (associated with the average SC–GHG at a 2-percent near-term Ramsey discount rate using the 2023 SC–GHG estimates) or \$0.62 billion (associated with the average SC–GHG at a 3-percent discount rate using the 2021 interim SC–GHG estimates). The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 1 is \$0.53 billion using a 7-percent discount rate and \$1.23 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 1 is \$3.94 billion (using the 2023 SC–GHG estimates) or \$2.09 billion (using the 2021 interim SC–GHG estimates). Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 1 is \$5.79 billion (using the 2023 SC–GHG

estimates) or \$3.94 billion (using the 2021 interim SC–GHG estimates). The estimated total NPV is provided for additional information; however, DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At TSL 1, when used in conjunction with a TSL 2 refrigeration system, the average LCC impact ranges from a savings of \$270 for manual, medium-temperature non-display doors (NM.M), to \$914 for motorized, low-temperature non-display doors (NO.L). The simple payback period ranges from 0.8 years for motorized, low-temperature non-display doors (NO.L) to 2.0 years for manual, medium-temperature non-display doors (NM.M). The fraction of consumers experiencing a net LCC cost ranges from 1 percent for motorized, low-temperature non-display doors (NO.L) to 6 percent for manual, medium-temperature non-display doors (NM.M).

At TSL 1, the projected change in INPV ranges from a decrease of \$2.0 million to an increase of \$3.5 million, which corresponds to a decrease of 0.4 percent and an increase of 0.7 percent, respectively. DOE estimates that industry must invest \$1.4 million to comply with standards for non-display doors set at TSL 1. DOE estimates that approximately 32.0 percent of non-display door shipments currently meet TSL 1 efficiencies. At this level, DOE expects manufacturers would likely need to update non-display door models to incorporate anti-sweat heater controls. DOE does not expect manufacturers would need to incorporate thermally-improved frame designs or increase insulation thickness to meet the efficiency levels required by TSL 1.

At TSL 1, DOE's analysis indicates that manufacturers could reach the required efficiencies without incorporating thermally-improved frame designs. Manufacturers did not express any specific concerns regarding non-display door performance (*i.e.*, structural durability) at TSL 1. Based on

the information available, DOE concludes that no lessening of equipment performance or reduction of expected lifetime would occur at TSL 1.

After considering the analysis and weighing the benefits and burdens, the Secretary has concluded that a standard set at TSL 1 for walk-in non-display doors would be economically justified. At this TSL, the average LCC savings for all non-display door consumers are positive, and the greatest fraction of consumers to experience net cost is estimated at 6 percent for medium-temperature, manual non-display doors. At TSL 1, the FFC national energy savings are significant and the NPV of consumer benefits is positive using both a 3-percent and 7-percent discount rate. Notably, the benefits to consumers vastly outweigh the cost to manufacturers. At TSL 1, the NPV of consumer benefits, even measured at the more conservative discount rate of 7 percent is over 466 times higher than the maximum estimated manufacturers' loss in INPV. The standard levels at TSL 1 are economically justified even without weighing the estimated monetary value of emissions reductions. When those emissions reductions are included—representing \$2.48 billion in climate benefits (associated with the average SC–GHG at a 2-percent near-term Ramsey discount rate using the 2023 SC–GHG estimates) or \$0.62 billion in climate benefits (associated with the average SC–GHG at a 3-percent discount rate using the 2021 interim SC–GHG estimates), and \$1.23 billion (using a 3-percent discount rate) or \$0.53 billion (using a 7-percent discount rate) in health benefits—the rationale becomes stronger still.

Therefore, based on the previous considerations, DOE adopts the energy conservation standards for walk-in non-display doors at TSL 1. The amended energy conservation standards for walk-in non-display doors, which are expressed as kWh/year, are shown in Table V.118.

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Table V.118 Amended Energy Conservation Standards for Walk-in Non-display Doors

Equipment Class	Maximum Daily Energy Consumption* <i>kWh/day</i>
Non-Display Door, Manual, Medium-Temperature	$0.02 \times A_{nd} + 0.58 + 0.33 \times a + 0.07 \times b + 0.24 \times c + e$
Non-Display Door, Manual, Low-Temperature	$0.10 \times A_{nd} + 2.63 + 0.40 \times a + 0.09 \times b + 0.30 \times c + 0.85 \times d + f$
Non-Display Door, Motorized, Medium-Temperature	$0.02 \times A_{nd} + 0.77 + 0.33 \times a + 0.07 \times b + 0.24 \times c + e$
Non-Display Door, Motorized, Low-Temperature	$0.09 \times A_{nd} + 2.88 + 0.40 \times a + 0.09 \times b + 0.30 \times c + 0.85 \times d + f$
A_{nd} represents the surface area of the non-display door in square feet. $a = 1$ for a door with lighting and $= 0$ for a door without lighting. $b = 1$ for a door with a digital temperature display without alarms and $= 0$ for a door without a digital display without alarms. $c = 1$ for a door with a digital temperature display with alarms and $= 0$ for a door without a digital temperature display with alarms. $d = 1$ for a door with a heated pressure relief vent and $= 0$ for a door without a heated pressure relief vent. $e = 0.06 \times A_{window} + 0.10$, with a maximum value of 0.25, for a door with a heated viewport window, and $= 0$ for a door without a heated viewport window. $f = 0.54 \times A_{window} + 0.23$, with a maximum value of 1.50, for a door with a heated viewport window, and $= 0$ for a door without a heated viewport window. A_{window} represents the surface area of the viewing window in square feet.	

c. Panels

The efficiency levels contained in each TSL are shown in Table V.119 and described in section IV.E.1 of this document. Table V.120 and Table V.121

summarize the quantitative impacts estimated for each TSL for walk-in panels. The national impacts are measured over the lifetime of walk-ins purchased in the 30-year period that begins in the anticipated year of

compliance with amended standards (2028–2057). The energy savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle results.

Table V.119 Walk-in Panel Efficiency Level Mapping by Trial Standard Level

Equipment Class	TSL 1	TSL 2	TSL 3
Floor Low Temperature (PF.L)	0	0	3
Structural Low Temperature (PS.L)	0	0	2
Structural Medium Temperature (PS.M)	0	0	3

Table V.120 Summary of Analytical Results for Walk-in Panel TSLs: National Impacts (Evaluated when used in conjunction with a TSL 2 Refrigeration System)

Category	TSL 1	TSL 2	TSL 3
Cumulative FFC National Energy Savings			
Quads	n/a	n/a	0.58
Cumulative FFC Emissions Reduction			
CO ₂ (<i>million metric tons</i>)	n/a	n/a	10.46
CH ₄ (<i>thousand tons</i>)	n/a	n/a	88.44
N ₂ O (<i>thousand tons</i>)	n/a	n/a	0.10
SO ₂ (<i>thousand tons</i>)	n/a	n/a	3.20
NO _x (<i>thousand tons</i>)	n/a	n/a	19.53
Hg (<i>tons</i>)	n/a	n/a	0.02
Present Value of Benefits and Costs (3% discount rate, billion 2023\$)			
Consumer Operating Cost Savings	n/a	n/a	2.58
Climate Benefits* (2023 SC-GHG estimate)	n/a	n/a	2.46
Climate Benefits* (2021 interim SC-GHG estimate)	n/a	n/a	0.61
Health Benefits**	n/a	n/a	1.20
Total Benefits† (2023 SC-GHG estimate)	n/a	n/a	6.25
Total Benefits† (2021 interim SC-GHG estimate)	n/a	n/a	4.39
Consumer Incremental Product Costs‡	n/a	n/a	6.47
Consumer Net Benefits	n/a	n/a	-3.88
Total Net Benefits (2023 SC-GHG estimate)	n/a	n/a	-0.22
Total Net Benefits (2021 interim SC-GHG estimate)	n/a	n/a	-2.07
Present Value of Benefits and Costs (7% discount rate, billion 2023\$)			
Consumer Operating Cost Savings	n/a	n/a	1.16
Climate Benefits* (2023 SC-GHG estimate)	n/a	n/a	2.46
Climate Benefits* (2021 interim SC-GHG estimate)	n/a	n/a	0.61
Health Benefits**	n/a	n/a	0.49
Total Benefits† (2023 SC-GHG estimate)	n/a	n/a	4.11
Total Benefits† (2021 interim SC-GHG estimate)	n/a	n/a	2.26
Consumer Incremental Product Costs‡	n/a	n/a	3.57
Consumer Net Benefits	n/a	n/a	-2.41
Total Net Benefits (2023 SC-GHG estimate)	n/a	n/a	0.54
Total Net Benefits (2021 interim SC-GHG estimate)	n/a	n/a	-1.31

Note: This table presents the costs and benefits associated with walk-in panels shipped in 2028–2057. These results include benefits to consumers which accrue after 2057 from the equipment shipped in 2028–2057.

