FEDERAL REGISTER

Vol. 89 Friday,

No. 193 October 4, 2024

Pages 80715–80992

OFFICE OF THE FEDERAL REGISTER

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Contents

Federal Register

Vol. 89, No. 193

Friday, October 4, 2024

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 89, No. 193
Friday, October 4, 2024

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

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[NRC–2023–0210]

RIN 3150–AL09

Non-Substantive Amendments to Adjudicatory Proceeding Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of November 5, 2024, for the direct final rule that was published in the **Federal Register** on August 22, 2024. This direct final rule amended the agency's rules of practice and procedure to improve access to documents and make e-filing rules technology neutral, to delete an obsolete regulation, to clarify the applicability of subpart L and subpart N procedures, to enhance internal consistency for page limit requirements, to enhance consistency with the Federal Rules of Evidence for ''true copies,'' and to better reflect current Atomic Safety and Licensing Board Panel practice regarding admission of evidence.

DATES: *Effective date:* The effective date of November 5, 2024, for the direct final rule published in the **Federal Register** on August 22, 2024 (89 FR 67830), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2023–0210 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–2023–0210. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: *Helen.Chang@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The comment can be viewed in ADAMS under Accession No. ML24256A206.
- *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, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ethan Licon, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1016, email: *Ethan.Licon@nrc.gov.*

SUPPLEMENTARY INFORMATION: On August 22, 2024 (89 FR 67830), the NRC published a direct final rule amending its regulations in part 2 of title 10 of the *Code of Federal Regulations* to revise the agency's rules of practice and procedure to improve access to documents and make e-filing rules technology neutral, to delete an obsolete regulation, to clarify the applicability of Subpart L and Subpart N procedures, to enhance internal consistency for page limit requirements, to enhance consistency with the Federal Rules of Evidence for ''true copies,'' and to better reflect current Atomic Safety and Licensing Board Panel practice regarding admission of evidence. In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on November 5, 2024. The NRC received one anonymous comment, which can be viewed at ADAMS Accession No. ML24256A206; the comment was not a significant adverse comment on the direct final rule. Therefore, this direct final rule will become effective as scheduled.

Dated: October 1, 2024.

For the Nuclear Regulatory Commission.

Cindy Bladey,

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

[FR Doc. 2024–23015 Filed 10–3–24; 8:45 am]

BILLING CODE 7590–01–P

CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1006

Debt Collection Practices (Regulation F); Deceptive and Unfair Collection of Medical Debt

AGENCY: Consumer Financial Protection Bureau.

ACTION: Advisory opinion.

SUMMARY: The Consumer Financial Protection Bureau (CFPB) is issuing this advisory opinion to remind debt collectors of their obligation to comply with the Fair Debt Collection Practices Act (FDCPA) and Regulation F's prohibitions on false, deceptive, or misleading representations or means in connection with the collection of any medical debt and unfair or unconscionable means to collect or attempt to collect any medical debts.

DATES: This advisory opinion is applicable as of December 3, 2024.

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 a document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The CFPB is issuing this advisory opinion through the procedures for its Advisory Opinions Policy.[1] Refer to those procedures for more information.

This advisory opinion explains that debt collectors are strictly liable under the FDCPA and Regulation F (12 CFR part 1006) for engaging in the following

[1] 85 FR 77987 (Dec. 3, 2020).

unlawful practices when collecting medical bills:

○ *Collecting an amount not owed because it was already paid.* This includes instances when a bill was already fully or partially paid by insurance or a Government payor.

○ *Collecting amounts not owed due to Federal or State law.* This includes where law prohibits obligating a person on certain debts. For example, a State workers' compensation scheme may make employers or insurers responsible for qualifying medical expenses, rather than the patients. In addition, the Nursing Home Reform Act prohibits nursing homes from requiring third parties to pay for a patient's expenses in certain circumstances.

○ *Collecting amounts above what can be charged under Federal or State law.* This includes, for example, collecting amounts that exceed limits in the No Surprises Act. It also includes collection of amounts that exceed a State's common law remedies for claims when there is no express contract.

○ *Collecting amounts for services not received.* This includes ''upcoding'' where a patient is charged for medical services that are more costly, more extensive, or more complex than those actually rendered.

○ *Misrepresenting the nature of legal obligations.* This includes collecting on uncertain payment obligations that are presented to consumers as amounts that are certain, fully settled, or determined.

○ *Collecting unsubstantiated medical bills.* Debt collectors must have a reasonable basis for asserting that the debts they collect are valid and the amounts correct. Debt collectors may be able to satisfy this requirement by obtaining appropriate information to substantiate those assertions, consistent with patients' privacy. This information could include payment records (including from insurance); records of a hospital's compliance with any applicable financial assistance policy; copies of executed contracts or, in the absence of express contracts, documentation that the creditor can make a prima facie claim for an alleged amount under State law (*e.g.,* ''reasonable'' or ''market rates'').

This advisory opinion also interprets the meaning of ''in default'' for purposes of FDCPA section 803(6)(F)(iii) in the medical debt context to be determined by the terms of any agreement between the consumer and the medical provider under applicable law governing the agreement.

II. Background

Medical debt is a major burden for many Americans. Recent estimates place total medical debt owed by people in the United States at $220 billion.[2] Medical debt is known to disproportionately impact young and low-income adults, Black and Hispanic people, veterans, older adults, and people in the Southern United States.[3]

Medical debt is unique because consumers rarely plan to take on medical debt or choose among providers based on price. Most medical debt arises from acute or emergency care.[4] In many cases, patients lack the ability to substantively comparison-shop between medical service providers due to emergency need, restrictive insurance networks, price opacity, or limited provider availability.[5] This leaves many patients subject to the pricing and policies of the medical service providers available to them.

Healthcare providers send medical bills to consumers to obtain compensation for care rendered to patients. In some cases, providers and patients enter into express contractual relationships, which may define patients' payment obligations or providers' pricing for the care. Yet contracts between providers and patients may still be vague, as some do not define specific prices for the care provided.[6] In other cases, such as in emergency settings or where independent contractors or provider groups are involved (*e.g.,* lab work or anesthesiology), consumers may not have any contractual relationship with a medical provider that provides care and then sends a bill.[7]

Consumers consistently report being confused about medical billing practices.[8] One reason for this is the variation in how medical providers bill their patients. In most cases, medical providers charge different rates for the same services to different payors, for example charging patients far more than what Medicare would pay for a given procedure if the patient is not covered by Medicare.[9] This, in part, stems from the fact that the pricing of medical services is heavily negotiated between providers and certain institutional payors such as insurance companies, and set by Government programs like Medicare and Medicaid. As a result, healthcare providers are incentivized to initially set high list prices as starting offers in negotiations with insurers.[10] As a result, uninsured and out-of-network patients are often charged much higher prices than those ultimately agreed to with insurers for patients in their networks.[11] Even within network, prices sometimes vary by facility or department.[12] These rates often vastly exceed the cost of providing care.[13] Research has also shown that healthcare markups are higher at hospitals with

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[2] Shameek Rakshmit et al., *The Burden of Medical Debt in the United State*s, KFF (Feb. 12, 2024), *https://www.kff.org/health-costs/issue-brief/the-burden-of-medical-debt-in-the-united-states/#:~:text=This%20analysis%20of%20government%20data,debt%20of%20more%20than%20%2410%2C000.*

[3] CFPB, *Medical Debt Burden in the United States* at 2 (Mar. 1, 2022), *https://www.consumerfinance.gov/data-research/research-reports/medical-debt-burden-in-the-united-states/.*

[4] *See* Lunna Lopes et al., *Health Care Debt in the U.S.: The Broad Consequences of Medical and Dental Bills,* KFF (June 16, 2022), *https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/* (finding that 50 percent of the people in the United States who have medical debt have it because of emergency care and 72 percent have it because of acute care).

[5] CFPB, *Medical Debt Burden in the United States,* at 3 (Mar. 1, 2022), *https://www.consumerfinance.gov/data-research/research-reports/medical-debt-burden-in-the-united-states/.*

[6] George A. Nation III, *Contracting for Healthcare: Price Terms in Hospital Admission Agreements,* at 106, 124 Dick. L. Rev. 91 (2019) (describing how it is ''very common'' for admissions agreements to not include exact prices).

[7] *Id.* at 92 (''self-pay patients, who enter the hospital through the emergency department, simply lack capacity to contract due to the rushed, stressful and tension-laden emergency circumstances''). As described below, the issue of whether this constitutes an implied contract is a matter of State law.

[8] *See* CFPB, *Medical Debt Burden in the United States,* at 3 (Mar. 1, 2022), *https://www.consumerfinance.gov/data-research/research-reports/medical-debt-burden-in-the-united-states/* (''medical billing and collections practices can be confusing and difficult to navigate'').

[9] *See* Eric Lopez et al., *How Much More Than Medicare Do Private Insurers Pay? A Review of the Literature,* KFF (Apr. 15, 2020), *https://www.kff.org/medicare/issue-brief/how-much-more-than-medicare-do-private-insurers-pay-a-review-of-the-literature/;* Frank Griffin, *Fighting Overcharged Bills from Predatory Hospitals,* 51 ARIZ. ST. L.J. 1003 (2019).

[10] Hospitals generally have no limit on their ''chargemaster'' rate, the rate they initially charge most private payors, and chargemaster rates are typically significantly higher than the actual cost of services rendered. *See* National Nurses United, *Fleecing Patients: Hospitals Charge Patients More Than Four Times the Cost of Care*'' (Nov. 2020), *https://www.nationalnursesunited.org/sites/default/files/nnu/graphics/documents/1120_CostChargeRatios_Report_FINAL_PP.pdf.*

[11] *See* Jennifer Tolbert et al., *Key Facts about the Uninsured Population,* KFF (Dec. 18, 2023), *https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/.*

[12] *See* Matthew Panhans et al., *Prices for Medical Services Vary Within Hospitals, but Vary More Across Them,* Medical Care Research and Review 78(2), 157 (June 19, 2019); Xu, Tim, Angela Park and Ge Bai, *Variation in Emergency Department vs Internal Medicine Excess Charges in the United States,*'' JAMA Internal Medicine (2017), *https://pubmed.ncbi.nlm.nih.gov/28558093/.*

[13] *See* Ge Bai and Gerard F. Anderson, ''*Extreme Markup: The Fifty US Hospitals With The Highest Charge-To-Cost Ratios,*'' Health Affairs (June 2015), *https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2014.1414.*

more Black and Hispanic patients and at investor-owned, for-profit hospitals.[14]

Further, healthcare providers sometimes charge patients for ''upcoded'' services, or services more expensive than what the consumer actually received.[15] A 2024 study found that, from 2010–2019, the total of upcoding expenses for Medicare Parts A, B, and C was $656 million, $2.39 billion, and $10–15 billion, respectively.[16] Upcoding is relatively widespread and has been estimated to account for 5–10 percent of total healthcare expenditures in the United States.[17]

After an individual receives a medical service, they and their insurer are billed, if the individual is insured. Some healthcare providers also market medical payment products or other external financing options to their patients.[18] In some cases, providers are obligated by State or Federal laws to perform certain affirmative functions involving the medical bill or refrain from specific collection actions.[19] After any insurance payments or payment via a medical payment product are received, unpaid amounts, if any, are collected by phone calls, letters, emails, and offers of payment plans or settlements.[20] Hospitals and other healthcare providers in the United States are increasingly outsourcing medical billing and collection activities to third parties, such as ''Revenue Cycle Management'' firms, which are often funded by private equity.[21] One estimate projects the domestic market for Revenue Cycle Management companies to grow by 10.2 percent annually until 2030.[22] Unpaid medical bills may also be assigned to more traditional debt collectors, including those that specialize in medical debt, placed with an attorney for litigation, or, more rarely, sold to a debt buyer.

The CFPB has observed and reported on many issues with how debt collectors collect medical debt in the United States. For example, the CFPB has brought enforcement actions against debt collectors for collecting on disputed medical debts without adequate substantiation.[23] The CFPB has also previously described reports from consumers who have received collections notices for medical debts they should or do not owe. Specifically, consumers have reported receiving collections notices for debts that have or should have been covered by insurance, government payors, hospital financial assistance programs, or that the patient has otherwise paid.[24] Consumers also have reported receiving collections notices for debts they believe they do not owe under State or Federal law.

Further, many debt collectors do not have timely access to healthcare providers' billing and payment information, increasing the likelihood that the debt collector collects on an amount that is not owed, such as a bill that has already been paid.[26] Many consumers have reported difficulties receiving verification of medical debts for which they have received collections notices.[27] In some cases, debt collectors either may not have or refuse to provide to a consumer upon request proof of insurance payments, documentation confirming that the amount billed complies with State law and other affirmative collection requirements, such as hospital financial assistance, or other documents that would demonstrate the validity of the debt and the accuracy of the demanded amount.

The FDCPA's protections are enforced by the CFPB, by other Federal regulators, by individual consumers, and, under certain circumstances, by States.[28] And the CFPB is responsible for issuing rules regarding the FDCPA.[29] To the extent a person qualifies as a ''debt collector'' under the FDCPA and its implementing Regulation F, that person is subject to the FDCPA and

[14] *See* CFPB, *Medical Debt Burden in the United States,* at 11 (Mar. 1, 2022), *https://www.consumerfinance.gov/data-research/research-reports/medical-debt-burden-in-the-united-states/* (referencing Faiz Gani, et al., *Hospital markup and operation outcomes in the United States, Surgery* (July 2016), *https://www.sciencedirect.com/science/article/abs/pii/S0039606016300022?via%3Dihub;* Tim Xu, Angela Park, and Ge Bai, *Variation in Emergency Department vs Internal Medicine Excess Charges in the United States, Jama Internal Medicine* (2017), *https://pubmed.ncbi.nlm.nih.gov/28558093/).*

[15] Medical care providers often calculate and itemize charges for care using a standardized set of codes. These codes indicate the various aspects of care a patient received along with the type and scope of that care. Typically, more serious, more urgent, or more involved forms of care will incur higher charges. If a medical provider designates an aspect of a patient's care with a code that denotes a higher or more involved level of care than was actually received, the provider is said to be ''upcoding.''

[16] Keith Joiner, Jianjing Lin, and Juan Pantano, *Upcoding in medicare: where does it matter most,* Health Economics Review 14(1) (2024), *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10759668/.*

[17] William Hsiao, *Fraud and Abuse in Healthcare Claims,* California HHS (Jan. 2022), *https://www.chhs.ca.gov/wp-content/uploads/2022/01/Commissioner-William-Hsiao-Comments-on-Fraud-and-Abuse-in-Healthcare-Claims.pdf.*

[18] Consumers are increasingly using medical credit cards and other financing options to pay for medical care, and the CFPB has done significant work studying and addressing this issue. *See* CFPB, *Medical Credit Cards and Financing Plans*'' (May 4, 2023), *https://www.consumerfinance.gov/data-research/research-reports/medical-credit-cards-and-financing-plans/; see also* Lorelei Salas, *Ensuring consumers aren't pushed into medical payment products*'' (June 18, 2024), *https://www.consumerfinance.gov/about-us/blog/ensuring-consumers-arent-pushed-into-medical-payment-products/;* CFPB, *Request for Information on Medical Payment Products,*'' 88 FR 44281 (July 12, 2023).

[19] Certain Federal laws, such as the No Surprises Act and the Nursing Home Reform Act, limit collection activities for certain kinds of medical debt. Non-profit hospitals may lose their non-profit tax status if they fail to evaluate patients for eligibility for financial assistance before the hospital takes certain types of collection actions. *See* 26 U.S.C. 501(r)(6). Some State laws similarly limit medical debt collections activities. For example, states have enacted additional requirements that broaden the applicability of hospital financial assistance, covering additional services for those patients deemed eligible. *See* Washington State Charity Care Law, RCW 70.170.060 (2024) (requiring non-profit hospitals to provide charity care for patients and their guarantors with incomes less than 300 percent of the Federal poverty guidelines). Medicare and Medicaid requirements also vary by State and may limit medical debt collections activities.

[20] *See* CFPB, *Medical Debt Burden in the United States,* at 12 (Mar. 1, 2022), *https://www.consumerfinance.gov/data-research/research-reports/medical-debt-burden-in-the-united-states/.*

[21] *See* Jacqueline LaPointe, *What's Behind Private Equity's Interest in RCM Vendors,* TechTarget (Mar. 5, 2024), *https://www.techtarget.com/revcyclemanagement/answer/Whats-Behind-Private-Equitys-Interest-in-RCM-Vendors.*

[22] *See* Grand View Research, *U.S. Revenue Cycle Management Market Size, Share, and Trends Analysis Report, https://www.grandviewresearch.com/industry-analysis/us-revenue-cycle-management-rcm-market.*

[23] *See* Consent Order, *Commonwealth Fin. Sys., Inc.,* CFPB No. 2023–CFPB–0018 (Dec. 15, 2023); Consent Order, *Phoenix Fin. Servs., LLC,* CFPB No. 2023–CFPB–0004 (June 8, 2023).

[24] *See* CFPB, *Fair Debt Collection Practices Act CFPB Annual Report 2023* (Nov. 16, 2023); *https://www.consumerfinance.gov/data-research/research-reports/fair-debt-collection-practices-act-cfpb-annual-report-2023/.*

[25] *See* CFPB, *Fair Debt Collection Practices Act CFPB Annual Report 2023* (Nov. 16, 2023), *https://www.consumerfinance.gov/data-research/research-reports/fair-debt-collection-practices-act-cfpb-annual-report-2023/;* CFPB, *Nursing Home Debt Collection* (Sept. 9, 2022), *https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-nursing-home-debt-collection/; see also, e.g.,* Complaint for Civil Penalties, Injunctive and Other Relief, *Washington* v. *Providence Health & Services,* No. 22–2–01754–6 SEA (King Cnty. Sup. Ct. Feb. 24, 2024), ¶¶ 70–77 (alleging that hospital system sent the accounts of patients it knew were eligible for financial assistance under state law to debt collectors).

[26] John McNamara, *Debt collectors re-evaluate medical debt furnishing in light of data integrity issues* (Feb. 14, 2023), *https://www.consumerfinance.gov/about-us/blog/debt-collectors-re-evaluate-medical-debt-furnishing-in-light-of-data-integrity-issues/.*

[27] *See* CFPB, *Medical Debt Burden in the United States,* at 4 (Mar. 1, 2022), *https://www.consumerfinance.gov/data-research/research-reports/medical-debt-burden-in-the-united-states/.*

[28] 15 U.S.C. 1692l, 1692k; *see* 87 FR 31940, 31941 (May 26, 2022) (explaining state authority to address violations of the federal consumer financial laws committed by ''covered persons'' and ''service providers'' under the Consumer Financial Protection Act).

[29] 12 U.S.C. 5481(12)(F), (H), 5512(b), 5514(c); 15 U.S.C. 1692l(d).

Regulation F.[30] The FDCPA and Regulation F prohibit the use of ''any false, deceptive, or misleading representation or means in connection with the collection of any debt,'' [31] including, for example, any false representation of ''the character, amount, or legal status of any debt.'' [32] The FDCPA and Regulation F also prohibit the use of ''unfair or unconscionable means to collect or attempt to collect any debt,'' [33] including, for example, the ''collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.'' [34] The CFPB reminds debt collectors that these FDCPA prohibitions interact with other Federal and State laws in a variety of ways that could create liability for debt collectors operating in the medical debt market.

The CFPB also reminds debt collectors that sections 1692e(2)(A) and 1692f(1) impose strict liability. First, these two provisions include no scienter requirement, in contrast to several others that do.[35] Second, the statute differentiates between intentional and unintentional violations.[36] As many courts have held,[37] imposing strict liability for violations of these provisions is therefore the best reading of the plain language, consistent with the statute's overall structure, and consonant with Congress' intent.[38]

III. Collection of Debts Invalid Under Law

A. Collection of Amounts Not Owed Because Already Paid

Section 808(1) of the FDCPA prohibits, in relevant part, the collection of any amount ''unless such amount is expressly authorized by the agreement creating the debt or permitted by law.'' [39] And section 807(2)(A) prohibits any false representation of ''the character, amount, or legal status of any debt.'' [40]

Under these provisions, debt collectors must only collect or attempt to collect the amount that a consumer, in fact, owes at the time of a debt collection action after all appropriate deductions for partial payments by the consumer or third parties are made. The amounts due on a medical bill can often be adjusted multiple times, in light of payments made by consumers themselves or by third parties, such as insurers. Providers may also agree to accept a reduced amount in full satisfaction of the bill, or reduce the amount billed pursuant to a financial assistance policy or program.

Under the FDCPA, the ''amount [ ] expressly authorized by the agreement creating the debt'' refers only to the remaining balance on a debt that is fully owed by the consumer after any payments that reduce the debt's remaining balance are deducted because such payments reduce the amount that the consumer is obligated to pay under the original agreement. Accordingly, seeking to collect an amount that does not account for partial payments or changes to the bill made by the provider would violate the FDCPA's prohibitions against unfair or unconscionable debt collection practices because the amount has not been expressly agreed to. In other words, once a partial payment has been made toward an agreed-to amount, collection or attempted collection of the full amount without accounting for the partial payment is collection of an amount *greater* than that agreed to or permitted by law. Such collection or attempted collection would also violate the FDCPA's prohibitions against deceptive or misleading debt collection practices because it would misrepresent the amount of the debt actually owed.[41] Because payments toward a debt might be made at any time, debt collectors are responsible for ensuring that the correct collection amount is sought during each attempt at collection.

B. Collection of Amounts Not Owed Due to Federal or State Law

Section 808(1) of the FDCPA prohibits, in relevant part, the collection of any amount ''unless such amount is expressly authorized by the agreement creating the debt or permitted by law.'' [42] An ''amount expressly authorized by the agreement creating the debt or permitted by law'' means only a debt that the consumer is legally obligated to pay. If a Federal or State law relieves consumers of the obligation to pay for medical costs, in whole or in part, then collection of those costs is not ''permitted by law'' but rather prohibited by law. Thus, any amount that a consumer is not obligated to pay by operation of Federal or State law, is not an ''amount . . . permitted by law.'' Nor is the amount collectible as an ''amount [ ] expressly authorized by the agreement creating the debt'' since contractual terms that contravene Federal or State law are unenforceable as contrary to public policy.[43]

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[30] 15 U.S.C. 1692a(6) (defining ''debt collector''); 12 CFR 1006.2(i) (same).

[31] 15 U.S.C. 1692e; 12 CFR 1006.18(a).

[32] 15 U.S.C. 1692e(2)(A); 12 CFR 1006.18(b)(2)(i).

[33] 15 U.S.C. 1692f; 12 CFR 1006.22(a).

[34] 15 U.S.C. 1692f(1); 12 CFR 1006.22(b).

[35] *See, e.g.,* 15 U.S.C. 1692e(8) (prohibiting ''[c]ommunicating or threatening to communicate to any person credit information *which is known or which should be known* to be false'') (emphasis added); 15 U.S.C. 1692d(5) (prohibiting debt collectors from ''causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously *with intent* to annoy, abuse, or harass'') (emphasis added); 15 U.S.C. 1692j(a) (making it unlawful to ''design, compile, and furnish any form *knowing* that such form would be used'' to deceive consumers in a specified way'') (emphasis added).

[36] *See, e.g.,* 15 U.S.C. 1692k(b)(1) (including as a factor for calculating statutory damages ''the extent to which [the debt collector's] noncompliance was intentional''). Entities may also have an affirmative defense to liability for violations described in this advisory opinion, but only if they maintain procedures that are reasonably designed to prevent unintentional violations that are the result of bona fide errors. *See* 15 U.S.C. 1692k(c) (providing affirmative defense for violations if they are: (1) ''not intentional,'' (2) the result of ''a bona fide error,'' and (3) occurred despite ''the maintenance of procedures reasonably adapted to avoid any such error''). Further, ''the broad statutory requirement of procedures reasonably designed to avoid 'any' bona fide error indicates that the relevant procedures are ones that help to avoid errors like clerical or factual mistakes. Such procedures are more likely to avoid error than those applicable to legal reasoning. . . .'' *Jerman* v. *McNellie, et al.,* 559 U.S. 573, 587 (2010).

[37] Every Federal Circuit Court of Appeals to address this issue has held that the FDCPA is a strict liability statute. *See, e.g., Vangorden* v. *Second Round, Ltd. P'ship,* 897 F.3d 433, 437–38 (2d Cir. 2018) (''The FDCPA is 'a strict liability statute' and, thus, there is no need for a plaintiff to plead or prove that a debt collector's misrepresentation . . . was intentional.''); *Allen ex rel. Martin* v. *LaSalle Bank, N.A.,* 629 F.3d 364, 368 (3d Cir. 2011) (''The FDCPA is a strict liability statute to the extent it imposes liability without proof of an intentional violation.''); *Stratton* v. *Portfolio Recovery Assocs., LLC,* 770 F.3d 443, 448–49 (6th Cir. 2014) (''The FDCPA is a strict-liability statute: A plaintiff does not need to prove knowledge or intent.'').

[38] Congress enacted the FDCPA in 1977 to ''eliminate abusive debt collection practices by debt collectors, to ensure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.'' Public Law 95–109, sec. 802(e), 91 Stat. 874, 874 (codified at 15 U.S.C. 1692(e)).

[39] 15 U.S.C. 1692f(1); 12 CFR 1006.22(b).

[40] 15 U.S.C. 1692e(2)(A); 12 CFR 1006.18(b)(2)(i).

[41] *See Vangorden* v. *Second Round, L.P.,* 897 F.3d 433, 437–38 (2d Cir. 2018) (consumer stated claim under FDCPA sections 807 and 808 when debt collector sought to collect debt that consumer had already settled with creditor); *Gonzalez* v. *Allied Collection Servs., Inc.,* No. 216CV02909MMDVCF, 2019 WL 489093, at *8–9 (D. Nev. Feb. 6, 2019), *aff'd,* 852 F. App'x 264 (9th Cir. 2021) (debt collector violated FDCPA sections 807 and 808 when it sought to collect full amount of debt that had been partially paid); *see also* Complaint for Permanent Injunction and Other Equitable Relief, *FTC* v. *Midwest Recovery Systems, LLC,* No. 12–00182 (E.D. Mo. Nov. 25, 2020), *https://www.ftc.gov/system/files/documents/cases/01_-_complaint.pdf* (pleading violation of FDCPA section 807 where, among other things, ''[t]he debt was medical debt in the process of being re-billed to the consumer's medical insurance'').

[42] 15 U.S.C. 1692f(1); 12 CFR 1006.22(b).

[43] *See* Restatement (Second) of Contracts sec. 178 (''A promise or other term of an agreement is unenforceable on grounds of public policy if legislation provides that it is unenforceable. . . .'');

A range of laws protect consumers from the legal obligation to pay medical bills in certain circumstances. For example, a State workers' compensation scheme may provide that a medical provider only has recourse against a patient's employer or workers' compensation insurer for the treatment of a work-related injury.[44] And the Federal Nursing Home Reform Act prohibits, among other things, nursing care facilities that participate in Medicaid or Medicare from requesting or requiring a third-party guarantee of payment as a condition of admission, expedited admission, or continued stay in the facility, and thus nursing care facilities cannot collect the debt from third parties in violation of this law.[45]

A debt collector that collects or attempts to collect a debt from a consumer who is not legally obligated on the debt by operation of State or Federal law violates the FDCPA's prohibitions against unfair or unconscionable debt collection practices because the amount is not expressly authorized by the agreement creating the debt or permitted by law [46] and also violates the FDCPA's prohibitions against deceptive or misleading debt collection practices because it would falsely represent the amount of the debt. Debt collectors are responsible for ensuring that they do not collect or attempt to collect debts that are not legally owed by the relevant consumer, whether by operation of State or Federal law.

C. Collection of Amounts Above That Permitted by Federal or State Law

Section 807 prohibits any false representation of ''the character, amount, or legal status of any debt.'' [47] Section 808(1) of the FDCPA prohibits, in relevant part, the collection of any amount ''unless such amount is expressly authorized by the agreement creating the debt or permitted by law.'' [48] Debt collectors would violate the FDCPA when they collect or attempt to collect amounts that exceed limits or calculation methods provided by State or Federal law, thus misrepresenting the consumer's obligation to pay the debt and collecting or attempting to collect an amount not permitted by law. Here again, a range of laws may operate to limit or control the amount that a medical provider may bill a patient in certain circumstances. For example, the Federal No Surprises Act of 2020 restricts the charges that certain medical providers can bill to certain patients depending on a number of factors such as their insured status and whether a billing provider is in- or out-of-network for a patient's health insurance plan.[49] As the CFPB has previously stated, the FDCPA's prohibition on misrepresentations includes misrepresenting that a consumer must pay a debt stemming from a charge that exceeds the amount permitted by the No Surprises Act.[50] Thus, for example, a debt collector who represents that a consumer owes a debt arising from out-of-network charges for emergency services would violate the prohibition on misrepresentations if those charges exceed the amount permitted by the No Surprises Act. Relatedly, if a Federal law limits or caps the amount a consumer may be billed in a given circumstance, then collection or attempted collection of an amount over the relevant limit or cap would run afoul of the FDCPA's prohibition on collection of amounts unless permitted by law.

State law may also provide a limit on the allowable amount that a medical provider can bill a consumer. Many States have enacted laws to protect consumers from unexpected medical bills in much the same vein as the Federal No Surprises Act and which may provide additional protections beyond those in the Federal law.[51] While State laws vary considerably, many include limits on the amounts that medical providers, both emergency and non-emergency, can bill certain consumers and provide specific standards to guide billing calculations.[52] As with the Federal statute, where one of these State laws applies to limit the amount that a medical provider can bill a consumer, a debt collector that collects or attempts to collect an amount that exceeds the relevant limits would violate the FDCPA's prohibition against misrepresenting the amount of the debt owed and the prohibition against collecting or attempting to collect an amount unless permitted by law.

Finally, State contract or common law may also provide limits on the allowable amount that a medical provider can bill a consumer in certain circumstances. For example, consumers are sometimes billed by medical service providers that the consumer did not enter into an express agreement with prior to receiving the services. In these circumstances, some courts have held that State contract law provides that the relationship between the consumer and provider is governed by an implied-in-fact agreement, the price term of which may be limited to a ''reasonable'' amount.[53] Courts have also interpreted some States' laws to require that when an express contract for medical services contains no explicit price term, a ''reasonable'' price term should be inserted.[54] Courts have even invalidated

see also, e.g., United States v. *Blue Cross/Blue Shield of Ala.,* 999 F.2d 1542, 1547 (11th Cir. 1993) (''The application of a regulatory statute that is otherwise valid may not be defeated by private contracts.'') (citing *Connolly* v. *Pension Benefit Guaranty Corp.,* 475 U.S. 211, 224 (1986)); *SodexoMAGIC, LLC* v. *Drexel Univ.,* 24 F.4th 183, 219–20 (3d Cir. 2022) (''[A] voluntarily-agreed-to contract term is enforceable unless a statute or the common law specifically prevents enforcement of that term.'') (applying Pennsylvania law); *Metcalfe* v. *Grieco Hyundai LLC,* 698 F. Supp. 3d 239, 2442 (D.R.I. 2023) (''Because the [Rhode Island State statute] explicitly allows collective actions, the class action waiver provision in the Leasing Agreement is unenforceable as against public policy in Rhode Island.'') (applying Rhode Island law).

[44] *See, e.g., Kottler* v. *Gulf Coast Collection Bureau, Inc.,* 460 F. Supp. 3d 1282, 1293 (S.D. Fla. 2020), aff'd, 847 F. App'x 542 (11th Cir. 2021) (debt collector violated section 807(2)(A) when it attempted to collect a debt for which consumer had pending workers' compensation claim); *Young* v. *NPAS, Inc.,* 361 F. Supp. 3d 1171, 1196 (D. Utah 2019) (debt collector violated FDCPA sections 807(2)(A) and 808(1) when it attempted to collect a debt that consumer did not owe under Utah workers' compensation law); *Raytman* v. *Jeffrey G. Lerman, P.C.,* No. 17 CIV. 9681 (KPF), 2018 WL 5113952, at *5–6 (S.D.N.Y. Oct. 19, 2018) (consumer stated claim for violations of FDCPA sections 807 and 808 when debt collector sought to collect debt that consumer did not owe under New York Medicaid payment rules).

[45] *See generally CFPB Circular 2022–05: Debt collection and consumer reporting practices involving invalid nursing home debts* (Sept. 8, 2022), *available at: https://www.consumerfinance.gov/compliance/circulars/circular-2022-05-debt-collection-and-consumer-reporting-practices-involving-invalid-nursing-home-debts/.*

[46] This may be the case even if terms of the contract creating the debt would make a given consumer liable. *See, e.g., Tuttle* v. *Equifax Check,* 190 F.3d 9, 13 (2d Cir. 1999) (noting that it would be a violation of section 1692f(1) to collect a fee if State law expressly prohibits such fees, even if the contract allows it).

[47] 15 U.S.C. 1692e(2)(A); 12 CFR 1006.18(b)(2)(i).

[48] 15 U.S.C. 1692f(1); 12 CFR 1006.22(b).

[49] *See Requirements Related to Surprise Billing; Part II,* 86 FR 55980 (Oct. 7, 2021).

[50] *See CFPB Bulletin 2022–01: Medical Debt Collection and Consumer Reporting Requirements in Connection With the No Surprises Act,* 87 FR 3025, 3026 (Jan. 20, 2022).

[51] *See State Surprise Billing Laws and the No Surprises Act, accessible at: https://www.cms.gov/files/document/nsa-state-laws.pdf,* at 2 (''The No Surprises Act supplements State surprise billing law protections; it does not replace them.'').

[52] *See, e.g.,* Conn. Gen. Stat. secs. 38a–477aa, 20–7f; Mich. Comp. Laws sec. 333.24507.

[53] *See, e.g., Leslie* v. *Quest Diagnostics, Inc.,* No. CV171590ESMAH, 2019 WL 4668140, at *7 (D.N.J. Sept. 25, 2019) (''Plaintiffs sufficiently allege that Quest's chargemaster prices are unreasonable based on Quest's internal cost structure, the usual and customary rates charged, and payments received for these services by both Quest and other laboratory testing services.'').

[54] *Colomar* v. *Mercy Hosp., Inc.,* No. 05–22409–CIV–SEITZ, 2007 WL 2083562, at *4 (S.D. Fla. July 20, 2007) (''Florida law is settled that when the price term in a contract for hospital services is left 'open' or undefined, then the courts will infer a reasonable price.'').

explicit price terms in contracts when those terms were determined to be unconscionable under State law, often limiting the price that must be paid to some ''reasonable'' amount as a remedy.[55]

The CFPB reminds debt collectors that State law may determine or limit the amount that medical providers may charge to consumers, and that collection of or an attempt to collect an amount that exceeds the allowable amount under State law (including applicable State case law) may misrepresent the amount of the debt in violation of the FDCPA. Collection or an attempt to collect an amount that exceeds the allowable amount under State law may also violate the prohibition against collecting or attempting to collect an amount unless permitted by law. These State law cases make clear that the collection amount that is ''permitted by law'' may be much less than the amount asserted to be owed by the medical provider. Debt collectors are responsible for ensuring that they do not collect or attempt to collect amounts above that which the relevant consumer(s) can be charged under applicable State and Federal laws. Because, as noted above, the FDCPA imposes strict liability, debt collectors should ensure that they only collect or attempt to collect amounts that may be charged under applicable State law.[56]

D. Collection of Amounts Not Owed Because Services Not Received

Section 808(1) of the FDCPA prohibits, in relevant part, the collection of any amount ''unless such amount is expressly authorized by the agreement creating the debt or permitted by law.'' [57] And section 807(2)(A) prohibits any false representation of ''the character, amount, or legal status of any debt.'' [58] As relevant here, the ''amount [] expressly authorized by the agreement creating the debt'' means amounts due for services actually rendered under the relevant agreement. Similarly, a ''false representation of the . . . amount . . . of any debt'' includes a representation to a consumer that they owe an amount for services that have not been rendered.

Courts have held that it is a violation of the FDCPA for debt collectors to collect or attempt to collect amounts for services that were not rendered.[59] Medical bills, especially for services rendered in hospitals, are frequently calculated by reference to a standardized set of codes that indicate the type and degree of medical care a patient received. Typically, providers will seek greater compensation for more serious, more urgent, or more involved forms of care. As noted above, if a medical provider designates an aspect of a patient's care with a code that denotes a higher or more involved level of care than was actually received, the provider is said to be ''upcoding.'' [60]

A debt collector that collects or attempts to collect a debt that has been ''upcoded'' violates the FDCPA's prohibitions against unfair or unconscionable debt collection practices because the amount is not expressly authorized by the agreement for services actually rendered and also violates the FDCPA's prohibitions against deceptive or misleading debt collection practices because it would falsely represent the amount of the debt. Debt collectors are responsible for ensuring that they do not collect or attempt to collect amounts that have been charged for services that have not actually been rendered.[61]

IV. Misrepresentation of the Nature of Legal Obligations

Section 807(2)(A) prohibits any false representation of ''the character, amount, or legal status of any debt.'' A ''false representation of the . . . legal status of any debt'' includes representations to a consumer about the legal nature of the provider's claim for payment and the legal rights and obligations that arise under that particular type of claim.