* Climate benefits are calculated using different estimates of the global SC-GHG. Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and another set published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) which was used in the NOPR (see section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are

shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA's Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 21 Sectors TSD provides a summary of the health impact endpoints quantified in the analysis. See section IV.L of this document for more details.

† Total and net benefits include consumer, climate, and health benefits. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 estimate and the average SC-GHG with a 3-percent discount rate for the 2021 interim SC-GHG estimate.

‡ Costs include incremental equipment costs as well as installation costs.

Table V.121 Summary of Analytical Results for Walk-In Panel TSLs: Manufacturer and Consumer Impacts (Evaluated when used in conjunction with a TSL 2 Refrigeration System)

Category	TSL 1*	TSL 2*	TSL 3*
Manufacturer Impacts			
Industry NPV (<i>million 2023\$</i>) (No-new-standards case INPV = 926.0)	926.0	926.0	670.4 to 780.5
Industry NPV (% <i>change</i>)	n/a	n/a	(27.6) to (15.7)
Consumer Average LCC Savings per ft² (2023\$)			
PF.L	n/a	n/a	(0.52)
PS.L	n/a	n/a	(0.24)
PS.M	n/a	n/a	(2.37)
Shipment-Weighted Average*	n/a	n/a	(1.83)
Consumer Simple PBP (years)			
PF.L	n/a	n/a	10.4
PS.L	n/a	n/a	9.4
PS.M	n/a	n/a	36.4
Shipment-Weighted Average*	n/a	n/a	29.5
Percent of Consumers that Experience a Net Cost (%)			
PF.L	n/a	n/a	83
PS.L	n/a	n/a	70
PS.M	n/a	n/a	100
Shipment-Weighted Average*	n/a	n/a	93

Parentheses indicate negative (-) values. The entry "n/a" means not applicable because there is no change in the standard at certain TSLs.

* Weighted by shares of each equipment class in total projected shipments in 2024.

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For walk-in panels, DOE first considered TSL 3, which represents the max-tech efficiency levels. At this level,

DOE expects that manufacturers would likely need to increase insulation thickness to 6 inches for all panel equipment classes.

TSL 3 would save an estimated 0.58 quads of energy, an amount DOE considers significant. Under TSL 3, the NPV of consumer benefit would be

–\$2.41 billion using a discount rate of 7 percent, and –\$3.88 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 3 are 10.46 million Mt of CO₂, 3.20 thousand tons of SO₂, 19.53 thousand tons of NO_x, 0.02 tons of Hg, 88.44 thousand tons of CH₄, and 0.10 thousand tons of N₂O. The estimated monetary value of the climate benefits from reduced GHG emissions at TSL 3 is \$2.46 billion (associated with the average SC–GHG at a 2-percent near-term Ramsey discount rate using the 2023 SC–GHG estimates) or \$0.61 billion (associated with the average SC–GHG at a 3-percent discount rate using the 2021 interim SC–GHG estimates). The estimated monetary value of the health benefits from reduced SO₂ and NO_x emissions at TSL 3 is \$0.49 billion using a 7-percent discount rate and \$1.20 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO₂ and NO_x emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 3 is \$0.54 billion (using the 2023 SC–GHG estimates) or –\$1.31 billion (using the 2021 interim SC–GHG estimates). Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 3 is \$0.54 billion (using the 2023 SC–GHG estimates) or –\$1.31 billion (using the 2021 interim SC–GHG estimates). The estimated total NPV is provided for additional information; however, DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At TSL 3, when used in conjunction with a TSL 2 refrigeration system, the average per square foot LCC impact ranges from a savings of –\$2.37 for medium-temperature structural panels (PS.M), to –\$0.24 for low-temperature structural panels (PS.L). The simple payback period ranges from 9.4 years for low-temperature structural panels (PS.L) to 36.4 years payback period for medium-temperature structural panels (PS.M). The fraction of consumers experiencing a net LCC cost ranges from

70 percent for low-temperature structural panels (PS.L) to 100 percent for medium-temperature structural panels (PS.M).

At TSL 3, the projected change in INPV ranges from a decrease of \$255.5 million to a decrease of \$145.5 million, which corresponds to decreases of 27.6 percent and 15.7 percent, respectively. DOE estimates that industry must invest \$312.7 million to update panel designs and purchase new foaming equipment and tooling to increase insulation thickness to 6 inches across all panel models.

DOE estimates that 8.1 percent of walk-in panel shipments currently meet the max-tech levels. Increasing the insulation thickness for all panel equipment classes to 6 inches would require significant capital investment. Like walk-in non-display doors, most manufacturers are currently able to manufacture walk-in panels up to 5 inches thick. A standard level necessitating 6-inch panels would likely require new, costly foaming equipment for all manufacturers. Additionally, DOE estimates that every additional inch of foam increases panel cure times by roughly 10 minutes, which means that manufacturers would likely need to purchase additional equipment to maintain existing throughput. Some OEMs may need to invest in additional manufacturing space to accommodate the extra foaming stations. Of the 43 walk-in panel OEMs, 38 OEMs are small, domestic businesses. In interviews, manufacturers expressed concern about industry's ability to source the necessary foaming equipment to maintain existing production capacity within the 3-year compliance period due to the long lead times and limited number of foam fixture suppliers.

The Secretary concludes that at TSL 3 for walk-in panels, the benefits of energy savings, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the economic burden, in the form of negative NPV, on many consumers, and the impacts on manufacturers, including the large conversion costs, profit margin impacts that could result in a large reduction in INPV, and the small number of manufacturers currently offering equipment meeting the efficiency levels required at this TSL, including most small businesses. A majority of panel consumers would experience a net cost ranging from 83 percent for low-temperature, structural panels to 100

percent for medium-temperature, structural panels and the average LCC savings would be negative. The potential reduction in INPV could be as high as 27.6 percent. The drop in industry value and reduction in free cash flow after the compliance year is driven by a range of factors, but most notably the changes are driven by conversion cost investments manufacturers must make to redesign and produce more efficient walk-in panels. Most manufacturers would need to dedicate significant resources to purchase all new foaming equipment. Due to the longer curing times, some manufacturers may need to both replace existing foaming equipment and purchase additional foaming equipment to maintain current production capacity. Furthermore, most panel manufacturers are small, domestic manufacturers. Consequently, the Secretary has concluded that TSL 3 is not economically justified.

As discussed in section IV.E.1 of this document, DOE did not incorporate the other analyzed efficiency levels above baseline into TSL 2 or TSL 1 since the other analyzed efficiency levels do not yield positive consumer benefits for any of the panel equipment classes (*see* appendix 8C of the final rule TSD). Absent positive consumer benefits, it is unlikely DOE will determine that there is a sufficient economic basis to support amended standard levels. Here, DOE has determined there is no combination of energy efficiency improvements for display-doors that is economically justified. Therefore, based on the previous considerations, the Secretary is not amending energy conservation standards for walk-in panels at this time.

d. Combined Benefits of Amended Standards

For the final rule efficiency levels for refrigeration systems, shown in Table V.111; and non-display doors, shown in Table V.118 the combined quantitative impacts estimates are shown in Table V.122. The national impacts are measured over the lifetime of walk-ins purchased in the 30-year period that begins in the anticipated year of compliance with amended standards, which is 2028–2057 for non-display doors, and 2029–2058 for refrigeration systems. The energy savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle results.