As described above, there are a variety of ways in which medical bills and the amounts demanded therein differ from consumer transactions where a consumer agrees to a known and definite price in exchange for goods or services. In medical billing, consumers sometimes enter agreements that have undefined price terms or are billed by providers with whom the consumer has never entered into an express agreement. The legal basis for a provider's claim for payment in such circumstances therefore also varies, and each such basis may have different implications for a consumer's legal rights or obligations. For example, under some States' laws, providers sometimes demand payment for services on the basis of an account stated theory, whereby a party presents another with an alleged statement of account and a legal obligation to pay that amount arises if the receiving party does not object within a reasonable period of time.[62] The inverse is also true under these State's laws: an account stated claim cannot be maintained if the receiving party disputes the alleged statement of account within a reasonable period of time before making payments on the account.[63]

However, the variations in medical billing and the associated legal consequences are not readily apparent or known to most consumers.[64] Most

[55] *See, e.g., Ahern* v. *Knecht,* 563 NE2d 787, 793 (Ill. App. 1990) (price term in contract for appliance repair was unconscionable and repairman would be allowed only ''the actual value of his services''); *Toker* v. *Westerman,* 274 A.2d 78, 81 (N.J. Super. 1970) (price term in contract for sale of refrigerator was unconscionably high; court refused to enforce term, relieving the defendant-consumer from obligation to pay remaining balance owed); Restatement (Second) of Contracts sec. 208—Unconscionable Contract or Term, cmt. g (1981) (''the offending party [to an unconscionable contract] will ordinarily be awarded at least the reasonable value of performance rendered by him''); *see also De La Torre* v. *CashCall, Inc.,* 422 P.3d 1004, 1009 (Cal. 2018) (''As long established under California law, the doctrine of unconscionability reaches contract terms relating to the price of goods or services exchanged.'').

[56] Debt collectors may be able to minimize risk of misrepresentations in these circumstances by working with client medical providers to ensure that pricing and billing practices comply with applicable legal limits.

[57] 15 U.S.C. 1692f(1); 12 CFR 1006.22(b).

[58] 15 U.S.C. 1692e(2)(A); 12 CFR 1006.18(b)(2)(i).

[59] *Langley* v. *Statebridge Co., LLC,* No. CIV.A. 14–6366 JLL, 2014 WL 7336787, at *3 (D.N.J. Dec. 22, 2014) (consumer stated claim under FDCPA section 807(2)(A) when debt collector attempt to collect debt for tax and insurance payments not actually made by creditor); *Fitzsimmons* v. *Rickenbacker Fin., Inc.,* No. 2:11–CV–1315 JCM PAL, 2012 WL 3994477, at *3 (D. Nev. Sept. 11, 2012).

[60] *See* Centers for Medicare & Medicaid Servs., *Common Types of Healthcare Fraud,* at 2 (2016), *https://www.cms.gov/files/document/overview fwacommonfraudtypesfactsheet072616pdf.* (''Upcoding is a term that is not defined in [] regulations but is generally understood as billing for services at a higher level of complexity than the service actually provided or documented in the file.''); *U.S. ex rel. Harris* v. *Bernad,* 275 F. Supp. 2d 1, 4 (D.D.C. 2003) (''The government alleges that the defendants engaged in 'upcoding'—that is, submitted claims with CPT codes that represented a level of care higher than the defendants actually provided.'').

[61] Nothing in this Advisory Opinion should be interpreted to mean that in order to mitigate risk of violations of the FDCPA debt collectors should obtain access to documents beyond relevant patient contracts or bills. Again, debt collectors may be able to minimize risk of misrepresentations in these circumstances by working with client medical providers to ensure appropriate billing practices.

[62] *See, e.g., Univ. of S. Ala.* v. *Bracy,* 466 So.2d 148, 150 (Ala. Civ. App. 1985) (stating elements of account stated claim under Alabama law in medical context); *Egge* v. *Healthspan Servs. Co.,* No. CIV. 00–934 ADM/AJB, 2001 WL 881720, at *2 (D. Minn. July 30, 2001) (elements of account stated claim under Minnesota law in medical context).

[63] *See, e.g., Grandell Rehab. & Nursing Home, Inc.* v. *Devlin,* 809 N.Y.S.2d 481 at *3 (N.Y. Sup. Ct. 2005) (rejecting nursing home's account stated claim because, among other reasons, receiving consumer disputed their liability and the amounts) (citing *Abbott, Duncan & Wiener* v. *Ragusa,* 214 A.D.2d 412, 413 (N.Y. App. Div. 1995)).

[64] When evaluating a claim under section 807 of the FDCPA, courts apply the ''least sophisticated debtor'' standard. *See, e.g., Jensen* v. *Pressler & Pressler,* 791 F.3d 413, 420 (3d Cir. 2015) (applying ''least sophisticated debtor'' standard to evaluate liability under section 807); *McCollough* v. *Johnson, Rodenburg & Lauinger, LLC,* 637 F.3d 939, 952 (9th

consumers understand a demand for payment from a debt collector to mean that they owe the full amount demanded. The least sophisticated consumer presented with a demand for payment may believe that the full demanded amount is legally owed.[65] In particular, a consumer may be unlikely to know that, in the absence of an express agreement and definite price term, a debt collector's demand for payment may not accurately reflect the consumer's actual legal obligation to the provider under State law.[66]

A debt collector that collects or attempts to collect a debt where the amount is not based on an express contractual price term risks violating the FDCPA's prohibitions against deceptive or misleading debt collection practices if the debt collector gives the misleading impression that the amount demanded is final and that precise amount is legally owed. Moreover, because, as noted above, the FDCPA imposes strict liability, debt collectors are responsible for ensuring that they do not collect or attempt to collect debts in a way that deceives or misleads a consumer, explicitly or impliedly, about the legal status of the medical provider's claim and a consumer's right to object to claims, as appropriate; a debt collector may misrepresent the legal status of the debt even if the collector is relying on information provided by the medical provider. When dealing with uncertainty arising from the lack of express agreement, debt collectors may be able to minimize their risk of engaging in violations by communicating clearly and conspicuously with consumers about the legal status of the debt and the amount owed, for example, as appropriate, that an enforceable payment obligation may not exist until proven in court.

V. Substantiation of Medical Debts

Section 807(2)(A) prohibits any false representation of ''the character, amount, or legal status of any debt.'' When a debt collector makes a demand for payment of a debt or otherwise represents that a consumer owes a debt, the collector makes an implied representation that it has a reasonable basis to assert the character, amount, and legal status of the debt.[67] A debt collector violates the prohibition against false representations if the collector has no reasonable basis on which to represent that the specific amount demanded is due and legally collectible.

The many unique features of the markets for medical care and services present particularly acute risks of uncertainty as to the ''character, amount, or legal status'' of debts that are incurred in these markets. As described above, the health care market is complex, variable, and opaque. Prices charged by providers vary widely even for the same treatment or procedure and are often conditional, changing based on factors that often cannot be known before services are rendered. A variety of State and Federal laws may impact a consumer's liability for payment, in whole or in part, or for the amount that may be charged. Billing and payment are complicated by the involvement of third-party payors such as insurers, public compensation programs, or tortfeasors. And the nature or legal basis of a provider's claim for payment may be unclear, often due to a lack of express agreements. While this level of uncertainty may arise from the inherently complex reality of medical care and the broader heath care system, it underscores the need for debt collectors to properly substantiate the character, amount, and legal status of medical debt before they begin collection, in accord with consumer's expectations that debt collectors have a reasonable basis for their demands.[68]

Although a debt collector must be able to substantiate claims regarding the amount and validity of the debt made to a consumer, including those made at the outset of collection, the type and amount of information that is necessary to substantiate a particular representation will vary depending upon the claim itself, the circumstances surrounding the claim, and the need to observe patients' privacy rights under relevant law. The inherently uncertain and conditional nature of the costs of and payments for medical care means that debt collectors should exercise heightened care to ensure that they have a reasonable basis to assert that the debt is legally collectible and the specific amount is owed. For example, consider a debt collector that receives summary information concerning accounts for collection from a provider group that operates within a hospital. An initial reasonable step to substantiate the debts prior to collection may include obtaining any relevant patient agreements or contracts executed by the relevant patients. If, as is often the case, there is no contract between patients and the provider group, the debt collector may need documents sufficient to make a prima facie case for the demanded amount under the applicable State law. Consider another example where a debt collector is onboarding a hospital client. The debt collector may reduce risk of liability if it has access to full payment histories for the patient accounts, including any payments from third parties covering any portion of an overall demanded amount, and to confirm the hospital's compliance with any affirmative legal obligations, such as requirements to assess consumers under financial assistance policies if the hospital is a non-profit[69] or otherwise participates in financial assistance programs, to ensure that there is a reasonable basis for the demanded amount.[70]

Regulators, including the CFPB, have brought actions against debt collectors for failing to substantiate collection

Cir. 2011) (same); *Jeter* v. *Credit Bureau, Inc.,* 760 F.2d 1168, 1177 n.11 (11th Cir. 1985) (same).

[65] *See, e.g., Miller* v. *Carrington Mortgage Servs., LLC,* 607 B.R. 1, 5–6 (D. Me. 2019) (consumer alleged fear that ''he would never be free from demands for payment'' or that debt collector had ''found a way of getting around the bankruptcy discharge protections.''); *cf. Daugherty* v. *Convergent Outsourcing, Inc.,* 836 F.3d 507, 513 (5th Cir. 2016) (''[A] collection letter seeking payment on a time-barred debt (without disclosing its unenforceability) but offering a 'settlement' and inviting partial payment (without disclosing the possible pitfalls) could constitute a violation of the FDCPA.''); *Buchanan* v. *Northland Grp., Inc.,* 776 F.3d 393, 399 (6th Cir. 2015) (consumer stated claim under section 807(2)(A) when debt collector offered to ''settle'' time-barred debt at a discount and noting that rule under Michigan law that partial payment revives a time-barred debt ''is almost assuredly not within the ken of most people, whether sophisticated, whether reasonably unsophisticated, or whether unreasonably unsophisticated'').

[66] *C.f. Shula* v. *Lawent,* 359 F.3d 489, 491–92 (7th Cir. 2004) (affirming finding of liability under section 807 where debt collector attempted to collect amount of court costs that were not in fact awarded in State law action); *Van Westrienen* v. *Americontinental Collection Corp.,* 94 F. Supp. 2d 1087, 1101–02 (D. Or. 2000) (consumer stated claim under section 807(2)(A) when debt collector's communications suggested that wage garnishment or asset seizure would occur ''within 5 days'' when such legal action was not procedurally possible in that time span); *Biber* v. *Pioneer Credit Recovery, Inc.,* 229 F. Supp. 3d 457, 473–74 (E.D. Va. 2017) (consumer stated claim under section 807(2)(A) when debt collector threatened to garnish wages without disclosing that it had not in fact taken preliminary procedural steps required to do so).

[67] *See Debt Collection Practices (Regulation F),* Final Rule, 85 FR 76734, 76857 (Nov. 30, 2020) (codified at 12 CFR part 1006) (''[I]it is clear that a debt collector must have (or have access to) records reasonably substantiating its claim that a consumer owes a debt in order to avoid engaging in deceptive or unfair collection practices in violation of the FDCPA when it attempts to collect the debt.'').

[68] As noted above, nothing in this Advisory Opinion should be interpreted to mean that in order to mitigate risk of violations of the FDCPA debt collectors are encouraged to obtain access to documents beyond relevant patient contracts or bills as permitted under applicable privacy laws.

[69] *See* 26 U.S.C. 501(r).

[70] This example is provided merely as an illustration of the kinds of information that may be necessary to properly substantiate debt collection information in a given circumstance and is not offered as a complete or exhaustive list that would guarantee compliance in all circumstances.

information for accuracy and completeness before beginning collection efforts when there were indications that the information suffered from a high degree of uncertainty or unreliability.[71] For example, many debt collectors operate as ''debt buyers,'' purchasing large portfolios of debts from creditors or other debt collectors at significant discounts from the face value of the underlying debts.[72] These ''portfolios'' of debts may functionally be little more than spreadsheets containing purported information concerning debts and may not be accompanied by underlying contracts, customer agreements, or other documentation evidencing the existence and amount of the debts.[73] This information may be facially unreliable, such as when the sellers of the debt explicitly disclaim its accuracy or collectability or when it is readily apparent that the information is inaccurate.[74] In these circumstances, the CFPB and other regulators have alleged that the debt collectors were on notice that collecting or attempting to collect the purported debts based on the information in their possession could lead to widespread or repeated violations of section 807(2)(A).[75] Proceeding to collect the purported debts based on that unsubstantiated information misrepresented to the affected consumers that the collectors had a reasonable basis for their collection attempts.[76] Importantly, this misrepresentation did not rely on a finding that the claimed amount was incorrect—for which a debt collector can be separately liable, *see generally* section II, *supra*—but on their failure to substantiate the validity and amounts of the debts that were sought.

Debt collectors working with medical debts are responsible for ensuring that they possess a reasonable basis for collecting or attempting to collect those debts. Collecting or attempting to collect medical debts without substantiation violates section 807(2)(A).

VI. Defining Default Under the FDCPA

The prohibitions imposed by sections 807 and 808 of the FDCPA apply only to ''debt collectors.'' [77] As relevant here, Section 803 of the FDCPA defines ''debt collector'' in two ways: (1) ''any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts,'' or (2) any person ''who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.'' [78] The statute also provides a limited number of exemptions from the definition of ''debt collector.'' One of those exemptions carves out of the definition ''any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity . . . concerns a debt which was not in default at the time it was obtained by such person.'' [79] In the context of medical debt collection, for purposes of section 803(6)(F)(iii)'s exemption, whether a debt is ''in default'' is determined by the terms of any agreement between the consumer and the medical provider under applicable law governing the agreement.[80]

The term ''default'' is not specifically defined in the FDCPA, so the meaning of the term should first be determined by its ordinary meaning.[81] ''Default'' is commonly defined as the failure to satisfy an agreement, promise, or obligation, especially a failure to make a payment when due.[82] These definitions are consistent with the longstanding common law use of the word as a party's failure to perform contractual obligations at the time they come due.[83] Further, applicable law—typically State contract law—may determine when obligations are due under a contract.

However, some third-party firms collecting on past-due medical bills have argued that the bills were not in default because the firm or the creditor did not consider or treat the accounts as in default until some later date.[84] To the contrary, under the plain meaning of ''default,'' when a ''default'' has occurred for purposes of section 803(6)(F)(iii) with respect to medical bills is determined based on the terms of the relevant consumer-provider

[71] *See, e.g.,* Complaint for Civil Penalties, Injunctive and Other Relief, *United States* v. *Asset Acceptance, LLC,* No. 12–00182 (M.D. Fla. Jan. 30, 2012), ECF No. 1 (*Asset Acceptance Compl.*); Consent Order, *Encore Capital Grp., Inc.,* CFPB No. 2015–CFPB–0022 (Sept. 9, 2015) (*Encore Consent Order*); Consent Order, *Portfolio Recovery Assocs., LLC,* CFPB No. 2015–CFPB–0023 (Sept. 9, 2015) (*PRA Consent Order*).

[72] *See Asset Acceptance Compl.* ¶¶ 9–10; *Encore Consent Order,* ¶ 22; *PRA Consent Order,* ¶ 24.

[73] *See Asset Acceptance Compl.,* ¶ 11; *Encore Consent Order,* ¶ 23; *PRA Consent Order,* ¶ 27.

[74] *See Asset Acceptance Compl.,* ¶ 11–16, 49–52; *Encore Consent Order,* ¶¶ 24–35; *PRA Consent Order,* ¶¶ 28–32.

[75] *See Asset Acceptance Compl.,* ¶ 81–83; *Encore Consent Order,* ¶ 112–114; *PRA Consent Order,* ¶ 103–105.

[76] *See Asset Acceptance Compl.,* ¶ 54–55; *Encore Consent Order,* ¶ 45–47, 78–81, 103–105; *PRA Consent Order,* ¶ 63–66, 94–96,.

[77] 15 U.S.C. 1692e (''A *debt collector* may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.) (emphasis added); 15 U.S.C. 1692f (''A *debt collector* may not use unfair or unconscionable means to collect or attempt to collect any debt.'') (emphasis added).

[78] 15 U.S.C. 1692a(6). Section 803 also provides that the term ''debt collector'' ''includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts'' as well as, ''[f]or the purpose of section 808(6), . . . any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the enforcement of security interests.'' 15 U.S.C. 1692a(6). The term ''creditor'' is defined as ''any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.'' 15 U.S.C. 1692a(4).

[79] 15 U.S.C. 1692a(6)(F)(iii). The exemptions under section 803a(6)(F)—including the exemption for debt collection activity that ''concerns a debt which was not in default at the time it was obtained by such person''—explicitly apply only to persons collecting or attempting to collect debts ''owed or due another.'' *Compare* 15 U.S.C. 1692a(6)(F) (exemption that references ''owed or due another'') *with* 15 U.S.C. 1692a(6)(A)–(E) (exemptions that do not use ''owed or due another'' language).

[80] *De Dios* v. *Int'l Realty & Invs.,* 641 F.3d 1071, 1074 (9th Cir. 2011). Outcomes for non-express agreements may vary considerably under relevant State law, and this Advisory Opinion takes no position on the correct interpretation of those laws.

[81] *See, e.g., Lawson* v. *FMR LLC,* 571 U.S. 429, 440 (2014); *see also, e.g., Taniguchi* v. *Kan Pac. Saipan, Ltd.,* 566 U.S. 560, 566 (2012) (''When a term goes undefined in a statute, we give the term its ordinary meaning.'').

[82] *See, e.g., Default Merriam-Webster.com Dictionary, https://www.merriam-webster.com/dictionary/default/* (accessed Aug. 19, 2024) (''failure to do something required by duty or law . . . a failure to pay financial debts''; *Default, Black's Law Dictionary* (11th ed. 2019) (''The omission or failure to perform a legal or contractual duty; esp., the failure to pay a debt when due.''); *Default, Ballentine's Law Dictionary* (3d ed. 1969) (''Fault; neglect; omission; the failure to perform a duty or obligation; the failure of a person to pay money when due or when lawfully demanded.'').

[83] *See, e.g., The Restatement (First) of Contracts Index D80* (1932) (''Default: See Breach of Contract.''); *Restatement (Second) of Contracts* sec. 235(2) (1981) (''When performance of a duty under a contract is due any non-performance is a breach.''); *23 Williston on Contracts* sec. 63:16 (4th ed.) (''It is a material breach of a contract to fail to pay any substantial amount of the consideration owing under the contract.''); *Butler Mach. Co.* v. *Morris Constr. Co.,* 682 NW2d 773, 778 (S.D. 2004) (''Morris was to make monthly payments of $5,547 and its failure to make such monthly payments constituted a default under the terms of that agreement.'').

[84] *See Ward* v. *NPAS, Inc.,* 63 F.4th 576, 583–84 (6th Cir. 2023) (Though medical provider's bill said ''due on receipt'' court considered evidence that provider ''didn't treat Ward's failure to pay immediately as a breach'' dispositive to the question of whether debt was in default when placed with third-party.); *Prince* v. *NCO Fin. Servs., Inc.,* 346 F. Supp. 2d 744, 749 (E.D. Pa. 2004) (''This evidence of Capital One's State of mind with regard to whether the debt was in default is a satisfactory initial showing that Capital One did not consider Prince's account to be ''in default.''); *Roberts* v. *NRA Grp., LLC,* No. CIV.A. 3:11–2029, 2012 WL 3288076, at *6 (M.D. Pa. Aug. 10, 2012) (''[W]hether Plaintiff's account was in default will be determined by looking at the 'state of mind' of the creditor to see whether the creditor considered the debt to be in default.'').

agreements under applicable law. It is the terms of the contract—the ''[o]bjective indicators of the debt's status'' at the time it was obtained [85]—that governs when collection of medical debts is covered by the FDCPA, not the subjective state of mind of the medical debt collector.[86]

In addition to being consistent with the term's plain meaning, reading ''default'' as coextensive with contractual breach under applicable law is consistent with Congress's intent to apply this exemption to ''servicers'' of debt that is not in default at the time the person obtains it. The FDCPA's legislative history explains that Congress ''[did] not intend the definition [of debt collector] to cover the activities of . . . mortgage service companies and others who service outstanding debts for others, so long as the debts were not in default when taken for servicing.'' [87] These references make clear the intended distinction between a consumer who has failed to meet their contractual obligation to pay and a consumer who has an outstanding debt but under their contract repays it over a defined period of time (*i.e.,* their failure to pay the entire outstanding balance on a payment due date does not breach the contract).[88] Courts and the Federal Trade Commission (FTC) have likewise recognized a distinction between a debt that may yet be ''outstanding'' but for which a consumer is not necessarily ''in default.'' [89]

In the context of medical debt, amounts owed are not typically paid on a regular, recurring schedule over time pursuant to the terms of a contract. To the contrary, as noted above, medical debts are contractually generally due in full at a given time. Medical debt collectors therefore do not ''service'' debts on an ongoing basis like the mortgage servicers intended to be covered by this exemption.

To be sure, the terms of a given contract or the principles of applicable law may differentiate between one (or more) missed payments and contractual breach, in which case the debt may not be ''in default'' if a single payment is missed. But absent such terms or applicable legal principle, failure to make full payment by the given time constitutes a breach of the consumer's contractual obligation. If a person obtains that debt (or the right to collect it) after that failure to make full payment, that person has obtained a debt ''in default at the time it was obtained'' and therefore does not qualify for the section 803(6)(F)(iii) exemption.

Finally, defining ''default'' for purposes of section 803(6)(F)(iii) by reference to relevant consumer-provider agreements and background legal principles also best effectuates the statute's purpose and Congress' intent, closes off avenues for regulatory evasion, and is consistent with prior regulatory interpretations. The FDCPA is a remedial consumer protection statute aimed at curbing abusive and unscrupulous conduct by debt collectors and establishing comprehensive national standards for the debt collection industry.[90] As such, the statute's provisions are interpreted liberally in favor of consumers' interests.[91] Defining ''default'' by reference to the relevant consumer agreements and applicable governing law advances consumer interests because it is an objective, transparent standard that a consumer or their advocate can apply to ascertain the status of a party seeking to collect money that is claimed to be owed by the consumer. Relatedly, an objective standard for defining ''default'' prevents debt collectors from attempting to expand the section 803(6)(F)(iii) exemption by reference to the subjective intent or belief of the collector or creditor or by reference to agreements or policy documents that the consumer has no access to.[92] And this interpretation is consistent with prior staff advisory opinions on this definition issued by the FTC in the period when that agency had primary regulatory authority over the FDCPA.[93]

VII. Regulatory Matters

The CFPB has concluded that the advisory opinion is an interpretive rule in part and a general statement of policy in part. Insofar as the advisory opinion constitutes an interpretive rule, it is issued under the CFPB's authority to interpret the Fair Debt Collection Practices Acts and Regulation F, including under section 1022(b)(1) of the Consumer Financial Protection Act of 2010, which authorizes guidance as may be necessary or appropriate to enable the CFPB to administer and carry

[85] *Mavris* v. *RSI Enters.,* 86 F. Supp. 3d 1079, 1088 (D. Ariz. 2015).

[86] *Echlin* v. *Dynamic Collectors, Inc.,* 102 F. Supp. 3d 1179, 1185 (W.D. Wash. 2015) (rejecting defendant's argument that it did not ''consider'' plaintiffs debt to be in default until a particular dunning letter was sent because ''Dynamic's belief that Echlin's account was not in default is not dispositive of whether default had in fact occurred''); *Hartman* v. *Meridian Fin. Servs., Inc.,* 191 F. Supp. 2d 1031, 1043–44 (W.D. Wis. 2002) (holding that defendant did not meet section 803(6)(F)(iii) exception and rejecting argument that defendant does not ''consider'' a buyer to be in default before end of 30-day cure period when buyer's contract with creditor expressly provided that buyer would be in default ''if he fails to pay on time'').

[87] S. Rep. No. 95–382, at 3–4 (1977), *as reprinted in* 1977 U.S.C.C.A.N. 1695, 1698. In its section-by-section discussion of the bill, the report reiterates that ''The term [debt collector] does not include . . . persons who service debts for others.'' S. Rept. No. 95–382, at 7, 1977 U.S.C.C.A.N. 1695, 1701.

[88] Of course, an entity that operates as a mortgage servicer does not enjoy a blanket exemption from the FDCPA for all its activities and can still satisfy the definition of ''debt collector'' for those debts that were in default when they were obtained by the entity. *See, e.g., Babadjanian* v. *Deutsche Bank Nat'l Tr. Co.,* No. CV1002580MMMRZX, 2010 WL 11549894, at *5 (C.D. Cal. Nov. 12, 2010) (collecting cases); S. Rep. No. 95–382, at 3–4 (1977), *as reprinted in* 1977 U.S.C.C.A.N. 1695, 1698 (''so long as the debts were not in default when taken for servicing).

[89] *See, e.g., Alibrandi* v. *Fin. Outsourcing Servs., Inc.,* 333 F.3d 82, 86 (2d Cir. 2003) (collecting cases that ''distinguish[] between a debt that is in default and a debt that is merely outstanding''); FTC, *Annual Report to Congress on the Fair Debt Collection Practices Act* (2000), (*available at: https://www.ftc.gov/reports/annual-report-congress-fair-debt-collection-practices-act-0*) (''[Section 803(6)(F)(iii)] was designed to avoid application of the FDCPA to mortgage servicing companies, whose business is accepting and recording payments on *current* debts.'') (emphasis in original) (*citing* S. Rep. No. 95–382).

[90] *See* 15 U.S.C. 1692(e) (''It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.'').

[91] *See, e.g., Salinas* v. *R.A. Rogers, Inc.,* 952 F.3d 680, 683 (5th Cir. 2020) (''Because Congress intended the FDCPA to have a broad remedial scope, the FDCPA should be construed broadly and in favor of the consumer.'') (internal quotations omitted); *Brown* v. *Card Serv. Ctr.,* 464 F.3d 450, 453 (3d Cir. 2006) (''Because the FDCPA is a remedial statute . . . we construe its language broadly, so as to effect its purpose. . . .''); *Johnson* v. *Riddle,* 305 F.3d 1107, 1117 (10th Cir. 2002) (''Because the FDCPA, like the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.,* is a remedial statute, it should be construed liberally in favor of the consumer.'').

[92] *See. e.g., Alibrandi* v. *Fin. Outsourcing Servs., Inc.,* 333 F.3d 82, 88 (2d Cir. 2003) (rejecting argument by debt collector that default status of debt should be determined by a ''letter agreement'' between the collector and creditor); *Echlin* v. *Dynamic Collectors, Inc.,* 102 F. Supp. 3d 1179, 1185 (W.D. Wash. 2015) (''Dynamic's belief that Echlin's account was not in default is not dispositive of whether default had in fact occurred.''); *Mavris* v. *RSI Enters.,* 86 F. Supp. 3d 1079, 1086 (D. Ariz. 2015) (''[T]he lender's subjective choice that the debtor has not defaulted cannot be dispositive of whether default has in fact occurred. If it were, debtors' access to FDCPA protections would be subject to the whim of creditors, who could leave debtors completely in the dark about when, if ever, those protections commence. Objective indicia of a creditor's treatment of a debt are entitled to greater weight.'').

[93] *See, e.g.,* FTC, *Staff Opinion Letter,* 1989 WL 1178045 at *1 n.2 (Apr. 25, 1989) (''Whether a debt is in default is generally controlled by the terms of the contract creating the indebtedness and applicable state law.'').

out the purposes and objectives of Federal consumer financial laws.[94]

Insofar as the advisory opinion constitutes a general statement of policy, it provides background information about applicable law and articulates considerations relevant to the CFPB's exercise of its authorities. It does not confer any rights of any kind.

The CFPB has determined that this rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.[95]

Pursuant to the Congressional Review Act,[96] the CFPB will submit a report containing this interpretive 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's published effective date. The Office of Information and Regulatory Affairs has designated this interpretive rule as a ''major rule'' as defined by 5 U.S.C. 804(2).

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2024–22962 Filed 10–3–24; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–0768; Project Identifier AD–2022–00504–R; Amendment 39–22825; AD 2024–16–19]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Inc. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bell Textron Inc. Model 212, 412, 412CF, and 412EP helicopters. This AD was prompted by reports of cracked tail boom attachment barrel nuts (barrel nuts). This AD requires replacing all steel alloy barrel nuts with nickel alloy barrel nuts, replacing or inspecting other tail boom attachment point hardware, repetitively inspecting torque, and repetitively replacing tail boom attachment bolts (bolts). This AD also prohibits installing steel alloy barrel nuts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 8, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 8, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–0768; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Bell material identified in this AD, contact Bell Textron Inc., P.O. Box 482, Fort Worth, TX 76101; phone: (450) 437–2862 or 1–800–363–8023; fax: (450) 433–0272; email: *productsupport@bellflight.com;* or website: *bellflight.com/support/contact-support.*
- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, 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* under Docket No. FAA–2024–0768.

FOR FURTHER INFORMATION CONTACT: Jacob Fitch, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (817) 222–4130; email: *jacob.fitch@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain serial-numbered Bell Textron Inc. (Bell) Model 212, 412, 412CF, and 412EP helicopters. The NPRM published in the **Federal Register** on May 8, 2024 (89 FR 38841). The NPRM was prompted by reports of cracked barrel nuts on Model 412EP helicopters. According to Bell, the root cause for cracking can vary from corrosion damage, high time in service, or hydrogen embrittlement. Barrel nut cracking can also cause loss of torque on the associated bolt and subsequent bolt cracking. Due to design similarities, Model 212, 412, and 412CF helicopters are also affected.

In the NPRM, the FAA proposed to require, for certain serial-numbered Model 212, 412CF, 412, and 412EP helicopters, replacing the upper left-hand (LH) steel alloy barrel nut and bolt with a new nickel alloy barrel nut, retainer, and bolt. For certain other serial-numbered Model 412 and 412EP helicopters, the FAA proposed to require removing the upper LH steel alloy barrel nut, inspecting the removed upper LH steel alloy barrel nut and replacing it with a nickel alloy barrel nut and retainer, and either inspecting or replacing the upper LH bolt. For those serial-numbered Model 212, 412, 412CF, and 412EP helicopters, the FAA also proposed to require removing the upper right-hand (RH), lower LH, and lower RH steel alloy barrel nuts, inspecting those removed steel alloy barrel nuts and replacing them with new nickel alloy barrel nuts and retainers, and either inspecting or replacing the upper RH, lower LH, and lower RH bolts. Thereafter for those helicopters, as well as for one additional serial-numbered Model 412/412EP helicopter, the FAA proposed to require inspecting the torque applied on each bolt to determine if the torque has stabilized and, depending on the results, replacing and inspecting certain tail boom attachment point hardware and repeating the torque inspections, or applying torque stripes. For all applicable helicopters, the FAA proposed to require repetitively inspecting the torque applied on each bolt within a longer-term compliance time interval and, depending on the results, replacing and inspecting certain tail boom attachment point hardware and repeating the torque inspections and stabilization, or applying torque stripes. Additionally, for all applicable helicopters, within a longer-term compliance time interval, the FAA proposed to require repetitively replacing the upper LH bolt and inspecting the other three bolts and, depending on the results, taking corrective action. Following accomplishment of those actions, the FAA proposed to require inspecting the torque applied on each bolt to determine if the torque has stabilized and, depending on the results, replacing and inspecting certain tail boom attachment point hardware and repeating the torque inspections, or applying torque stripes. Lastly, the FAA proposed to prohibit installing steel alloy barrel nuts on any helicopter. The

[94] 12 U.S.C. 5512(b)(1).

[95] 44 U.S.C. 3501–3521.

[96] 5 U.S.C. 801 *et seq.*

FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Bell requesting changes to the Differences Between This Proposed AD and the Service Information section in the NPRM (the Differences Between This AD and the Referenced Material section in this final rule). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Change the Torque Inspection Nomenclature

In the NPRM, the FAA explained that while the service information specifies checking torque, the proposed AD would require inspecting the torque. Bell requested the FAA change the torque inspection to a torque check consistent with the terminology in its manuals and in the service information required by this AD.

The FAA disagrees. The FAA's regulatory definition of ''maintenance'' includes inspections but does not include checks. In certain ADs, the FAA uses the term ''check'' in limited situations when allowing a pilot to perform actions as an exception to the FAA's standard maintenance regulations. For this AD, the specified torque verification requirement is a maintenance action that must be performed by persons authorized under 14 CFR 43.3. Accordingly, this AD must use the term ''inspection.''

Comments Regarding Torque Below Minimum Allowable Limit

In the NPRM, the FAA explained that for stabilizing the tail boom attachment hardware torque, the service information does not specify actions for if the torque on a bolt is below the minimum allowable torque, and therefore the proposed AD would require several actions. Bell stated that certain actions such as replacing the bolt, inspecting the associated barrel but, and repeating the torque inspection, are mandated by Bell Alert Service Bulletin (ASB) 412–21–187, Revision A, dated February 23, 2022, part II (torque stabilization) and part III (repetitive longer-term torque inspection) of ASB 412–21–187, Revision A, February 23, 2022.

The torque stabilization procedures in part II of the Bell service bulletins specify corrective action if the torque has not stabilized after checking the torque up to three times maximum. However, the procedures do not specify any corrective action if the torque is below the minimum allowable torque limit as a result of any individual instance of a torque stabilization inspection. Similarly, the repetitive longer-term torque inspection procedures in part III of the Bell service bulletins specify additional actions if the torque is below the minimum allowable torque limit as a result of an inspection. However, the FAA determined that those part III procedures are somewhat vague and may be interpreted in more than one way. Thus, this AD contains specific actions for addressing torque below the minimum limits. The FAA has clarified this explanation in the Differences Between This AD and the Referenced Material section of this final rule.

Comment Regarding the 5,000 Hours Time-in-Service (TIS) or 5 Year Required Actions

In the NPRM, the FAA explained the proposed AD would require replacing the upper LH bolt and visually inspecting the upper RH and lower bolts within 5,000 hours TIS or 5 years, while the service information did not contain those actions. Bell stated that its service bulletins specify that the maintenance manual will be revised to include those actions. Bell also cited the 5,000 hour/5-year inspection in the Bell Model 412/412EP Maintenance Manual, Issue 001, dated May 31, 2023.

The FAA has revised the Differences Between This AD and the Referenced Material in this final rule to explain that the referenced material specifies that the 5,000 hours TIS or 5 year threshold actions will be incorporated into the maintenance manual.

Additional Changes Made to This Final Rule

Since the NPRM published, the FAA determined that paragraph (c) of the proposed AD incorrectly included some serial-numbered helicopters that are not eligible for an FAA airworthiness certificate. Therefore, the FAA has revised the applicability of this AD to remove those helicopters. The FAA has also updated the model for serial number 37052 in paragraph (c)(4) of this AD to Model 412EP, since it is currently registered as such.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed the following Bell ASBs, each Revision A, and each dated February 23, 2022. This material specifies procedures for replacing the steel alloy barrel nuts with nickel alloy barrel nuts, inspecting and replacing the tail boom attachment hardware, stabilizing the tail boom attachment hardware torque, applying torque seals, and inspecting the torque.

- ASB 212–21–166 for Model 212 helicopters,
- ASB 412–21–187 for Model 412/412EP helicopters, and
- ASB 412CF–21–72 for Model 412CF helicopters.

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.

Differences Between This AD and the Referenced Material

The referenced material specifies checking torque, whereas this AD requires inspecting torque because that action must be accomplished by persons authorized under 14 CFR 43.3.

When stabilizing the tail boom attachment hardware torque, the referenced material does not clearly specify actions for each time the torque is below the minimum limit during any torque stabilization inspection, whereas this AD requires replacing and inspecting certain tail boom attachment point hardware, stabilizing the torque of the replaced hardware set, and applying a torque stripe.

This AD requires replacing each upper LH bolt with a new (zero total hours TIS) bolt and visually inspecting the upper RH, lower LH, and lower RH bolts within a 5,000 hours TIS or 5 year threshold, whereas the referenced material states that these actions will be incorporated into the maintenance manual.

Costs of Compliance

The FAA estimates that this AD affects 105 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 AD.

For the initial requirements for certain helicopters, replacing the four steel alloy barrel nuts with new nickel alloy barrel nuts, inspecting or replacing up to four bolts, inspecting and stabilizing

the torque, and applying torque stripes will take up to approximately 8.5 work-hours for an estimated labor cost of up to $723. The parts cost for the four new nickel alloy barrel nuts (including retainers) is approximately $680. The parts cost for an upper LH bolt is approximately $196 and the parts cost for the other bolts is approximately $89 per bolt. The parts cost to apply torque stripes is a nominal amount. The estimated cost for these actions is up to approximately $1,866 per helicopter.