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Table V.122 Summary of Monetized Benefits and Costs of Adopted Energy Conservation Standards for Non-Display Doors at TSL 1 Shipped During the Period 2028–2057 and for Refrigeration Systems at TSL 2 Shipped During the Period 2029–2058

	Billion \$2023
3% discount rate	
Consumer Operating Cost Savings	6.52
Climate Benefits* (2023 SC-GHG estimates)	6.80
Climate Benefits* (2021 interim SC-GHG estimates)	1.70
Health Benefits**	3.33
Total Benefits† (2023 SC-GHG estimates)	16.66
Total Benefits† (2021 interim SC-GHG estimates)	11.55
Consumer Incremental Product Costs‡	1.78
Total Net Benefits† (2023 SC-GHG estimates)	14.88
Total Net Benefits† (2021 interim SC-GHG estimates)	9.77
Change in Producer Cashflow (INPV)**	(0.06) – (0.04)
7% discount rate	
Consumer Operating Cost Savings	2.96
Climate Benefits* (2023 SC-GHG estimates)	6.80
Climate Benefits* (2021 interim SC-GHG estimates)	1.70
Health Benefits**	1.37
Total Benefits† (2023 SC-GHG estimates)	11.14
Total Benefits† (2021 interim SC-GHG estimates)	6.03
Consumer Incremental Product Costs‡	0.96
Total Net Benefits† (2023 SC-GHG estimates)	10.18
Total Net Benefits† (2021 interim SC-GHG estimates)	5.07
Change in Producer Cashflow (INPV)**	(0.06) – (0.04)

Note: These results include consumer, climate, and health benefits that accrue after 2057 and 2058 from the walk-in non-display doors and refrigeration systems shipped during the periods 2028–2057 and 2029–2058, respectively.

* Climate benefits are calculated using different estimates of the social cost of carbon (SC-CO₂), methane (SC-CH₄), and nitrous oxide (SC-N₂O). Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and the interim set of estimates used in the NOPR which were published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) (*see* section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA’s *Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 21 Sectors* TSD provides a summary of the health impact endpoints quantified in the analysis. *See* section IV.L of this document for more details.

† Total and net benefits include those consumer, climate, and health benefits that can be quantified and monetized. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 estimate and the average SC-GHG with 3-percent discount rate for the 2021 interim SC-GHG estimate.

‡ Costs include incremental product costs as well as installation costs

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of this document. DOE's national impacts analysis includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (*i.e.*, manufacturer impact analysis, or "MIA"). *See* section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. Change in INPV is calculated using the industry weighted average cost of capital value of 9.4 percent for doors, 10.5 percent for panels, and 10.2 percent for refrigeration systems that is estimated in the manufacturer impact analysis (*see* chapter 12 of the final rule TSD for a complete description of the industry weighted average cost of capital). For walk-ins, the change in INPV ranges from -\$63 million to -\$42 million. DOE accounts for that range of likely impacts in analyzing whether a trial standard level is economically justified. *See* section V.C of this document. DOE is presenting the range of impacts to the INPV under two manufacturer markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table; and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated INPV in the above table, drawing on the MIA explained further in section IV.J of this document to provide additional context for assessing the estimated impacts of this final rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A-4 and E.O. 12866. If DOE were to include the INPV into the net benefit calculation (2023 SC-GHG estimates) for this final rule, the net benefits would range from \$14.82 billion to \$14.84 billion at 3-percent discount rate and would range from \$10.12 billion to \$10.14 billion at 7-percent discount rate.

2. Annualized Benefits and Costs of the Adopted Standards

The benefits and costs of the adopted standards can also be expressed in terms of annualized values. The annualized net benefit is (1) the annualized national economic value (expressed in 2023\$) of the benefits from operating products that meet the adopted standards (consisting primarily of operating cost savings from using less energy), minus increases in product purchase costs; and (2) the annualized monetary value of the climate and health benefits.

a. Non-Display Doors

Table V.123 presents the total estimated monetized benefits and costs associated with the adopted standard for walk-in non-display doors, expressed in terms of annualized values. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards adopted in this rule is \$31.2 million per year in increased equipment costs, while the estimated annual benefits are \$123.4 million in reduced equipment operating costs, \$117.3 million in climate benefits (using the 2023 SC-GHG estimates) or \$34.8 million in climate benefits (using the 2021 interim SC-GHG estimates), and \$52.0 million in health benefits. In this case, the net benefit would amount to \$261.5 million per year (using the 2023 SC-GHG estimates) or \$179.0 million per year (using the 2021 interim SC-GHG estimates).

Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards is \$32.0 million per year in increased equipment costs, while the estimated annual benefits are \$147.9 million in reduced operating costs, \$117.3 million in climate benefits (using the 2023 SC-GHG estimates) or \$34.8 million in climate benefits (using the 2021 interim SC-GHG estimates), and \$68.8 million in health benefits. In this case, the net benefit would amount to \$302.0 million per year (using the 2023 SC-GHG estimates) or \$219.5 million per year (using the 2021 interim SC-GHG estimates).

Table V.123 Annualized Benefits and Costs of Adopted Standards for Non-Display Doors at TSL 1 Shipped During the Period 2028 – 2057

	Million 2023\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	147.9	145.0	158.5
Climate Benefits* (2023 SC-GHG estimates)	117.3	116.6	119.8
Climate Benefits* (2021 interim SC-GHG estimates)	34.8	34.6	35.6
Health Benefits**	68.8	68.4	70.2
Total Benefits† (2023 SC-GHG estimates)	334.0	330.0	348.6
Total Benefits† (2021 interim SC-GHG estimates)	251.5	248.0	264.3
Consumer Incremental Product Costs‡	32.0	36.6	31.9
Net Monetized Benefits (2023 SC-GHG estimates)	302.0	293.4	316.7
Net Monetized Benefits (2021 interim SC-GHG estimates)	219.5	211.4	232.4
Change in Producer Cashflow (INPV)††	(0.2) – 0.3	(0.2) – 0.3	(0.2) – 0.3
7% discount rate			
Consumer Operating Cost Savings	123.4	121.3	132.2
Climate Benefits* (2023 SC-GHG estimates)	117.3	116.6	119.8
Climate Benefits* (2021 interim SC-GHG estimates)	34.8	34.6	35.6
Health Benefits**	52.0	51.6	53.0
Total Benefits† (2023 SC-GHG estimates)	292.7	289.5	305.0
Total Benefits† (2021 interim SC-GHG estimates)	210.2	207.6	220.8
Consumer Incremental Product Costs‡	31.2	34.9	31.2
Net Monetized Benefits (2023 SC-GHG estimates)	261.5	254.7	273.8
Net Monetized Benefits (2021 interim SC-GHG estimates)	179.0	172.7	189.6
Change in Producer Cashflow (INPV)††	(0.2) – 0.3	(0.2) – 0.3	(0.2) – 0.3

Note: These results include consumer, climate, and health benefits that accrue after 2057 from the products shipped during the period 2028–2057 for doors and panels. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant prices rate in the Primary Estimate, a declining rate in the High Net Benefits Estimate, and a inclining rate in the Low Net Benefits Estimate. The methods used to derive projected price trends are explained in sections IV.F.2 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using different estimates of the global SC-GHG. Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and another set

published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) which was used in the NOPR (*see* section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA’s *Estimating the Benefit per Ton of Reducing PM_{2.5} Precursors from 21 Sectors* TSD provides a summary of the health impact endpoints quantified in the analysis. *See* section IV.L of this document for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 SC-GHG estimates and the average SC-GHG with 3-percent discount rate for the 2021 interim SC-GHG estimates.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of this document. DOE’s national impacts analysis includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (*i.e.*, manufacturer impact analysis, or “MIA”). *See* section IV.J of this document. In the detailed MIA, DOE models manufacturers’ pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule’s expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 9.4 percent for doors that is estimated in the manufacturer impact analysis (*see* chapter 12 of the final rule TSD for a complete description of the industry weighted average cost of capital). For walk-in doors, the annualized change in INPV ranges from -\$0.2 million to \$0.3 million. DOE accounts for that range of likely impacts in analyzing whether a trial standard level is economically justified. *See* section V.C of this document. DOE is presenting the range of impacts to the INPV under two manufacturer markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table; and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document to provide additional context for assessing the estimated impacts of this final rule to society, including potential changes in production and consumption, which is consistent with OMB’s Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation (2023 SC-GHG estimates) for this final rule, the annualized net benefits would range from \$301.8 million to \$302.3 million at 3-percent discount rate and would range from \$261.3 million to \$261.8 million at 7-percent discount rate.

b. Refrigeration Systems

Table V.124 presents the total estimated monetized benefits and costs associated with the adopted standard for walk-in refrigeration systems, expressed in terms of annualized values. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards adopted in this rule is \$67.9 million per year in increased equipment costs, while the estimated annual

benefits are \$180.9 million in reduced equipment operating costs, \$209.2 million in climate benefits (using the 2023 SC-GHG estimates) or \$61.7 million in climate benefits (using the 2021 interim SC-GHG estimates), and \$89.0 million in health benefits. In this case, the net benefit would amount to \$411.2 million per year (using the 2023 SC-GHG estimates) or \$263.7 million per year (using the 2021 interim SC-GHG estimates).

Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG

emissions, the estimated cost of the standards is \$61.7 million per year in increased equipment costs, while the estimated annual benefits are \$222.0 million in reduced operating costs, \$209.2 million in climate benefits (using the 2023 SC-GHG estimates) or \$61.7 million in climate benefits (using the 2021 interim SC-GHG estimates), and \$165 million in health benefits. In this case, the net benefit would amount to \$482.5 million per year (using the 2023 SC-GHG estimates) or \$335.1 million per year (using the 2021 interim SC-GHG estimates).

Table V.124 Annualized Benefits and Costs of Adopted Standards for Refrigeration Systems at TSL 2 Shipped During the Period 2029 – 2058

	Million 2023\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	222.0	211.1	238.0
Climate Benefits* (2023 SC-GHG estimates)	209.2	205.8	215.4
Climate Benefits* (2021 interim SC-GHG estimates)	61.7	60.7	63.5
Health Benefits**	120.6	118.6	124.1
Total Benefits† (2023 SC-GHG estimates)	551.7	535.6	577.4
Total Benefits† (2021 interim SC-GHG estimates)	404.3	390.4	425.5
Consumer Incremental Product Costs‡	69.2	91.4	66.7
Net Monetized Benefits (2023 SC-GHG estimates)	482.5	444.1	510.7
Net Monetized Benefits (2021 interim SC-GHG estimates)	335.1	299.0	358.8
Change in Producer Cashflow (INPV)††	(6.5) – (4.8)	(6.5) – (4.8)	(6.5) – (4.8)
7% discount rate			
Consumer Operating Cost Savings	180.9	172.3	193.8
Climate Benefits* (2023 SC-GHG estimates)	209.2	205.8	215.4
Climate Benefits* (2021 interim SC-GHG estimates)	61.7	60.7	63.5
Health Benefits**	89.0	87.5	91.4
Total Benefits† (2023 SC-GHG estimates)	479.1	465.5	500.6
Total Benefits† (2021 interim SC-GHG estimates)	331.6	320.4	348.7
Consumer Incremental Product Costs‡	67.9	85.8	65.8
Net Monetized Benefits (2023 SC-GHG estimates)	411.2	379.7	434.7
Net Monetized Benefits (2021 interim SC-GHG estimates)	263.7	234.6	282.8
Change in Producer Cashflow (INPV)††	(6.5) – (4.8)	(6.5) – (4.8)	(6.5) – (4.8)

Note: These results include consumer, climate, and health benefits that accrue after 2058 from the products shipped during the period 2029-2058 for refrigeration systems. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant prices rate in the Primary Estimate, a declining rate in the High Net Benefits Estimate, and an inclining rate in the Low Net Benefits Estimate. The methods used to derive projected price trends are explained in sections IV.F.2 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding

* Climate benefits are calculated using different estimates of the global SC-GHG. Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and another set

published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) which was used in the NOPR (*see* section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA’s *Estimating the Benefit per Ton of Reducing PM2.5 Precursors from 21 Sectors* TSD provides a summary of the health impact endpoints quantified in the analysis. *See* section IV.L of this document for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 SC-GHG estimates and the average SC-GHG with 3-percent discount rate for the 2021 interim SC-GHG estimates.

‡ Costs include incremental equipment costs as well as installation costs.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of this document. DOE’s national impacts analysis includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (*i.e.*, manufacturer impact analysis, or “MIA”). *See* section IV.J of this document. In the detailed MIA, DOE models manufacturers’ pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule’s expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 10.2 percent for refrigeration systems that is estimated in the manufacturer impact analysis (*see* chapter 12 of the final rule TSD for a complete description of the industry weighted average cost of capital). For walk-in refrigeration systems, the annualized change in INPV ranges from -\$6.5 million to -\$4.8 million. DOE accounts for that range of likely impacts in analyzing whether a trial standard level is economically justified. *See* section V.C of this document. DOE is presenting the range of impacts to the INPV under two manufacturer markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table; and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document to provide additional context for assessing the estimated impacts of this final rule to society, including potential changes in production and consumption, which is consistent with OMB’s Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation (2023 SC-GHG estimates) for this final rule, the annualized net benefits would range from \$476.0 million to \$477.7 million at 3-percent discount rate and would range from \$404.7 million to \$406.4 million at 7-percent discount rate.

c. Amended Standards

Table V.125 presents the total estimated monetized benefits and costs associated with the adopted standard for walk-in non-display doors (TSL 1) and refrigeration systems (TSL 2), expressed 2023\$ in terms of annualized values. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards adopted in this rule is \$99.1

million per year in increased equipment costs, while the estimated annual benefits are \$304.4 million in reduced equipment operating costs, \$326.5 million in climate benefits (using the 2023 SC-GHG estimates) or \$96.5 million in climate benefits (using the 2021 estimates of the SC-GHG), and \$136 million in health benefits. In this case, the net benefit would amount to \$672.7 million per year (using the 2023 SC-GHG estimates) or \$442.7 million per year (using the 2021 estimates of the SC-GHG).

Using a 3-percent discount rate for consumer benefits and costs and health benefits from reduced NO_x and SO₂ emissions, and either the 2-percent

near-term Ramsey discount rate case or the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards is \$101.2 million per year in increased equipment costs, while the estimated annual benefits are \$369.8 million in reduced operating costs, \$326.5 million in climate benefits (using the 2023 SC-GHG estimates) or \$96.5 million in climate benefits (using the 2021 estimates of the SC-GHG), and \$189.4 million in health benefits. In this case, the net benefit would amount to \$784.5 million per year (using the 2023 SC-GHG estimates) or \$554.5 million per year (using the 2021 estimates of the SC-GHG).

Table V.125 Annualized Benefits and Costs of Adopted Standards for Non-Display Doors at TSL 1 Shipped During the Period 2028 – 2057; and for Refrigeration Systems at TSL 2 Shipped During the Period 2029 – 2058

	Million 2023\$/year		
	Primary Estimate	Low-Net-Benefits Estimate	High-Net-Benefits Estimate
3% discount rate			
Consumer Operating Cost Savings	369.8	356.2	396.5
Climate Benefits* (2023 SC-GHG estimates)	326.5	322.4	335.2
Climate Benefits* (2021 SC-GHG estimates)	96.5	95.3	99.1
Health Benefits**	189.4	187.0	194.3
Total Benefits† (2023 SC-GHG estimates)	885.7	865.5	926.0
Total Benefits† (2021 SC-GHG estimates)	655.7	638.4	689.8
Consumer Incremental Product Costs‡	101.2	128.0	98.6
Net Monetized Benefits (2023 SC-GHG estimates)	784.5	737.5	827.3
Net Monetized Benefits (2021 SC-GHG estimates)	554.5	510.4	591.2
Change in Producer Cashflow (INPV)**	(6.7) - (4.5)	(6.7) - (4.5)	(6.7) - (4.5)
7% discount rate			
Consumer Operating Cost Savings	304.4	293.6	326.0
Climate Benefits* (2023 SC-GHG estimates)	326.5	322.4	335.2
Climate Benefits* (2021 SC-GHG estimates)	96.5	95.3	99.1
Health Benefits**	140.9	139.1	144.4
Total Benefits† (2023 SC-GHG estimates)	771.8	755.1	805.6
Total Benefits† (2021 SC-GHG estimates)	541.8	528.0	569.4
Consumer Incremental Product Costs‡	99.1	120.7	97.0
Net Monetized Benefits (2023 SC-GHG estimates)	672.7	634.4	708.6
Net Monetized Benefits (2021 SC-GHG estimates)	442.7	407.3	472.4
Change in Producer Cashflow (INPV)**	(6.7) - (4.5)	(6.7) - (4.5)	(6.7) - (4.5)

Note: These results include consumer, climate, and health benefits that accrue after 2057 from the products shipped during the period 2028-2057 for non-display doors and 2058 from the products shipped during the period 2029-2058 for refrigeration systems. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a constant prices rate in the Primary Estimate, a declining rate in the High Net Benefits Estimate, and an inclining rate in the Low Net Benefits Estimate. The methods used to derive projected price trends are

explained in sections IV.F.2 and IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using different estimates of the global SC-GHG. Climate benefits are estimated using two separate sets of estimates of the social cost for each greenhouse gas, an updated set published in 2023 by the Environmental Protection Agency (EPA) (“2023 SC-GHG”) and another set published in 2021 by the Interagency Working Group on the SC-GHG (IWG) (“2021 Interim SC-GHG”) which was used in the NOPR (*see* section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 2 percent near-term Ramsey discount rate are shown for the 2023 SC-GHG estimates, and the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown for the 2021 interim SC-GHG estimates.