For all applicable helicopters, inspecting the torque applied on each bolt will take approximately 1 work-hour for an estimated cost of $85 per helicopter and $8,925 for the U.S. fleet, per inspection cycle.

For all applicable helicopters, replacing an upper LH bolt, stabilizing the torque, and applying a torque stripe will take up to approximately 5 work-hours. The parts cost for an upper LH bolt is approximately $196 and the parts cost to apply a torque stripe is a nominal amount. The estimated cost for these actions is up to approximately $621 per helicopter and $65,205 for the U.S. fleet, per replacement cycle. Inspecting one of the other bolts, stabilizing the torque, and applying a torque stripe will take up to approximately 3.5 work-hours for an estimated cost of $298 per bolt and $31,290 for the U.S. fleet, per inspection cycle. If required, replacing a bolt following that inspection will take a minimal amount of additional time and a parts cost of approximately $89.

If required as a result of failing a torque inspection, visually inspecting a barrel nut, replacing a bolt, stabilizing the torque, and applying a torque stripe will take up to approximately 5.5 work-hours per failed hardware set. The parts cost for an upper LH bolt is approximately $196 and the parts cost for the other bolts is approximately $89 per bolt. The parts cost to apply a torque stripe is a nominal amount. The estimated cost for these actions is $664 (upper LH bolt) or $557 (other bolts), per failed hardware set. If required, replacing a barrel nut following that inspection will take a minimal amount of additional time with a parts cost for a barrel nut (including retainer) of approximately $173.

If required as a result of failing a torque stabilization, replacing a barrel nut, visually inspecting a bolt, stabilizing the torque, and applying a torque stripe will take up to approximately 5.5 work-hours and the parts cost for a barrel nut (including retainer) is approximately $73. The estimated cost for these actions is $541. If required, replacing the bolt following that inspection will take a minimal amount of additional time with a parts cost for an upper LH bolt of approximately $196 and a parts cost for the other bolts of approximately $89 per bolt.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–16–19 Bell Textron Inc.: Amendment 39–22825; Docket No. FAA–2024–0768; Project Identifier AD–2022–00504–R.

(a) Effective Date

This airworthiness directive (AD) is effective November 8, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Bell Textron Inc. helicopters, certificated in any category, that are identified in paragraphs (c)(1) through (5) of this AD.

(1) Model 212 helicopters, serial numbers (S/N) 30501 through 30603 inclusive, 30611 through 30753 inclusive, 30755 through 30889 inclusive, 30891 through 30999 inclusive, 31101 through 31162 inclusive, 31164 through 31311 inclusive, 32101 through 32142 inclusive, and 35001 through 35103 inclusive;

(2) Model 412CF helicopters, S/N 46400 through 46499 inclusive;

(3) Model 412 and 412EP helicopters, S/N 33001 to 33078 inclusive, 33080 through 33129 inclusive, 33131 through 33138 inclusive, 33150 through 33213 inclusive, 36001 through 36687 inclusive, 36689 through 36999 inclusive, 37002 through 37018 inclusive, 37021 through 37051 inclusive, 38001, and 39101 through 39103 inclusive;

(4) Model 412EP helicopter, S/N 37052; and

(5) Model 412 and 412EP helicopters, S/N 36688, 37019, 37020, 37053 through 37999 inclusive, 38002 through 38999 inclusive, and 39104 through 39999 inclusive.

(d) Subject

Joint Aircraft System Component (JASC) Code: 5302, Rotorcraft Tail Boom.

(e) Unsafe Condition

This AD was prompted by reports of cracked tail boom attachment barrel nuts (barrel nuts). The FAA is issuing this AD to address fatigue cracking of barrel nuts, damage to the tail boom attachment bolts (bolts), and certain bolts remaining in service beyond fatigue limits. The unsafe condition, if not addressed, could result in increased fatigue loading and subsequent failure of the bolts, which could lead to separation of the tail boom from the helicopter and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) Within 300 hours time-in-service (TIS) or 90 days after the effective date of this AD, whichever occurs first, accomplish the actions required by paragraphs (g)(1)(i)

through (iv) of this AD, as applicable. For purposes of this AD, the word ''new'' is defined as having zero total hours TIS.

(i) For all helicopters identified in paragraphs (c)(1) and (2) of this AD; and for helicopters identified in paragraph (c)(3) of this AD that have accumulated 5,000 or more total hours TIS or 5 or more years since new, or if the total hours TIS or age of the helicopter is unknown, remove the upper left-hand (LH) steel alloy barrel nut part number (P/N) NAS577B9A and upper LH bolt from service and replace them with a new nickel alloy barrel nut P/N NAS577C9A, new retainer P/N NAS578C9A, and a new bolt in accordance with the Accomplishment Instructions, part I, paragraphs 4 through 7, of Bell Alert Service Bulletin 212–21–166, Revision A, dated February 23, 2022 (ASB 212–21–166 Rev A), Bell Alert Service Bulletin 412CF–21–72, Revision A, dated February 23, 2022 (ASB 412CF–21–72 Rev A), or Bell Alert Service Bulletin 412–21–187, Revision A, dated February 23, 2022 (ASB 412–21–187 Rev A), as applicable to your helicopter model, except you are not required to discard parts.

(ii) For helicopters identified in paragraph (c)(3) of this AD that have accumulated less than 5,000 total hours TIS and less than 5 years since new, remove the upper LH steel alloy barrel nut P/N NAS577B9A, the upper LH bolt, countersunk washer, and plain washers, and visually inspect the removed upper LH steel alloy barrel nut for cracking. If there is any cracking in the upper LH steel alloy barrel nut, before further flight, remove the upper LH bolt from service. If the upper LH bolt was not removed from service as a result of the upper LH steel alloy barrel nut inspection, visually inspect the upper LH bolt for any corrosion, damaged threads, wear, and fatigue cracking. If the upper LH bolt has any corrosion, a damaged thread, wear, or fatigue cracking, before further flight, remove the upper LH bolt from service. Regardless of the result of the upper LH steel alloy barrel nut inspection, remove the upper LH steel alloy barrel nut from service and replace it with a new nickel alloy barrel nut P/N NAS577C9A and new retainer P/N NAS578C9A. Install a new upper LH bolt or reinstall the existing upper LH bolt, as applicable, by following the Accomplishment Instructions, part I, paragraphs 6 and 7, of ASB 412–21–187 Rev A.

(iii) For helicopters identified in paragraphs (c)(1) through (3) of this AD, remove the upper right-hand (RH) steel alloy barrel nut P/N NAS577B8A, the upper RH bolt, countersunk washer, and plain washers, and visually inspect the removed upper RH steel alloy barrel nut for cracking. If there is any cracking in the upper RH steel alloy barrel nut, before further flight, remove the upper RH bolt from service. If the upper RH bolt was not removed from service as a result of the upper RH steel alloy barrel nut inspection, visually inspect the upper RH bolt for any corrosion, damaged threads, wear, and fatigue cracking. If the upper RH bolt has any corrosion, a damaged thread, wear, or fatigue cracking, before further flight, remove the upper RH bolt from service. Regardless of the result of the upper RH steel alloy barrel nut inspection, remove the upper RH steel alloy barrel nut from service and replace it with a new nickel alloy barrel nut P/N NAS577C8A and new retainer P/N NAS578C8A. Install a new upper RH bolt or reinstall the existing upper RH bolt, as applicable, by following the Accomplishment Instructions, part I, paragraphs 11 and 12, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model.

(iv) For helicopters identified in paragraphs (c)(1) through (3) of this AD, remove one of the lower steel alloy barrel nuts P/N NAS577B6A, its lower bolt, countersunk washer, and plain washers, and visually inspect the removed lower steel alloy barrel nut for cracking. If there is any cracking in the lower steel alloy barrel nut, before further flight, remove the lower bolt from service. If the lower bolt was not removed from service as a result of the lower steel alloy barrel nut inspection, visually inspect the lower bolt for any corrosion, damaged threads, wear, and fatigue cracking. If the lower bolt has any corrosion, a damaged thread, wear, or fatigue cracking, before further flight, remove the lower bolt from service. Regardless of the result of the lower steel alloy barrel nut inspection, remove the lower steel alloy barrel nut from service and replace it with a new nickel alloy barrel nut P/N NAS577C6A and new retainer P/N NAS578C6A. Install a new lower bolt or reinstall the existing lower bolt, as applicable, by following the Accomplishment Instructions, part I, paragraphs 16 and 17, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model. Repeat the actions required by this paragraph for the other lower tail boom attachment point.

(2) For helicopters identified in paragraphs (c)(1) through (3) of this AD, after accumulating 1 hour TIS, but not to exceed 5 hours TIS after accomplishing the actions required by paragraph (g)(1) of this AD, using the torque value information in the Accomplishment Instructions, part II, paragraph 1, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model, inspect the torque applied on each bolt. Thereafter, repeat the torque inspection of each bolt after accumulating 1 hour TIS, but not to exceed 5 hours TIS, to determine if the torque has stabilized. Do not exceed three torque inspections total for each bolt and accomplish the actions required by paragraphs (g)(2)(i) and (ii) of this AD.

Note 1 to the introductory text of paragraph (g)(2): This note applies to the introductory text of paragraph (g)(2), the introductory text of paragraph (g)(2)(i), paragraph (g)(2)(i)(B), and paragraph (g)(2)(ii) of this AD. The Accomplishment Instructions, part II, paragraph 1, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, and ASB 412CF–21–72 Rev A each refer to part I for allowable torque limits; part I of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, and ASB 412CF–21–72 Rev A specify the different torque limits for the different bolts.

(i) If the torque on a bolt is below the minimum allowable torque limit as a result of any instance of the torque inspection or if after three torque inspection attempts, the torque on any bolt has not stabilized, before further flight, accomplish the actions required by paragraphs (g)(2)(i)(A) and (B) of this AD.

(A) Remove the hardware set of one failed tail boom attachment point (barrel nut, retainer, bolt, countersunk washer, and plain washers). Remove the barrel nut and retainer from service as applicable to the affected tail boom attachment point. Visually inspect the removed bolt for any corrosion, damaged threads, wear, and fatigue cracking. If the bolt has any corrosion, a damaged thread, wear, or fatigue cracking, before further flight, remove the bolt from service.

(B) Install a new bolt or reinstall the existing bolt, as applicable, and a new nickel alloy barrel nut P/N NAS577C9A, NAS577C8A, or NAS577C6A, and new retainer P/N NAS578C9A, NAS578C8A, or NAS578C6A, with the P/N of the new nickel alloy barrel nut and the P/N of the new retainer being as applicable to the affected tail boom attachment point by following the Accomplishment Instructions, part I, paragraphs 6 and 7, paragraphs 11 and 12, or paragraphs 16 and 17, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model and with the paragraphs as applicable to that bolt. Repeat the actions required by paragraphs (g)(2)(i)(A) and (B) of this AD for each failed tail boom attachment point, one hardware set at a time. Then repeat the actions required by paragraph (g)(2) of this AD just for each newly installed or reinstalled bolt until the torque for all four tail boom attachment points stabilizes.

(ii) If the torque for all four tail boom attachment points has stabilized, before further flight, apply a torque stripe to all four bolts.

(3) For the helicopter identified in paragraph (c)(4) of this AD, within 5 hours TIS after the effective date of this AD, inspect the torque applied on each bolt in accordance with the Accomplishment Instructions, part II, paragraphs 1 and 2, of ASB 412–21–187 Rev A. Thereafter, repeat the torque inspection of each bolt after accumulating 1 hour TIS, but not to exceed 5 hours TIS, to determine if the torque has stabilized. Do not exceed three torque inspections total for each bolt and accomplish the actions required by paragraphs (g)(2)(i) and (ii) of this AD.

Note 2 to paragraph (g)(3): The Accomplishment Instructions, part II, paragraph 1, of ASB 412–21–187 Rev A refers to part I for allowable torque limits; part I of ASB 412–21–187 Rev A specifies the different torque limits for the different bolts.

(4) For helicopters identified in paragraphs (c)(1) through (4) of this AD, within 600 hours TIS or 12 months, whichever occurs first after applying torque stripes to all four bolts as required by paragraph (g)(2)(ii) of this AD, and thereafter within intervals not to exceed 600 hours TIS or 12 months, whichever occurs first; and for helicopters identified in paragraph (c)(5) of this AD, within 600 hours TIS or 12 months after the effective date of this AD, whichever occurs first, and thereafter within intervals not to exceed 600 hours TIS or 12 months,

whichever occurs first, using the torque value information in the Accomplishment Instructions, part II, paragraph 1, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model, inspect the torque applied on each bolt. If the torque on any bolt is below the minimum allowable torque limit, accomplish the actions required by paragraphs (g)(4)(i) and (ii) of this AD.

(i) Before further flight, remove the hardware set of one failed tail boom attachment point (barrel nut, retainer, bolt, countersunk washer, and plain washers). Visually inspect the removed barrel nut for cracking, corrosion, and loss of tare torque. If the barrel nut has any cracking, corrosion, or has lost any tare toque, before further flight, remove the barrel nut and retainer from service and replace them with a new nickel alloy barrel nut P/N NAS577C9A, NAS577C8A, or NAS577C6A, and new retainer P/N NAS578C9A, NAS578C8A, or NAS578C6A, with the P/N of the new nickel alloy barrel nut and the P/N of the new retainer being as applicable to the affected tail boom attachment point. Regardless of the result of the barrel nut inspection, remove the bolt from service and replace it with a new bolt by following the Accomplishment Instructions, part I, paragraphs 6 and 7, paragraphs 11 and 12, or paragraphs 16 and 17, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model and with the paragraphs as applicable to that bolt. Repeat the actions required by this paragraph for each failed tail boom attachment point, one hardware set at a time.

(ii) After accumulating 1 hour TIS, but not to exceed 5 hours TIS after accomplishing the actions required by paragraph (g)(4)(i) of this AD, using the torque value information in the Accomplishment Instructions, part II, paragraph 1, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model, inspect the torque applied on each newly installed bolt. Thereafter, repeat the torque inspection of those bolts after accumulating 1 hour TIS, but not to exceed 5 hours TIS, to determine if the torque has stabilized. Do not exceed three torque inspections total for those bolts and accomplish the actions required by paragraphs (g)(2)(i) and (ii) of this AD.

Note 3 to paragraph (g)(4): The Accomplishment Instructions, part II, paragraph 1, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, and ASB 412CF–21–72 Rev A, each refer to part I for allowable torque limits; part I of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, and ASB 412CF–21–72 Rev A, specify the different torque limits for the different bolts.

(5) Within the compliance times specified in Table 1 to the introductory text of paragraph (g)(5) of this AD, accomplish the actions required by paragraphs (g)(5)(i) through (iv) of this AD.

Table 1 to the Introductory Text of Paragraph (g)(5)

Helicopter Groups	Compliance Times
For helicopters identified in paragraphs (c)(1) and (2) of this AD, and helicopters identified in paragraph (c)(3) of this AD that accomplished paragraph (g)(1)(i) of this AD.	Within 5,000 hours TIS or 5 years after accomplishing the actions required by paragraph (g)(1) of this AD, whichever occurs first, and thereafter, within intervals not to exceed 5,000 hours TIS or 5 years, whichever occurs first.
For helicopters identified in paragraph (c)(3) of this AD that accomplished paragraph (g)(1)(ii) of this AD.	Before the helicopter accumulates 5,000 total hours TIS or 5 years since new, whichever occurs first, and thereafter, within intervals not to exceed 5,000 hours TIS or 5 years, whichever occurs first.
For helicopters identified in paragraphs (c)(4) and (5) of this AD.	Before the helicopter accumulates 5,000 total hours TIS or 5 years since new, whichever occurs first, or if the total hours TIS or age of the helicopter is unknown, before further flight, and thereafter, within intervals not to exceed 5,000 hours TIS or 5 years, whichever occurs first.

(i) Remove the upper LH bolt from service and replace it with a new upper LH bolt by following the Accomplishment Instructions, part I, paragraphs 6 and 7, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model. Then accomplish the actions required by paragraph (g)(5)(v) of this AD.

Note 4 to paragraph (g)(5)(i): This note applies to paragraphs (g)(5)(i) through (v) of this AD. The Accomplishment Instructions, part II, paragraph 1, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, and ASB 412CF–21–72 Rev A, each refer to part I for allowable torque limits; part I of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, and ASB 412CF–21–72 Rev A, specify the different torque limits for the different bolts.

(ii) With the upper RH bolt removed, visually inspect the upper RH bolt for any corrosion, damaged threads, wear, and fatigue cracking. If the upper RH bolt has any corrosion, a damaged thread, wear, or fatigue cracking, before further flight, remove the upper RH bolt from service. Install a new

upper RH bolt or reinstall the existing upper RH bolt, as applicable, by following the Accomplishment Instructions, paragraphs 11 and 12 of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model. Then accomplish the actions required by paragraph (g)(5)(v) of this AD.

(iii) With the lower LH bolt removed, visually inspect the lower LH bolt for any corrosion, damaged threads, wear, and fatigue cracking. If the lower LH bolt has any corrosion, a damaged thread, wear, or fatigue cracking, before further flight, remove the lower LH bolt from service. Install a new lower LH bolt or reinstall the existing lower LH bolt, as applicable, by following the Accomplishment Instructions, paragraphs 16 and 17 of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model. Then accomplish the actions required by paragraph (g)(5)(v) of this AD.

(iv) With the lower RH bolt removed, visually inspect the lower RH bolt for any corrosion, damaged threads, wear, and fatigue cracking. If the lower RH bolt has any corrosion, a damaged thread, wear, or fatigue cracking, before further flight, remove the lower RH bolt from service. Install a new lower RH bolt or reinstall the existing lower RH bolt, as applicable, by following the Accomplishment Instructions, paragraphs 16 and 17 of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model. Then accomplish the actions required by paragraph (g)(5)(v) of this AD.

(v) After accumulating 1 hour TIS, but not to exceed 5 hours TIS after accomplishing the actions required by paragraph (g)(5)(i), (ii), (iii), or (iv) of this AD, using the torque value information in the Accomplishment Instructions, part II, paragraph 1, of ASB 212–21–166 Rev A, ASB 412–21–187 Rev A, or ASB 412CF–21–72 Rev A, as applicable to your helicopter model, inspect the torque applied on each bolt. Thereafter, repeat the torque inspection of those bolts after accumulating 1 hour TIS, but not to exceed 5 hours TIS, to determine if the torque has stabilized. Do not exceed three torque inspections total for those bolts and accomplish the actions required by paragraphs (g)(2)(i) and (ii) of this AD.

(6) For helicopters identified in paragraph (c) of this AD, as of the effective date of this AD, do not install a steel alloy barrel nut P/N NAS577B9A, P/N NAS577B8A, or P/N NAS577B6A on any helicopter.

(h) Special Flight Permit

A one-time special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199 in order to fly to a maintenance area to perform the required actions in this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

(j) Additional Information

For more information about this AD, contact Jacob Fitch, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (817) 222–4130; email: *jacob.fitch@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 the AD specifies otherwise.

(i) Bell Alert Service Bulletin 212–21–166, Revision A, dated February 23, 2022.

(ii) Bell Alert Service Bulletin 412–21–187, Revision A, dated February 23, 2022.

(iii) Bell Alert Service Bulletin 412CF–21–72, Revision A, dated February 23, 2022.

(3) For Bell material identified in this AD, contact Bell Textron Inc., P.O. Box 482, Fort Worth, TX 76101; phone: (450) 437–2862 or 1–800–363–8023; fax: (450) 433–0272; email: *productsupport@bellflight.com;* or website: *bellflight.com/support/contact-support.*

(4) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, 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 September 27, 2024.

Victor Wicklund,

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

[FR Doc. 2024–22929 Filed 10–3–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2324; Project Identifier AD–2024–00514–T; Amendment 39–22861; AD 2024–20–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 717–200 airplanes and Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes. This AD was prompted by a report of cracked and severed structure found in the aft fuselage cant bulkhead at a certain station (STA) and the vertical stabilizer rear spar installation. This AD requires a one-time inspection of the aft fuselage cant bulkhead at certain STAs and vertical stabilizer rear spar structure, and corrective actions and an inspection report if necessary. This AD also requires an inspection of that same structure if certain conditions occur during any phase of flight. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 21, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 21, 2024.

The FAA must receive comments on this AD by November 18, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2024–2324; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

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

Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2024–2324.

FOR FURTHER INFORMATION CONTACT: Wayne Ha, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5238; email: *Wayne.Ha@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include Docket No. FAA–2024–2324 and Project Identifier AD–2024–00514–T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, 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 final rule 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 final rule.

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 AD 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 AD, 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 AD. Submissions containing CBI should be sent to Wayne Ha, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5238; email: *Wayne.Ha@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA has received a report indicating cracked and severed structure was found in the aft fuselage cant bulkhead at STA 1178.225 and vertical stabilizer rear spar installation, on a Boeing Model 717–200 airplane. The cant bulkhead and vertical stabilizer rear spar structure on Boeing Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes are similar to that of the Model 717–200 airplane and therefore are susceptible to cracking. This condition, if not addressed, could result in reduced structural integrity of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Multi Operator Message MOM–MOM–24–0457–01B(R1) and Boeing Multi Operator Message MOM–MOM–24–0456–01B(R1), both dated September 4, 2024. These documents are distinct since they apply to different airplane models. This material specifies procedures for a one-time detailed inspection of the aft fuselage cant bulkhead (at STA 1178.225 for Model 717–200 airplanes, STA 942.225 for Model DC–9–10 and DC–9–20 series airplanes, STA 1121.225 for Model DC–9–30 series airplanes, STA 1197.225 for Model DC–9–40 series airplanes, and STA 1292.225 for Model DC–9–50 series airplanes) and vertical stabilizer rear spar structure for any crack and, if any crack is found during the detailed inspection, obtaining and following approved repair instructions. 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.

AD Requirements

This AD requires accomplishing the actions specified in the material already described. This AD also requires sending the inspection findings to the airplane manufacturer if any crack is found during the one-time detailed inspection. This AD also requires a detailed inspection of the cant bulkhead (at STA 1178.225 for Model 717–200 airplanes, STA 942.225 for Model DC–9–10 and DC–9–20 series airplanes, STA 1121.225 for Model DC–9–30 series airplanes, STA 1197.225 for Model DC–9–40 series airplanes, and STA 1292.225 for Model DC–9–50 series airplanes), left and right sides, between longerons 11L through 11R at the forward and aft surfaces; upper cap; upper (cap) doubler; bulkhead webs and doublers; stiffeners; lower tee cap and strap; and vertical stabilizer rear spar cap and web for any discrepancy, if any of the following conditions occur during any phase of flight: (1) high drag/side loads or unusual ground handling, (2) a hard or overweight landing, (3) severe turbulence (or rough air (turbulence)) or an excessive maneuver, or (4) high compressive loads to the hydraulic tail bumper/strut (for Model 717–200 airplanes) or auxiliary gear (tail bumper) (for Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes). A discrepancy includes buckles, distortion, cracks, loose or missing fasteners, or any other obvious indication of damage.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because cracked and severed structure in the aft fuselage cant bulkhead and vertical stabilizer rear spar, if not addressed, could result in reduced structural integrity of the airplane. Further, analysis has shown that an airplane with this unsafe condition is not capable of sustaining a limit load event, which would be catastrophic. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

The compliance time in this AD is shorter than the time necessary for the public to comment and for publication of the final rule. In addition, the FAA finds that good cause exists pursuant to

5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 133 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
One-time inspection	3 work-hours × $85 per hour = $255	$0	$255	$33,915
Inspection due to certain conditions	3 work-hours × $85 per hour = $255	0	255	33,915

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Reporting	1 work-hours × $85 per hour = $85	$0	$85

The FAA has received no definitive data on which to base the cost estimates for the on-condition repair specified in this AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour 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. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–20–02 The Boeing Company: Amendment 39–22861; Docket No. FAA–2024–2324; Project Identifier AD–2024–00514–T.

(a) Effective Date

This airworthiness directive (AD) is effective October 21, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company airplanes identified in paragraphs (c)(1) through (6) of this AD, certificated in any category.

(1) Model 717–200 airplanes.

(2) Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, and DC–9–15F airplanes.

(3) Model DC–9–21 airplanes.

(4) Model DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, and DC–9–34F airplanes.

(5) Model DC–9–41 airplanes.

(6) Model DC–9–51 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of cracked and severed structure found in the aft fuselage cant bulkhead at station (STA) 1178.225 and vertical stabilizer rear spar installation. The FAA is issuing this AD to address cracked and severed structure in the aft fuselage cant bulkhead and vertical stabilizer rear spar. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) One-Time Inspection

Within 45 days after the effective date of this AD, do a detailed inspection of the cant bulkhead and vertical stabilizer rear spar structure for any crack, in accordance with table 1 of the applicable material identified in paragraph (g)(1) or (2) of this AD.

(1) For Model 717–200 airplanes: Boeing Multi Operator Message MOM–MOM–24–0457–01B(R1), dated September 4, 2024.

(2) For Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, DC–9–34F, DC–9–41, and DC–9–51 airplanes: Boeing Multi Operator Message MOM–MOM–24–0456–01B(R1), dated September 4, 2024.

(h) Repair for One-Time Inspection

If any crack is found during the detailed inspection required by paragraph (g) of this AD, repair the crack before further flight using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

(i) Definitions

For the purposes of paragraphs (j) through (m) of this AD, the following terms are defined as follows.

(1) A ''detailed inspection'' is an intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.

(2) A ''discrepancy'' includes buckles, distortion, cracks, loose or missing fasteners, or any other obvious indication of damage.

(3) A ''high drag/side load or unusual ground handling'' condition is a result of one or more of the pilot-reported conditions specified in paragraphs (i)(3)(i) through (iv) of this AD.

(i) Skid or over-run from a prepared surface to an unprepared surface.

(ii) Landing short of the prepared surface.

(iii) Landing with two or more tires deflated.

(iv) Ground operations of a heavy aircraft during push back, prior to takeoff or after landing on unstable surface conditions like ice, snow, mud, soft pavement, or sand.

(4) A ''hard landing'' is when an aircraft touches down on the runway with more force or velocity than is considered normal or desirable.

(5) An ''overweight landing'' is a landing at a weight that is more than the maximum certificated landing weight.

(6) ''Severe turbulence'' or ''rough air (turbulence)'' is turbulence (including gusts) that can result in abnormal and abrupt changes in aircraft altitude, attitude, and airspeed.

(7) An ''excessive maneuver'' is a maneuver that results in severe and abnormal aircraft altitude or attitude changes due to rapid or large flight control inputs, *i.e.* control column, rudder pedals, or control wheel.

(8) ''High compressive loads to the hydraulic tail bumper/strut'' or ''high compressive loads to the auxiliary gear (tail bumper)'' is any loading event, such as a tail strike, tail skid, etc., that has the potential to move the indicating pin of the hydraulic tail bumper/strut or auxiliary gear (tail bumper) to the vertical position.

(j) Report for One-Time Inspection Findings

If any crack is found during the detailed inspection required by paragraph (g) of this AD, at the applicable time specified in paragraph (j)(1) or (2) of this AD, submit a report of positive findings to The Boeing Company via the Boeing Communication System (BCS). The report must include the crack size, crack location, and whether or not airplane maintenance records show any unscheduled maintenance checks due to severe turbulence or an excessive maneuver, high drag/side loads or unusual ground handling, a hard or overweight landing, or high compressive loads to the hydraulic tail bumper/strut or auxiliary gear (tail bumper).

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 10 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

(k) Conditional Inspections for Model 717–200 Airplanes

As of 45 days after the effective date of this AD: If a Model 717–200 airplane experiences high drag/side loads or unusual ground handling, a hard or overweight landing, severe turbulence or an excessive maneuver, or high compressive loads to the hydraulic tail bumper/strut: Do a detailed inspection of the cant bulkhead at STA 1178.225, left and right sides, between longerons 11L through 11R at the forward and aft surfaces; upper cap; upper (cap) doubler; bulkhead webs and doublers; stiffeners; lower tee cap and strap; and vertical stabilizer rear spar cap and web for any discrepancy.

Note 1 to paragraph (k): Guidance for doing the inspection required by paragraph (k) of this AD due to high drag/side loads or unusual ground handling can be found in Subtask 05–51–03–210–005, steps (9) and (9)(a), of Boeing 717 Aircraft Maintenance Manual (AMM) Temporary Revision 05–1003, High Drag/Side Loads or Unusual Ground Handling Conditions—Inspection/Check, dated September 10, 2024.

Note 2 to paragraph (k): Guidance for doing the inspection required by paragraph (k) of this AD due to a hard or overweight landing can be found in Subtask 05–51–04–210–028, steps (6)(a) and (6)(a)(1), of Boeing 717 AMM Temporary Revision 05–1004, Hard or Overweight Landing—Inspection/Check, dated September 10, 2024.

Note 3 to paragraph (k): Guidance for doing the inspection required by paragraph (k) of this AD due to severe turbulence or an excessive maneuver can be found in Subtask 05–51–02–210–005, steps (6)(a) and (6)(a)(1), of Boeing 717 AMM Temporary Revision 05–1005, Severe Turbulence or Excessive Maneuver Conditions—Inspection/Check, dated September 10, 2024.

Note 4 to paragraph (k): Guidance for doing the inspection required by paragraph (k) of this AD due to high compressive loads to the hydraulic tail bumper/strut can be found in Subtask 32–71–04–211–001, step (2), of Boeing 717 AMM Temporary Revision 32–1001, Hydraulic Tail Bumper—Inspection/Check, dated September 13, 2024.

(l) Conditional Inspections for Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes

As of 45 days after the effective date of this AD: If a Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, DC–9–34F, DC–9–41, or DC–9–51 airplane experiences high drag/side loads or unusual ground handling, a hard or overweight landing, an excessive maneuver or rough air (turbulence), or high compressive loads to the auxiliary gear (tail bumper): Do a detailed inspection of the cant bulkhead at the applicable STA specified in table 1 to paragraph (l) of this AD, left and right sides, between longerons 11L through 11R at the forward and aft surfaces; upper cap; upper (cap) doubler; bulkhead webs and doublers; stiffeners; lower tee cap and strap; and vertical stabilizer rear spar cap and web for any discrepancy.

TABLE 1 TO PARAGRAPH (l)—APPLICABLE STA

Model	Paragraph (l) of this AD
DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, and DC-9–21 airplanes	STA 942.225
DC–9–31, DC–9–32, DC–9–32 (VC-9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, and DC-9–34F airplanes.	STA 1121.225
DC–9–41 airplanes	STA 1197.225
DC–9–51 airplanes	STA 1292.225

Note 5 to paragraph (l): For Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, and DC–9–34F airplanes, guidance for doing the inspection required by paragraph (l) of this AD due to high drag/side loads or unusual ground handling can be found in paragraph 6.A(3), step E(4), of Boeing DC–9 AMM Temporary Revision 5–147, dated September 9, 2024. Although that material does not specify the applicable STA location for Model DC–9–41 and DC–9–51 airplanes, guidance for doing the inspection required by paragraph (l) of this AD due to high drag/side loads or unusual ground handling for those airplanes can be found in that material, and the applicable STA can be found in table 1 to paragraph (l) of this AD.

Note 6 to paragraph (l): For Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, and DC–9–34F airplanes, guidance for doing the inspection required by paragraph (l) of this AD due to a hard or overweight landing can be found in paragraph 2.B(2), table 601, step B(5), of Boeing DC–9 AMM Temporary Revision 5–147, dated September 9, 2024. Although that material does not specify the applicable STA location for Model DC–9–41 and DC–9–51 airplanes, guidance for doing the inspection required by paragraph (l) of this AD due to a hard or overweight landing for those airplanes can be found in that material, and the applicable STA can be found in table 1 to paragraph (l) of this AD.

Note 7 to paragraph (l): For Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, and DC–9–34F airplanes, guidance for doing the inspection required by paragraph (l) of this AD due to excessive maneuver or rough air (turbulence) can be found in paragraph 5.A(2), step B(8), of Boeing DC–9 AMM Temporary Revision 5–147, dated September 9, 2024. Although that material does not specify the applicable STA location for Model DC–9–41 and DC–9–51 airplanes, guidance for doing the inspection required by paragraph (l) of this AD due to excessive maneuver or rough air (turbulence) for those airplanes can be found in that material, and the applicable STA can be found in table 1 to paragraph (l) of this AD.

Note 8 to paragraph (l): For Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–32F (C–9A, C–9B), DC–9–33F, DC–9–34, and DC–9–34F airplanes, guidance for doing the inspection required by paragraph (l) of this AD due to high compressive loads to the auxiliary gear (tail bumper) can be found in paragraph 5.B(2) or (4), as applicable, of Boeing DC–9 AMM Temporary Revision 32–687, dated September 13, 2024. Although that material does not specify the applicable STA location for Model DC–9–41 and DC–9–51 airplanes, guidance for doing the inspection required by paragraph (l) of this AD due to high compressive loads to the auxiliary gear (tail bumper) for those airplanes can be found in that material, and the applicable STA can be found in table 1 to paragraph (l) of this AD.

(m) Repair for Conditional Inspections

If any discrepancy is found during any inspection required by paragraph (k) or (l) of this AD, repair the discrepancy before further flight using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

(n) Credit for Previous Actions

This paragraph provides credit for the corresponding inspections specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD in accordance with Boeing Multi Operator Message MOM–MOM–24–0456–01B, dated September 3, 2024; or Boeing Multi Operator Message MOM–MOM–24–0457–01B, dated September 3, 2024; as applicable.

(o) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (p)(1) of this AD. Information may be emailed to: *AMOC@faa.gov.*

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

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

(p) Related Information

(1) For more information about this AD, contact Wayne Ha, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5238; email: *Wayne.Ha@faa.gov.*

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

(q) 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 the AD specifies otherwise.

(i) Boeing Multi Operator Message MOM–MOM–24–0456–01B(R1), dated September 4, 2024.

(ii) Boeing Multi Operator Message MOM–MOM–24–0457–01B(R1), dated September 4, 2024.

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

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

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locationsoremailfr.inspection@nara.gov.*

Issued on September 27, 2024.

Peter A. White,

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

[FR Doc. 2024–23101 Filed 10–2–24; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0600; Project Identifier AD–2021–01160–R; Amendment 39–22827; AD 2024–17–02]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Inc. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Bell Textron Inc. (Bell) Model 204B, 205A, 205A–1, 205B, and 210 helicopters. This AD was prompted by an accident and incidents involving failure of the tail boom attachment structure. This AD requires inspecting the tail boom assembly hardware, replacing tail boom attachment hardware, greasing the bolt shanks, and inspecting torque. This AD also prohibits installing steel alloy nuts on any helicopter. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 8, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 8, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0600; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

• For Bell material identified in this AD, contact Bell Textron Inc., P.O. Box 482, Fort Worth, TX 76101; phone: (450) 437–2862 or (800) 363–8023; fax: (450) 433–0272; email: *productsupport@bellflight.com;* website: *bellflight.com/support/contact-support.*

• 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.

Other Related Material: For other material identified in this final rule, contact Bell Textron Inc., P.O. Box 482, Fort Worth, TX 76101; phone: (450) 437–2862 or (800) 363–8023; fax: (450) 433–0272; email: *productsupport@bellflight.com;* website: *bellflight.com/support/contact-support.*

FOR FURTHER INFORMATION CONTACT: Michael Perrin, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (562) 627–5362; email: *Michael.j.perrin@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued AD 2021–15–14, Amendment 39–21661 (86 FR 39942, July 26, 2021) (AD 2021–15–14) for various restricted category helicopters. AD 2021–15–14 was prompted by an accident involving a Model UH–1B helicopter and two forced landings involving Model UH–1H and UH–1F helicopters, due to tail boom attachment structure failures. Each of the three events involved a failure of the upper left-hand (LH) tail boom attachment fitting, which is the most heavily loaded of the four tail boom attach points. The FAA issued AD 2021–15–14 to address fatigue cracking of tail boom attachment fittings, cap angles, longerons, and bolts.

Due to their similarity to Model UH–1B, UH–1H, and UH–1F helicopters, the FAA determined that Bell Model 204B, 205A, 205A–1, 205B, and 210 helicopters are also affected by the same unsafe condition and issued a notice of proposed rulemaking (NPRM) to propose the same actions as those required in AD 2021–15–14. The NPRM published in the **Federal Register** on June 7, 2022 (87 FR 34587) to amend 14 CFR part 39 and would have applied to Bell Model 204B, 205A, 205A–1, 205B, and 210 helicopters. In the NPRM, the FAA proposed to require revising the helicopter's existing rotorcraft flight manual to incorporate pre-flight checks; removing excess paint and sealant and cleaning certain parts; and repetitively inspecting structural components that attach the tail boom to the fuselage. Depending on the inspection results, the FAA proposed to require repairing or replacing components or re-bonding the structure.