** Health benefits are calculated using benefit-per-ton values for NO_x and SO₂. DOE is currently only monetizing (for SO₂ and NO_x) PM_{2.5} precursor health benefits and (for NO_x) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct PM_{2.5} emissions. Table 5 of the EPA’s *Estimating the Benefit per Ton of Reducing PM2.5 Precursors from 21 Sectors* TSD provides a summary of the health impact endpoints quantified in the analysis. *See* section IV.L of this document for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with a 2 percent near-term Ramsey discount rate for the 2023 SC-GHG estimates and the average SC-GHG with 3-percent discount rate for the 2021 interim SC-GHG estimates.

‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of this document. DOE’s national impacts analysis includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (*i.e.*, manufacturer impact analysis, or “MIA”). *See* section IV.J of this document. In the detailed MIA, DOE models manufacturers’ pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule’s expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 9.4 percent for doors, 10.5 percent for panels, and 10.2 percent for refrigeration systems that is estimated in the manufacturer impact analysis (*see* chapter 12 of the final rule TSD for a complete description of the industry weighted average cost of capital). For walk-ins, the annualized change in INPV ranges from -\$6.7 million to -\$4.5 million. DOE accounts for that range of likely impacts in analyzing whether a trial standard level is economically justified. *See* section V.C of this document. DOE is presenting the range of impacts to the INPV under two manufacturer markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table; and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document to provide additional context for assessing the estimated impacts of this final rule to society, including potential changes in production and consumption, which is consistent with OMB’s Circular A-4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation (2023 SC-GHG estimates) for this final rule, the annualized net benefits would range from \$777.8 million to \$780.0 million at 3-percent discount rate and would range from \$666.0 million to \$668.2 million at 7-percent discount rate.

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VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866, 13563, and 14094

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011) and amended by E.O. 14094, “Modernizing Regulatory Review,” 88

FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing

among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing

economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, OIRA in OMB has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this final regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this final regulatory action constitutes a “significant regulatory action” within the scope of section 3(f)(1) of E.O. 12866, as amended by E.O. 14094. Accordingly, pursuant to section 6(a)(3)(C) of E.O. 12866, DOE has provided to OIRA an assessment, including the underlying analysis, of benefits and costs anticipated from the final regulatory action, together with, to the extent feasible, a quantification of those costs; and an assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, and an explanation why the planned regulatory action is preferable to the identified potential alternatives. These assessments are summarized in this preamble and further detail can be found in the technical support document for this rulemaking.

B. Review Under the Regulatory Flexibility Act

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

Counsel’s website (www.energy.gov/gc/office-general-counsel). DOE has prepared the following FRFA for the equipment that are the subject of this rulemaking.

For manufacturers of walk-ins, the SBA has set a size threshold, which defines those entities classified as “small businesses” for the purposes of the statute. DOE used the SBA’s small business size standards to determine whether any small entities would be subject to the requirements of the rule. (See 13 CFR part 121.) The size standards are listed by North American Industry Classification System (“NAICS”) code and industry description and are available at www.sba.gov/document/support-table-size-standards. Manufacturing of walk-ins is classified under NAICS 333415, “Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.” The SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business for this category.

1. Need for, and Objectives of, Rule

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part C of EPCA, added by Public Law 95–619, Title IV, section 441(a) (42 U.S.C. 6311–6317, as codified), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes walk-ins, the subject of this document. (42 U.S.C. 6311(1)(G)) EPCA prescribed initial standards for these products. EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1))

2. Significant Issues Raised by Public Comments in Response to the IRFA

In response to the September 2023 NOPR, AHRI commented that it could not provide market share on its members or distinguish whether any are classified as small businesses. (AHRI, No. 72 at p. 17) An anonymous commenter recommended special accommodations be given for small businesses. (Anonymous, No. 57 at p. 1)

DOE acknowledges that it can be challenging to identify small business

manufacturers. DOE reviews a range of sources to identify small businesses potentially subject to this rulemaking, as detailed in the following section VI.B.3 of this document. Regarding special accommodations for small businesses, DOE discusses additional compliance flexibilities in section VI.B.5 of this document.

3. Description and Estimated Number of Small Entities Affected

DOE conducted a market survey using public information and subscription-based company reports to identify potential small manufacturers. DOE constructed databases of walk-in doors, panels, and refrigeration systems based on its review of models listed in DOE’s Compliance Certification Database (“CCD”) ¹⁴⁸ and supplemented the information in CCD with information from the California Energy Commission’s Modernized Appliance Efficiency Database System (for refrigeration systems), ¹⁴⁹ individual company websites, and prior walk-in rulemakings (79 FR 32050) to create a comprehensive database of walk-in components available on the U.S. market and their characteristics. DOE examined this database to identify companies that manufacture, produce, import, or assemble the equipment covered by this rulemaking. DOE then consulted publicly available data, such as manufacturer websites, manufacturer specifications and product literature, import/export logs (*e.g.*, bills of lading from ImportYeti ¹⁵⁰), and basic model numbers, to identify OEMs of walk-in doors, panels, and refrigeration systems. DOE further relied on public data and subscription-based market research tools (*e.g.*, Dun & Bradstreet reports) to determine company, location, head count, and annual revenue. DOE screened out companies that do not offer equipment covered by this rulemaking, do not meet the SBA’s definition of a “small business,” or are foreign owned and operated.

Using these data sources, DOE identified 87 OEMs of WICFs that could be potentially affected by this rulemaking. Of these 87 OEMs, 61 are small, domestic manufacturers. DOE notes that some manufacturers may produce more than one of the principal

¹⁴⁸ DOE’s Compliance Certification Database is available at www.regulations.doe.gov/certification-data/#q=Product_Group_s%3A* (last accessed Jan. 26, 2024).

¹⁴⁹ The California Energy Commission’s Modernized Appliance Efficiency Database System is available at cacertappliances.energy.ca.gov/Pages/Search/AdvancedSearch.aspx (last accessed Jan. 18, 2024).

¹⁵⁰ ImportYeti, LLC. ImportYeti is available at: www.importyeti.com (last accessed April 1, 2024).

components of WICFs: doors, panels, and refrigeration systems. Of these small, domestic OEMs, 49 manufacture doors; 38 manufacture panels; and 15 manufacture refrigeration systems.

4. Description of Reporting, Recordkeeping, and Other Compliance Requirements

a. Doors

In this final rule, DOE is not amending energy conservation standards for walk-in display doors. Therefore, DOE does not expect that manufacturers of walk-in display doors, including small business manufacturers, would be directly impacted by the efficiency levels adopted in this final rule as the levels would remain at the current DOE minimum efficiency.

In this final rule, DOE is amending energy conservation standards for walk-in non-display doors. Of the 49 small, domestic OEMs of walk-in doors, 44 manufacture non-display doors. Of these 44 small, domestic OEMs of walk-in non-display doors, three also manufacture walk-in refrigeration systems. Since these three small businesses would need to meet the adopted standards for both non-display doors and refrigeration systems, DOE

presents the cumulative impacts of walk-in standards separately in section VI.B.4.d of this document.

At TSL 1, DOE expects manufacturers would likely need to update all non-display door designs to incorporate anti-sweat heater controls. DOE does not expect manufacturers would need to incorporate thermally-improved frame designs or increase insulation thickness to meet the efficiency levels required by the adopted standard level. Therefore, DOE does not expect industry, including small businesses, would incur notable capital conversion costs. Product conversion costs are investments in research, development, testing, marketing, and other non-capitalized costs necessary to make equipment designs comply with amended energy conservation standards. For the purposes of this subgroup analysis, DOE assumed that industry conversion costs would be evenly distributed across the walk-in non-display door OEMs to avoid underestimating the potential investments small manufacturers may incur as a result of the adopted standard.