Based on comments received on the NPRM, the FAA determined changes to the proposed required actions were necessary. Accordingly, the FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Bell Model 204B, 205A, 205A–1, 205B, and 210 helicopters. The SNPRM published in the **Federal Register** on May 8, 2024 (89 FR 38846).

In the SNPRM, for Bell Model 204B helicopters, the FAA proposed to require, with the tail boom assembly removed, removing the upper LH bolt from service and inspecting the bolt's associated attachment hardware and, depending on the inspection results, removing the associated nut from service. The FAA also proposed to require visually inspecting each bulkhead, bolt hole, attachment fitting, the three other nuts, the upper right-hand (RH) bolt, and two lower bolts, including the bolt shank and head radii. Depending on inspection results, the FAA proposed to require repairing or replacing an affected bulkhead or affected fitting, removing certain part-numbered nuts, removing any affected nut and its associated bolt from service, and removing any affected bolt from service.

For Bell Model 205A, 205A–1, and 205B helicopters, the FAA proposed to require, with the tail boom assembly removed, removing the upper LH bolt from service and inspecting its associated barrel nut and retainer and, depending on the inspection results, removing barrel nut and retainer from service. The FAA also proposed to require visually inspecting each bulkhead, bolt hole, attachment fitting, the three other barrel nuts, associated retainers, the upper RH bolt, and two lower bolts, including the bolt shank and head radii. Depending on inspection results, the FAA proposed to require repairing or replacing an affected bulkhead or affected fitting, removing certain part-numbered barrel nuts and retainers, removing any affected barrel nuts and its associated bolt from service, and removing any affected bolt from service.

For Bell Model 210 helicopters, the FAA proposed to require, with the tail boom supported, removing the upper LH steel alloy barrel nut, retainer, and bolt from service and removing the countersunk washer and plain washers and replacing them with a new certain part-numbered nickel alloy barrel nut, new retainer, new bolt, an airworthy countersunk washer, and airworthy plain washers. The FAA also proposed to require visually inspecting the upper RH bolt and its associated hardware and, depending on the inspection results, removing the upper RH bolt and barrel nut from service. Additionally, the FAA proposed to require visually inspecting the two lower bolts and the associated barrel nuts and, depending on the inspection results, removing any affected barrel nut and its associated

bolt from service and removing any affected bolt from service.

For all applicable helicopters, the FAA proposed to require, after the initial inspections have been completed, applying a coating of grease to each bolt shank only, installing the applicable hardware, and torquing each bolt. Thereafter, the FAA proposed to require inspecting the torque applied on each bolt to determine if the torque has stabilized and, depending on the results, replacing and inspecting certain tail boom attachment point hardware and repeating the torque inspections or applying torque stripes.

Lastly, the FAA proposed to prohibit installing certain part-numbered steel alloy nuts on Model 204B helicopters and certain part-numbered steel alloy barrel nuts on Model 205A, 205A–1, 205B, and 210 helicopters.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments on the SNPRM from Helicopter Maintenance Corporation. The commenter requested that the FAA revise the proposed AD to allow credit for previous compliance with the visual inspection of the tail boom attach points and bulkhead, replacement of affected hardware, and the recurring inspections involving removal of the tail boom. Helicopter Maintenance Corporation stated that aircraft that are in compliance with ASB 205–21–118 should only be obligated to comply with any differences between the AD and the alert service bulletin.

Paragraph (f) of this AD requires compliance unless the actions have already been done. Therefore, where this AD requires actions without incorporating Bell Alert Service Bulletin (ASB) 210–21–15, Revision A, dated February 23, 2022 (ASB 210–21–15, Rev A), by reference, operators may take credit for those actions they if were done before the effective date of this AD. Also, where this AD requires actions in accordance with ASB 210–21–15, Rev A, operators may take credit for those actions only if they were done before the effective date of this AD using ASB 210–21–15, Rev A; this AD does not allow credit for those actions if previously done using the original release of ASB 210–21–15, (dated January 27, 2022). The FAA did not change this AD as a result of this comment.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the SNPRM.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Bell ASB 210–21–15, Rev A. This material specifies procedures for replacing the steel alloy barrel nuts with nickel alloy barrel nuts, inspecting and replacing the tail boom attachment hardware, stabilizing the tail boom attachment hardware torque, applying torque seals, and subsequently checking the torque.

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.

Other Related Material

The FAA also reviewed Bell ASB 205–21–118, Bell ASB 204B–21–75, and Bell ASB 205B–21–72, each Revision A and dated February 23, 2022. This material specifies the same procedures as ASB 210–21–15, Rev A.

Differences Between This AD and the Related Material

The related material specifies checking torque, whereas this AD requires inspecting torque because that action is a maintenance action that must be performed by persons authorized under 14 CFR 43.3.

When stabilizing the tail boom attachment hardware torque, the related material does not clearly specify actions for each time the torque is below the minimum limit during any torque stabilization inspection, whereas this AD requires replacing and inspecting certain tail boom attachment point hardware, stabilizing the torque of the replaced hardware set, and applying torque stripes.

Costs of Compliance

The FAA estimates that this AD affects 62 (five Model 204B helicopters, fifty-three Model 205A, 205A–1, and 205B helicopters, and four Model 210 helicopters) of U.S. registry. Labor costs are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

For the initial requirements for Model 204B helicopters, inspecting or replacing up to four bolts (which includes applying a coating of grease), inspecting each bulkhead, inspecting each fitting and bolt hole, inspecting and stabilizing the torque, and applying torque stripes will take up to approximately 8.5 work-hours for an estimated labor cost of up to $723. The parts cost for an upper LH bolt will be approximately $196 and the parts cost for the other bolts will be approximately $89 per bolt. The parts cost for four new nuts will be approximately $680. The parts cost to apply torque stripes will be a nominal amount. The estimated cost for these actions will be up to approximately $1,866 per helicopter and $9,330 for the U.S. fleet.

For the initial requirements for Model 205A, 205A–1, and 205B helicopters, replacing the four steel alloy barrel nuts with new nickel alloy barrel nuts, inspecting or replacing up to four bolts (which includes applying a coating of grease), inspecting each bulkhead, inspecting and stabilizing the torque, and applying torque stripes will take up to approximately 8.5 work-hours for an estimated labor cost of up to $723. The parts cost for the four new nickel alloy barrel nuts (including retainers) will be approximately $680. The parts cost for an upper LH bolt will be approximately $196 and the parts cost for the other bolts will be approximately $89 per bolt. The parts cost to apply torque stripes will be a nominal amount. The estimated cost for these actions will be up to approximately $1,866 per helicopter and $98,898 for the U.S. fleet.

For the initial requirements for Model 210 helicopters, replacing the four steel alloy barrel nuts with new nickel alloy barrel nuts, inspecting or replacing up to four bolts (which includes applying a coating of grease), inspecting and stabilizing the torque, and applying torque stripes will take up to approximately 8.5 work-hours for an estimated labor cost of up to $723. The parts cost for the four new nickel alloy barrel nuts (including retainers) will be approximately $680. The parts cost for an upper LH bolt will be approximately $196 and the parts cost for the other bolts will be approximately $89 per bolt. The parts cost to apply torque stripes will be a nominal amount. The estimated cost for these actions will be up to approximately $1,866 per helicopter and $7,464 for the U.S. fleet.

For all applicable helicopters, inspecting the torque applied on each bolt will take approximately 1 work-hour for an estimated cost of $85 per helicopter and $5,270 for the U.S. fleet, per inspection cycle.

For all applicable helicopters, replacing an upper LH bolt, stabilizing the torque, and applying a torque stripe will take up to approximately 5 work-hours. The parts cost for an upper LH bolt will be approximately $196 and the parts cost to apply a torque stripe will

be a nominal amount. The estimated cost for these actions will be up to approximately $621 per helicopter and $38,502 for the U.S. fleet, per replacement cycle. Inspecting one of the other bolts, stabilizing the torque, and applying a torque stripe will take up to approximately 3.5 work-hours for an estimated cost of $298 per other bolt and $18,476 for the U.S. fleet per other bolt per inspection cycle. If required, replacing a bolt following that inspection will take a minimal amount of additional time and the parts cost will be approximately $89.

If required as a result of failing any torque inspection required by this AD, visually inspecting a nut or a barrel nut, replacing a bolt, stabilizing the torque, and applying a torque stripe will take up to approximately 5.5 work-hours per failed hardware set. The parts cost for an upper LH bolt will be approximately $196 and the parts cost for the other bolts will be approximately $89 per bolt. The parts cost to apply a torque stripe will be a nominal amount. The estimated cost for these actions will be $664 (upper LH bolt) or $557 (other bolts), per failed hardware set. If required, replacing a nut following that inspection will take a minimal amount of additional time and the parts cost for a nut will be approximately $89 per nut. If required, replacing a barrel nut following that inspection will take a minimal amount of additional time and a parts cost of approximately $173 per barrel nut.

The corrective action that may be needed as a result of the bulkhead inspection could vary significantly from helicopter to helicopter. The FAA has no data to determine the costs to accomplish the corrective action or the number of helicopters that may require 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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–17–02 Bell Textron Inc.: Amendment 39–22827; Docket No. FAA–2022–0600; Project Identifier AD–2021–01160–R.

(a) Effective Date

This airworthiness directive (AD) is effective November 8, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Textron Inc. Model 204B, 205A, 205A–1, 205B, and 210 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) 5302, Rotorcraft Tail Boom.

(e) Unsafe Condition

This AD was prompted by an accident and incidents involving failure of the tail boom attachment structure. The FAA is issuing this AD to address fatigue cracking of tail boom attachment fittings, cap angles, longerons, and bolts. The unsafe condition, if not addressed, could result in separation of the tail boom from the helicopter and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Allowable Torque Values (in-lbs)

Tail boom attachment point	Model 204B	Model 205A/205A–1	Model 205B	Model 210
Upper left-hand bolt	570–610	1000–1200	1000–1200	1300–1600
Upper right-hand bolt	360–380	1000–1200	1000–1200	1000–1200
Lower left-hand bolt	360–380	400–430	400–430	400–430
Lower right-hand bolt	360–380	400–430	400–430	400–430

(h) Required Actions

(1) Within 300 hours time-in-service (TIS) or 90 days after the effective date of this AD, whichever occurs first, accomplish the actions required by paragraphs (h)(1)(i), (ii), or (iii) of this AD as applicable to your model helicopter. For purposes of this AD, the word ''new'' is defined as having zero total hours TIS.

(i) For Model 204B helicopters, accomplish the actions required by paragraphs (h)(1)(i)(A) through (C) of this AD.

(A) With the tail boom assembly removed, remove the upper left-hand (LH) tail boom attachment bolt (bolt) from service and inspect its associated tail boom attachment nut (nut) for mechanical damage, corrosion, a crack, damaged threads, and wear, and to determine whether it is a steel alloy part number (P/N) NAS679A, NAS1291, or MS21042. If there is any mechanical damage, corrosion, a crack, a damaged thread, or wear, or if nut P/N NAS679A, NAS1291, or MS21042 is installed, before further flight, remove the nut from service.

(B) Visually inspect each bulkhead (FS 195.00 and FS 195.03) and the bolt holes for mechanical damage, corrosion, and cracks; visually inspect each attachment fitting for

mechanical damage, corrosion, cracks, and loose fasteners; determine if any of the three other nuts are a steel alloy P/N NAS679A, NAS1291, or MS21042; and visually inspect the other three nuts, the upper right-hand (RH) bolt, and two lower bolts for mechanical damage, corrosion, cracks, damaged threads, and wear, including the bolt shank and head radii of the bolts for a damaged thread, wear, and mechanical damage.

(*1*) If there is any mechanical damage, corrosion, or cracks on any bulkhead (FS 195.00 or FS 195.03), or any mechanical damage, corrosion, or cracks on any bolt holes, or if there is any mechanical damage, corrosion, cracks, or loose fasteners on any attachment fitting, before further flight, repair or replace the affected bulkhead or the affected attachment fitting, as appropriate, in accordance with FAA-approved procedures.

(*2*) If there is any mechanical damage, corrosion, a crack, a damaged thread, or wear on any nut, or if nut P/N NAS679A, NAS1291, or MS21042 is installed, before further flight, remove the affected nut from service. If there is a crack on any nut, before further flight, also remove its associated bolt from service.

(*3*) If there is any mechanical damage, corrosion, a crack, a damaged thread, or wear on the on the upper RH bolt or two lower bolts, which includes the bolt shank or head radii, before further flight, remove the affected bolt from service.

(C) Apply a coating of Aeriol ThixO #2 (3810–0) or Aeriol ThixO SYN (3820–0) aviation grease to each bolt shank only. Install the hardware set of each tail boom attachment point (nickel alloy nut P/N 90–132L7 or 90–132L6, as applicable to the affected tail boom attachment point, new upper LH bolt P/N NAS627–21, upper RH and two lower bolts P/N NAS626–20, countersunk washer, and plain washers). Torque each bolt by using the torque value information identified in paragraph (g) of this AD.

(ii) For Model 205A, 205A–1, and 205B helicopters, accomplish the actions required by paragraphs (h)(1)(ii)(A) through (C) of this AD.

(A) With the tail boom assembly removed, remove the upper LH bolt from service and inspect its associated tail boom attachment barrel nut (barrel nut) and retainer for mechanical damage, corrosion, a crack, damaged threads, and wear, and to determine whether it is a steel alloy barrel nut P/N NAS577B8A. If there is any mechanical damage, corrosion, a crack, a damaged thread, or wear, or if barrel nut P/N NAS577B8A is installed, before further flight, remove the barrel nut and its associated retainer from service.

(B) Visually inspect each bulkhead (BS 17.31 and FS 243.89) and the bolt holes for mechanical damage, corrosion, and cracks; visually inspect each attachment fitting for mechanical damage, corrosion, cracks, and loose fasteners; determine if any of the three other barrel nuts are steel alloy P/N NAS577B8A or P/N NAS577B6A; and visually inspect the other three barrel nuts and the associated retainers, the upper RH bolt, and two lower bolts for mechanical damage, corrosion, cracks, damaged threads, and wear, including the bolt shank and head radii of the bolts for a damaged thread, wear, and mechanical damage.

(*1*) If there is any mechanical damage, corrosion, or cracks on any bulkhead (BS 17.31 or FS 243.89), or any mechanical damage, corrosion, or cracks on any bolt holes, or if there is any mechanical damage, corrosion, cracks, or loose fasteners on any attachment fitting, before further flight, repair or replace the affected bulkhead or the affected attachment fitting, as appropriate, in accordance with FAA-approved procedures.

(*2*) If there is any mechanical damage, corrosion, a crack, a damaged thread, or wear on any barrel nut or retainer, or if barrel nut P/N NAS577B8A or NAS577B6A is installed, before further flight, remove the affected barrel nut and retainer (as a pair) from service. If there is a crack on any nut, before further flight, also remove its associated bolt from service.

(*3*) If there is any mechanical damage, corrosion, a crack, a damaged thread, or wear on the upper RH bolt or two lower bolts, which includes the bolt shank or head radii, before further flight, remove the affected bolt from service.

(C) Apply a coating of Aeriol ThixO #2 (3810–0) or Aeriol ThixO SYN (3820–0) aviation grease to each bolt shank only. Install the hardware set of each tail boom attachment point (nickel alloy barrel nut P/N NAS577C6A or P/N NAS577C8A and retainer P/N NAS578C6A or P/N NAS578C8A, as applicable to the affected tail boom attachment point, new upper LH bolt P/N NAS628–22, upper RH and two lower bolts P/N NAS628–22 or NAS626–18, as applicable to the affected tail boom attachment point, countersunk washer, and plain washers). Torque each bolt by using the torque value information identified in paragraph (g) of this AD.

(iii) For Model 210 helicopters, accomplish the actions required by paragraphs (h)(1)(iii)(A) through (C) of this AD.

(A) With the tail boom supported, remove the upper LH bolt, and the steel alloy barrel nut P/N NAS577B9A, including the retainer, from service. Remove the countersunk washer, and plain washers, and install new nickel alloy barrel nut P/N NAS577C9A, new retainer P/N NAS578C9A, airworthy countersunk washer, airworthy plain washers, and a new bolt in accordance with the Accomplishment Instructions, Part I, paragraphs 5 through 7 of Bell Alert Service Bulletin (ASB) 210–21–15, Revision A, dated February 23, 2022 (ASB 210–21–15, Rev A).

(B) Remove the upper RH bolt, steel alloy barrel nut P/N NAS577B8A, countersunk washer, and plain washers. Visually inspect the upper RH bolt for any corrosion, damaged threads, wear, and fatigue cracking. If the upper RH bolt has any corrosion, damaged threads, wear, or fatigue cracking, before further flight, remove the upper RH bolt from service. Visually inspect the removed barrel nut for cracking. If there is any cracking in the barrel nut, before further flight, remove the upper RH bolt from service. Regardless of the result of the upper RH steel alloy barrel nut inspection, replace the barrel nut with a new nickel alloy barrel nut P/N NAS577C8A and new retainer P/N NAS578C8A. Install a new upper RH bolt or reinstall the existing upper RH bolt (if no cracks in the barrel nut, and no corrosion, damaged threads, wear, or fatigue cracking in the bolt were identified), by following the Accomplishment Instructions, part I, paragraphs 11 and 12, including the caution above paragraph 11, of ASB 210–21–15, Rev A.

(C) Remove one of the lower bolts, its lower steel alloy barrel nut P/N NAS577B6A, countersunk washer, and plain washers. Visually inspect that lower bolt for any corrosion, damaged threads, wear, and fatigue cracking. If the lower bolt has any corrosion, damaged threads, wear, or fatigue cracking, before further flight, remove the lower bolt from service. Visually inspect the removed lower barrel nut for cracking. If there is any cracking in the lower barrel nut, before further flight, remove the lower bolt from service. Regardless of the result of that lower steel alloy barrel nut inspection, replace the barrel nut with a new nickel alloy barrel nut P/N NAS577C6A and new retainer P/N NAS578C6A. Install a new lower bolt or reinstall the existing lower bolt (if no cracks in the barrel nut, and no corrosion, damaged threads, wear, or fatigue cracking in the bolt were identified), by following the Accomplishment Instructions, part I, paragraphs 16 through 17, including the caution above paragraph 16, of ASB 210–21–15, Rev A. Repeat the actions required by this paragraph for the other lower attachment point.

(2) After accumulating 1 hour TIS, but not to exceed 5 hours TIS, after accomplishing the actions required by paragraph (h)(1) of this AD, using the torque value information identified in paragraph (g) of this AD applicable to your model helicopter, inspect the torque applied on each bolt. Thereafter, repeat the torque inspection of each bolt after accumulating 1 hour TIS, but not to exceed 5 hours TIS, to determine if the torque has stabilized. Do not exceed three torque inspections total for each bolt and accomplish the actions required by paragraphs (h)(2)(i) and (ii) of this AD.

(i) If the torque on a bolt is below the minimum allowable torque limit as a result of any instance of the torque inspection or if after three torque inspection attempts, the torque on any bolt has not stabilized, before further flight, accomplish the actions required by paragraphs (h)(2)(i)(A) and (B) of this AD.

(A) Remove the hardware set of one failed tail boom attachment point (nut, bolt, countersunk washer, and plain washers for Model 204B helicopters, and barrel nut, bolt, retainer, countersunk washer, and plain washers for Model 205A, 205A–1, 205B, and 210 helicopters). For Model 204B helicopters, remove the nut from service and for Model 205A, 205A–1, 205B, and 210 helicopters, remove the barrel nut and retainer from service as applicable to the affected tail boom attachment point. Visually inspect the removed bolt for any corrosion, damaged threads, wear, and fatigue cracking. If the bolt has any corrosion, a damaged thread, wear, or fatigue cracking, before further flight, remove the bolt from service.

(B) Apply a coating of Aeriol ThixO #2 (3810–0) or Aeriol ThixO SYN (3820–0)

aviation grease to the bolt shank only. Install a new bolt or reinstall the existing bolt (if no corrosion, damaged threads, wear, or fatigue cracking in the bolt were identified) and the hardware set of the affected tail boom attachment point (new nut P/N 90–132L6 or 90–132L7, countersunk washer, and plain washers for Model 204B helicopters, and new nickel alloy barrel nut P/N NAS577C6A, NAS577C8A or P/N NAS577C9A and new retainer P/N NAS578C6A, NAS578C8A, or P/N NAS577C9A, countersunk washer, and plain washers for Model 205A, 205A–1, 205B, and 210 helicopters), as applicable to the affected tail boom attachment point. Torque the bolt by using the torque value information identified in paragraph (g) of this AD. Repeat the actions required by paragraphs (h)(2)(i)(A) and (B) of this AD for each failed tail boom attachment point, one hardware set at a time. Then repeat the actions required by paragraph (h)(2) of this AD just for each newly installed or reinstalled bolt until the torque for all four tail boom attachment points stabilize.

(ii) If the torque for all four tail boom attachment points has stabilized, before further flight, apply a torque stripe to all four bolts.

(3) Within 600 hours TIS or 12 months, whichever occurs first after applying torque stripes to all four bolts as required by paragraph (h)(2)(ii) of this AD, and thereafter within intervals not to exceed 600 hours TIS or 12 months, whichever occurs first, inspect the torque applied on each bolt using the torque value information identified in paragraph (g) of this AD, as applicable to your model helicopter. If the torque on any bolt is below the minimum allowable torque limit, accomplish the actions required by paragraphs (h)(3)(i) and (ii) of this AD.

(i) Before further flight, remove the hardware set of one failed tail boom attachment point (nut, bolt, countersunk washer, and plain washers for Model 204B helicopters, and barrel nut, retainer, bolt, countersunk washer, and plain washers for Model 205A, 205A–1, 205B, and 210 helicopters) and then accomplish the actions required by paragraphs (h)(3)(i)(A), (B), or (C) of this AD as applicable to your model helicopter.

(A) For Model 204B helicopters, visually inspect the removed nut for cracking, corrosion, and loss of tare torque. If the nut has any cracking, corrosion, or loss of tare toque, before further flight, remove the nut from service and replace with a new nut P/N 90–132L7 or 90–132L6 as applicable to the tail boom attachment point. Regardless of the result of the nut inspection, remove the bolt from service and replace it with a new bolt by applying a coating of Aeriol ThixO #2 (3810–0) or Aeriol ThixO SYN (3820–0) aviation grease to the bolt shank only, and install the hardware set of the tail boom attachment point (nut, bolt, and countersunk washer, and plain washers). Torque each bolt by using the torque value information identified in paragraph (g) of this AD. Repeat the actions required by this paragraph for each failed tail boom attachment point, one hardware set at a time.

(B) For Model 205A, 205A–1, and 205B helicopters, visually inspect the removed barrel nut for cracking, corrosion, and loss of tare torque. If the barrel nut has any cracking, corrosion, or loss of tare toque, before further flight, remove the barrel nut and retainer from service and replace them with a new nickel alloy barrel nut P/N NAS577C6A, or NAS577C8A, and new retainer P/N NAS578C6A, or NAS578C8A, with the P/N of the new nickel alloy barrel nut and the P/N of the new retainer being as applicable to the affected tail boom attachment point. Regardless of the result of the barrel nut inspection, remove the bolt from service and replace it with a new bolt. Apply a coating of Aeriol ThixO #2 (3810–0) or Aeriol ThixO SYN (3820–0) aviation grease to each bolt shank only. Install the hardware set of each tail boom attachment point (nickel alloy barrel nut, retainer, bolt, countersunk washer, and plain washers). Torque each bolt by using the torque value information identified in paragraph (g) of this AD. Repeat the actions required by this paragraph for each failed tail boom attachment point, one hardware set at a time.

(C) For Model 210 helicopters, visually inspect the removed barrel nut for cracking, corrosion, and loss of tare torque. If the barrel nut has any cracking, corrosion, or loss of tare toque, before further flight, remove the barrel nut and retainer from service and replace them with a new nickel alloy barrel nut P/N NAS577C6A, NAS577C8A, or NAS577C9A, and new retainer P/N NAS578C6A, NAS578C8A, or NAS578C9A, with the P/N of the new nickel alloy barrel nut and the P/N of the new retainer being as applicable to the affected tail boom attachment point. Regardless of the result of the barrel nut inspection, remove the bolt from service and replace it with a new bolt, apply a coating of Aeriol ThixO #2 (3810–0) or Aeriol ThixO SYN (3820–0) aviation grease to each bolt shank only, and torque each bolt by using the torque value information identified in paragraph (g) of this AD. Repeat the actions required by this paragraph for each failed tail boom attachment point, one hardware set at a time.

(ii) After accumulating 1 hour TIS, but not to exceed 5 hours TIS after accomplishing the actions required by paragraph (h)(3)(i) of this AD, using the torque value information identified in paragraph (g) of this AD as applicable to your model helicopter, inspect the torque applied on each newly installed bolt. Thereafter, repeat the torque inspection of those bolts after accumulating 1 hour TIS, but not to exceed 5 hours TIS, to determine if the torque has stabilized. Do not exceed three torque inspections total for those bolts and accomplish the actions required by paragraphs (h)(2)(i) and (ii) of this AD.

(4) Within 5,000 hours TIS or 5 years after accomplishing the actions required by paragraph (h)(1) of this AD, whichever occurs first, and thereafter within intervals not to exceed 5,000 hours TIS or 5 years, whichever occurs first, accomplish the actions required by paragraphs (h)(4)(i) and (ii) of this AD.

(i) Accomplish the actions required by paragraphs (h)(1)(i), (ii), or (iii) of this AD, as applicable to your model helicopter.

(ii) After accumulating 1 hour TIS, but not to exceed 5 hours TIS after accomplishing the actions required by paragraph (h)(4)(i) of this AD, using the torque value information identified in paragraph (g) of this AD as applicable to your model helicopter, inspect the torque applied on each bolt. Thereafter, repeat the torque inspection of those bolts after accumulating 1 hour TIS, but not to exceed 5 hours TIS, to determine if the torque has stabilized. Do not exceed three torque inspections total for those bolts and accomplish the actions required by paragraphs (h)(2)(i) and (ii) of this AD.

(5) As of the effective date of this AD, do not install the following parts identified in paragraphs (h)(5)(i) and (ii) of this AD on any helicopter.

(i) For Model 204B helicopters: steel alloy nut P/N NAS679A, NAS1291, or MS21042.

(ii) For Model 205A, 205A–1, 205B, and 210 helicopters: steel alloy barrel nut P/N NAS577B9A, P/N NAS577B8A, or P/N NAS577B6A.

(i) Special Flight Permit

A one-time special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199 in order to fly to a maintenance area to perform the required actions in this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

For more information about this AD, contact Michael Perrin, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (562) 627–5362; email: *Michael.j.perrin@faa.gov*.

(l) 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 the AD specifies otherwise.

(i) Bell Alert Service Bulletin 210–21–15, Revision A, dated February 23, 2022.

(ii) [Reserved]

(3) For Bell material identified in this AD, contact Bell Textron Inc., P.O. Box 482, Fort Worth, TX 76101; phone: (450) 437–2862 or (800) 363–8023; fax: (450) 433–0272; email: *productsupport@bellflight.com;* website: *bellflight.com/support/contact-support*.

(4) You may view this material at the FAA, Office of Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., 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 September 27, 2024.

Victor Wicklund,

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

[FR Doc. 2024–22908 Filed 10–3–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–1655; Airspace Docket No. 24–ANE–4]

RIN 2120–AA66

Establishment of Class E Airspace; Matinicus Island, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface for Matinicus Island Airport, Matinicus Island, ME, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures serving this airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, December 26, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at *www.regulations.gov* using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours a day, 365 days a 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/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Robert Scott Stuart, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone: (404) 305–5926.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it establishes Class E airspace extending upward from 700 feet above the surface for Matinicus Island Airport, Matinicus Island, ME.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA 2024–1655 in the **Federal Register** (89 FR 50536; June 14, 2024), proposing to establish Class E airspace extending upward from 700 feet above the surface for Matinicus Island Airport, Matinicus Island, ME. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E airspace is 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 amendment to 14 CFR part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of Matinicus Island Airport, Matinicus Island, ME, providing the controlled airspace required to support the new RNAV (GPS) standard instrument approach procedures for IFR operations at the airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

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 will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the 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 Federal Aviation Administration 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.

* * * * *

ANE ME E5 Matinicus Island, ME [New]

Matinicus Island Airport, ME
(Lat. 43°52′17″ N, long. 68°53′37″ W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Matinicus Island Airport, ME.

* * * * *

Issued in College Park, Georgia, on October 1, 2024.

Patrick Young,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2024–22957 Filed 10–3–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 587

Publication of Russian Harmful Foreign Activities Sanctions Regulations Web General Licenses 79 and 80

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of web general licenses.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing two general licenses (GLs) issued pursuant to the Russian Harmful Foreign Activities Sanctions Regulations: GLs 79 and 80, each of which was previously made available on OFAC's website.

DATES: GLs 79 and 80 were issued on December 12, 2023. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Compliance, 202–622–2490 or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

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

Background

On December 12, 2023, OFAC issued GLs 79 and 80 to authorize certain transactions otherwise prohibited by the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587. Each GL has an expiration date of March 11, 2024 and was made available on OFAC's website (*https://ofac.treasury.gov/*) at the time of publication. The text of these GLs is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 79

Authorizing the Wind Down of Transactions Involving Certain Entities Blocked on December 12, 2023

(a) Except as provided in paragraph (b) of this general license, all transactions prohibited by Executive Order (E.O.) 14024 that are ordinarily incident and necessary to the wind down of any transaction involving one or more of the following blocked entities are authorized through 12:01 a.m. eastern daylight time, March 11, 2024, provided that any payment to a blocked person is made into a blocked account in accordance with the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (RuHSR):

(1) Limited Liability Company Kyiv Square;

(2) Highland Gold Mining Limited;

(3) Limited Liability Company Kismet Capital Group; or

(4) Any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest.

(b) This general license does not authorize:

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

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

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

Bradley T. Smith,

Director, Office of Foreign Assets Control.

Dated: December 12, 2023.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 80

Authorizing Certain Transactions Related to Debt or Equity of, or Derivative Contracts Involving, Highland Gold Mining Limited

(a) Except as provided in paragraphs (d) and (e) of this general license, all transactions prohibited by Executive Order (E.O.) 14024 that are ordinarily incident and necessary to the divestment or transfer, or the facilitation of the divestment or transfer, of debt or equity of Highland Gold Mining Limited (Highland Gold), or any entity in which Highland Gold owns, directly or indirectly, a 50 percent or greater interest, purchased prior to December 12, 2023 (''Covered Debt or Equity''), to a non-U.S. person are authorized through 12:01 a.m. eastern daylight time, March 11, 2024.

(b) Except as provided in paragraph (e) of this general license, all transactions prohibited by E.O. 14024 that are ordinarily incident and necessary to facilitating, clearing, and settling trades of Covered Debt or Equity that were placed prior to 4:00 p.m. eastern standard time, December 12, 2023 are authorized through 12:01 a.m. eastern daylight time, March 11, 2024.

(c) Except as provided in paragraph (e) of this general license, all transactions prohibited by E.O. 14024 that are ordinarily incident and necessary to the wind down of derivative contracts entered into prior to 4:00 p.m. eastern standard time, December 12, 2023 that (i) include a blocked person described in paragraph (a) of this general license as a counterparty or (ii) are linked to Covered Debt or Equity are authorized through 12:01 a.m. eastern daylight time, March 11, 2024, provided that any payments to a blocked person are made into a blocked account in accordance with the Russian Harmful Foreign

Activities Sanctions Regulations, 31 CFR part 587 (RuHSR).

(d) Paragraph (a) of this general license does not authorize:

(1) U.S. persons to sell, or to facilitate the sale of, Covered Debt or Equity to, directly or indirectly, any person whose property and interests in property are blocked; or

(2) U.S. persons to purchase or invest in, or to facilitate the purchase of or investment in, directly or indirectly, Covered Debt or Equity, other than purchases of or investments in Covered Debt or Equity ordinarily incident and necessary to the divestment or transfer of Covered Debt or Equity as described in paragraph (a) of this general license.

(e) This general license does not authorize:

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

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

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

Bradley T. Smith,

Director, Office of Foreign Assets Control.

Dated: December 12, 2023.

Lisa M. Palluconi,

Acting Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2024–22934 Filed 10–3–24; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 587

Publication of Russian Harmful Foreign Activities Sanctions Regulations Web General License 8H

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of a web general license.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing one general license (GL) issued pursuant to the Russian Harmful Foreign Activities Sanctions Regulations: GL 8H, which was previously made available on OFAC's website.

DATES: GL 8H was issued on October 25, 2023. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Compliance, 202–622–2490 or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

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

Background

On October 25, 2023, OFAC issued GL 8H to authorize certain transactions otherwise prohibited by the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587. GL 8H was made available on OFAC's website (*https://ofac.treasury.gov*) when it was issued. The text of this GL is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 8H

Authorizing Transactions Related to Energy

(a) Except as provided in paragraph (c) of this general license, all transactions prohibited by Executive Order (E.O.) 14024 involving one or more of the following entities that are related to energy are authorized, through 12:01 a.m. eastern daylight time, May 1, 2024:

(1) State Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank;

(2) Public Joint Stock Company Bank Financial Corporation Otkritie;

(3) Sovcombank Open Joint Stock Company;

(4) Public Joint Stock Company Sberbank of Russia;

(5) VTB Bank Public Joint Stock Company;

(6) Joint Stock Company Alfa-Bank;

(7) Public Joint Stock Company Rosbank;

(8) Bank Zenit Public Joint Stock Company;

(9) Bank Saint-Petersburg Public Joint Stock Company;

(10) Any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest; or

(11) the Central Bank of the Russian Federation.

(b) For the purposes of this general license, the term ''related to energy'' means the extraction, production, refinement, liquefaction, gasification, regasification, conversion, enrichment, fabrication, transport, or purchase of petroleum, including crude oil, lease condensates, unfinished oils, natural gas liquids, petroleum products, natural gas, or other products capable of producing energy, such as coal, wood, or agricultural products used to manufacture biofuels, or uranium in any form, as well as the development, production, generation, transmission, or exchange of power, through any means, including nuclear, thermal, and renewable energy sources.

(c) This general license does not authorize:

(1) Any transactions prohibited by Directive 1A under E.O. 14024, *Prohibitions Related to Certain Sovereign Debt of the Russian Federation;*

(2) The opening or maintaining of a correspondent account or payable-through account for or on behalf of any entity subject to Directive 2 under E.O. 14024, *Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions;*

(3) Any debit to an account on the books of a U.S. financial institution of the Central Bank of the Russian Federation; or

(4) Any transactions otherwise prohibited by the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (RuHSR), including transactions involving any person blocked pursuant to the RuHSR other than the blocked persons described in paragraph (a) of this general license, unless separately authorized.

(d) Effective October 25, 2023, General License No. 8G, dated May 5, 2023, is replaced and superseded in its entirety by this General License No. 8H.

Note to General License No. 8H. This authorization is valid until May 1, 2024, unless renewed.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

Dated: October 25, 2023.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2024–22935 Filed 10–3–24; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 587

Publication of Russian Harmful Foreign Activities Sanctions Regulations Web General License 76A

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of a web general license.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing one general license (GL) issued pursuant to the Russian Harmful Foreign Activities Sanctions Regulations: GL 76A, which was previously made available on OFAC's website.

DATES: GL 76A was issued on November 8, 2023. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Compliance, 202–622–2490 or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

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

Background

On November 8, 2023, OFAC issued GL 76A to clarify that GL 76, which was issued on November 2, 2023, applies to Public Joint Stock Company Saint Petersburg Exchange. Like GL 76, GL 76A has an expiration date of January 31, 2024. GL 76A was made available on OFAC's website (*https://ofac.treasury.gov*) when it was issued. The text of this GL is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 76A

Authorizing the Wind Down of Transactions Involving Certain Entities Blocked on November 2, 2023

(a) Except as provided in paragraph (b) of this general license, all transactions prohibited by Executive Order (E.O.) 14024 that are ordinarily incident and necessary to the wind down of any transaction involving one or more of the following blocked entities (collectively, the ''Blocked Entities'') are authorized through 12:01 a.m. eastern standard time, January 31, 2024, provided that any payment to a Blocked Entity is made into a blocked account in accordance with the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (RuHSR):

(1) Sistema Public Joint Stock Financial Corporation;

(2) Public Joint Stock Company Saint Petersburg Exchange;

(3) Limited Liability Company Arctic LNG 2; or

(4) Any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest.