All 44 small, domestic OEMs of walk-in non-display doors manufacture

manual non-display doors (*i.e.*, NM.L, NM.M). Twelve of these 44 small businesses also manufacture motorized non-display doors (*i.e.*, NO.L, NO.M). DOE estimates that the 44 small businesses that manufacture manual non-display doors may each incur \$23,000 in conversion costs and that the 12 small businesses that also manufacture motorized doors may each incur additional conversion costs of approximately \$34,000 to meet the efficiencies required at TSL 1. DOE did not identify any small businesses that only manufacture motorized doors.

Based on market research tools (*e.g.*, Dun & Bradstreet reports), DOE estimates that the annual revenue of the small walk-in non-display door OEMs that do not make walk-in refrigeration systems ranges from approximately \$0.3 million to approximately \$217.0 million, with an average annual revenue of \$20.0 million. Conversion costs range from \$23,000 to \$57,000, with average per OEM conversion costs of \$33,000, which is approximately 0.4 percent of company revenue, on average, over the 3-year conversion period. See Table VI.1 for additional details.

Table VI.1 Potential Small Business Impacts: Walk-In Non-Display Doors

Number of Small, Domestic OEMs	Range of Estimated Annual Revenue (\$ millions)	Average per-OEM Conversion Costs (\$ millions)	Average Conversion Costs as a % of Conversion Period Revenue
6	<=1.0	\$29,000	2.2%
12	>1.0 and <=5.0	\$23,000	0.3%
14	>5.0 and <=25.0	\$36,000	0.1%
9	>25.0	\$43,000	0.0%

b. Panels

In this final rule, DOE is not amending energy conservation standards for walk-in panels. Therefore, DOE does not expect that manufacturers of walk-in panels, including small business manufacturers, would be directly impacted by the efficiency levels established in this final rule, as the levels would remain at the current DOE minimum efficiency.

c. Refrigeration Systems

In this final rule, DOE is amending energy conservation standards for walk-in refrigeration systems. DOE expects that at TSL 2, manufacturers would likely need to incorporate the following design options: all dedicated condensing system equipment classes would generally incorporate EC

condenser fan motors; all outdoor dedicated condensing system equipment would generally incorporate self-regulating crankcase heater controls with a temperature switch; additionally, low-temperature outdoor dedicated condensing system equipment classes would generally incorporate variable-speed condenser fan motors and all but the highest capacity units would generally incorporate ambient subcooling circuits; some medium-temperature outdoor dedicated condensing unit equipment classes would incorporate improved single-speed compressors; low-temperature and indoor medium-temperature dedicated condensing unit equipment classes would generally incorporate larger condenser coils; low- and medium-temperature single-packaged

dedicated system equipment classes would generally incorporate larger evaporator coils and variable speed evaporator fans; lower-capacity low- and medium-temperature single-packaged dedicated condensing units would generally incorporate propane compressors; higher capacity indoor low-temperature single-packaged dedicated system equipment classes would generally incorporate thermal insulation up to 4 inches in thickness; outdoor medium-temperature single-packaged dedicated system equipment classes would generally incorporate variable speed condenser fans; lower capacity outdoor medium-temperature single-packaged dedicated system equipment classes would generally incorporate thermal insulation up to 4 inches in thickness and ambient

subcooling circuits; high-temperature indoor, and outdoor ducted, dedicated condensing system equipment classes would generally incorporate max-tech design options; finally high-temperature outdoor non-ducted dedicated condensing system equipment classes would generally incorporate thermal insulation up to 1.5 inches in thickness and variable speed condenser fans.

DOE expects that at TSL 2, all unit cooler equipment classes would incorporate the max-tech design options, except for high-temperature non-ducted unit coolers, which would generally require evaporator coils 4 rows deep, and higher-capacity medium-temperature unit coolers, which would generally only require 3-row deep evaporator coils.

Of the 15 small, domestic OEMs of walk-in refrigeration systems, five OEMs only manufacture high-temperature units (*i.e.*, SP.H.I, SP.H.ID, SP.H.O, SP.H.OD, UC.H, and/or UC.H.ID), five OEMs only manufacture low- and medium-temperature dedicated condensing systems, two OEMs only manufacture low- and medium-temperature unit coolers, and the remaining three OEMs manufacture low- and medium-temperature dedicated condensing systems and unit

coolers. As discussed in section VI.B.4.a of this document, three of these 15 small, domestic OEMs also manufacture walk-in non-display doors. Since these three small businesses would need to meet the adopted standards for both non-display doors and refrigeration systems, DOE presents the cumulative impacts of walk-in standards separately in section VI.B.4.d of this document.

For the five high-temperature OEMs, at TSL 2, DOE does not expect these small manufacturers would incur any capital conversion costs. Based on information gathered during manufacturer interviews, DOE understands that manufacturers of high-temperature units typically purchase the heat exchangers used for walk-in systems and would therefore not incur any capital conversion costs as a direct result of the final rule. For the remaining ten small, domestic OEMs of dedicated condensing systems and/or unit coolers, manufacturers would need to invest in new tooling to accommodate larger condenser coils, ambient subcooling, and/or larger evaporator coils. For the purposes of this subgroup analysis, DOE assumed that the industry capital and product conversion costs for each equipment class would be evenly distributed across the OEMs that

manufacture those equipment classes to avoid underestimating the potential capital and R&D investments small manufacturers may incur as a result of the adopted standard. DOE believes this conservative approach represents an upper bound of potential small business investments. DOE's capital investment estimates are based on results from the equipment teardown analysis, which assumed an average, representative production volume and array of capacity offerings. However, small manufacturers have lower production volumes and require less production capacity (*e.g.*, lower tooling costs).

Based on market research tools (*e.g.*, Dun & Bradstreet reports), DOE estimates that annual revenue of small walk-in refrigeration system OEMs that do not make walk-in non-display doors ranges from approximately \$3.7 million to approximately \$209.8 million, with an average annual revenue of \$77.1 million. The conversion costs range from \$0.5 million to \$4.9 million, with average per OEM conversion costs of \$2.2 million, which are approximately 2.3 percent of company revenue, on average, over the 4-year conversion period. See Table VI.2 for additional details.

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Table VI.2 Potential Small Business Impacts: Walk-In Refrigeration Systems

Company	Estimated Capital Conversion Costs (\$ Millions)	Estimated Product Conversion Costs (\$ Millions)	Estimated Total Conversion Costs (\$ Millions)	Estimated Annual Revenue (\$ Millions)	Conversion Costs as a % of Conversion Period Revenue
Manufacturer 1	0.0	0.5	0.5	3.7	3.2%
Manufacturer 2	0.0	0.5	0.5	3.9	3.0%
Manufacturer 3	0.8	1.2	2.1	5.1	10.2%
Manufacturer 4	0.0	0.5	0.5	8.2	1.4%
Manufacturer 5	0.0	0.5	0.5	9.7	1.2%
Manufacturer 6	0.8	1.2	2.1	12.0	4.3%
Manufacturer 7	2.3	2.5	4.9	88.7	1.4%
Manufacturer 8	2.3	2.5	4.9	110.3	1.1%
Manufacturer 9	2.3	2.5	4.9	116.2	1.0%
Manufacturer 10	1.5	1.3	2.8	150.0	0.5%
Manufacturer 11	0.0	0.5	0.5	208.0	0.1%
Manufacturer 12	0.8	1.2	2.1	209.8	0.2%

d. Doors and Refrigeration Systems

As previously discussed, DOE identified three small businesses that manufacture both non-display doors

and refrigeration systems subject to more stringent standards. To better reflect the overall impact of this final rule on these three small businesses,

DOE presents the estimated conversion costs to comply with the adopted standards for both non-display doors and refrigeration systems in Table VI.3.

Table VI.3 Potential Small Business Impacts: Walk-in Non-Display Doors and Refrigeration Systems

Company	Estimated Capital Conversion Costs (\$ Millions)	Estimated Product Conversion Costs (\$ Millions)	Estimated Total Conversion Costs (\$ Millions)	Estimated Annual Revenue (\$Millions)	Average Conversion Costs as a Percent of Conversion Period Revenue*
Manufacturer A	0.8	1.3	2.1	11.3	4.7%
Manufacturer B	0.8	1.2	2.1	156.3	0.3%
Manufacturer C	1.5	1.4	2.8	276.8	0.3%

*DOE used a 3-year conversion period for investments associated with non-display doors and a 4-year conversion period for investments associated with refrigeration systems.

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5. Significant Alternatives Considered and Steps Taken To Minimize Significant Economic Impacts on Small Entities

The discussion in the previous section analyzes impacts on small businesses that would result from the adopted standards, represented by TSL 1 for walk-in non-display doors and TSL 2 for walk-in refrigeration systems. DOE is not adopting more stringent standards for display door and panel equipment classes in this final rule. In reviewing alternatives to the adopted standards, DOE examined energy conservation standards set at lower efficiency levels for walk-in refrigeration systems. While TSL 1 would reduce the impacts on small business manufacturers of refrigeration systems, it would come at the expense of a reduction in energy savings. For walk-in refrigeration systems, TSL 1 achieves 42.1 percent lower energy savings compared to the energy savings at TSL 2.

Based on the presented discussion, establishing standards at TSL 1 for walk-in non-display doors and TSL 2 refrigeration systems balances the benefits of the energy savings at TSL 1 (non-display doors) and TSL 2 (refrigeration systems) with the potential burdens placed on walk-in manufacturers, including small business manufacturers. Accordingly, DOE is not adopting one of the other TSLs considered in the analysis, or the other policy alternatives examined as part of the RIA and included in chapter 17 of the final rule TSD.

Additionally, DOE notes that statutory provisions under EPCA state that should the Secretary determine that a 3-year period is inadequate, the Secretary may establish an effective date for WICFs manufactured beginning on the date that is not more than 5 years after the date

of publication of a final rule for WICFs. (See 42 U.S.C. 6313(f)(5)(B)(ii)) Pursuant to this EPCA provision, DOE is extending the compliance period for WICF refrigeration systems so that compliance is required December 31, 2028, approximately 1 year later than the expected compliance year (2027) analyzed in the September 2023 NOPR (which was based on a 3-year compliance period). DOE has determined that a longer compliance period for WICF refrigeration systems is warranted based on stakeholder comments and DOE's assessment of the investments and redesign required to meet the adopted levels, combined with the impact of overlapping Federal refrigerant regulations. DOE understands that the longer compliance period will help mitigate cumulative regulatory burden by allowing manufacturers of WICF refrigeration systems, including small businesses, more flexibility to spread investments across approximately 4 years instead of 3 years. Manufacturers, including small businesses, will also have more time to recoup any investments made to redesign walk-in equipment for the October 2023 EPA Technology Transitions Final Rule as compared to a 3-year compliance period.

Additional compliance flexibilities may be available through other means. Manufacturers subject to DOE's energy efficiency standards may apply to DOE's Office of Hearings and Appeals for exception relief under certain circumstances. Manufacturers should refer to 10 CFR part 430, subpart E, and 10 CFR part 1003 for additional details.

C. Review Under the Paperwork Reduction Act

Manufacturers of walk-ins must certify to DOE that their products

comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for walk-ins, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including walk-ins. (See generally 10 CFR part 429). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act ("PRA"). This requirement has been approved by OMB under OMB control number 1910-1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Although DOE is adopting amended standards in terms of a new metric for walk-in refrigeration systems, DOE is not amending certification or reporting requirements for walk-in refrigeration systems in this final rule. Instead, if determined to be necessary, DOE may consider proposals to amend its certification requirements and reporting for walk-in refrigeration systems under a separate rulemaking regarding appliance and equipment certification. DOE will address changes to OMB

Control Number 1910–1400 at that time, as necessary.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (“NEPA”), DOE has analyzed this rule in accordance with NEPA and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix B5.1 because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, none of the exceptions identified in B5.1(b) apply, no extraordinary circumstances exist that require further environmental analysis, and it meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an environmental impact assessment or an environmental impact statement.

E. Review Under Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the equipment that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set

forth in EPCA. (See 42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) Therefore, no further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any 1 year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to permit

timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.

This final rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. When developing a Family Policymaking Assessment, agencies must assess whether: (1) the action strengthens or erodes the stability or safety of the family and, particularly, the marital commitment; (2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children; (3) the action helps the family perform its functions, or substitutes governmental activity for the function; (4) the action increases or decreases disposable income or poverty of families and children; (5) the proposed benefits of the action justify the financial impact on the family; (6) the action may be carried out by State or local government or by the family; and whether (7) the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

DOE has considered how the benefits of this final rule compare to the possible financial impact on a family (the only factor listed that is relevant to this rule). As part of its rulemaking process, DOE must determine whether the energy conservation standards enacted in this final rule are economically justified. As discussed in section V.C.1 of this document, DOE has determined that the standards enacted in this final rule are economically justified because the

benefits to consumers would far outweigh the costs to manufacturers. Families will also see LCC savings as a result of this final rule. Moreover, as discussed further in section V.B.1 of this document, DOE has determined that for small businesses, average LCC savings and PBP at the considered efficiency levels are improved (*i.e.*, higher LCC savings and lower PBP) as compared to the average for all households. Further, the standards will also result in climate and health benefits for families.

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf. DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order, and is likely to have a

significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that this regulatory action, which sets forth amended energy conservation standards for walk-ins, is not a significant energy action because the standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on this final rule.

L. Information Quality

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy, issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667.

In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.¹⁵¹ Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity

and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve DOE’s analyses. DOE is in the process of evaluating the resulting report.¹⁵²

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The Office of Information and Regulatory Affairs has determined that this final rule meets the criteria set forth in 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, and Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on November 27, 2024, by Jeffrey Marootian, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 2, 2024.

Treena V. Garrett,

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

For the reasons set forth in the preamble, DOE amends part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

¹⁵¹ The 2007 “Energy Conservation Standards Rulemaking Peer Review Report” is available at the following website: energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0 (last accessed May 31, 2024).

¹⁵² The report is available at www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.

**PART 431—ENERGY EFFICIENCY
PROGRAM FOR CERTAIN
COMMERCIAL AND INDUSTRIAL
EQUIPMENT**

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Amend § 431.306 by revising paragraphs (d) and (e) to read as follows:

§ 431.306 Energy conservation standards and their effective dates.

* * * * *

(d) *Walk-in cooler and freezer non-display doors.* (1) All walk-in cooler and walk-in freezer non-display doors manufactured starting on June 5, 2017, and before December 23, 2027, must satisfy the following standards:

TABLE 2 TO PARAGRAPH (d)(1)

Equipment class	Equations for maximum energy consumption (kWh/day) *
Passage Door, Medium-Temperature	$0.05 A_{nd} + 1.7.$
Passage Door, Low-Temperature	$0.14 A_{nd} + 4.8.$
Freight Door, Medium-Temperature	$0.04 A_{nd} + 1.9.$
Freight Door, Low-Temperature	$0.12 A_{nd} + 5.6.$

* A_{nd} represents the surface area of the non-display door.

(2) All walk-in cooler and walk-in freezer non-display doors manufactured starting on December 23, 2027, must satisfy the following standards:

TABLE 3 TO PARAGRAPH (d)(2)

Equipment class	Maximum daily energy consumption (kWh/day)
Non-Display Door, Manual, Medium-Temperature	$0.02 \times A_{nd} + 0.58 + 0.33 \times a + 0.07 \times b + 0.24 \times c + e.$
Non-Display Door, Manual, Low-Temperature	$0.10 \times A_{nd} + 2.63 + 0.40 \times a + 0.09 \times b + 0.30 \times c + 0.85 \times d + f.$
Non-Display Door, Motorized, Medium-Temperature	$0.02 \times A_{nd} + 0.77 + 0.33 \times a + 0.07 \times b + 0.24 \times c + e.$
Non-Display Door, Motorized, Low-Temperature	$0.09 \times A_{nd} + 2.88 + 0.40 \times a + 0.09 \times b + 0.30 \times c + 0.85 \times d + f.$

A_{nd} represents the surface area of the non-display door in square feet.

$a = 1$ for a door with lighting and $= 0$ for a door without lighting.

$b = 1$ for a door with a digital temperature display without alarms and $= 0$ for a door without a digital display without alarms.

$c = 1$ for a door with a digital temperature display with alarms and $= 0$ for a door without a digital temperature display with alarms.