(b) This general license does not authorize:

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

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

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

(c) Effective November 8, 2023, General License No. 76, dated November 2, 2023, is replaced and superseded in its entirety by this General License No. 76A.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

Dated: November 8, 2023.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2024–22936 Filed 10–3–24; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0810]

Safety Zone; Monte Foundation Fireworks, Monterey Bay, Capitola, CA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Monte Foundation Fireworks display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM) or other Federal, State, or local law enforcement agencies assisting the Coast Guard in enforcing the regulated area.

DATES: The regulations in 33 CFR 165.1191, will be enforced for the location in Table 1 to § 165.1191, Item number 22, from 7:30 p.m. through 9 p.m. on October 13, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant William Harris, U.S. Coast Guard Sector San Francisco, Waterways Management Division; telephone (415) 399–7443, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone established in 33 CFR 165.1191 Table 1, Item number 22, for the Monte Foundation Fireworks display from 7:30 p.m. through 9 p.m. on October 13, 2024.

The safety zone will extend to all navigable waters of the Monterey Bay, from surface to bottom, within a circle formed by connecting all points 1,000 feet out from the fireworks launch site on the Capitola Pier, in Capitola, CA centered on position 36°58′8.4″ N,

121°57′11.6″ W (NAD 83). This zone will be in effect starting from 7:30 p.m., which is 30 minutes prior to the fireworks display scheduled to begin at approximately 8 p.m. and conclude at 9 p.m. on October 13, 2024.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and Broadcast Notice to Mariners.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM or other Official Patrol defined as a federal, state, or local law enforcement agency on scene to assist the Coast Guard in enforcing the regulated area. Additionally, each person granted permission to enter the zone who receives notice of a lawful order or direction issued by the PATCOM or Official Patrol must obey the order or direction. The PATCOM or Official Patrol, may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: September 27, 2024.

Jordan M. Baldueza,

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

[FR Doc. 2024–22973 Filed 10–3–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0809]

Safety Zone; Rio Vista Bass Derby Fireworks, Sacramento River, Rio Vista, CA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Rio Vista Bass Derby Fireworks Display during the date and times listed below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone unless authorized by the Patrol Commander (PATCOM) or other Federal, State, or local law enforcement agencies on scene to assist the Coast Guard in enforcing the regulated area.

DATES: The regulations in 33 CFR 165.1191, will be enforced for the location in Table 1 to § 165.1191, Item number 23, from 10 a.m. through 9:25 p.m. on October 12, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant William Harris, U.S. Coast Guard Sector San Francisco, Waterways Management Division; telephone (415) 399–7443, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone established in 33 CFR 165.1191 Table 1, Item number 23, for the Rio Vista Bass Dery Fireworks Display from 10 a.m. through 9:25 p.m. on October 12, 2024.

The safety zone will extend to all navigable waters of the Sacramento River, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks barge during the loading, transit, and arrival of the fireworks barge from the loading location to the display location and until the start of the fireworks display. From 10 a.m. through 8 p.m. on October 12, 2024, the fireworks barge will load pyrotechnics at The Dutra Group, Oly Yard located at 615 River Road, Rio Vista, CA. The fireworks barge will remain at the loading location until its transit to the display location. From 8 p.m. until 8:30 p.m. on October 12, 2024, the loaded fireworks barge will transit from the loading site to the launch site off of Rio Vista, CA in approximate position 38°9′19.4″ N, 121°41′15.7″ W (NAD 83), here it will remain until the conclusion of the fireworks display. At the start of the fireworks display, scheduled to begin at approximately 8:45 p.m. on October 12, 2024, during the 10-minute fireworks display, and 30 minutes after the conclusion of the fireworks display, the safety zone will increase in size and encompass all navigable waters of the Sacramento River, from surface to bottom, within a circle formed by connecting all points 1,000 feet out from the fireworks barge near Rio Vista, CA in approximate position 38°9′19.4″ N, 121°41′15.7″ W (NAD 83). This safety zone will be enforced from 10 a.m. through 9:25 p.m. on October 12, 2024, or as announced via Broadcast Notice to Mariners.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM or other Official Patrol defined as a Federal, State, or local law enforcement agency on scene to assist the Coast Guard in enforcing the regulated area. Additionally, each person granted permission to enter the zone who receives notice of a lawful order or direction issued by the PATCOM or Official Patrol must obey the order or direction. The PATCOM or Official Patrol may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

Dated: September 27, 2024.

Jordan M. Baldueza,

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

[FR Doc. 2024–22965 Filed 10–3–24; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 229

[Docket No. 2024–5]

Copyright Claims Board: Final Determination Certification

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is issuing a final rule adjusting the process and fee to obtain a certified final determination from the Copyright Claims Board.

DATES: This rule is effective October 4, 2024.

FOR FURTHER INFORMATION CONTACT: Rhea Efthimiadis, Assistant to the General Counsel, by email at *meft@copyright.gov* or telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION: The Copyright Alternative in Small-Claims Enforcement Act of 2020 (the ''CASE Act'') directed the Copyright Office to establish the Copyright Claims Board (the ''CCB''), an alternative and voluntary forum for parties seeking to

resolve certain copyright-related disputes that have a total monetary value of $30,000 or less. On May 17, 2022, the Copyright Office published a final rule addressing various topics governing the CCB, including how to obtain a certified official record of a CCB proceeding (the ''May 17 Rule'').[1] The Office needed to promulgate a rule governing such requests due to the CASE Act's requirements for Federal court enforcement of the CCB's final determinations. Under the CASE Act, in situations where the non-prevailing party fails to comply with the final determination issued by the CCB in a proceeding, the prevailing party may ''apply to [an appropriate U.S. district court] for an order confirming the relief awarded in the final determination and reducing such award to judgment.'' [2] Any such application to a Federal district court must include a ''certified copy of the final or amended final determination of the [CCB], as reflected in the records of the [CCB].'' [3]

The May 17 Rule stated that the CCB will certify the official record of a proceeding ''[u]pon a written request to the Records Research and Certification Section [(''RRC'')] of the U.S. Copyright Office . . . and payment of the appropriate fee.'' [4] Pursuant to this rule, the Office's general process and fees for the retrieval, copying, and certification of Office records are applied to requests for a certified official record of a final CCB determination. The Office's combined fees for retrieval, copying, and certification, however, are likely to result in an amount that is more than the cost of initiating a proceeding before the CCB.[5]

This final rule creates a different process and fee for retrieving, copying, and certifying CCB determinations. Instead of making such certification requests to RRC, the final rule makes the CCB itself responsible for handling these requests.[6] Further, to better reflect the statutory requirement that the ''final determination'' is the required documentation that must be submitted to a Federal district court to confirm the CCB award,[7] the rule reflects that only the final or amended final determination must be certified and not the entire record. Finally, the Office believes that until it engages in a fee study,[8] it is reasonable to set the new fee at $15—a fee very similar to what it charges for copying records.[9] This lower fee is reasonable because, in contrast to the challenges of locating and certifying other Office records, the CCB's records are located on a dedicated electronic filing and case management platform (known as ''eCCB'') where they can be quickly retrieved for certification.

The Office is aware that there already may be circumstances where the CCB has issued a final determination, and a non-prevailing party has failed to pay damages (or has failed otherwise to comply with the relief awarded in the Board's final determination) in a timely manner. While prevailing parties could pay the currently applicable fee for records retrieval and certification, consistent with the goals of a small-claims tribunal to be affordable and efficient, it is appropriate to provide such parties immediate relief from paying these higher costs and streamlining the process to make such requests. For these reasons, the Office finds good cause to issue a direct final rule in this proceeding without first engaging in a public notice and comment process.[10] Similarly, the Office finds that engaging in a notice and comment procedure would effectively unduly delay relief to prevailing parties in CCB proceedings and therefore finds good cause exists to issue these regulations as a final rule with an immediate effective date.[11]

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 229

Claims, Copyright.

Final Regulations

For the reasons stated in the preamble, the U.S. Copyright Office amends chapter II, subchapters A and B, of title 37 Code of Federal Regulations, to read as follows:

Subchapter A—Copyright Office and Procedures

PART 201—GENERAL PROVISIONS

■ 1. The general authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. In § 201.3, in table 4 to paragraph (g), add paragraph (g)(4) to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Section and the Copyright Claims Board.

* * * * *

(g) * * *

TABLE 4 TO PARAGRAPH (g)

Copyright Claims Board fees	Fees ($)
* * * * * * *	
(4) Filing fee for the Copyright Claims Board to retrieve, copy, and certify the official final determination or amended final determination of a proceeding (per record item)	15

[1] 87 FR 30060 (May 17, 2022).

[2] 17 U.S.C. 1508(a).

[3] *Id.* at 1508(b)(2)(A).

[4] 87 FR 30060, 30089.

[5] *See* 37 CFR 201.3(c)(19) (identifying certification fee as $200 per hour); *id.* at 201.3(c)(22)(ii) (identifying retrieval of digital records fee as $200 per hour, with a half hour minimum); *id.* at 201.3(d)(6) (identifying copying of Office records fee as $12); *see also id.* at 201.3(g)(1) (identifying $100 fee to initiate a Board proceeding).

[6] The Board is comprised of three Copyright Claims Officers, whose duties include ''certify[ing] official records of [the Board's] proceedings.'' 17 U.S.C. 1502(b)(1), 1503(a)(1)(I).

[7] *Id.* at 1508(a), (b)(2)(A).

[8] The Register periodically engages in a statutorily required study of the costs incurred by the Office for providing various services and provides the public notice of any proposed changes in the Office's fees and the opportunity for public comment. *See id.* at 708(b).

[9] 37 CFR 201.3(d)(6).

[10] 5 U.S.C. 553(b).

[11] *Id.* at 553(d).

Subchapter B—Copyright Claims Board and Procedures

PART 229—RECORDS AND PUBLICATION

■ 3. The authority citation for part 229 continues to read as follows:

Authority: 17 U.S.C. 702, 1510.

■ 4. Revise § 229.2 to read as follows:

§ 229.2 Final determination certification.

Upon a party's written request to the Board and payment of the appropriate fee pursuant to 37 CFR 201.3, the Board will provide a certified copy of a proceeding's final or amended final determination. A party who wishes to engage in this service should contact the Board for further instructions on how to make this request.

Dated: September 26, 2024.

Shira Perlmutter,

Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2024–22907 Filed 10–3–24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2024–0162; FRL–11869–02–R3]

Air Plan Approval; District of Columbia, Maryland, and Virginia; Update of the Motor Vehicle Emissions Budgets for the Washington-MD-VA 2008 8-Hour Ozone National Ambient Air Quality Standard Maintenance Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving state implementation plan (SIP) revisions submitted by the District of Columbia (the District), State of Maryland (MD), and Commonwealth of Virginia (VA). The revisions update the motor vehicle emissions budgets (MVEBs) and the onroad and nonroad (except for marine, airport, and railroad) mobile emissions for volatile organic compounds (VOC) and nitrogen oxides (NO_X) for the years 2025 and 2030. EPA is approving the updated MVEBs and updates to the applicable onroad and nonroad mobile emissions for VOC and NO_X for the years 2025 and 2030. EPA is also approving the allocation of a portion of the safety margins for VOC and NO_X in the ozone maintenance plan to the 2025 and 2030 MVEBs. The MVEBs will be available for transportation conformity purposes, in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on November 4, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2024–0162. 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: Gregory Becoat, 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) 814–2053. Mr. Becoat can also be reached via electronic mail at *Becoat.Gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 14, 2023, September 6, 2023, and October 11, 2023, the District, Maryland, and Virginia, respectively, formally submitted requests to update the 2008 8-Hour Ozone national ambient air quality standard (NAAQS) maintenance plan for the Washington, DC-MD-VA 2008 8-Hour Ozone NAAQS Maintenance Area (hereafter ''the Washington Area'' or ''the Area''). These revisions update the Area's maintenance plan to include revised onroad and nonroad MVEBs for VOCs and NO_X that reflect the updated EPA Motor Vehicle Emission Simulator (MOVES3.04) model.

On June 3, 2024 (89 FR 47474), EPA published a notice of proposed rulemaking (NPRM) for the Area. The Area submitted SIP revisions that included an update to the MVEBs for VOCs and NO_X, that were initially developed using the MOVES2014a model, for the years 2025 and 2030. In the NPRM, EPA proposed approval of revisions to update the Area's maintenance plan to include revised onroad and nonroad MVEBs for VOCs and NO_X that reflect the updated EPA MOVES3.04 model and increased onroad vehicle emission rates.

II. Summary of SIP Revision and EPA Analysis

EPA's analysis of the Area's SIP submittal indicates that maintenance of the 2008 8-Hour Ozone NAAQS will continue to be demonstrated for the Area, after updating the 2025 and 2030 MVEBs, for NO_X and VOC, using MOVES3.0.4 and updated planning assumptions. The details of the Area's submittal and the rationale for EPA's action are further explained in the NPRM and will not be restated here. Comments on the June 3, 2024 (89 FR 47474) NPRM were due on or before July 3, 2024. EPA received one comment that was not relevant to this action and will not be addressed here.

The updated 2025 and 2030 MVEBs, for NO_X and VOC, will ensure that transportation emissions conform with each state's SIP. Table 1 in this document, provides the newly revised MVEBs for 2025 and 2030 along with the retained 2014 MVEBs from the 2017 plan (using MOVES2014a) in tons per day (tpd). The Area added only portions of the total available safety margins for VOC and NO_X when developing the revised MVEBs for 2025 and 2030 for the projected onroad mobile VOC and NO_X emissions. The allocation will add 5.58 tpd of VOC and 9.30 tpd of NO_X from the safety margins to the 2025 emission inventories, and 4.35 tpd of VOC and 6.85 tpd of NO_X from the safety margins to the 2030 emission inventories.

TABLE 1—REVISED ONROAD MOTOR VEHICLE EMISSIONS BUDGETS USING MOVES3.0.4

Year	VOC onroad emissions (tpd)	NO_X onroad emissions (tpd)
2014 Attainment Year	61.25	136.84

TABLE 1—REVISED ONROAD MOTOR VEHICLE EMISSIONS BUDGETS USING MOVES3.0.4—Continued

Year	VOC onroad emissions (tpd)	NO_X onroad emissions (tpd)
2025 Predicted Emissions without Safety Margin	27.92	46.52
2025 Safety Margin	5.58	9.30
2025 Interim Budget with Safety Margin	33.50	55.82
2030 Predicted Emissions without Safety Margin	21.75	34.26
2030 Safety Margin	4.35	6.85
2030 Final Budget with Safety Margin	26.10	41.11

III. Final Action

EPA has evaluated the Area's submittal and has determined that the updated MVEBs and the allocation of the safety margins to the 2025 and 2030 budgets for the Area meet the requirements of the transportation conformity regulations at 40 CFR part 93 and are approvable. Therefore, EPA is approving the Washington Area's SIP revision updating the MVEBs and the onroad and nonroad (except for marine, airport, and railroad) mobile emissions for VOC and NO_X for the years 2025 and 2030. Additionally, EPA is approving the allocation of a portion of the safety margins for VOC and NO_X in the ozone maintenance plan to the 2025 and 2030 budgets.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code sec. 10.1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent, and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity Law, Va. Code sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, the EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because the EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, the EPA may at any time invoke its authority under the CAA, including, for example, section 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, 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;

This action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because this action is not approved to apply in Indian country located in the Commonwealth of Virginia, State of Maryland, or District of Columbia, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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. The EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

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

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 December 3, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, approving the West Virginia SIP revision updating its incorporation by reference of EPA's NAAQS and associated ambient air monitoring reference methods and equivalent methods, 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, 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 J—District of Columbia

■ 2. In § 52.470, the table in paragraph (e) is amended by revising the entry for ''Maintenance plan for the District of Columbia portion of the Washington, DC-MD-VA Nonattainment Area for the 2008 8-hour ozone National Ambient Air Quality Standard'' to read as follows:

§ 52.470 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	*	*	*	*
Maintenance plan for the District of Columbia portion of the Washington, DC-MD-VA Nonattainment Area for the 2008 8-hour ozone National Ambient Air Quality Standard.	District of Columbia	11/14/23	10/4/2024, [INSERT **FEDERAL REGISTER** CITATION].	Added § 52.476(k).
* * *	*	*	*	*

■ 3. In § 52.476:

■ a. Remove the heading from paragraph (g); and

■ b. Add paragraph (k).

The addition reads as follows:

§ 52.476 Control strategy: ozone.

* * * * *

(k) EPA approves updates to the 2008 8-Hour Ozone national ambient air quality standard (NAAQS) maintenance plan for the District of Columbia portion of the Washington, DC-MD-VA 2008 8-Hour Ozone NAAQS Maintenance Area. The updates include revised motor vehicle emissions budgets (MVEBs) and updates to the applicable onroad and nonroad mobile emissions for VOC and NO_X for the years 2025 and 2030. EPA also approves the allocation of a portion of the safety margins for VOC and NO_X in the ozone maintenance plan to the 2025 and 2030 MVEBs. The revised MVEBs for VOC and NO_X applies to all future transportation conformity determinations and analyses for the entire Washington, DC-MD-VA Maintenance Area for the 2008 8-Hour Ozone NAAQS.

TABLE 5 TO PARAGRAPH (k)—REVISED ONROAD MOTOR VEHICLE EMISSIONS BUDGETS USING MOVES 3.0.4

Year	VOC onroad emissions (tpd)	NO_X onroad emissions (tpd)
2014 Attainment Year	61.25	136.84
2025 Predicted Emissions without Safety Margin	27.92	46.52
2025 Safety Margin	5.58	9.30
2025 Interim Budget with Safety Margin	33.50	55.82
2030 Predicted Emissions without Safety Margin	21.75	34.26
2030 Safety Margin	4.35	6.85
2030 Final Budget with Safety Margin	26.10	41.11

Subpart V—Maryland

■ 4. In § 52.1070, the table in paragraph (e) is amended by revising the entry for ''Maintenance plan for the Maryland portion of the Washington, DC-MD-VA Nonattainment Area for the 2008 8-hour ozone National Ambient Air Quality Standard'' to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	*	*	*	*
Maintenance plan for the Maryland portion of the Washington, DC-MD-VA Nonattainment Area for the 2008 8-hour ozone National Ambient Air Quality Standard.	Calvert, Charles, Frederick, Montgomery, and Prince George's Counties.	09/06/23	[10/4/2024, INSERT **FEDERAL REGISTER** CITATION].	§ 52.1076(hh).
* * *	*	*	*	*

■ 5. In § 52.1076:

■ a. Remove the headings from paragraphs (w), (x), and (gg); and

■ b. Add paragraph (hh).

The addition reads as follows:

§ 52.1076 Control strategy plans for attainment and rate-of-progress: Ozone.

* * * * *

(hh) EPA approves updates to the 2008 8-Hour Ozone national ambient air quality standard (NAAQS) maintenance plan for the Maryland portion of the Washington, DC-MD-VA 2008 8-Hour Ozone NAAQS Maintenance Area. The updates include revised motor vehicle emissions budgets (MVEBs) and updates to the applicable onroad and nonroad mobile emissions for VOC and NO_X for the years 2025 and 2030. EPA also approves the allocation of a portion of the safety margins for VOC and NO_X in the ozone maintenance plan to the 2025 and 2030 MVEBs. The revised MVEBs for VOC and NO_X applies to all future transportation conformity determinations and analyses for the entire Washington, DC-MD-VA Maintenance Area for the 2008 8-Hour Ozone NAAQS.

TABLE 11 TO PARAGRAPH (hh)—REVISED ONROAD MOTOR VEHICLE EMISSIONS BUDGETS USING MOVES 3.0.4

Year	VOC onroad emissions (tpd)	NO_X onroad emissions (tpd)
2014 Attainment Year	61.25	136.84
2025 Predicted Emissions without Safety Margin	27.92	46.52
2025 Safety Margin	5.58	9.30
2025 Interim Budget with Safety Margin	33.50	55.82
2030 Predicted Emissions without Safety Margin	21.75	34.26
2030 Safety Margin	4.35	6.85
2030 Final Budget with Safety Margin	26.10	41.11

Subpart VV—Virginia

■ 6. In § 52.2420, the table in paragraph (e)(1) is amended by revising the entry ''Maintenance plan for the Virginia portion of the Washington, DC-MD-VA Nonattainment Area for the 2008 8-hour ozone National Ambient Air Quality Standard'' to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	* *	*	*	*
Maintenance plan for the Virginia portion of the Washington, DC-MD-VA Non-attainment Area for the 2008 8-hour ozone National Ambient Air Quality Standard.	Arlington, Fairfax, Loudoun, and Prince William Counties and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.	10/11/23	10/4/2024, [INSERT **FEDERAL REGISTER** CITATION].	Added § 52.2428(n).
* *	* *	*	*	*

* * * * *

■ 7. In § 52.2428:

■ a. Remove the heading from paragraph (h); and

■ b. Add paragraph (n).

The addition reads as follows:

§ 52.2428 Control Strategy: Carbon monoxide and ozone.

* * * * *

(n) EPA approves updates to the 2008 8-Hour Ozone national ambient air quality standard (NAAQS) maintenance plan for the Virginia portion of the Washington, DC-MD-VA 2008 8-Hour Ozone NAAQS Maintenance Area. The updates include revised motor vehicle emissions budgets (MVEBs) and updates to the applicable onroad and nonroad mobile emissions for VOC and NO_X for the years 2025 and 2030. EPA also approves the allocation of a portion of the safety margins for VOC and NO_X in the ozone maintenance plan to the 2025 and 2030 MVEBs. The revised MVEBs for VOC and NO_X applies to all future transportation conformity determinations and analyses for the entire Washington, DC-MD-VA Maintenance Area for the 2008 8-Hour Ozone NAAQS.

TABLE 5 TO PARAGRAPH (n)—REVISED ONROAD MOTOR VEHICLE EMISSIONS BUDGETS USING MOVES 3.0.4

Year	VOC onroad emissions (tpd)	NO_X onroad emissions (tpd)
2014 Attainment Year	61.25	136.84
2025 Predicted Emissions without Safety Margin	27.92	46.52
2025 Safety Margin	5.58	9.30
2025 Interim Budget with Safety Margin	33.50	55.82
2030 Predicted Emissions without Safety Margin	21.75	34.26
2030 Safety Margin	4.35	6.85
2030 Final Budget with Safety Margin	26.10	41.11

[FR Doc. 2024–22535 Filed 10–3–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2023–0477; FRL–11532–03–R9]

Clean Air Plans; Contingency Measures for the Fine Particulate Matter Standards; San Joaquin Valley, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve two state implementation plan (SIP) submissions under the Clean Air Act (CAA) that address the contingency measure requirements for the 1997 annual, 2006 24-hour, and 2012 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS or ''standards'') for the San Joaquin Valley $PM_{2.5}$ nonattainment area in California. The two SIP submissions include the area's contingency measure plan element and two specific contingency measures that would apply to residential wood burning heaters and fireplaces and to non-agricultural, rural open areas. A third contingency measure, applicable to light-duty on-road motor vehicles, has been approved into the California SIP in a separate action by the EPA, and the related emission reductions from the third measure are accounted for in this final rule. The EPA is finalizing approval of the SIP submissions because the Agency has determined that they are in accordance with the applicable requirements for such SIP submissions under the CAA and the EPA's implementing regulations for the $PM_{2.5}$ NAAQS.

DATES: This rule is effective November 4, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2023–0477. All documents in the docket are listed on the *https://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 *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rory Mays, Planning and Analysis Branch (AIR–2), Air and Radiation Division, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 972–3227; email: *mays.rory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

Table of Contents

I. Background

A. Proposed Action

On December 20, 2023 (88 **Federal Register** (FR) 87988), the EPA proposed to approve California's contingency measure SIP submissions for the 1997 annual, 2006 24-hour, and 2012 annual $PM_{2.5}$ NAAQS submitted by the California Air Resources Board (CARB) for the San Joaquin Valley nonattainment area in California. Specifically, the SIP submissions include the ''$PM_{2.5}$ Contingency Measure State Implementation Plan Revision (May 18, 2023)'' (herein referred to as the ''SJV $PM_{2.5}$ Contingency Measure SIP''), revisions to San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or ''District'') Rule 4901 (amended May 18, 2023) [1] that add $PM_{2.5}$ NAAQS contingency provisions that we refer to herein as the ''Residential Wood Burning Contingency Measure,'' and revisions to Rule 8051 (amended September 21, 2023) [2] that add $PM_{2.5}$ NAAQS contingency provisions that we refer to herein as the ''Rural Open Areas Contingency Measure.'' CARB submitted the SJV $PM_{2.5}$ Contingency Measure SIP and the Residential Wood Burning Contingency Measure on June 8, 2023,[3] and the Rural Open Areas Contingency Measure on October 16, 2023,[4] as revisions to the California SIP.

In addition, in a separate proposed rule also published on December 20, 2023, the EPA proposed approval of a third contingency measure, applicable to light-duty on-road motor vehicles, and the related emission reductions from the third measure are accounted for in this final rule.[5] We refer to the third contingency measure as the ''Smog Check Contingency Measure.''

We proposed to approve the SJV $PM_{2.5}$ Contingency Measure SIP, the Residential Wood Burning Contingency Measure, and the Rural Open Areas Contingency Measure because we determined that they, along with emission reductions from the Smog Check Contingency Measure, comply with the contingency measure SIP requirements of CAA section 172(c)(9) and EPA's implementing regulations at 40 CFR 51.1014. We collectively refer herein to CARB's contingency measure SIP submissions for the 1997 annual, 2006 24-hour, and 2012 annual $PM_{2.5}$ NAAQS for the San Joaquin Valley as the State's ''2023 SIP Submissions.''

In sections I and II of the proposed rule, we presented background information on the 1997 annual and 24-hour, the 2006 24-hour and 2012 annual $PM_{2.5}$ NAAQS, the nonattainment designations and classifications of the San Joaquin Valley for these $PM_{2.5}$ NAAQS, and the resultant contingency measure SIP obligations; summarized our prior $PM_{2.5}$ contingency measure findings of failure to submit [6] and disapprovals for the San Joaquin Valley; [7] described the SIP submissions at issue in this action; and provided the basis for our preliminary conclusion that the SIP submissions met applicable procedural requirements.[8] In section III of the proposed rule, we summarized the contingency measure SIP requirements under the CAA and the EPA's implementing regulations, relevant EPA guidance, and legal precedent, including a brief discussion of relevant decisions by the Ninth Circuit Court of Appeals [9] and the D.C. Circuit Court of Appeals.[10] [11]

In addition, we described the EPA's long-standing approach to contingency measures and the EPA's revised approach for addressing the contingency measure SIP requirements, as presented in the EPA's draft guidance, entitled ''Draft: Guidance on the Preparation of State Implementation Plan Provisions that Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter (DRAFT—3/17/23—Public Review Version),'' herein referred to as the ''Draft Revised Contingency Measure Guidance.'' [12] Two principal differences between the draft revised guidance and existing guidance on contingency measures relate to the EPA's recommendations concerning the specific amount of emission reductions that implementation of contingency measures should achieve [13] and the timing for when the emission reductions from the contingency measures should occur. The Draft Revised Contingency Measure Guidance also provides recommended procedures for developing a demonstration, if applicable, that the area lacks sufficient feasible measures to achieve one year's worth (OYW) of reductions, building on existing guidance that the state should provide a reasoned justification for why the smaller amount of emission reductions is appropriate.

In section IV of the proposed rule, we described the two specific District $PM_{2.5}$ contingency measures proposed for approval in this action (*i.e.,* the District's Residential Wood Burning

[1] SJVUAPCD Rule 4901 is titled ''Wood Burning Fireplaces and Wood Burning Heaters.''

[2] SJVUAPCD Rule 8051 is titled ''Open Areas.''

[3] CARB adopted the SJV $PM_{2.5}$ Contingency Measure SIP and Residential Wood Burning Contingency Measure as SIP revisions on June 7, 2023, through Executive Order S–23–010 and submitted the SIP revisions to the EPA electronically on June 8, 2023, as attachments to a letter dated June 7, 2023, from Steven S. Cliff, Ph.D., Executive Officer, CARB to Martha Guzman, Regional Administrator, EPA Region IX.

[4] CARB adopted the Rural Open Areas Contingency Measure as a SIP revision on October 13, 2023, through Executive Order S–23–014 and submitted the SIP revision to the EPA electronically on October 16, 2023, as an attachment to a letter dated October 13, 2023, from Steven S. Cliff, Ph.D., Executive Officer, CARB to Martha Guzman, Regional Administrator, EPA Region IX.

[5] 88 FR 87981 (December 20, 2023). We note that the EPA finalized approval of the Smog Check Contingency Measure. 89 FR 56222 (July 9, 2024).

[6] 83 FR 62720 (December 6, 2018). In response to our finding of failure to submit, the EPA proposed a Federal Implementation Plan (FIP) to address the contingency measure requirements for the 1997 annual, 2006 24-hour and 2012 annual $PM_{2.5}$ NAAQS at 88 FR 53431 (August 8, 2023).

[7] 86 FR 67343 (November 26, 2021) and 86 FR 67329 (November 26, 2021).

[8] 88 FR 87988, 87989–87993 (December 20, 2023).

[9] *Bahr* v. *EPA,* 836 F.3d 1218, 1235–1237 (9th Cir. 2016) and *Assoc. of Irritated Residents* v. *EPA,* 10 F.4th 937, 946–47 (9th Cir. 2021) (''*AIR* v. *EPA*'' or ''*AIR*'').

[10] *Sierra Club* v. *EPA,* 21 F.4th 815, 827–828 (D.C. Cir. 2021).

[11] 88 FR 87988, 87993–87994.

[12] 88 FR 87988, 87994. See also, 88 FR 17571 (March 23, 2023) (notice of availability of the EPA's Draft Revised Contingency Measure Guidance).

[13] The EPA's long-standing recommendation was that states should adopt contingency measures sufficient to provide emission reductions equivalent to one year's worth (OYW) of reasonable further progress (RFP). In the Draft Revised Contingency Measure Guidance, the EPA recommends a different amount that contingency measures should achieve—one that is defined in terms of OYW of ''progress'' rather than OYW of RFP.

Contingency Measure and Rural Open Areas Contingency Measure) and provided our evaluation of the measures relative to the requirements of CAA section 172(c)(9) and 40 CFR 51.1014. In short, we preliminarily concluded that the contingency measures met the requirements for such measures because both measures are designed to be both prospective and conditional, include appropriate triggering mechanisms for requirements, and are structured to be implemented in a timely manner without significant further action by the District, CARB, or the EPA and to achieve the estimated emission reductions within roughly a year or two of the triggering event.[14] Furthermore, both requirements that would be triggered are not required for any other CAA purpose, and the emission reductions from the measures are not included in any reasonable further progress (RFP) or attainment demonstration for the $PM_{2.5}$ NAAQS in the San Joaquin Valley. For these reasons, we proposed to approve District's Residential Wood Burning Contingency Measure and Rural Open Areas Contingency Measure.[15]

In section V of the proposed rule, we summarized how the District and CARB had applied the revised approach to fulfilling the contingency measure SIP requirement in the context of the $PM_{2.5}$ NAAQS in the San Joaquin Valley, and we presented our evaluation thereof.[16] Specifically, we discussed our evaluation of the District's and CARB's identification and evaluation of potential control measures, adoption of certain contingency measures, comparison of those contingency measures against OYW of emission reductions, and reasoned justification for not adopting further contingency measures, which we recap in the following paragraphs.

In the SJV $PM_{2.5}$ Contingency Measure SIP, the District described its ongoing stationary source regulatory efforts, identified potential control measures as candidate contingency measures, and analyzed the technological and/or economic feasibility of each candidate measure, including the feasibility of implementing such measures within 60 days and achieving the resulting emission reductions within one to two years of the triggering event.[17] The District also provided more in-depth analysis of potential control measures for five source categories, ultimately adopting measures for two source categories (wood burning fireplaces/heaters and rural open areas) and providing a justification in the form of an infeasibility demonstration for not adopting contingency measures for the other three source categories (commercial charbroiling, almond harvesting, and oil and gas production combustion equipment).

Similarly, CARB identified potential mobile source control measures, assessed whether each candidate measure could be implemented within 60 days of a triggering event and achieve emission reductions within one to two years, and then analyzed their technological and/or economic feasibility.[18] Regarding timing of emission reductions from mobile sources, CARB concluded that new engine standards and fleet regulations are not appropriate for contingency measures given the time needed for manufacturers to design, develop, and deploy cleaner engines or equipment at scale, especially for zero-emission equipment.

The District and CARB ultimately adopted three contingency measures identified through their respective evaluation processes: the Residential Wood Burning Contingency Measure, the Rural Open Areas Contingency Measure, and the Smog Check Contingency Measure. Each of these measures can be implemented without further action by the District, CARB, or the EPA and achieve emission reductions within one to two years of the triggering event, consistent with the contingency measure requirements under CAA section 172(c)(9) and the EPA's recommendations regarding timing in the Draft Revised Contingency Measures Guidance.[19] In addition, the revisions to SJVUAPCD Rule 4901 establishing the Residential Wood Burning Contingency Measure resolved deficiencies identified in the EPA's disapproval of prior contingency provisions in Rule 4901, thereby ensuring that the direct $PM_{2.5}$ and NO_X emission reductions will be achieved, irrespective of which county may exceed the applicable $PM_{2.5}$ NAAQS at the time of any finding of failure to attain or other applicable determination.[20]

The District then assessed how the emission reductions from the Residential Wood Burning Contingency Measure would compare against OYW of progress as defined in the Draft Revised Contingency Measure Guidance. As part of our evaluation and for the proposed rule, we prepared an independent assessment of the emission reductions to include the two additional contingency measures that were adopted and submitted after the submission of the SJV $PM_{2.5}$ Contingency Measure SIP and to provide a comparison of the emission reductions relative to OYW of progress to the long-standing recommendation of OYW of RFP. In our proposed rule, we found that the combined 0.5873 tons per day (tpd) of direct $PM_{2.5}$ emission reductions from the District contingency measures (for residential wood burning and for rural open areas) would exceed both OYW of RFP (0.44–0.58 tpd, depending on the applicable $PM_{2.5}$ NAAQS) and OYW of progress (0.41–0.52 tpd, depending on the applicable $PM_{2.5}$ NAAQS).[21]

With respect to NO_X emissions, the combined 0.1647–0.1977 tpd emission reductions from all three contingency measures would provide a portion of the reductions toward OYW of emission reductions and, after consideration of interpollutant trading of excess direct $PM_{2.5}$ emission reductions from the two District contingency measures for equivalent NO_X emission reductions, would amount to 1.3 percent (%) to 6.3% of OYW of RFP or 8.8% to 15.7% of OYW of progress for NO_X.[22]

[14] 88 FR 87988, 87995–87998.

[15] Id.

[16] 88 FR 87988, 87999–88009.

[17] SJV $PM_{2.5}$ Contingency Measure SIP, pp. 9–11.

[18] SJV $PM_{2.5}$ Contingency Measure SIP, section 5.3 (''Measure Analysis''); and Smog Check Contingency Measure, Appendix A (''Infeasibility Analysis'').

[19] Draft Revised Contingency Measures Guidance, pp. 40–42.

[20] 88 FR 87988, 87996.

[21] 88 FR 87988, 88004–88005, Table 2 and Table 3. Note that CARB did not estimate any direct $PM_{2.5}$ emission reductions from implementation of the Smog Check Contingency Measure.

[22] 88 FR 87988, 88005.

As the NO_X emission reductions fall short of OYW of progress, CARB and the District documented their control measure analyses across the wide range of source categories under each agency's respective jurisdiction (*e.g.,* on-road sources, off-road sources, stationary point sources, and area sources) for NO_X emissions. We described the District's and CARB's infeasibility demonstrations, and our evaluation thereof, in detail and proposed that they adequately justify the contingency measures selected by CARB and the District for the 1997 annual, 2006 24-hour, and 2012 annual $PM_{2.5}$ NAAQS in the San Joaquin Valley. In light of the three adopted contingency measures and reasoned justifications for not adopting additional contingency measures, we proposed to approve the SJV $PM_{2.5}$ Contingency Measure SIP, the Residential Wood Burning Contingency Measure, and the Rural Open Areas Contingency Measure, taking into account the emission reductions from the Smog Check Contingency Measure (as applied to the San Joaquin Valley), as meeting the contingency measure requirements of CAA section 172(c)(9) and 40 CFR 51.1014 for these $PM_{2.5}$ NAAQS in the San Joaquin Valley.

See our December 20, 2023 proposed rule (88 FR 87988) for more information on the SIP submissions and our evaluation thereof.

B. Changes to Proposed Action

In our proposed rule, we evaluated the SIP submissions for compliance with contingency measure SIP requirements, in part, by comparing the emission reductions from the contingency measures with OYW of progress and OYW of RFP. In so doing, we relied on emissions estimates for the three individual contingency measures—two (the Residential Wood Burning Contingency Measure and the Rural Open Areas Contingency Measure) that we proposed to approve in the proposed rule (and that we are finalizing in this action) and one (the Smog Check Contingency Measure) that we proposed to approve in a separate action.[23] In Table 2 of the proposed rule, we summarized the estimated emission reductions from the contingency measures, and in Table 3 of the proposed rule, we presented the estimated emission reductions as percentages of OYW of RFP and OYW of progress both with and without trading emission reductions between direct $PM_{2.5}$ and NO_X.

In both of these tables in the proposed rule, we discounted the emission reductions from implementation of the Smog Check Contingency Measure by an amount calculated by CARB to reflect the effect of a decrease in Moyer Program funding in the San Joaquin Valley if the Smog Check Contingency Measure were triggered.[24] However, in our final rule approving the Smog Check Contingency Measure SIP, we indicated that we agreed with comments challenging the discount that we had applied and concluded that the discount was inappropriate due to timing considerations.[25] By no longer discounting the emission reductions attributed to the Smog Check Contingency Measure, the estimates for total emission reductions for implementation of all three contingency measures are slightly greater than had been presented in the proposed rule. The change in emissions estimates and percentages is minor and does not change any of the preliminary conclusions that we made in connection with our proposed action on the SJV $PM_{2.5}$ Contingency Measure SIP. Nonetheless, in the interest of presenting the most accurate information available, we are republishing Tables 2 and 3 to reflect the updated estimates of emission reductions from the Smog Check Contingency Measure.

TABLE 2—REVISED ANNUAL AVERAGE EMISSION REDUCTIONS FROM DISTRICT AND CARB CONTINGENCY MEASURES

[tpd]

Contingency measure	1997 Annual $PM_{2.5}$ NAAQS		2006 24-Hour $PM_{2.5}$ NAAQS		2012 Annual $PM_{2.5}$ NAAQS	
	Direct $PM_{2.5}$	NO_X	Direct $PM_{2.5}$	NO_X	Direct $PM_{2.5}$	NO_X
District: Residential Wood Burning (first triggering event)	0.5793	0.0817	0.5793	0.0817	0.5793	0.0817
District: Non-agricultural Rural Open Areas	0.008	.....	0.008	.....	0.008	.....
CARB: Smog Check (first triggering event)	.....	0.117	.....	0.120	.....	0.086
Total	0.5873	0.1987	0.5873	0.2017	0.5873	0.1677

TABLE 3—REVISED EPA EVALUATION OF DISTRICT AND CARB CONTINGENCY MEASURES AS PERCENTAGE OF ONE YEAR'S WORTH OF RFP AND ONE YEAR'S WORTH OF PROGRESS

$PM_{2.5}$ NAAQS	Pollutant	One year's worth of RFP			One year's worth of progress		
		Reductions target	% OYW (no trading)	% OYW (with trading) [a]	Reductions target	% OYW (no trading)	% OYW (with trading) [a]
1997 Annual	Direct $PM_{2.5}$	0.44	132	100	0.41	142	100
	NO_X	16.7	1.2	6.3	7.9	2.5	[b] 15.8
2006 24-hour	Direct $PM_{2.5}$	0.58	101	100	0.52	112	100
	NO_X	18.4	1.1	1.3	6.7	3.0	[b] 8.9
2012 Annual	Direct $PM_{2.5}$	0.46	129	100	0.43	138	100
	NO_X	15.3	1.1	6.3	8.7	1.9	13.1

[a] The EPA has calculated % OYW (With Trading) for NO_X based on the 6:1 ratio presented in the SJV $PM_{2.5}$ Contingency Measure SIP.

[23] We proposed to approve the Smog Check Contingency Measure SIP at 88 FR 87981.

[24] The Carl Moyer Program distributes incentive grants to fund the incremental cost of cleaner-than-required engines, equipment, and other technology and is funded, in part, by abatement fees that are assessed on vehicles exempted from Smog Check testing.

[25] 89 FR 56222, 56225.

[b] The percentage of OYW of Progress (With Trading) is 0.1% higher in this table for NO_X for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS relative to Table 3 of our proposed rule.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received comment letters from three organizations or groups. CARB submitted a letter supporting the EPA's proposed approval.[26] A group of four environmental, public health, and community organizations (collectively referred to herein as ''Valley EJ Organizations'') submitted adverse comments,[27] and a separate group of five environmental, public health, and community organizations (collectively referred to herein as ''CVAQ'') submitted adverse comments.[28] To the extent that certain comments by the Valley EJ Organizations solely pertain to the Smog Check Contingency Measure and the State's commitments to submit attainment contingency measures for the 1997 ozone NAAQS, we have addressed those comments in a separate final rule on the Smog Check Contingency Measure.[29]

Comment 1: The Valley EJ Organizations assert that the EPA's proposed approval of the $PM_{2.5}$ contingency measures departs from the EPA's long-standing interpretation requiring OYW of RFP. They further state that the proposed approvals based on the Draft Revised Contingency Measure Guidance violate CAA section 172(c)(9) by severing the amount of required emission reductions from the parallel and related RFP requirement when the EPA shifts from its OYW of RFP to its new OYW of progress interpretation. The Valley EJ Organizations further assert that the plain meaning does not allow, and the EPA cannot provide a reasoned justification for, an interpretation that requires less than that which the Act requires for RFP and that, here, the $PM_{2.5}$ contingency measures plainly provide reductions far less than OYW of RFP. The CVAQ Comment Letter echoes these points, stating that the emission reductions from the Residential Wood Burning Contingency Measure and the Rural Open Areas Contingency Measure would ''fall well short of the emission reductions needed to comply with the weakened average annual reduction requirement in EPA's draft guidance even when allowing for the interpollutant substitution of excess direct $PM_{2.5}$ emissions for NO_X emissions.'' [30]

Response to Comment 1: Regarding emission reduction metrics (*i.e.,* the recommended amount of emission reductions that contingency measures should achieve), we disagree with commenters as to what is required under the CAA and with the commenters' broader framing of contingency measures within the overall planning requirements for nonattainment areas. While there is a statutory link between RFP and the contingency measure requirements of CAA section 172(c)(9), it does not function as the commenter suggests (*i.e.,* to establish an amount of emission reductions that contingency measures should achieve). The statutory text of this provision is as follows:

> CAA section 172(c)(9) (''Contingency measures'')—''Such plan shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or the Administrator.''

Thus, while section 172(c)(9) requires contingency measures where an area fails to make RFP, the language does not specify what amount of emission reductions such measures should achieve (*i.e.,* does not explicitly tie the amount of reductions to RFP). Moreover, the statutory text also has a link to attainment, but it too does not specify what amount of emission reductions contingency measures should achieve.

While Congress did not specify an amount that contingency measures must achieve to comply with CAA section 172(c)(9), Congress must have intended the amount to be material because, without a specified amount, a state would not know how to comply with the requirement. Thus Congress must have at least implicitly delegated to the EPA the authority to determine an amount of emissions reductions that contingency measures should achieve and thereby give meaning to the requirement and provide states with a basis to comply with CAA section 172(c)(9) for a given nonattainment area. The EPA has taken a policy approach to this question, and in the past, the EPA has indicated that the recommended amount is OYW of RFP but allowed states to provide a reasoned justification for adopting contingency measures that would provide less than the recommended amount. Under the Draft Revised Contingency Measure Guidance, the EPA is continuing to take a policy approach but is recommending OYW of progress and describing a specific analytical framework that states may use to develop a reasoned justification if the state is unable to identify and adopt contingency measures that can achieve the recommended amount of emissions reductions.[31]

In support of our revised approach, we first note that, for both RFP and attainment purposes, contingency measures are intended to provide for continued progress in the event that an area fails to meet an RFP milestone or fails to attain the NAAQS by the applicable attainment date. They are not themselves expected to provide for either RFP or attainment. With respect to RFP, the CAA provides certain remedies if the contingency measures do not make up the shortfall for a given RFP milestone.[32] With respect to a failure to attain by the applicable attainment date, the CAA too provides a remedy by requiring a new attainment plan.[33]

[26] Letter dated January 17, 2024, from Steven S. Cliff, Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region IX.

[27] Letter dated January 19, 2024, from Brent Newell, Attorney for Central California Environmental Justice Network, Committee for a Better Arvin, Medical Advocates for Healthy Air, and Healthy Environment for All Lives, to Jeffrey Buss and Rory Mays, Air and Radiation Division, EPA Region IX, including 16 exhibits (''Valley EJ Organizations Comment Letter'').

[28] Letter dated January 19, 2024, from Central Valley Air Quality Coalition, National Parks Conservation Association, Little Manila Rising, Valley Improvement Projects, and Leadership Counsel for Justice and Accountability, to Rory Mays, Air and Radiation Division, EPA Region IX (''CVAQ Comment Letter'').

[29] 89 FR 56222, 56224–56229.

[30] CVAQ Comment Letter, p. 2.

[31] OYW of RFP is calculated differently for ozone and particular matter (PM). For ozone, annual RFP is essentially defined as three percent of the base year emissions inventory (EI). For PM, annual RFP is the average annual reductions between the base year EI and the projected attainment year EI (*i.e.,* the projected attainment inventory for the nonattainment area). In contrast, OYW of progress is calculated the same way for ozone and PM: by determining the average annual reductions between the base year EI and the projected attainment year EI, determining what percentage of the base year EI this amount represents, then applying that percentage to the projected attainment year EI to determine the amount of reductions needed to ensure ongoing progress if contingency measures are triggered. See also 88 FR 87988, 87994 and the EPA's Draft Revised Contingency Measure Guidance, pp. 21–23.

[32] See CAA sections 182(g)(3) and 189(c)(3).

[33] See CAA section 179(d).

In reviewing our long-standing approach to contingency measures, the EPA observed that basing the amount of emission reductions on the annual amount of reductions needed to meet the separate RFP requirement—OYW of RFP—may in some cases lead to an amount that is greater than what typically would be needed to make up for a shortfall in RFP or for attainment purposes.[34] The OYW of RFP approach was unnecessarily conservative for estimating the amount of emission reductions needed for contingency measure purposes because a given percentage of the base year inventory tends to represent a much more significant portion of the attainment projected inventory.

In shifting to the OYW of progress approach, the EPA recognizes attainment of the NAAQS as the primary objective of the nonattainment plan requirements, and thus the appropriate metric should be attainment-focused. In the absence of a CAA-specified amount of emission reductions required for contingency measures, the EPA's new approach is a better reading of the contingency measure SIP requirement given our understanding of the statutory purpose of contingency measures following a failure to attain or to meet an RFP milestone, which is to ensure uninterrupted progress toward attainment while the next steps unfold in response to the failure. In addition, unlike the previous approach, the EPA's new approach takes into account the declining emissions inventories between the base year and attainment year for a given nonattainment area and aligns the metric for determining the amount of emission reductions that contingency measures should achieve for ozone and particulate matter (PM). The alignment between ozone and PM is a better reading of the statute considering that the relevant statutory provision, CAA section 172(c)(9), applies to all the NAAQS.

As to the specific SIP submission addressed in this document, we acknowledge that CARB and the District used the newly-recommended metric in preparing the SJV $PM_{2.5}$ Contingency Measure SIP for which the EPA is now finalizing approval but, in this instance, the SIP submission and the EPA's evaluation thereof would have been the same in substance if the previous metric (*i.e.,* OYW of RFP) had been used instead. This is because, using either metric, the SIP submissions include contingency measures that collectively provide for OYW of progress or RFP for direct $PM_{2.5}$ and a portion of OYW of progress or RFP for NO_X.[35] The only difference is the extent to which the emission reductions from the contingency measures fall short of each metric for NO_X reductions. Using the OYW of progress metric (with trading), the contingency measures are estimated to achieve between 8.9% and 15.8% of OYW of progress for NO_X as compared to between 1.3% and 6.3% of OYW of RFP for NO_X using the previously-recommended metric (with trading).[36] Using either metric, the EPA would have expected the State to provide a reasoned justification for not adopting contingency measures sufficient to achieve greater NO_X emission reductions; consistent with the EPA's recommendations in the Draft Revised Contingency Measure Guidance, CARB and the District provided such reasoned justification in their infeasibility demonstrations.

Comment 2: The Valley EJ Organizations assert that the EPA's proposed approval of the State's 2023 SIP Submissions circumvents three recent court decisions [37] and unlawfully and arbitrarily (a) lowers the amount of emission reductions required for contingency measures (''by severing the statutory link to [RFP],'' *i.e.,* by shifting from OYW of RFP under the EPA's prior interpretation to OYW of progress under the EPA's revised interpretation), (b) extends implementation of contingency measures from one year to two years, and (c) invents a new feasibility exemption that does not appear in CAA section 172(c)(9). The commenters state that the EPA's proposed approval relies on the Draft Revised Contingency Measures Guidance ''to replicate the arbitrary and capricious interpretation the [*AIR*] court invalidated.''

Response to Comment 2: In relevant part, the *Bahr* and *Sierra Club* decisions stand for the proposition that contingency measures under CAA section 172(c)(9) must be conditional and prospective, and thus, already-implemented control measures cannot serve as contingency measures. The *AIR* decision stands for the proposition that surplus emission reductions from already-implemented measures cannot be relied upon as a justification for adoption of contingency measures that provide for less than the recommended amount of emission reductions for such measures. However, none of the cited court decisions bear on the questions of the amount of emission reductions that contingency measures should achieve, the timeline for achieving the emission reductions from contingency measures, or the consideration of feasibility of additional measures as justification for not adopting contingency measures sufficient to achieve the recommended amount of such measures.

Moreover, our proposed approval of the SJV $PM_{2.5}$ Contingency Measure SIP is consistent with the three cited decisions in that the SIP relies on contingency measures (Residential Wood Burning Contingency Measure, the Rural Open Areas Contingency Measures, and the Smog Check Contingency Measure) that are designed to be conditional and prospective. In addition, as discussed further in the following paragraph, the State has not relied on emission reductions from already-implemented measures.

The rationale for our approval of the SJV $PM_{2.5}$ Contingency Measure SIP is not the same as the rationale for our approval, later withdrawn in response to the *AIR* decision, of the contingency measure element for San Joaquin Valley for the 2008 ozone NAAQS that was at issue in the *AIR* case. In the case of the contingency measure element for the 2008 ozone NAAQS, the EPA took into account the surplus emission reductions from already-implemented measures in the milestone years and the years following the attainment date, not as constituting contingency measures per se, but rather, as justification for approving a contingency measure element that included a single contingency measure that would provide for far less than the recommended amount.

The Court found that, by doing so, the EPA had ''severed the relationship between the requirement of contingency measures and the benchmark of reasonable further progress, without an adequate explanation of why the new—and far more modest—contingency measure is reasonable.'' [38] The Court did not indicate that the Agency could not depart from previous guidance but cautioned that the EPA ''must give a reasoned explanation for departing from agency practice or policy.'' [39] The Court concluded that ''[I]f already-implemented measures cannot themselves be contingency measures—and *Bahr* makes clear that they cannot—then neither can they be a basis for declining to establish contingency measures that would otherwise be

[34] EPA's Draft Revised Contingency Measures Guidance, pp. 21–23.

[35] See Table 3 of this final rule.

[36] See Table 3 of this final rule.

[37] The commenter cites *Bahr* v. *EPA,* 836 F.3d 1218 (9th Cir. 2016) (''*Bahr*''); *Sierra Club* v. *EPA,* 21 F.4th 815 (D.C. Cir. 2021) (''*Sierra Club*''); *AIR* v. *EPA,* 10 F.4th 937 (9th Cir. 2021) (''*AIR*'').

[38] *AIR* v. *EPA,* 10 F.4th 937, 946 (9th Cir. 2021).

[39] Id.

appropriate.'' [40] The Court rejected the EPA's rationale for allowing consideration of surplus emission reductions from already-implemented measures, reasoning that the EPA could not approve a contingency measure element ''lacking robust contingency measures by assuming that they will not be needed. Because the agency did not provide a reasoned explanation for approving the state plan, the rule is arbitrary and capricious.'' [41]

In the wake of the *AIR* decision, and other case law interpreting the contingency measure SIP requirement, the EPA undertook an internal process to reconsider previous guidance provided by the Agency to states for preparation of SIP submissions to meet the contingency measure requirements—a process that led to the publication of the Draft Revised Contingency Measure Guidance. Among other things, in the Draft Revised Contingency Measure Guidance, the EPA explains why the Agency believes that it is appropriate to update its prior guidance with respect to the recommended amount of emission reductions that contingency measures should achieve and the considerations that states could use to justify adoption of contingency measures that do not provide for the recommended amount of emission reductions.[42] We found that an update to our contingency measures guidance was justified in light of changed factual circumstances [43] and a current understanding of what remaining controls may be available for states to adopt as contingency measures. For a more detailed explanation of our rationale for updating the metric, see Response to Comment 1, and for a more detailed explanation for allowing for consideration of feasibility, see Response to Comment 4.

With respect to this action, CARB and the District have adopted a contingency measure element that includes three contingency measures that would collectively achieve the recommended amount of emission reductions for one of the two pollutants or precursors at issue, and they have provided a reasoned justification in the form of infeasibility demonstrations for adopting contingency measures that provide for less than the recommended amount for the other relevant pollutant or precursor. The EPA's approval of a contingency measure element that relies, in part, on CARB and the District's infeasibility demonstrations, rather than relying on surplus emission reductions from already-implemented measures, stands in contrast to the EPA action on the SIP submission at issue in *AIR.* The EPA does not assume that contingency measures would not be needed for San Joaquin Valley but rather that CARB and the District have adequately demonstrated that there are no feasible contingency measures for that particular pollutant or precursor that are left to adopt or that could be implemented within one to two years of the triggering event.

Comment 3: For areas with more severe air pollution, such as Serious $PM_{2.5}$ nonattainment areas, the commenters state that the EPA has not articulated a reasoned justification for why OYW of progress is consistent with the CAA remedial scheme that imposes more stringent requirements on such areas. They suggest that a voluntary reclassification of an area (*e.g.,* from ''Moderate'' to ''Serious'' for $PM_{2.5}$) would lower the average annual reductions needed for contingency measures (*e.g.,* if the same attainment year inventory applied for a Moderate or Serious areas, then the annual average reduction would be lower due to averaging over more years).

In addition, the commenters illustrate a purported fatal flaw in the EPA's interpretation of OYW of progress using a table that shows OYW of progress for NO_X in a hypothetical ozone reclassification from Serious to Extreme (in tons per day of NO_X) and state that a lesser amount of emission reductions for contingency measures for such hypothetical Extreme ozone nonattainment area runs contrary to the structure of the Act.

Response to Comment 3: As explained in more detail in our Response to Comment 1, with respect to this specific action, the use of the new OYW of progress metric here does not materially impact our approval where the SJV $PM_{2.5}$ Contingency Measure SIP falls short of the emissions reductions recommended under either metric. However, we note that, contrary to commenters' assertions, the EPA's interpretation of the contingency measure requirement under CAA section 172(c)(9) is consistent with the CAA's general scheme of subjecting areas with higher classifications to more stringent requirements. More specifically, the increased stringency relates to the types of measures that qualify as contingency measures rather than the amount of emission reductions that such measures must achieve.

Under the EPA's interpretation of the contingency measure requirement, contingency measures must be designed to provide emission reductions (if triggered) that are not otherwise required to meet other attainment plan requirements and not relied upon to demonstrate RFP nor attainment. Thus, for example, contingency measures in $PM_{2.5}$ nonattainment areas classified as Moderate, which are thereby subject to the reasonably available control measures (RACM) requirement, must be measures that go beyond the RACM requirement, whereas contingency measures in $PM_{2.5}$ nonattainment areas classified as Serious (and thus subject to the best available control measures (BACM) requirement) must be measures that go beyond the BACM requirement. In other words, reclassification of an area to a higher classification shrinks the pool of candidate contingency measures because some of the candidate contingency measures will be required to be adopted and implemented in the reclassified area to meet the specific control requirements for that classification and, thus, will be unavailable for adoption as contingency measures. The candidate contingency measures that remain eligible to meet the contingency measure SIP requirement under the higher classification are different, and potentially more stringent, than those that had been available to meet the requirement under the lower classification. While more stringent measures would achieve further emission reductions, if triggered, they may achieve a smaller scale of emission reductions than the prior iterations of increasingly stringent control measures on a given emission source; stringency (a relative measure) is not the same as tons per day of emission reductions (an absolute measure).

Regarding the commenters' assertion that areas with more severe air pollution should have contingency measures that achieve a larger amount of emission reductions (*i.e.,* OYW of RFP), we look once more to the broader framing of contingency measures within the overall planning requirements for nonattainment areas. The EPA finds that the statutory and regulatory

[40] Id.

[41] Id. at 947.

[42] EPA's Draft Revised Contingency Measure Guidance, pp. 21–28 (revised metric) and pp. 29–40 (reasoned justification for adoption of contingency measures that provide for less than the recommended amount of emission reductions).

[43] By ''changed circumstances,'' we are referring to recent court decisions that have invalidated key aspects of EPA's historical approach to implementing the contingency measure requirement and the evolution toward more stringent control programs in the 30 years since the EPA first articulated its contingency measure guidance where, as described in Response to Comments 3, the progressively stringent control measures adopted to meet prior attainment and RFP planning requirements are already implemented measures and therefore ineligible to serve as contingency measures and result in a narrowing pool of candidate contingency measures.

requirements to demonstrate attainment as expeditiously as practicable, and the absence of a specific statutory metric for how much emission reductions contingency measures should achieve, give priority to adopting control measures to attain in the first place, even if that leaves fewer options for contingency measures in the event of a failure to attain or to make RFP.

In the SJV $PM_{2.5}$ Contingency Measure SIP, the State elaborates further on using an attainment-focused metric by highlighting the scarcity of potential control measures that would qualify as contingency measures given the facts and circumstances of the San Joaquin Valley,[44] where the progressively stringent set of control measures adopted to meet prior attainment and RFP planning requirements are already implemented measures and therefore ineligible to serve as contingency measures.[45] This scarcity concept echoes the tension between the CAA requirements for attainment and contingency measures, and the prioritization of adopting measures to attain in the first place. Notwithstanding, the EPA does not endorse the scarcity concept as a starting point, but rather recommends the detailed analytical approach to identifying and evaluating potential control measures that can serve as contingency measures, as described in the Draft Revised Contingency Measures Guidance, and that the State employed in developing the $PM_{2.5}$ Contingency Measure SIP.

Regarding the commenters' suggestion that a state could reduce the amount of emission reductions needed for contingency measures by requesting a voluntary reclassification that would extend the amount of time to attain while relying on the same level of emission reductions, we disagree that such an action runs contrary to the general remedial scheme of the CAA that imposes more stringent requirements on reclassified areas. Under the statutory and regulatory requirements for $PM_{2.5}$, a State may request reclassification from Moderate to Serious, but only where it can show that it is impracticable to attain by the Moderate area attainment year.[46] Thus, a combination of direct $PM_{2.5}$ and plan precursor emission reductions that would achieve attainment would constrain the ability of the State to seek such reclassification—it would instead be practicable to attain by the Moderate area attainment date. Similarly, if the Moderate area attainment year were approaching and air quality for two of three design value years indicated that the area would not achieve the standard, then the air quality basis resulting from prior attainment planning would be insufficient to attain. In either case, the State would need to develop a Serious area plan that achieves additional emission reductions and also addresses the additional control requirements for Serious areas (*e.g.,* tighter new source review requirements, BACM and best available control technology (BACT), and, if the State were to seek an attainment date extension under CAA section 188(e), most stringent measures (MSM)).

For these reasons, as well as those described in Response to Comment 1 of this document, we conclude that the EPA's revised metric for contingency measure emission reductions (OYW of progress) does not run contrary to the general remedial scheme of the CAA that imposes more stringent requirements on areas reclassified to a higher classification. Lastly, the EPA finds that the comment on a hypothetical scenario for an ozone nonattainment area is outside the scope of this rulemaking because we are not acting on ozone contingency measure SIP submissions in this action.

Comment 4: Regarding feasibility assessments, the Valley EJ Organizations state that the CAA does not subject the contingency measure requirements to a feasibility standard and reject the State's and the EPA's proposed reliance on infeasibility demonstrations. The commenters argue that Congress made no exceptions to the contingency measure requirements nor did it provide authority to relax those requirements based on technological or economic challenges. They state that the CAA requirements for RACM or reasonably available control technology (RACT) include a ''reasonably available'' qualifier and that those for MSM are expressly limited to ''feasible'' measures, while such terms do not appear in the CAA requirements for contingency measures. They contend that the EPA conflates the contingency measure requirements with the primary requirements to attain the NAAQS in the first place. They further state that Congress expressly provided limited authority to relax the CAA requirements for RFP but did not do so for contingency measures.

The commenters state that the RACM requirements (under CAA sections 172(c)(1), 181(a)(1), and 188(c)(1)) require that the primary attainment strategy include ''all'' RACM and other available control measures that would expedite attainment and that the MSM provision (for Serious $PM_{2.5}$ nonattainment areas that cannot attain the standards within 10 years, under CAA section 188(e)) requires additional control measure implementation. They argue that contingency measures should not comprise the same controls that the CAA already requires for attainment and that failed to attain the NAAQS in the first place and that the EPA unlawfully and arbitrarily excuses contingency measures needed when the feasible measures the State has already adopted result in a failure to attain the NAAQS (citing *AIR,* 10 F.4th at 946).

Given these alleged flaws in the EPA's interpretation, the commenters state that the EPA's proposed approval violates the plain meaning of the CAA contingency measure requirement, fails to reasonably explain the Agency's relaxation of the emission reductions that contingency measures must provide, and is therefore arbitrary and capricious.

Response to Comment 4: As discussed in Response to Comment 1, Congress must have at least implicitly delegated to the EPA the authority to determine an amount of emissions reductions that contingency measures should achieve and thereby give meaning to the requirement and provide states with a basis to comply with CAA section 172(c)(9) for a given nonattainment area. The EPA is continuing to take a policy approach to this question and is recommending OYW of progress and describing a specific analytical framework that states may use to develop a reasoned justification if the state is unable to identify and adopt contingency measures that can achieve the recommended amount of emissions reductions. More specifically, as stated in our proposed rule and the EPA's Draft Revised Contingency Measures Guidance, where a state is unable to identify contingency measures that would provide approximately OYW of emission reductions, the state should provide a reasoned justification (referred to herein as an ''infeasibility demonstration'') that explains and documents how it has evaluated all existing and potential control measures relevant to the appropriate source categories and pollutants in the nonattainment area and has reached reasonable conclusions regarding whether such measures are feasible.[47] Thus, while the EPA acknowledges that

[44] SJV $PM_{2.5}$ Contingency Measure SIP, section 4.1 (''Stringency of District's Regulatory Program'') and section 5.2 (''CARB's Opportunities for Contingency Measures'').

[45] SJV $PM_{2.5}$ Contingency Measure SIP, pp. 53–54.

[46] CAA section 188(b)(1) and 40 CFR 51.1002(b)(1).

[47] 88 FR 87988, 87994 and EPA's Draft Revised Contingency Measure Guidance, p. 29.

CAA section 172(c)(9) does not explicitly provide for consideration of whether specific measures are feasible, the EPA does not read the statute to require air agencies to adopt and impose infeasible measures.[48]

As stated in the proposed rule, the statutory provisions applicable to other nonattainment area plan control measure requirements, including RACM/RACT, BACM/BACT, and MSM, allow air agencies to exclude certain control measures that are deemed unreasonable or infeasible (depending on the requirement).[49] For example, the MSM provision in CAA section 188(e) requires plans to include ''the most stringent measures that are included in the implementation plan of any state or are achieved in practice in any state, and can feasibly be implemented in the area.'' While the contingency measures provisions do not include such caveats, the EPA does not conclude that the contingency measures provisions should be read to require plans to include infeasible measures. Thus, the EPA anticipates that a demonstrated lack of feasible measures would be a reasoned justification for adopting contingency measures that achieve less than the recommended amount of emission reductions.[50]

The EPA does not, as the commenters suggest, simply conflate the contingency measure requirements with other control requirements (*e.g.,* RACM/RACT, BACM/BACT, and MSM) that are integral to demonstrating attainment of the ozone and/or $PM_{2.5}$ NAAQS. Rather, while the analytical approach to identifying and evaluating existing and potential control measures may be similar to those used for RACM/RACT, BACM/BACT, and MSM (*e.g.,* identifying the universe of control devices that can reduce NO_X emissions from combustion equipment and whether they are technologically and economically feasible as applied to a specific type of emission source in the area), the EPA expects that the state ''should not simply repeat the control strategy's infeasibility showing.'' [51] The contingency measure requirement is in addition to the other control measure requirements.

A conclusion that a measure is not reasonable or feasible, for example, for RACM does not automatically disqualify it as a potential contingency measure. If the state identifies control measures that it determines are not needed to attain nor to collectively advance attainment, those measures would not be required to satisfy the RACM requirement but would remain as candidates for contingency measures. To the extent that the adopted contingency measures achieve a small amount of emission reductions, the state should provide a more robust infeasibility showing that there are no additional feasible contingency measures that could achieve the recommended amount of reductions.[52] Furthermore, to the extent that the state's analyses and development of contingency measures occur after the state's analyses and development of the SIP submissions to meet the attainment control strategy requirements of the CAA (including associated control requirements and RFP), the state should update their analyses to reflect the latest potential control measures.

In the case of the SJV $PM_{2.5}$ Contingency Measure SIP, submitted in 2023, CARB and the District documented their analyses to identify and evaluate potential control measures that might serve as contingency measures. These analyses are updated relative to their 2021 submission of the Serious area attainment plan for the 1997 annual $PM_{2.5}$ NAAQS and to their 2019 submissions of the Serious area attainment plan for the 1997 24-hour $PM_{2.5}$ NAAQS (including BACM demonstration), Serious area plan for the 2006 24-hour $PM_{2.5}$ NAAQS (including demonstrations for BACM and MSM), and Moderate area plan for the 2012 annual $PM_{2.5}$ NAAQS (including RACM demonstration). The EPA has approved these attainment plan control strategies in successive actions [53] and they represent an overall stringent set of control requirements. The State did not set aside measures for lack of their ability to collectively advance attainment (as might be possible in theory, *e.g.,* for RACM for an ozone nonattainment area).

In their updated analyses, CARB and the District considered the wide range of emission sources under their primary jurisdiction, identified potential control measures, analyzed their technological and economic feasibility, and assessed whether they could achieve emission reductions within one to two years of a triggering event, consistent with the EPA's discussion of the timing objective inherent to the contingency measure requirement.[54] For the potential control measures identified through this process, the District further analyzed possible contingency measures for wood burning fireplaces and wood burning heaters, rural open areas, commercial charbroiling, almond harvesting, and oil and gas production combustion equipment, and ultimately adopted the Residential Wood Burning Contingency Measure and the Rural Open Areas Contingency Measure.

CARB, in turn, made a reasonable case that new engine standards and new fleet requirements require more time to implement than would be appropriate for contingency measures (*i.e.,* would exceed one to two years after a triggering event) and that the State's technology-forcing and zero-emission-based nature of its mobile source regulations reduce or eliminate opportunities for yet-further emission reductions that could qualify as contingency measures.[55] Nevertheless, through its process CARB ultimately adopted the Smog Check Contingency Measure.

The three contingency measures proposed for approval stand in contrast to the commenters' argument that the feasibility assessment process put forward in the EPA's Draft Revised Contingency Measure Guidance, in the State's 2023 SIP Submissions, and the EPA's proposed approval thereof would simply re-employ the control measures originally employed to attain the $PM_{2.5}$ NAAQS in the San Joaquin Valley. Furthermore, in many instances the

[48] Id.

[49] Id.

[50] Moreover, we note that contingency measures under CAA section 172(c)(9), once triggered, are generally permanent and become one of the baseline control measures for the next milestone demonstration or the new attainment plan that must be adopted and submitted by the state for an area that has failed to attain the NAAQS by the applicable attainment date. As noted in this document, technological and economic feasibility is a hallmark of such control measures. In contrast, CAA section 110(a)(2)(G) requires states to adopt and submit contingency plans to address emergency episodes as part of their SIPs, and the contingency plans for emergency episodes identify emission control actions to be taken at different episode levels, which are much higher than the NAAQS, without consideration of economic or technological feasibility. See, generally, 40 CFR 51.150–51.152 and appendix L to 40 CFR part 51. One significant difference, however, between the emission control actions for emergency episode plans under CAA section 110(a)(2)(G) and the control measures relied upon for RFP and attainment is that the former are temporary and are implemented only while the emergency episode persists whereas the latter are, as noted, permanent controls for the area.

[51] EPA's Draft Revised Contingency Measure Guidance, p. 31.

[52] EPA's Draft Revised Contingency Measure Guidance, p. 31.

[53] 88 FR 86581 (December 14, 2023) (approving the State's demonstrations for BACM and five percent annual emission reductions under CAA section 189(d) for the 1997 annual $PM_{2.5}$ NAAQS); 87 FR 4503 (January 28, 2022) (approving the State's BACM demonstration for the 1997 24-hour $PM_{2.5}$ NAAQS); and 85 FR 44192 (July 22, 2020) (approving the State's demonstrations for BACM and MSM for the 2006 24-hour $PM_{2.5}$ NAAQS).

[54] 88 FR 87988, 88000–88001 (summary of State's feasibility analyses), and 88005–88009 (the EPA's evaluation of the State's feasibility analyses). See also Draft Revised Contingency Measures Guidance, pp. 40–42.

[55] 88 FR 87988, 88008–88009.

reason for which the EPA agreed with the State for not adopting a potential control measure as a contingency measure was not based on any affirmation that a measure was economically infeasible, but rather was based on other reasons. In evaluating CARB and the District's infeasibility demonstrations in the SJV $PM_{2.5}$ Contingency Measure SIP, we relied heavily on the ''EPA Source Category and Control Measure Assessment and Reasoned Justification Technical Support Document, Proposed Contingency Measures Federal Implementation Plan for the Fine Particulate Matter Standards for San Joaquin Valley, California,'' July 2023 (''EPA's Reasoned Justification TSD'') given its breadth and depth, as well as the expertise of EPA Region IX staff, to review the State's demonstrations, understand where the State's analyses and the EPA's analyses draw largely similar conclusions, and identify those source categories where the control measure analyses differ.

For example, for the potential control measure of requiring electric water heaters and furnaces at point of sale, the EPA determined that such a measure would not be feasible because we expect that it would result in negligible emission reductions within two years after trigger, consistent with the District's suggestion that the attrition-based nature of implementation of this contingency measure option deem the measure infeasible.[56] For the potential control measure of requiring low-dust almond harvesters, the EPA determined that such a measure would be infeasible based only on the timing of emission reductions.[57]

For the potential control measure of requiring the installation of control devices on commercial under-fired charbroilers, the EPA determined that such measure would be infeasible based on fire safety certification concerns and lack of demonstrated implementation of controls.[58] For the potential control measure of lower NO_X emission limits on oil and gas production equipment with a total rated heat input of greater than 5.0 million Btu per hour, the EPA determined that it would be technologically infeasible to meet the lower limits within the two-year timeframe for contingency measures due to the likely requirement that affected units would need to install selective catalytic reduction (SCR) devices to meet the lower limits (*i.e.,* the planning, engineering, and installation of SCR would take more than two years).[59] Similarly, for the potential control measure of lower NO_X emission limits for boilers, steam generators, and process heaters with a total rated heat input of 5.0 million Btu per hour or less, the EPA expects that units required to meet lower limits than those already adopted in Rules 4307 and 4308 would require installation of SCR, which cannot be feasibly achieved within the two-year timeframe for contingency measures.[60]

In sum, the EPA maintains that it does not read the statute to require air agencies to adopt and impose infeasible measures. Furthermore, as applied to the SIP submissions subject to this rulemaking, we continue to find that the State's three contingency measures for the San Joaquin Valley for the 1997 annual, 2006 24-hour, and 2012 annual $PM_{2.5}$ NAAQS, in conjunction with the State's infeasibility demonstrations that adequately justify the contingency measures selected by the State, meet the contingency measure requirement under CAA section 172(c)(9) and 40 CFR 51.1014.

Comment 5: The Valley EJ Organizations assert that the EPA unlawfully and arbitrarily proposes approval of the $PM_{2.5}$ contingency measures based on the Agency's new interpretation in the Draft Revised Contingency Measures Guidance by extending the implementation period from one year to two years.

Response to Comment 5: With respect to the issue of extending the period in which the emission reductions from contingency measures can be considered in meeting the contingency measure SIP requirement, we note that the commenters raise this particular objection to the EPA's proposed approval in a single sentence and fail to elaborate on how extending the time period for achieving the emission reductions from contingency measures from one to two years conflicts with the CAA or the EPA's implementing regulations.

In this instance, we proposed, and are now taking final action, to approve two specific contingency measures (the Residential Wood Burning Contingency Measures and the Rural Open Areas Contingency Measures), both of which, if triggered, will achieve emission reductions within a year of the triggering event. Our approval of the 2023 SIP Submissions as meeting the contingency measure SIP requirement for San Joaquin Valley for the relevant $PM_{2.5}$ NAAQS also relies on emission reductions from a third contingency measure (the Smog Check Contingency Measure) that we have approved in a separate action.