$d = 1$ for a door with a heated pressure relief vent and $= 0$ for a door without a heated pressure relief vent.

$e = 0.06 \times A_{window} + 0.10$, with a maximum value of 0.25 for a door with a heated viewport window, and $= 0$ for a door without a heated viewport window.

$f = 0.54 \times A_{window} + 0.23$, with a maximum value of 1.50 for a door with a heated viewport window, and $= 0$ for a door without a heated viewport window.

A_{window} represents the surface area of the viewing window in square feet.

(e) *Walk-in cooler refrigeration systems.* (1) All walk-in cooler and walk-in freezer refrigeration systems manufactured starting on the dates listed in the table and before December 31, 2028, except for walk-in process cooling refrigeration systems (as defined in § 431.302), must satisfy the following standards:

TABLE 4 TO PARAGRAPH (E)(1)

Equipment class	Minimum AWEF (Btu/W-h) *	Compliance date: equipment manufactured starting on . . .
Dedicated Condensing System—Medium-Temperature, Indoor	5.61	June 5, 2017.
Dedicated Condensing System—Medium-Temperature, Outdoor	7.60	
Dedicated Condensing System—Low-Temperature, Indoor with a Net Capacity (q_{net}) of:		July 10, 2020.
<6,500 Btu/h	$9.091 \times 10^{-5} \times q_{net} + 1.81$	
≥6,500 Btu/h	2.40	
Dedicated Condensing System—Low-Temperature, Outdoor with a Net Capacity (q_{net}) of:		
<6,500 Btu/h	$6.522 \times 10^{-5} \times q_{net} + 2.73$	
≥6,500 Btu/h	3.15	
Unit Cooler—Medium-Temperature	9.00	
Unit Cooler—Low-Temperature with a Net Capacity (q_{net}) of:		
<15,500 Btu/h	$1.575 \times 10^{-5} \times q_{net} + 3.91$	
≥15,500 Btu/h	4.15	

* Where q_{net} is net capacity as determined in accordance with § 431.304 and certified in accordance with 10 CFR part 429.

(2) All walk-in cooler and walk-in freezer refrigeration systems manufactured starting on December 31, 2028, except for walk-in process cooling refrigeration systems (as defined in § 431.302), must satisfy the following standards:

TABLE 5 TO PARAGRAPH (e)(2)

Equipment class	Net capacity (q_{net}) *	Minimum AWEF2 * Btu/W-h
Dedicated Condensing System—High-Temperature, Indoor, Non-Ducted	<7,000 Btu/h ≥7,000 Btu/h	$7.55 \times 10^{-4} \times q_{net} + 2.37$. 7.66.
Dedicated Condensing System—High-Temperature, Outdoor, Non-Ducted	<7,000 Btu/h ≥7,000 Btu/h	$1.02 \times 10^{-3} \times q_{net} + 2.40$. 9.55.
Dedicated Condensing System—High-Temperature, Indoor, Ducted	<7,000 Btu/h ≥7,000 Btu/h	$2.46 \times 10^{-4} \times q_{net} + 1.55$. 3.27.
Dedicated Condensing System—High-Temperature, Outdoor, Ducted	<7,000 Btu/h ≥7,000 Btu/h	$3.60 \times 10^{-4} \times q_{net} + 1.88$. 4.39.
Dedicated Condensing System other than Single-Packaged—Medium-Temperature, Indoor.	<8,000 Btu/h ≥8,000 Btu/h and <25,000 Btu/h ≥25,000 Btu/h	5.61 $3.35 \times 10^{-5} \times q_{net} + 5.34$. 6.18.
Dedicated Condensing System other than Single-Packaged—Medium-Temperature, Outdoor.	<25,000 Btu/h ≥25,000 Btu/h and <54,000 Btu/h ≥54,000 Btu/h	$1.61 \times 10^{-5} \times q_{net} + 7.26$ $7.59 \times 10^{-6} \times q_{net} + 7.47$. 7.88.
Dedicated Condensing System other than Single-Packaged—Low-Temperature, Indoor.	<9,000 Btu/h ≥9,000 Btu/h and <25,000 Btu/h ≥25,000 Btu/h and <54,000 Btu/h ≥54,000 Btu/h	$4.64 \times 10^{-5} \times q_{net} + 2.18$ $2.52 \times 10^{-5} \times q_{net} + 2.37$ $1.45 \times 10^{-6} \times q_{net} + 2.96$. 3.04.
Dedicated Condensing System other than Single-Packaged—Low-Temperature, Outdoor.	<9,000 Btu/h ≥9,000 Btu/h and <25,000 Btu/h ≥25,000 Btu/h and <75,000 Btu/h ≥75,000 Btu/h	$9.93 \times 10^{-5} \times q_{net} + 2.62$ $3.14 \times 10^{-5} \times q_{net} + 3.23$ $4.72 \times 10^{-6} \times q_{net} + 3.90$. 4.25.
Single-Packaged Dedicated Condensing System—Medium-Temperature, Indoor	<9,000 Btu/h ≥9,000 Btu/h	$1.00 \times 10^{-4} \times q_{net} + 4.91$. 5.81.
Single-Packaged Dedicated Condensing System—Medium-Temperature, Outdoor.	<9,000 Btu/h ≥9,000 Btu/h	$3.07 \times 10^{-4} \times q_{net} + 4.73$. 7.49.
Single-Packaged Dedicated Condensing System—Low-Temperature, Indoor	<6,000 Btu/h ≥6,000 Btu/h	$8.00 \times 10^{-5} \times q_{net} + 1.80$. 2.28.
Single-Packaged Dedicated Condensing System—Low-Temperature, Outdoor	<6,000 Btu/h ≥6,000 Btu/h	$1.39 \times 10^{-4} \times q_{net} + 1.95$. 2.78.
Unit Cooler—High-Temperature Non-Ducted	<9,000 Btu/h ≥9,000 Btu/h and <25,000 Btu/h ≥25,000 Btu/h	10.33 $3.83 \times 10^{-4} \times q_{net} + 6.89$. 16.45.
Unit Cooler—High-Temperature Ducted	<9,000 Btu/h ≥9,000 Btu/h and <25,000 Btu/h ≥25,000 Btu/h	6.64 $3.70 \times 10^{-4} \times q_{net} + 3.31$. 12.57.
Unit Cooler—Medium-Temperature	<54,000 Btu/h ≥54,000 Btu/h and <75,000 Btu/h ≥75,000 Btu/h	9.65 $-3.10 \times 10^{-5} \times q_{net} + 11.32$. 9.00.
Unit Cooler—Low-Temperature	All	4.57.

* Where q_{net} is net capacity as determined in accordance with § 431.304 and certified in accordance with 10 CFR part 429.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix A

September 13, 2024

Ami Grace-Tardy
Assistant General Counsel for Legislation,
Regulation and Energy Efficiency
U.S. Department of Energy
Washington, DC 20585
Ami.Grace-Tardy@hq.doe.gov

Re: Energy Conservation Program: Standards
for Walk-In Coolers and Freezers DOE
Docket No. EERE-2017-BT-STD-0009

Dear Assistant General Counsel Grace-Tardy:

I am responding to your July 15, 2024, letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for walk-in coolers and freezers.

Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (ECPA), 42

U.S.C. 6295(o)(2)(B)(i)(V), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR 0.40(g). The Assistant Attorney General for the Antitrust Division has authorized me, as the Policy Director for the Antitrust Division, to provide the Antitrust Division's views regarding the potential impact on competition of proposed energy conservation standards on his behalf.

In conducting its analysis, the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice, by placing certain manufacturers at an unjustified competitive disadvantage, or by 2 inducing avoidable inefficiencies in production or distribution of particular

products. A lessening of competition could result in higher prices to manufacturers and consumers.

We have reviewed the proposed standards contained in the Notice of Proposed Rulemaking (88 FR 60746, September 5, 2023), the Proposed Rules (88 FR 66710, September 28, 2023), and the related Technical Support Documents (TSD) that accompanied them. We have also reviewed the Docket and public comments filed in response to the related Request for Information.

Based on this review, our conclusion is that the proposed energy conservation standards for walk-in coolers and freezers are unlikely to have a significant adverse impact on competition.

Sincerely,
David G.B. Lawrence.
Policy Director.

[FR Doc. 2024-28474 Filed 12-20-24; 8:45 am]

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