As explained in the EPA's final rule on CARB's Smog Check Contingency Measure, the emission reductions from the Smog Check Contingency Measure may not be fully achieved until the second year after the triggering event.[61] However, as further explained in that final rule, and consistent with the Draft Revised Contingency Measure Guidance, in instances where there are insufficient contingency measures available to achieve the recommended amount of emission reductions within one year of the triggering event, contingency measures that provide reductions within two years of the triggering event could be appropriate to consider toward achieving the recommended amount of emission reductions.[62] Contingency measures that result in additional emission reductions during the second year following the triggering event, as contemplated by the Draft Revised Contingency Measure Guidance, can still serve the important purpose of contingency measures to continue progress toward attainment, as the State develops and submits, and the EPA acts on, a SIP submission to address the underlying condition (*e.g.,* failure to make RFP or to attain by the applicable attainment date) that triggered the contingency measures in the first place.

Comment 6: The Valley EJ Organizations state that, after a first triggering event, the EPA unlawfully and arbitrarily allows California discretion in adopting further contingency measures, fails to evaluate whether the emission reductions to follow a second triggering event would meet either OYW of RFP or OYW of progress, and allows California to ''`double dip' for contingency measure purposes'' without enforceable provisions that would require adoption and submission of additional contingency measures.

Response to Comment 6: Our approval relates to the SIP requirements for contingency measures under CAA section 172(c)(9) and 40 CFR 51.1014 for the 1997 annual, 2006 24-hour and 2012 annual $PM_{2.5}$ NAAQS. Under the applicable requirements, states with $PM_{2.5}$ nonattainment areas must provide contingency measures that can be

[56] 88 FR 87988, 88007, and EPA's Reasoned Justification TSD, pp. 43–51.

[57] 88 FR 87988, 88007, and EPA's Reasoned Justification TSD, pp. 43–51.

[58] 88 FR 87988, 88008, and EPA's Reasoned Justification TSD, chapter V.

[59] 88 FR 87988, 88008, and EPA's Reasoned Justification TSD, pp. 9–22.

[60] 88 FR 87988, 88008, and EPA's Reasoned Justification TSD, pp. 9–22.

[61] 89 FR 56222, 56224–56225.

[62] Id.

triggered in the event of a failure to meet any RFP requirement in an attainment plan, to meet any quantitative milestone in an attainment plan, to submit a quantitative milestone report, or to attain the applicable $PM_{2.5}$ NAAQS by the applicable attainment date.

Neither the CAA nor the EPA's regulations specify a minimum number of contingency measures or prescribe separate contingency measures for different contingency measure triggers. The CAA and the EPA's regulations also do not preclude the reliance on the same contingency measures for separate NAAQS, and the commenter does not identify any specific statutory or regulatory requirement that does so. Moreover, it is not uncommon for a state or district to rely on a core set of control measures for multiple NAAQS. For example, the State and District rely on a core set of NO_X control measures as part of the control strategies for demonstrating RFP and attainment for both ozone and $PM_{2.5}$ in the San Joaquin Valley. Regardless, we acknowledge that neither the State nor District has submitted an enforceable commitment to submit additional contingency measures in response to the triggering of the contingency measures. The EPA does not believe that such commitment is required.

In this instance, the 2023 SIP Submissions rely on three contingency measures, all of which provide for an initial triggering event and two of which provide for a second triggering event. In other words, all three contingency measures provide for implementation of more stringent requirements upon a first triggering event, and two of the contingency measures also provide for implementation of yet more stringent requirements upon a second triggering event (*i.e.,* further tightening of the requirements beyond that triggered by the first event).

While the EPA is not requiring CARB or the District to provide separate contingency measures for each of the triggering events or separate contingency measures for different $PM_{2.5}$ NAAQS in San Joaquin Valley, we find that a SIP deficiency would arise upon the first triggering event notwithstanding the existence of the built-in provisions for further reductions upon a second triggering event. This is because the adequacy of the contingency measure SIP depended on measures that are now being implemented as a result of the first triggering event, meaning they can no longer be used to satisfy the contingency measure requirements for subsequent triggering events. In response, we expect that CARB and the District would adopt and submit a SIP revision within one year of the triggering event to demonstrate that the SIP continues to meet contingency measure requirements. We would also expect the SIP revision to take into account the emission reductions from the two remaining contingency measures and to include additional contingency measures as needed to ensure that the San Joaquin Valley continues to meet the contingency measure requirements of CAA section 172(c)(9) and 40 CFR 51.1014.

Comment 7: CVAQ asserts that the ''hot spot'' approach under District Rule 4901, ''Wood Burning Fireplaces and Wood Burning Heaters,'' ''cannot meet the basic control measure requirements of the [CAA]'' and that the emission reductions from expanding applicability to previously exempt areas would not be surplus to the controls that should be required in the San Joaquin Valley. If, however, residential wood burning is to be used as a contingency measure, CVAQ contends that the contingency measure in Rule 4901 should ban all non-essential wood burning. CVAQ further contends that the District must adopt contingency measures that would achieve OYW of RFP emission reductions in each county of the San Joaquin Valley to protect its most vulnerable communities. In addition, citing comments made by residents during 2023 District workshops that report incidents of poor enforcement of the rule, CVAQ asserts that Rule 4901 has no assurance of actual emission reductions and no concrete commitments for enforcement. CVAQ advocates for accountability measures to ensure actual emission reductions and enforcement of residential wood burning regulations.

Response to Comment 7: The EPA maintains that the Residential Wood Burning Contingency Measure in SJVUAPCD Rule 4901 meets the contingency measure requirements and provides reasonable assurance of emission reductions. As explained in our proposed rule,[63] Rule 4901 includes a tiered mandatory curtailment program that establishes different curtailment thresholds based on the type of devices (*i.e.,* registered clean-burning devices vs. unregistered devices) and different counties (*i.e.,* ''hot spot'' vs. non-hot spot), notwithstanding narrow exemptions (*e.g.,* for households where a wood burning fireplace or heater is the sole source of heat, per section 5.7.4.2 of Rule 4901). During a ''Level One Episodic Wood Burning Curtailment,'' operation of wood-burning fireplaces and other unregistered wood-burning heaters or devices is prohibited, but properly operated, registered wood-burning heaters may be used. During a ''Level Two Episodic Wood Burning Curtailment,'' operation of any wood-burning device is prohibited.

In 2019, the District lowered the curtailment thresholds in Madera, Fresno, and Kern counties, which the District identified as hot spot counties, because they were ''either new areas of gas utility or areas deemed to have persistently poor air quality.'' [64] Table 4 presents the wood burning curtailment thresholds in Rule 4901, as revised in 2019.

TABLE 4—RESIDENTIAL WOOD BURNING CURTAILMENT THRESHOLDS IN RULE 4901

[as amended in 2019]

Episodic wood burning curtailment levels	Hot spot counties (Madera, Fresno, and Kern)	Non-hot spot counties (San Joaquin, Stanislaus, Merced, Kings, and Tulare)
Level One (No Burning Unless Registered)	12 μg/m³	20 μg/m³.
Level Two (No Burning for All)	35 μg/m³	65 μg/m³.

Contrary to the commenters' assertion that the hot spot approach cannot meet the basic control measure requirements of the CAA, the EPA approved the State's demonstration for Rule 4901 (2019 amendments) as BACM and MSM for the 2006 24-hour $PM_{2.5}$ NAAQS,[65] as RACM for the 2012 annual $PM_{2.5}$ NAAQS,[66] and as BACM for the 1997

[63] 88 FR 87988, 87995.

[64] 2018 $PM_{2.5}$ Plan, Appendix J, 60.

[65] 85 FR 44192.

[66] 86 FR 67343.

annual $PM_{2.5}$ NAAQS.[67] In 2022, the Ninth Circuit upheld the EPA's approval of the State's BACM and MSM demonstration for the 2006 24-hour $PM_{2.5}$ NAAQS, including those relating to residential wood burning.[68] Therefore, the hot spot approach in Rule 4901 (2019 amendments), as applied to the particular facts and circumstances of the San Joaquin Valley for the 1997 annual, 2006 24-hour, and 2012 annual $PM_{2.5}$ NAAQS, meets the applicable control requirements for controlling direct $PM_{2.5}$ emissions from residential wood burning.

The Residential Wood Burning Contingency Measure (*i.e.,* the 2023 amendments to Rule 4901) would, upon a first triggering event, lower the thresholds for the five non-hot spot counties to match those of the hot spot counties (*i.e.,* 12 μg/m^3 for Level One Curtailment and 35 μg/m^3 for a Level Two Curtailment) and the emission reductions in those five counties would be surplus because lowering the thresholds for the five non-hot spot counties would go beyond the requirements of Rule 4901, as amended in 2019, that the EPA has approved as meeting RACM, BACM, and MSM. Furthermore, upon a second triggering event, the Level One Curtailment threshold would be further lowered to 11 μg/m^3 for all eight counties in the San Joaquin Valley, resulting in further emission reductions that would be surplus to the already implemented measure and surplus to the reductions from the first triggering event.

We note that the Residential Wood Burning Contingency Measure would alone, if triggered, achieve 0.5793 tpd direct $PM_{2.5}$ emission reductions, which would exceed OYW of RFP (per EPA's long-standing approach) and OYW of progress (per EPA's draft revised approach) for direct $PM_{2.5}$ emissions in the San Joaquin Valley. Given that the Residential Wood Burning Contingency Measure is primarily a control for direct $PM_{2.5}$,[69] and that it would achieve the recommended amount of reductions for that pollutant (in terms of OYW of RFP or OYW of progress), the District was not required to restrict residential wood burning further than what the District has chosen to do for the purposes of meeting the contingency measure SIP requirements for the relevant $PM_{2.5}$ NAAQS. Thus, the District was not required to include a ban on all non-essential wood burning to meet the contingency measure SIP requirements. Furthermore, in reviewing the District's evaluation of potential control measures for residential wood burning,[70] we relied heavily on the EPA's detailed evaluation of source categories and measures that we considered as potential additional contingency measures as part of our federal implementation plan (FIP) proposal but determined to be infeasible or otherwise unsuitable for contingency measures.[71]

Regarding the commenters' contention that the District must adopt contingency measures that would achieve OYW of RFP emission reductions in each county of the San Joaquin Valley, we reiterate that CAA section 172(c)(9) does not specify what amount of emission reductions contingency measures should achieve, much less whether contingency measures should achieve particular amounts of emission reductions within geographical regions within a nonattainment area (*e.g.,* in each county). In both our long-standing interpretation and draft revised interpretation of the contingency measure requirement, the amount of emission reductions (*e.g.,* OYW of progress) should be estimated for the nonattainment area as a whole, consistent with the emissions inventories for the base year, RFP years, and attainment year that are based on the whole area.[72]

Regarding comments on the enforceability of Rule 4901 and assurance of actual emission reductions, we note that the District included responses to similar comments received during the District's public comment process on the public draft SJV $PM_{2.5}$ Contingency Measure SIP.[73] We maintain that Rule 4901 is adequately enforceable and that the emission reductions are reasonably estimated, for the following reasons. The District explains the method it used to estimate the emission reductions from the Residential Wood Burning Contingency Measure, including its use of an 80% compliance rate.[74] In calculating these estimates, the District incorporates data by county, device type (wood stoves and fireplaces), registration (unregistered vs. registered, which incorporates certification of cleaner-burning devices), fuel type (*e.g.,* natural gas, wood, pellets), and average curtailment days with and without the contingency provisions.

In evaluating the emission reductions estimates from the District, and as part of the EPA's FIP proposal for $PM_{2.5}$ contingency measures in the San Joaquin Valley,[75] we found that an 80% control efficiency rate is reasonable in this case given the District's extensive public outreach and enforcement of its curtailment program.[76] The EPA concludes that the District's method is a detailed and reasonable means to estimate the emission reductions from the Residential Wood Burning Contingency Measure.

Regarding enforcement, the District states that it dedicates staff to both compliance assistance and enforcement and describes several aspects of its enforcement efforts.[77] On curtailment days, District staff surveil neighborhoods, focus on areas where non-compliance is historically high or the subject of common complaints, and respond to complaints from the public. The District responds to complaints during business hours, weekends, holidays, and night-time hours and uses technology such as global positioning system (GPS) and low-light imaging cameras (for night-time enforcement) to assist their response. During the most recent wood burning season (November 2023-February 2024), District staff spent approximately 3,500 hours on proactive monitoring and enforcement and issued 470 notices of violation of Rule 4901.[78] The EPA concludes that the District implements a reasonably robust enforcement program to ensure compliance with the wood burning

[67] 88 FR 86581.

[68] *Medical Advocates for Healthy Air* v. *EPA,* Case No. 20–72780, Dkt. #58–1 (9th Cir., April 13, 2022), pp. 8–9.

[69] Based on the estimates included in Table 2 (revised) in this final rule, NO_X reductions from the Residential Wood Burning Contingency Measure would be approximately 14% of the reductions of direct $PM_{2.5}$.

[70] SJV $PM_{2.5}$ Contingency Measure SIP, section 4.2 (''District Feasibility Analysis''), pp. 26–31.

[71] 88 FR 87988, 88005–88006, and the EPA's Reasoned Justification TSD. For our discussion of the EPA's evaluation of a potential wood burning ban, see p. 82 of the EPA's Reasoned Justification TSD.

[72] EPA's Draft Revised Contingency Measures Guidance, pp. 23–24. Notwithstanding, for informational purposes we note that the EPA considered the geographic scope of each of the three contingency measures proposed for approval, including the Residential Wood Burning Contingency Measure. 88 FR 87988, 88010–88011.

[73] SJV $PM_{2.5}$ Contingency Measure SIP, Appendix J (''Comments and Response'').

[74] SJV $PM_{2.5}$ Contingency Measure SIP, Appendix C (''Emission Reduction Analysis for Rule 4901''), C–7.

[75] EPA's Reasoned Justification TSD, section II (''Combustion: Residential Wood Burning''), pp. 5–6.

[76] See, *e.g.* SJVUAPCD, ''Report On 2021–2022 Winter Residential Woodsmoke Reduction,'' April 21, 2022 (''District's 2022 Report''), pp. 19–28.

[77] District's 2022 Report, pp. 26–28.

[78] SJVUAPCD, ''Report on 2023–2024 Winter Residential Woodsmoke Reduction Strategy,'' PowerPoint presentation prepared for SJVUAPCD Citizens Advisory Committee, June 4, 2024, slide 16. For summary information concerning enforcement of Rule 4901 in previous seasons, see SJVUAPCD, ''Report On 2022–2023 Winter Residential Woodsmoke Reduction,'' April 20, 2023, p. 28.

prohibitions required when a Level One or Level Two Curtailment is called by the District.

In sum, neither the District nor the EPA has assumed perfect compliance with the provisions of the Residential Wood Burning Contingency Measure (*i.e.,* 100% control efficiency when a ''No Burn'' day is called for a given geographic region within San Joaquin Valley); the District has provided reasonable assurance of 80% control efficiency based on its outreach, enforcement, and performance analyses; and the District reasonably estimates the amount of emission reductions to follow either a first triggering event (0.5793 tpd direct $PM_{2.5}$ and 0.0817 tpd NO_X) or a second triggering event (0.1078 tpd direct $PM_{2.5}$ and 0.0148 tpd NO_X). Therefore, we continue to find that the Residential Wood Burning Contingency Measure is adequately enforceable and its associated emission reductions are reasonably estimated.

Comment 8: CVAQ states that the Rural Open Areas Contingency Measure is ''essentially meaningless given that agricultural operations are exempt.'' They note that agricultural operations can implement a Fugitive PM_{10} Management Plan (FPMP) as an alternative to compliance requirements and that a more meaningful contingency measure would enforce these FPMPs for all agricultural operations.

Response to Comment 8: While the estimated emission reductions of 0.008 tpd direct $PM_{2.5}$ from the Rural Open Areas Contingency Measure are small, we disagree with the commenters' characterization of the measure's value. Specifically, section 7.0 (''Contingency Provision'') of Rule 8051, ''Open Areas'' (2023 amendments) would, if triggered, lower the applicability threshold for rural open areas from 3.0 acres to 1.0 acre, and owners and operators of those 1.0 to 3.0-acre parcels would be newly subject to the fugitive dust control requirements of Rule 8051.[79] This measure, if triggered, would affect entities such as construction, oilfield, truck stop, and equipment and vehicle storage owners/operators, as identified in the District's ''Regulation VIII Recordkeeping Reporting Forms'' (revised June 1, 2009), as well as other residential, industrial, institutional, governmental, or commercial lot owners/operators. When such entities disturb 1,000 or more square feet of surface area within a 1.0 to 3.0-acre parcel, they would be required to apply fugitive dust control measures, consistent with the control requirements of section 5.0 of Rule 8051. Moreover, while the emission reductions from the Rural Open Areas Contingency Measure are small on a regional basis, they will be more meaningful for residents and workers in the immediate vicinities of the open areas to which Rule 8051 would apply if and when the contingency measure is triggered.

With respect to agricultural operations in the San Joaquin Valley and FPMPs, fugitive dust control requirements are governed by Rule 8081, ''Agricultural Sources,'' which covers off-field sources like unpaved roads, unpaved vehicle and equipment traffic areas, and bulk materials.[80] Under section 7.0 of Rule 8081, an agricultural operator may implement an FPMP for unpaved roads and unpaved vehicle/equipment traffic areas as a compliance alternative to the control requirements in sections 5.2.2, 5.3.1, and 5.3.2 of the rule. An FPMP must achieve 50% control efficiency for fugitive dust (PM_{10}) and go through a review and approval process prior to being implemented. It must be implemented on all days that vehicle traffic exceeds the applicable vehicle trip thresholds in sections 5.2.2, 5.3.1, and 5.3.2. Under section 7.4 of Rule 8081, failure to comply with an approved FPMP is deemed a violation of the rule.

By comparison, sections 5.2.2, 5.3.1, and 5.3.2 require that visible dust emissions (VDE) be limited to a 20% opacity standard and comply with requirements for stabilization of unpaved roads[81] by application of at least one of a discrete set of control techniques (*e.g.,* watering, uniform layer of washed gravel, chemical/organic dust stabilizers/suppressants). Section 5.2.2 applies to unpaved roads based on vehicle daily trips; sections 5.3.1 and 5.3.2 apply to unpaved vehicle/equipment traffic areas with thresholds based on annual and daily vehicle trips, respectively.

If, as the commenters suggest, all agricultural operations were required, following a contingency measure triggering event, to implement an FPMP, it is unclear whether such contingency measure would achieve emission reductions that are surplus to those that are being achieved under the existing rule. For agricultural operations already implementing an FPMP, such contingency measure would result in no change in emission reductions. For agricultural operations implementing controls under section 5.2.2, 5.3.1, and 5.3.2 of Rule 8081 (*i.e.,* not implementing an FPMP), it is unclear whether an FPMP would achieve more emission reductions than the standard control provisions (limit VDE to 20% opacity). Consistent with our final rule approving the 2003 San Joaquin Valley attainment plan for the 1987 PM_{10} NAAQS into the California SIP,[82] we believe that the FPMP's 50% control efficiency requirement is equivalent to the minimum control efficiency expected from compliance with surface stabilization requirements in the rule that otherwise apply.

Furthermore, within the SJV $PM_{2.5}$ Contingency Measure SIP, the District states that it evaluated potential additional controls (including those implemented by other jurisdictions) within the application of Regulation VIII, ''Fugitive PM_{10} Prohibitions,'' and that the existing fugitive dust controls (including those under Rule 8081) meet or exceed the requirements for RACM, BACM, and MSM, and did not identify any further potential contingency measure, with the exception of the potential measure in Rule 8051 (*i.e.,* the measure ultimately adopted as the Rural Open Areas Contingency Measure).[83] In the EPA's review of potential control measures (including those implemented by other jurisdictions), we similarly did not identify additional measures for unpaved roads that would be suitable as contingency measures.[84] Therefore, we

[79] The definition of open areas is provided in Rule 8011, ''General Requirements,'' section 3.36 (''. . . vacant portions of residential or commercial lots and contiguous parcels that are immediately adjacent to and owned and/or operated by the same individual or entity are considered one open area. . .'').

[80] We note that Rule 4550, ''Conservation Management Practices'' includes fugitive dust control requirements for on-field agricultural operations in the San Joaquin Valley, but does not include provisions for FPMPs, unlike Rule 8081. Also, while there are provisions for FPMPs in Rule 8061, ''Paved and Unpaved Roads'' and Rule 8071, ''Unpaved Vehicle/Equipment Traffic Areas,'' those rules pertain to non-agricultural roads and vehicle/equipment traffic areas, respectively, rather than the agricultural operations referenced in the comments.

[81] By definition under section 3.59 of Rule 8011, stabilization of unpaved roads and unpaved vehicle/equipment traffic areas requires that VDE be limited to 20% opacity.

[82] 69 FR 30006 (May 26, 2004). We note that, at that time, EarthJustice compared the 20% opacity and other aspects of the control requirements in section 5.0 of Rule 8081 to the 50% control efficiency requirement and lack of 20% opacity requirement in the compliance alternative in section 7.0 of Rule 8081 and asserted that the FPMP compliance alternative should not be included. 69 FR 30006, 30018. While we agreed that the FPMP alternative does not contain an explicit requirement for sources to comply with 20% opacity, it is unclear whether compliance with 20% opacity would necessarily increase control efficiency for unpaved roads or unpaved vehicle/equipment traffic areas above the minimum 50% control required under the FPMP provisions of Rule 8081.

[83] SJV $PM_{2.5}$ Contingency Measure SIP, p. 25.

[84] EPA's Reasoned Justification TSD, pp. 109–114.

disagree with the commenters that enforcing FPMPs on all agricultural operations would qualify as a contingency measure. Nonetheless, we recommend that the District continue to explore potential contingency measures for dust emissions from agricultural sources, whether within the construct of the FPMP framework in Rule 8081 or more broadly, *e.g.,* within the construct of other rules such as Rule 4550, ''Conservation Management Practices.''

Comment 9: The Valley EJ Organizations state that the EPA's proposed approval of the State's contingency measures ignores Presidential orders that direct the EPA and other federal agencies to prioritize environmental justice, including Executive Order 14008, ''Tackling the Climate Crisis at Home and Abroad'' (January 27, 2021) and Executive Order 14096, ''Revitalizing our Nation's Commitment to Environmental Justice for All'' (April 21, 2023).[85] They further argue that the EPA exacerbates the ''environmental justice crisis'' by denying the residents of the San Joaquin Valley meaningful pollution reductions. To convey the magnitude of this concern, the commenters cite to American Lung Association rankings of counties for $PM_{2.5}$ and ozone pollution (where many San Joaquin Valley counties rank among the worst in the nation) and the EPA's review of environmental justice indices (where many San Joaquin Valley counties exceed the 90th percentile) and describe the sequence of failures to attain the NAAQS by the applicable attainment dates in San Joaquin Valley, as well as recent air quality design values for the 1997 8-hour ozone NAAQS and the 1997 annual $PM_{2.5}$ NAAQS that portend the same.

In addition, CVAQ argues that the EPA's proposed approval goes against the Biden Administration's environmental justice priorities by ''refusing to hold the region's largest polluters accountable, discounting community priorities and continuing racist polluting practices.'' They state that EPA is only looking at technological feasibility and costs to industry and is not analyzing social and health impacts in determining the cost of not taking action.

Response to Comment 9: We agree that the San Joaquin Valley has many communities with EJ concerns that are disproportionately impacted by $PM_{2.5}$ and other kinds of air pollution. However, we disagree that the EPA's proposed approval ignores Presidential orders to prioritize environmental justice. First, the Residential Wood Burning Contingency Measure and the Rural Open Area Contingency Measure, as well as the Smog Check Contingency Measure, would, following a triggering event, reduce emissions from residential wood burning, rural open areas, and light-duty vehicles across the San Joaquin Valley, including minority and low-income populations, as described in section VI (''Environmental Justice Considerations'') of our proposed rule.[86]

While not a comprehensive solution to address the disproportionately high $PM_{2.5}$ concentrations to which these populations are exposed, the three contingency measures would achieve more than OYW of emission reductions for direct $PM_{2.5}$ and a portion of the OYW of emission reductions for NO_X, as described in our proposed rule [87] and updated in section I.B of this document. Therefore, our proposed approval of these measures is directionally consistent with Executive Orders 14008 and 14096, as well as Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority and Low-Income Populations'' (February 11, 1994).[88]

To the extent that the commenters disagree with the EPA's Draft Revised Contingency Measure Guidance or our application thereof to the facts and circumstances of the San Joaquin Valley, we maintain that the CARB and the District's 2023 SIP Submissions meet the requirements of CAA section 172(c)(9) and 40 CFR 51.1014 and are approving the submissions on that basis. The EPA carefully reviewed the extensive recommendations put forward by environmental, public health, and community organizations regarding additional potential control measures on stationary and area sources in the San Joaquin Valley [89] and documented our analyses thereof in the EPA's Reasoned Justification TSD.[90] We relied heavily on that TSD in our evaluation of the CARB and the District's 2023 SIP Submissions and, where our conclusions differed from CARB or the District's conclusions with respect to the basis of a potential additional control measure not meeting the contingency measure requirements, we explained those differences, as noted in the latter part of Response to Comment 4 of this document. Nevertheless, those control measure recommendations retain their value for consideration as CARB and the District develop, and the EPA reviews, further SIPs for the San Joaquin Valley, even while we conclude that they are not required to meet the contingency measure requirements for the $PM_{2.5}$ NAAQS in the San Joaquin Valley at this time.

Regarding CVAQ's comments regarding technological feasibility and costs to industry versus social and health impacts, we agree that the State, in its 2023 SIP Submissions, and the EPA, in our review thereof, considered the technological feasibility of potential control measures and reviewed available information regarding the economic feasibility of potential control measures (*i.e.,* which captures costs to industry). However, we did not assess the public health and social costs of not requiring potential control measures during our review of the State's 2023 SIP Submissions because such an assessment is not required for the contingency measure requirements of the CAA, nor the related control

[85] Valley EJ Organizations Comment Letter, pp. 4–6. See also, 86 FR 7619 (February 1, 2021) (Executive Order 14008) and 88 FR 25251 (April 26, 2023) (Executive Order 14096).

[86] 88 FR 87988, 88009–88011. In section VI of our proposed rule, we discuss environmental justice considerations in the context of Executive Order 12898 (''Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations'') rather than by reference to Executive Orders 14008 or 14096. Executive Order 12898 directs federal agencies ''to identify and address disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations, to the greatest extent practicable and permitted by law.'' Executive Order 14008 directs federal agencies to take certain actions directed toward ''disadvantaged communities'' that are described as ''historically marginalized and overburdened.'' Executive Order 14096 builds upon and supplements Executive Orders 12898 and 14008. All three Executive Orders direct federal agencies to identify and address disproportionate environmental effects, even while the particular directives and protected classes vary among the three orders.

[87] 88 FR 87988, 88003–88005.

[88] 59 FR 7629 (February 16, 1994).

[89] See letter dated October 22, 2021, from environmental organizations to Michael S. Regan, Administrator, EPA, Subject: ''Meeting Request to Discuss PM–2.5 Crisis in the San Joaquin Valley,'' and letter dated May 18, 2022, from environmental organizations to Michael S. Regan, Administrator, Environmental Protection Agency, Subject: ''Meeting Request to Discuss PM–2.5 Crisis in the San Joaquin Valley'' (referred to in the EPA's Reasoned Justification TSD as the ''EarthJustice Letters'').

[90] EPA's Reasoned Justification TSD, p. 6 (within section II (''Control Measure Identification and Evaluation Methodology'')), pp. 13–17 (large boilers, steam generators, and process heaters), 29 (non-road, reciprocal internal combustion engines), pp. 58–59 (flares), pp. 73–76 (glass and related products), 80–84 (residential fuel combustion), p. 85 (fugitive dust controls), pp. 129–131 (managed burning and disposal), pp. 134–136 (commercial cooking), p. 147 (new source review), pp. 149–151 (indirect source review), and pp. 151–152 (soil NO_X). We also noted that we did not review the environmental organizations' recommendations for primarily VOC-related controls, as the EPA has approved the State's demonstrations that VOCs are not significant precursors for 1997 annual, 2006 24-hour, and 2012 annual $PM_{2.5}$ NAAQS in the San Joaquin Valley. See, *e.g.,* p. 53 (petroleum production and marketing), and p. 88 (confined animal facilities).

measure requirements (*e.g.,* RACM/RACT, BACM/BACT, or MSM) upon which contingency measures build.[91]

In addition, while the EPA may in certain circumstances have discretion to consider environmental justice in implementing the requirements of the Act, Executive Orders 12898, 14008, and 14096 do not provide any independent authority for action. The EPA has determined that this action satisfies the requirements of CAA section 172(c)(9) for the 1997 annual, 2006 24-hour, and 2012 annual $PM_{2.5}$ NAAQS in the San Joaquin Valley. Under the CAA, the EPA is required to approve a SIP submission that meets the requirements of the CAA and applicable federal regulations.

Although these Executive Orders do not provide us with an independent basis to disapprove CARB and the District's SIP submission, we conducted an environmental justice analysis to provide additional context and information about this rulemaking to the public, as described in section III of this document and section VI of our proposed rule. Overall, we expect that this action and the codification of the Residential Wood Burning Contingency Measure and the Rural Open Areas Contingency Measure, as well as the codification of the Smog Check Contingency Measure in our separate final action, will contribute to reduced negative environmental and health impacts on all populations in the San Joaquin Valley, including communities with EJ concerns. For these reasons, this action is not expected to have a disproportionately high or adverse human health or environmental effect on a particular group of people. The EPA remains committed to working with CARB and the District to ensure that the $PM_{2.5}$ attainment requirements for this area satisfy applicable CAA requirements and thereby protect all populations in the area, including communities with EJ concerns, from disproportionately high or adverse air pollution impacts.

Comment 10: The Valley EJ Organizations allege that, following the 2021 Ninth Circuit Court decision in *AIR* v. *EPA,* the EPA began colluding with CARB and California air districts to weaken the contingency measure requirement. The Valley EJ Organizations further state that, during meetings of a workgroup called the ''Padilla Contingency Measures Subgroup,'' the EPA committed to revise its long-standing interpretation of the contingency measure requirements, including specific elements that would relax emission reduction requirements and contend that the EPA's commitment yielded the Draft Revised Contingency Measure Guidance.[92] The commenters also contend that the EPA now proposes, as it allegedly agreed to during the Padilla Contingency Measures subgroup proceedings, to ''eviscerate the amount of contingency measure emission reductions'' and that the ''EPA has predetermined the outcome of these proposed rulemakings in an agreement with CARB and the air districts during the Padilla Contingency Measures Subgroup proceedings,'' thereby violating the procedural due process clause of the Fifth Amendment to the U.S. Constitution, CAA section 307, the Administrative Procedure Act, and Executive Orders 14008 and 14096.[93]

The Valley EJ Organizations include several documents obtained from the EPA via a Freedom of Information Act request to support their allegation of collusion.[94] These include, among other things, documents relating to EPA engagement in 2021–2023 with the California Air Pollution Control Officers Association (CAPCOA), the ''Padilla Contingency Measures Subgroup,'' a letter from South Coast Air Quality Management District, discussions with California air districts and CARB senior staff, and an email from EPA Region IX to SJVUAPCD. The commenters state that these documents indicate that the EPA worked closely with California air agencies to fashion an agreement to weaken the contingency measure requirement and that the EPA shared its revised guidance with the California agencies several months before releasing the revised guidance to the general public without regard for the public health consequences from weakening the contingency measure requirement.[95]

Response to Comment 10: We disagree that the EPA colluded with California air agencies to weaken the contingency measure requirement following the 2021 *AIR* v. *EPA* decision by the Ninth Circuit Court of Appeals. In this context, collusion refers to a secret agreement for an illegal purpose. The process we followed to reconsider and revise preexisting contingency measure guidance was not secret, nor was our agreement to reconsider and revise the guidance made for an illegal purpose.

The Clean Air Act is referred to as a model of cooperative federalism. Under the CAA, the EPA is responsible for establishing the NAAQS, and the states are responsible for developing SIPs and SIP revisions to provide for implementation, maintenance, and enforcement of the NAAQS. In turn, the EPA is responsible for promulgating regulations establishing SIP requirements and for providing guidance to the states in developing SIPs and SIP revisions to meet the various requirements under the CAA and our implementing regulations.

In that capacity, it is appropriate for the EPA to reconsider previously-issued guidance in the wake of court decisions that bear on EPA actions on SIPs that relied on that guidance.[96] In this instance, as discussed in the Draft Revised Contingency Measure Guidance, we issued the draft revised guidance document because recent court decisions had invalidated key aspects of EPA's historical approach to implementing the contingency measure requirement, and these court decisions had the effect of prohibiting an approach that many air agencies have historically used to meet the contingency measure requirement.[97]

The EPA developed the Draft Revised Contingency Measure Guidance based on the recommendations of an ad hoc internal working group, referred to as the Contingency Measure Task Force, that the EPA assembled soon after the D.C. Circuit Court of Appeals decision in *Sierra Club* v. *EPA*.[98] The Contingency Measure Task Force was comprised of EPA program staff and attorneys from both the EPA regions and headquarters. During the process of developing options for EPA management consideration and preparing the Draft Revised Contingency

[91] Nevertheless, beyond the scope of this rulemaking, the public may be interested in the EPA's estimates of the monetized benefit per ton of reducing $PM_{2.5}$ and ozone precursor emissions for certain emission sectors; available at *https://www.epa.gov/benmap/sector-based-pm25-benefit-ton-estimates.*

[92] Valley EJ Organizations Comment Letter, p. 2.

[93] Valley EJ Organizations Comment Letter, p. 11.

[94] Valley EJ Organizations Comment Letter, Exhibits 4 through 12.

[95] Valley EJ Organizations Comment Letter, pp. 8–11.

[96] See, for example, EPA Office of Transportation and Air Quality, ''Implementing Clean Air Act Section 182(d)(1)(A): Transportation Control Measures and Transportation Control Strategies to Offset Growth in Emissions Due to Growth in Vehicle Miles Travelled,'' EPA–420–B–12–053, August 2012 (revised guidance in light of the Ninth Circuit Court of Appeals decision in *Association of Irritated Residents* v. *EPA,* 632 F.3d 584, at 596–597 (9th Cir. 2011), reprinted as amended on January 27, 2012).

[97] Draft Revised Contingency Measure Guidance, p. 2.

[98] The *Sierra Club* v. *EPA* decision adopted the rationale of an earlier decision by the Ninth Circuit Court of Appeals in *Bahr* v. *EPA* that invalidated already-implemented measures as contingency measures for the purposes of CAA section 172(c)(9). *Sierra Club* v. *EPA,* 21 F.4th 815, 827–28 (D.C. Cir. 2021) and *Bahr* v. *EPA,* 836 F.3d 1218 (9th Cir. 2016).

Measure Guidance, California air agencies made their views known to the EPA, but those agencies played no part in the drafting or review of the recommendations made by the Contingency Measure Task Force to EPA management or the substance of the Draft Revised Contingency Measure Guidance itself.

Also in the spirit of cooperative federalism, the EPA routinely communicates with state and local air agencies responsible for SIPs and SIP revisions regarding compliance with SIP requirements. Again, the states are responsible for adoption and submission of SIPs and SIP revisions and there are consequences for failure to meet SIP submission deadlines.

In this instance, the EPA engaged with state and local air agencies to hear their concerns over meeting the contingency measure SIP requirements and to provide a description of the types of revisions to the contingency measure guidance that EPA staff were developing for consideration by EPA management. The impetus for heightened interest on the part of state and local air agencies was the need to meet near-term deadlines for submission of SIP revisions addressing the contingency measure SIP requirements for multiple ozone and $PM_{2.5}$ NAAQS. Documents cited by the commenter as evidence of collusion simply reveal that the EPA was responsive to state and local agency requests for insight as to what the contingency measure guidance revisions might entail if and when approved by EPA management. Thus the air agencies that developed SIP revisions in reliance on the descriptions by EPA staff of not-yet-approved revisions to the contingency measure guidance were taking a risk that the guidance, once made publicly available, would differ in material ways from what EPA staff had described.

With respect to the commitments that the EPA made in connection with the Padilla Contingency Measures Subgroup,[99] the EPA did not commit to making any specific revisions to the contingency measure guidance or to making any revisions to the guidance that are inconsistent with the CAA or case law. Rather, the Agency committed ''to explore interpretations and approaches that are consistent with the court decisions'' and, among other things, ''to revisit'' the general bases for calculating the amount of emission reductions that contingency measures should provide, but as noted previously, the EPA did not commit to any particular outcome. The Contingency Measure Task Force followed through on these commitments through meetings and review of draft documents that were internal to the EPA and eventual publication of notice in the **Federal Register** of the availability of the Draft Revised Contingency Measure Guidance for public review and comment. We believe the revised draft guidance provides an approach that state and local air agencies may use to meet the contingency measure SIP requirements under the CAA.

The EPA issued the Draft Revised Contingency Measure Guidance on March 17, 2023, and sought public comment on section 3 (''Showing that the CMs Achieve Sufficient Reductions''), section 4 (''Reasoned Justification for Less Than OYW of Progress''), and section 5 (''Guidance on Timing of Reductions from CMs'') of the draft guidance over a 30-day period ending April 24, 2023.[100] We applied the underlying concepts of the draft guidance in our evaluation of the SJV $PM_{2.5}$ Contingency Measure SIP, described as much in our proposed rule, and provided a 30-day comment period ending January 9, 2024, consistent with the public notice requirements of the CAA and the Administrative Procedure Act.[101]

For this action, we evaluated the two individual District contingency measures, the Residential Wood Burning Contingency Measure and the Rural Open Areas Contingency Measure, to determine whether they met the requirements for such measures under the CAA and the EPA's regulations. We also considered the sum of the emission reductions from the two individual District contingency measures plus CARB's Smog Check Contingency Measure relative to the recommended amount we have indicated contingency measures should achieve. Because the measures, considered together, would not achieve the recommended amount of emission reductions for NO_X, CARB and the District submitted infeasibility demonstrations documenting the unavailability of additional feasible contingency measures for that $PM_{2.5}$ precursor.

We reviewed and evaluated the infeasibility demonstrations and in our proposed rule provided the rationale for our conclusion that the individual District contingency measures met the applicable requirements for such measures and that CARB and the District had provided a reasoned justification, through the infeasibility demonstrations, for not adopting contingency measures sufficient to achieve the recommended amount of emission reductions for NO_X. In this action, we are finalizing our approval of the SJV $PM_{2.5}$ Contingency Measure SIP for the reasons given in the proposed rule, as clarified and supplemented in responses to comments. While the Valley EJ Organizations object to the consideration of feasibility in connection with the contingency measure SIP requirement, the commenters have raised no specific objection our evaluation of the infeasibility demonstrations from CARB and the District upon which our final approval rests.

In summary, in our proposed rule on the State's contingency measure SIP submissions for the $PM_{2.5}$ NAAQS in the San Joaquin Valley, as well as our Draft Revised Contingency Measures Guidance, we articulated a reasoned justification for the change in EPA policy on the contingency measure requirements and respond in this document to comments opposing those policy changes, and we explained how we were reviewing the 2023 SIP Submissions in light of the new guidance. The EPA believes that such actions satisfy the applicable requirements for public process under the CAA and Administrative Procedure Act, as well as our responsibilities to engage state and local air agencies on CAA requirements and the development of SIP revisions in the wake of applicable court decisions.

III. Environmental Justice Considerations

As described in detail in our proposal, the EPA reviewed environmental and demographic data for the San Joaquin Valley using the EPA's EJ screening and mapping tool (''EJSCREEN'') and compared the data to the corresponding data for the United States as a whole, and to California as a whole.[102] The results of the analysis are provided for

[99] The Padilla Contingency Measures Subgroup was one of several such ad hoc groups assembled in response to an inquiry from U.S. Senator Padilla. See the letter dated December 3, 2021, from Joseph Goffman, Principal Deputy Assistant Administrator to U.S. Senator Alex Padilla, responding to letter dated October 19, 2021, from U.S. Senator Alex Padilla to Michael Regan, Administrator, EPA.

[100] 88 FR 17571.

[101] 88 FR 87988.

[102] EJSCREEN provides a nationally consistent dataset and approach for combining environmental and demographic indicators. EJSCREEN is available at *https://www.epa.gov/ejscreen/what-ejscreen.* The EPA used EJSCREEN to obtain environmental and demographic indicators representing each of the eight counties in the San Joaquin Valley. These indicators are included in EJSCREEN reports that are available in the rulemaking docket for this action. EPA Region IX, ''EJSCREEN Analysis for the Eight Counties of the San Joaquin Valley Nonattainment Area,'' August 2022.

informational and transparency purposes.

This final action approves the State's contingency measure SIP submissions for the 1997 annual, 2006 24-hour, and 2012 annual $PM_{2.5}$ NAAQS in the San Joaquin Valley. Information on these $PM_{2.5}$ NAAQS and their relationship to health impacts can be found at 62 FR 38652 (July 18, 1997), 71 FR 61144 (October 17, 2006), and 78 FR 3086 (January 15, 2013), respectively. We expect that this action and resulting emission reductions will generally be neutral or contribute to reduced environmental and health impacts on all populations in the San Joaquin Valley, including communities with EJ concerns. At a minimum, this action would not worsen existing air quality and is expected to help ensure the area is meeting requirements to attain and/or maintain air quality standards. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

IV. EPA Action

For the reasons described in our proposed rule and in responses to comments and under CAA section 110(k)(3), the EPA is taking final action to approve SIP revisions submitted by CARB on June 8, 2023, and October 16, 2023, for the San Joaquin Valley to address the contingency measure SIP requirements for San Joaquin Valley for the 1997 annual, 2006 24-hour, and 2012 annual $PM_{2.5}$ NAAQS.

The SIP submissions include the contingency measure plan element for San Joaquin Valley for the relevant $PM_{2.5}$ NAAQS (referred to herein as the ''SJV $PM_{2.5}$ Contingency Measure SIP'') and two specific contingency measures, referred to herein as the Residential Wood Burning Contingency Measure and the Rural Open Areas Contingency Measure. We are approving the SJV $PM_{2.5}$ Contingency Measure SIP as meeting the applicable requirements of CAA section 172(c)(9) and 40 CFR 51.1014 for San Joaquin Valley for the applicable $PM_{2.5}$ NAAQS based on our approval of these two contingency measures, the emission reductions from the two contingency measures and the Smog Check Contingency Measure, and our review of the State's infeasibility demonstrations provided in the SJV $PM_{2.5}$ Contingency Measure SIP.

The Residential Wood Burning Contingency Measure and the Rural Open Areas Contingency Measure are included in amendments to SJVUAPCD Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters'') and Rule 8051 (''Open Areas''), respectively. We are taking final action to approve the two specific contingency measures because they meet the requirements under CAA section 172(c)(9) and 40 CFR 51.1014 for such measures.

As discussed in Section I.B of the proposed rule, on November 26, 2021, the EPA disapproved the contingency measure SIP elements submitted for the 2006 24-hour and 2012 annual $PM_{2.5}$ NAAQS for San Joaquin Valley.[103] These disapprovals were effective on December 27, 2021. In a separate action published on November 26, 2021, also effective December 27, 2021, the EPA disapproved the contingency measure element for the 1997 annual $PM_{2.5}$ NAAQS for San Joaquin Valley.[104]

In our November 26, 2021 final disapprovals, we noted that offset and highway sanctions under CAA sections 179(b)(2) and 179(b)(1), respectively, would not apply if California submits, and the EPA approves, a SIP submission or submissions that correct the deficiencies identified in our final actions prior to the imposition of sanctions.[105] Through this final approval action, we find that California has corrected the deficiencies associated with the contingency measure elements for the 1997 annual, 2006 24-hour and 2012 annual $PM_{2.5}$ NAAQS for San Joaquin Valley. Thus, upon the effective date of this final rule, all sanctions and any sanctions clocks associated with the disapprovals of the contingency measure elements for the 1997 annual, 2006 24-hour and 2012 annual $PM_{2.5}$ NAAQS for San Joaquin Valley will be permanently terminated.[106]

Lastly, based on this final action, we find that our FIP obligation arising from our December 6, 2018 finding of failure to submit is terminated, and thus, we will not be taking final action on our August 8, 2023 proposed $PM_{2.5}$ contingency measure FIP for San Joaquin Valley.[107]

V. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of SJVUAPCD Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters''), amended May 18, 2023, which regulates emissions from wood burning fireplaces, wood burning heaters, and outdoor wood burning devices, and Rule 8051 (''Open Areas''), amended September 21, 2023, which regulates fugitive dust from open areas. The May 18, 2023 version of Rule 4901 and the September 21, 2023 version of Rule 8051 will replace the previously approved versions of these rules, respectively, in the California SIP. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves a state plan and related measures as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

[103] 86 FR 67343.

[104] 86 FR 67329.

[105] 86 FR 67329, 67341 and 86 FR 67343, 67346–67347. We note that, concurrent with our proposed rules to approve the State's 2023 SIP submissions, the EPA issued an interim final determination that stayed offset sanctions and deferred highway sanctions. 88 FR 87934 (December 20, 2023).

[106] In addition, our CAA section 110(c) FIP obligations arising from the disapprovals of the contingency measure elements will be permanently terminated.

[107] See our December 20, 2023 proposed rule at 88 FR 87991 for a discussion of the finding of failure to submit and related FIP obligation.

• Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the final 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 communities with EJ concerns to the greatest extent practicable and permitted by law. The EPA defines EJ as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

CARB and the District did not evaluate EJ considerations as part of the SIP submissions addressed in this action; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an EJ analysis, as described in section III of this document and section VI of the EPA's proposed rule, entitled ''Environmental Justice Considerations.'' The EPA conducted this analysis for the purpose of providing additional context and information about this rulemaking to the public, and the EPA does not rely on this analysis as a basis for this final action. In addition, the EPA has addressed comments on Executive Orders relating to EJ in Response to Comment 9 of this document. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving EJ for communities with EJ concerns.

This action is subject to the Congressional Review Act, 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and it shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 25, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

For the reasons discussed in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(334)(i)(B)(*3*), (c)(535)(i)(A)(*2*), (c)(618) and (619) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(334) * * *

(i) * * *

(B) * * *

(*3*) Previously approved on February 17, 2006, in paragraph (c)(334)(i)(B)(*2*) of this section and now deleted with replacement in paragraph (c)(619)(i)(A)(*1*) of this section: Rule 8051, ''Open Areas,'' amended on August 19, 2004.

* * * * *

(535) * * *

(i) * * *

(A) * * *

(*2*) Previously approved on July 22, 2020, in paragraph (c)(535)(i)(A)(*1*) of this section and now deleted with replacement in paragraph (c)(618)(i)(A)(*1*) of this section: Rule 4901, ''Wood Burning Fireplaces and Wood Burning Heaters,'' amended on June 20, 2019.

* * * * *

(618) The following plan revisions were submitted electronically on June 8, 2023, by the Governor's designee, as an attachment to a letter dated June 7, 2023.

(i) *Incorporation by reference.* (A) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4901, ''Wood Burning Fireplaces and Wood Burning Heaters,'' amended on May 18, 2023.

(*2*) [Reserved]

(B) [Reserved]

(ii) *Additional materials.* (A) San Joaquin Valley Unified Air Pollution Control District.

(*1*) ''$PM_{2.5}$ Contingency Measure State Implementation Plan Revision (May 18, 2023),'' adopted on May 18, 2023, excluding Rule 4901, ''Wood Burning Fireplaces and Wood Burning Heaters.''

(*2*) [Reserved]

(B) [Reserved]

(619) The following plan revision was submitted electronically on October 16, 2023, by the Governor's designee, as an attachment to a letter dated October 13, 2023.

(i) *Incorporation by reference.* (A) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 8051, ''Open Areas,'' amended on September 21, 2023.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

* * * * *

§ 52.237 [Amended]

■ 3. Section 52.237 is amended by removing and reserving paragraphs (a)(9), (10) and (11).

[FR Doc. 2024–22681 Filed 10–3–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[EPA–HQ–OPP–2022–0133; FRL–8528–05–OCSPP]

RIN 2070–AK92

Pesticides; Agricultural Worker Protection Standard; Reconsideration of the Application Exclusion Zone Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is finalizing revisions to the application exclusion zone (AEZ) requirements in the Agricultural Worker Protection Standard (WPS). EPA has determined that several aspects of the AEZ provisions, such as those regarding the applicability of the AEZ and distance determination criteria, should be revised to reinstate previous requirements that better protect public health and limit exposure for those who may be near ongoing pesticide applications. To restore these protections, EPA is finalizing the AEZ rule proposed on March 13, 2023, as proposed without change.

DATES: This final rule is effective December 3, 2024. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 3, 2024.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2022–0133, 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: Carolyn Schroeder, Pesticide Re-Evaluation Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2376; email address: *schroeder.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you work in or employ persons working in crop production agriculture where pesticides are applied. 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:

- Agricultural Establishments (NAICS code 111000);
- Nursery and Tree Production (NAICS code 111421);
- Timber Tract Operations (NAICS code 113110);
- Forest Nurseries and Gathering of Forest Products (NAICS code 113210);
- Farm Workers (NAICS codes 11511, 115112, and 115114);
- Pesticide Handling on Farms (NAICS code 115112);
- Farm Labor Contractors and Crew Leaders (NAICS code 115115);
- Pesticide Handling in Forestry (NAICS code 115310);
- Pesticide Manufacturers (NAICS code 325320);
- Farm Worker Support Organizations (NAICS codes 813311, 813312, and 813319);
- Farm Worker Labor Organizations (NAICS code 813930); and
- Crop Advisors (NAICS codes 115112, 541690, 541712).

If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What is the Agency's authority for taking this action?

This action is issued under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 through 136y, particularly sections 136a(d), 136i, and 136w.

C. What action is the Agency taking?

EPA is finalizing the AEZ rule that was proposed on March 13, 2023 (88 FR 15346; FRL–8528–03–OCSPP) (hereinafter ''2023 Proposed Rule''; Ref. 1), as proposed and without change. In so doing, the Agency is revising certain AEZ requirements of the WPS that were amended by EPA in a final rule published on October 30, 2020 (hereinafter ''2020 AEZ Rule''; Ref. 2). As further explained in Unit II.A.4., the effective date of the 2020 AEZ Rule was stayed pursuant to a court order; that is, the 2020 AEZ Rule has not gone into effect. This rulemaking, once in effect, replaces the requirements that were published under the 2020 AEZ Rule but never went into effect.

Specifically, EPA is rescinding three of the amendments outlined in the 2020 AEZ Rule and reinstating the related AEZ requirements as published in a final rule on November 2, 2015 (hereinafter ''2015 WPS''; Ref. 3), with certain modifications. The following three amendments from the 2020 AEZ Rule are being rescinded:

1. *The area where the AEZ applies.* This rule rescinds language from the 2020 AEZ Rule that limited the applicability of the AEZ to the agricultural employer's property. As such, with this rule, applications must be suspended whenever someone is within the AEZ, regardless of whether that person is on or off the agricultural establishment.

2. *The exception to application suspension requirements for property easements.* Under this rule, applications must be suspended whenever someone is within an AEZ, even if they are not employed by the establishment and in an area subject to an easement that prevents the agricultural employer from temporarily excluding those individuals from that area.

3. *The distances from the application equipment in which entry restrictions associated with ongoing ground-based pesticide applications apply.* Under this rule, the AEZ distance is 100 feet for ground-based fine spray applications and 25 feet, generally, for ground-based applications using medium or larger droplet sizes.

EPA is also amending the AEZ provisions in the 2015 WPS as follows:

1. *Clarifies when suspended applications may be resumed.* This rule specifies that applications that were suspended due to individuals entering an AEZ may be resumed after those individuals have left the AEZ. As a result, this rule supersedes EPA's previous interpretive guidance on resuming applications in circumstances when individuals off-establishment are in the AEZ (see Unit VI.B.; Refs. 4 through 6).

2. *Provides an exemption allowing owners and their immediate family to remain within the AEZ in certain scenarios.* Under this rule, farm owners and members of their immediate family may shelter within closed structures within an AEZ during pesticide applications, provided that the owner has instructed the handlers that only the owner's immediate family are inside the closed shelter and that the application should proceed despite their presence. Handlers may proceed with applications under these circumstances.

3. *Replaces the volume median diameter (VMD) criteria with droplet size classification standards.* Under this rule, the standard that will be used as the droplet size criterion when making

AEZ distance determinations based on droplet size is the technical standard established by the American Society of Agricultural Engineers (ASAE). ASAE was renamed the American Society of Agricultural and Biological Engineers (ASABE) in 2005, which is also endorsed by the American National Standards Institute (ANSI). Although ASABE is now the organization of record for these standards, the specific size standard reflects the name of the organization that existed at the time that the standard was established.

Each of these changes is explained in more detail in Unit IV.

D. Why is the Agency taking this action?

EPA reexamined the 2020 AEZ Rule consistent with Executive Order 13990 (Ref. 7), and in response to a factual error that EPA discovered in the 2020 AEZ Rule's preamble while compiling the administrative record for litigation (see Unit II.A.4 and Unit II.A.5.). As a result of EPA's reexamination of the 2020 AEZ Rule, the Agency determined that certain amended AEZ requirements in the 2020 AEZ Rule should be rescinded, with several protections from the 2015 WPS regulatory text being reinstated. EPA determined that reinstatement of these protections from the 2015 WPS will be more effective at reducing potential exposures from ongoing pesticide applications and promote public health for all populations and communities near agricultural establishments. In addition, EPA's analysis supporting the 2015 WPS shows that these protections will better support the Agency's efforts to reduce disproportionate risks associated with agricultural pesticide exposures that currently fall on populations and communities with a history of environmental justice concerns, particularly agricultural employees (*i.e.,* workers and handlers), the employees' families, and the communities that live near establishments that use pesticides (Ref. 3). Reinstating the regulatory text for certain AEZ requirements from the 2015 WPS will be associated with minimal cost to the regulated community, as described in Unit III. These revisions are consistent with FIFRA's mandate to protect health and the environment against unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits.

E. What are the estimated incremental impacts of this action?

EPA assessed the potential incremental economic impacts of this action, as compared to both the 2015 WPS and the 2020 AEZ Rule. EPA used this approach because the 2015 WPS has continued to provide the operative regulatory language for the AEZ requirements during the court-ordered stay of the 2020 AEZ Rule (see Unit II.A.4.). As compared to the 2015 WPS, EPA determined that the 2020 AEZ Rule had minimal impacts (see Unit III.A.). Similarly, EPA found that the impact of the changes in this final rule on agricultural establishments is likely to be small relative to the 2020 AEZ Rule (see Unit III.B.). EPA's analysis addresses other implications of this action as well (see Unit III.C.).

II. Context and Goals for This Rulemaking

A. Context for This Rulemaking

1. The WPS

EPA implements FIFRA's mandate to limit adverse effects on human health in part through the WPS regulation codified at 40 CFR part 170. The WPS is a uniform set of requirements for workers, handlers, and their employers that are generally applicable to all agricultural pesticides and are incorporated onto agricultural pesticide labels by reference. The WPS is intended to reduce the risk of illness and injury to agricultural workers and pesticide handlers who may be exposed to pesticides while working. The WPS requirements are generally applicable to pesticides used in crop production agriculture and made applicable to certain pesticide products through FIFRA's pesticide product registration process by inclusion of a statement requiring WPS compliance on the product label. The WPS requirements complement the product-specific labeling restrictions and are intended to minimize occupational exposures generally. When a registered pesticide label includes a statement requiring compliance with the WPS, any failure to comply with the WPS when using a pesticide is a violation of FIFRA.

The risk reduction measures of the WPS may be characterized as being one of three types: information, protection, and mitigation. To ensure that employees will be informed about exposure to pesticides, the WPS requires that workers and handlers receive training on general pesticide safety, and that employers provide access to information about the pesticides with which workers and handlers may have contact. To protect workers and handlers from pesticide exposure, the WPS prohibits the application of pesticides in a manner that exposes workers or other persons, generally prohibits workers and other persons from being in areas being treated with pesticides, and generally prohibits workers from entering a treated area while a restricted-entry interval (REI) is in effect (with limited exceptions that require additional protections). In addition, the rule protects workers by requiring employers to notify them about areas on the establishment treated with pesticides through posted and/or oral warnings. The rule protects handlers by ensuring that they understand proper use of and have access to required personal protective equipment (PPE). Finally, the WPS has provisions to mitigate exposures if they do occur by requiring the employer to provide workers and handlers with an ample supply of water, soap, and towels for routine washing and emergency decontamination. The employer must also make transportation available to a medical care facility if a worker or handler may have been poisoned or injured by a pesticide and provide health care providers with information about the pesticide(s) to which the person may have been exposed.

2. History of the AEZ Requirements

In 2015, EPA promulgated a final rule that comprehensively revised the WPS for the first time since 1992 (Ref. 8). The 2015 WPS added several pesticide-related safety measures and strengthened elements of the existing regulation in areas including training, notification, pesticide safety and hazard communication information, and use of PPE. The 2015 WPS also implemented updated requirements for providing supplies for routine washing and emergency decontamination.

Under the WPS established in 1992 (57 FR 38101, August 21, 1992 (FRL–3374–6)), the pesticide handler's employer and the pesticide handler were required to ensure that no pesticide is applied in a manner that may contact, either directly or through drift, any agricultural worker or other person, other than an appropriately trained and equipped pesticide handler involved in the application (Ref. 8). This prohibition is often referred to as the ''Do Not Contact'' provision and is applicable in all situations, without limitations on distance or location of the individuals. This particular provision was carried over into the 2015 WPS revisions and has remained unchanged (Ref. 3).

Among other changes to improve public health and to build upon the existing protections of the 1992 WPS, the 2015 WPS established AEZ requirements for outdoor production application to reinforce the existing ''Do

Not Contact'' provision and to enhance overall compliance with safe application practices intended to protect agricultural workers and bystanders from pesticide exposure from sprays and drift (Ref. 3). The AEZ is an area surrounding the point(s) of pesticide discharge from the application equipment that must generally be free of all persons during pesticide applications. The AEZ moves with the application equipment while the application is ongoing and ceases to exist around the equipment once the pesticide application ends. After the application has been completed or the application equipment has moved on to a new area, entry restrictions associated with treated areas go into effect.

The 2015 WPS requirement at 40 CFR 170.505(b) required pesticide handlers (applicators) making a pesticide application to temporarily suspend the application if any worker or other person, other than trained and equipped handlers assisting in the application, was within the AEZ. The 2015 WPS revisions further required a handler to suspend an application if a worker or other person was in any portion of the AEZ, on or off the establishment. These restrictions were intended to bolster the protections afforded by the ''Do Not Contact'' provision, promote an application approach aimed at reducing incidents in which people in areas adjacent to pesticide applications could be affected by either direct contact or drift, and establish a well-defined area from which people generally must be excluded during ongoing applications. The AEZ requirement was one of the many public health protection tools incorporated into the 2015 WPS rule to emphasize one of the key safety points in both the WPS and on pesticide labels: do not spray people.

As outlined in the 2015 WPS, the size of the AEZ was dependent largely on the application method used. For aerial, air blast, fumigant, smoke, mist, and fog applications, as well as sprays using a spray quality (droplet spectrum) of smaller than medium (defined as VMD of less than 294 microns), the area encompassed 100 feet from the application equipment in all directions. For other applications sprayed from a height of greater than 12 inches from the planting medium using a spray quality (droplet spectrum) of medium or larger (defined as VMD of 294 microns or greater), the area encompassed 25 feet from the application equipment in all directions. For all other applications, there was no AEZ.

3. The 2020 AEZ Rule Modifying the AEZ Provisions of the 2015 WPS

On October 30, 2020, EPA published revisions to the AEZ provisions under the WPS (Ref. 1). The 2020 AEZ Rule would have modified the AEZ requirements to limit the AEZ to an agricultural employer's property where an agricultural employer can lawfully exercise control over employees or bystanders who may be within the AEZ during an application, and would have simplified the criteria for determining the AEZ distances for ground spray applications. In addition, clarifications were made on when applications may resume after being suspended due to someone entering the AEZ, as well as providing an exemption for farm owners and their immediate family so that they would not have to leave their homes or another enclosed structure when it is located within an AEZ. The 2020 AEZ Rule revisions did not include any changes to the ''Do Not Contact'' provision in the WPS, which still prohibited applying pesticides in a manner that may result in contact either directly or through drift. The rule was set to go into effect on December 29, 2020; however, the effective date was stayed by the court.

4. Actions Under Judicial Review

As explained in the **Federal Register** of May 16, 2022 (87 FR 29673; FRL–9803–01–OCSPP), two civil actions were filed in the U.S. District Court for the Southern District of New York (S.D.N.Y.) on December 16, 2020, challenging the 2020 AEZ Rule (now consolidated as case number 1:20–cv–10642). Additionally, two petitions for review were filed in the U.S. Second Circuit Court of Appeals on December 17, 2020 (case numbers 20–4174 and 20–4203), which have been held in abeyance pending the proceedings in the district court.

On December 28, 2020, S.D.N.Y. issued an order granting plaintiffs' request for a temporary restraining order (TRO) and injunctive relief (Ref. 9). The court's order stayed the December 2020 effective date of the 2020 AEZ Rule and enjoined all EPA authorities who would otherwise take action to make the 2020 AEZ Rule effective from doing so. Following the December 2020 order, S.D.N.Y. issued several additional orders consented to by both EPA and the plaintiffs, further extending the preliminary injunction and staying all proceedings in the case (*e.g.,* Ref. 10). As a result, the 2020 AEZ Rule has never gone into effect.

5. EPA's Reconsideration of Certain 2020 AEZ Rule Amendments

Concurrent with the ongoing litigation, the 2020 AEZ Rule was included among several EPA actions identified for review in accordance with Executive Order 13990 (Refs. 7 and 11). In the course of reviewing both the 2015 WPS and 2020 AEZ Rules in accordance with Executive Order 13990, EPA found that some of the 2020 revisions to the AEZ requirements (specifically, the 2020 AEZ Rule's simplification of AEZ distance requirements and the limitation of the applicability of the AEZ requirements to the agricultural establishment's boundaries) are inconsistent with the objectives of protecting against unreasonable adverse effects on human health and the environment and limiting exposure to dangerous chemicals and pesticides for all populations, including those who may experience disproportionate burden or risks such as workers, handlers, and those who live, work, or play on or near agricultural establishments. The Agency determined that the 2020 changes did not effectively balance the potential social and economic costs associated with limiting the AEZ requirements to areas under the owner's control and simplifying the distance criteria for ground-based spray applications (Ref. 1).

Furthermore, while preparing the administrative record for litigation, EPA discovered a factual error contained in the preamble of the 2020 AEZ Rule regarding the scope of AEZ content within EPA-approved trainings. Specifically, the preamble to the 2020 AEZ Rule states that ''EPA-approved trainings since 2018 . . . have also incorporated EPA's 2016 guidance on how to apply pesticides near establishment borders and provide information on various measures applicators or handlers can take to prevent individuals from being contacted by spray or through drift,'' and listed examples of such measures (Ref. 2). This assertion in the 2020 AEZ Rule was in error. While all EPA-approved trainings are in compliance with the WPS because they address the minimum requirements of the AEZ (40 CFR 170.501), after reevaluating the rule, EPA has determined that some of the trainings it has approved since 2018 only contain a partial set of the topics provided in guidance regarding best pesticide application practices near the borders of an establishment and on potential measures that can be used to prevent contact through drift (Refs. 4 through 6). Therefore, the reliance on this inaccurate assumption provides

further reason to reinstate the 2015 WPS requirements regarding the applicability of AEZs off the establishment and within easements.

B. Goals of This Rulemaking

With this final rule, EPA is restoring protections originally established in the 2015 WPS that were amended by the 2020 AEZ Rule. By reestablishing the AEZ distances from the 2015 WPS and reinstating the applicability of the AEZ off-establishment and in easements, the rule will protect the health of all who may be within the vicinity of an ongoing pesticide application. Since agricultural workers, their families, and communities living near agricultural establishments may represent populations of environmental justice concern, the rulemaking also supports EPA's broader efforts to reduce the disproportionate burden of pesticide exposure on certain communities. Reducing such disproportionate burdens was a goal of both the 2015 WPS and Executive Order 13990 (Refs. 3 and 7).

EPA also seeks to improve the clarity of the AEZ regulation with this action. Hence, this rule retains the clarification from the 2020 AEZ Rule that specifies that suspended applications may resume once no one is in the AEZ. As discussed in more depth in Unit V.E., that clarification will supersede EPA's previous interpretive guidance (''2016/2018 Guidance'') on resuming applications in situations where people off the agricultural establishment are in the AEZ (Refs. 4 through 6). EPA anticipates that eliminating the 2016/2018 Guidance and relying instead on the plain language of the regulation will make the AEZ requirements clearer and support their implementation and enforcement.

To further clarify the AEZ requirements, EPA is finalizing new amendments to the criteria used to define droplet sizes and thus to determine AEZ distances. The 2015 WPS used a VMD value of 294 microns to distinguish between ''fine'' and ''medium'' or larger droplets, and thus to determine whether the AEZ should be 25 or 100 feet. The specific VMD value was derived from the original version of the ASABE standard, which is often referenced in nozzle manufacturers' selection guides. However, the ASABE standard has been revised several times, and ASABE no longer defines ''medium'' by a single numerical VMD value, but rather by a range. Moreover, applicators in the field often determine droplet size by selecting the appropriate nozzle according to its ASABE rating. EPA is therefore finalizing its proposal to define droplet sizes as ''medium'' or larger by incorporating the ASABE standard itself. The ASABE standard is familiar to and well understood by the regulated community.

Additionally, EPA aims with this rule to provide some regulatory relief for family-operated farms where it does not increase exposure risk to workers and bystanders. Therefore, this action finalizes the exemption for immediate family members under specific scenarios to remain within the AEZ, reducing management complexities for farming families.

III. Economic Analysis

A. 2015 WPS Baseline Assessment

Since the 2020 AEZ Rule has not been implemented due to the court-ordered stay discussed in Unit II.A.4., the 2015 WPS has continued to provide the operative regulatory language for the AEZ requirements during the current stay and any future extensions of the stay. Therefore, the Agency has determined that there will be no new impacts from the portions of this rule reinstating the 2015 WPS provisions that make the AEZ applicable beyond the boundaries of an agricultural establishment and within easements on the agricultural establishment.

Additionally, this rule reinstates the 2015 WPS criteria and factors for determining AEZ distances at 40 CFR 170.405(a) for ground spray applications, except for language around VMD as a determining factor (see Unit IV.C.). The Agency does not anticipate any new costs or impacts due to reinstating this regulatory language since the 2015 WPS remains in effect. Removing VMD from the AEZ criteria and instead using droplet size classifications (*i.e.,* ''medium'' as defined by the ASABE; see Unit VII.) is expected to provide a clear, practical, and easy approach for determining AEZ and enclosed space distances. EPA anticipates that this revision will improve compliance with other AEZ requirements and make it easier to enforce these provisions by eliminating any need to determine whether an application is over or under the specified VMD of 294 microns, as required by the 2015 WPS.

EPA is also maintaining certain revisions that were presented in the 2020 AEZ Rule, such as the provision that clarifies that pesticide applications that were suspended due to individuals entering an AEZ may be resumed after those individuals have left the AEZ, and the exemption that allows farm owners and members of their immediate family (as defined in 40 CFR 170.305) to shelter within closed structures within an AEZ during pesticide applications, provided that the owner has instructed the handlers that only the owner's immediate family are inside the closed shelter and that the application should proceed despite their presence (further described in Units IV.B.2. and V.F.). The revision that clarifies when suspended applications may resume better aligns with EPA's intent in the 2015 WPS. While this clarification does not result in any impacts compared to the intent of the 2015 WPS, it does nullify the 2016/2018 Guidance, the impacts of which are further described in Unit III.C.

Finalizing an immediate family exemption means that owners and their immediate family members do not have to leave their homes that are within an AEZ if the doors and windows remain closed. By retaining the immediate family exemption, some applications will be simpler and less burdensome than the 2015 WPS since fewer applications would need to be suspended on family farms. The impact is likely small, as the change would only apply to immediate family members of the farm owner who are inside a structure and within the AEZ. These changes are consistent with the intent of the AEZ in the 2015 WPS, particularly with regard to the immediate family exemptions that are applicable to other portions of the 2015 WPS. Maintaining these clarifications and flexibilities provide some regulatory relief that was sought after promulgation of the 2015 WPS without increasing exposure risks to workers or bystanders.

B. 2020 AEZ Rule Baseline Assessment

The 2020 AEZ Rule was initiated in response to feedback from members of the agricultural community, including the U.S. Department of Agriculture (USDA), State pesticide regulatory agencies, several agricultural interest groups, and a limited number of public comments. These comments raised concerns about the complexity and enforceability of the AEZ requirements after the 2015 WPS was promulgated. For the 2020 AEZ Rule, EPA qualitatively described the benefit of the rule as a reduction in the complexity of applying a pesticide (Ref. 12). The benefits described were not monetary; revising the requirements would have reduced the complexity of arranging and conducting pesticide applications and enforcing the provisions. The benefits of the 2020 AEZ Rule would have resulted in some reduced management complexity both on and off establishment, because there would

have been fewer situations where the AEZ would have applied had the rule gone into effect (*i.e.,* the AEZ would not have been applicable off the establishment or for individuals within an easement on the establishment). EPA did not discuss any costs, or increased risk from pesticide exposure, in the 2020 AEZ Rule's supporting documents due its reliance on the ''Do Not Contact'' requirement that establishes the responsibility of the applicator to prevent pesticides from contacting people either directly or through drift. This is in part because the ''Do Not Contact'' provision (further described in Unit II.A.2.) is applicable in all situations, without limitations on distance or the individual's location respective to the application.

Compared to the 2020 AEZ Rule, the changes in this rulemaking will result in the AEZ encompassing a greater area and applying in more situations. Had the 2020 AEZ Rule been implemented, the 2020 AEZ Rule would have applied only in situations where people can be directed by the owner of the establishment, while this rulemaking would apply in all situations, regardless of whether people may not be under the direction of the owner, such as individuals off the establishment or within easements. To effectively implement the changes in this rule compared to the 2020 AEZ Rule, owners and handlers may need to communicate more frequently with those nearby the establishment or within easements to ensure that nobody is within the AEZ and may require an application to be suspended or rescheduled. However, with the 2020 AEZ Rule as a baseline, the impact of these changes on agricultural establishments is likely to be small. Conversely, having the AEZ be applicable in all directions, regardless of whether an individual is on or off the establishment, may simplify applications in the sense that the handler does not need to apply different requirements to different situations.

In addition, the 2020 AEZ Rule sought to establish a simplified 25-foot AEZ for all ground-based spray applications above 12 inches, regardless of the droplet size. This rule reinstates the 2015 WPS criteria and factors for determining AEZ distances at 40 CFR 170.405(a) for ground spray applications, except for language around VMD as a determining factor (as further explained in Units IV.C. and V.C.). If the 2020 AEZ Rule had gone into effect, this action may have resulted in more complex application strategies because the different AEZ distances may have come into play more often and owners and handlers would have had to consider more carefully the various application and nozzle characteristics. However, restoring the droplet size criteria back to the 2015 WPS language (*i.e.,* medium droplets as a threshold) results in increased protection from applications using fine sprays that are more susceptible to spray drift compared to the 2020 AEZ Rule. Additionally, EPA's decision to not reinstate VMD as a criterion and instead rely on the ASABE standard's definition of ''medium'' droplet size better reflects how applicators in the field determine droplet size (by selecting the appropriate nozzle according to its ASABE rating). The change should make it easier for applicators to understand the original requirements regarding how to achieve specific droplet classifications and how to implement the appropriate AEZ based on that information. As a result, the impact of these changes in droplet size criteria is expected to be small compared to the 2020 AEZ Rule.

As previously noted, EPA is retaining certain changes made by the 2020 AEZ Rule, such as the provision that clarifies that pesticide applications that were suspended due to individuals entering an AEZ may be resumed after those individuals have left the AEZ, and the exemption that allows farm owners and members of their immediate family (as defined in 40 CFR 170.305) to shelter within closed structures within an AEZ during pesticide applications, provided that the owner has instructed the handlers that only the owner's immediate family are inside the closed shelter and that the application should proceed despite their presence (further described in Units IV.B.2. and V.F.). These changes are consistent with the intent of the AEZ in the 2015 WPS, particularly with regard to the immediate family exemptions that are applicable to other portions of the 2015 WPS. Retaining these clarifications and flexibilities in this rule provides some regulatory relief that was sought in the 2020 AEZ Rule without increasing exposure risks to workers or bystanders.

Compared to the 2020 AEZ Rule, the requirements of this rule regarding individuals off the establishment and within easements are more protective of workers and bystanders when implemented rather than relying on the ''Do Not Contact'' requirement as the only protective measure when individuals are outside of the owner's control, as under the 2020 AEZ Rule.

Public comments submitted to the docket during the 2015 WPS rulemaking included examples of incidents where workers were exposed to pesticide applications from neighboring establishments as well as from the establishment where they were working. EPA continues to receive reports of incidents like those provided in past comments, despite the ''Do Not Contact'' requirement and the expectation that applicators and handlers must not spray pesticides in a manner that may result in contact with individuals. As noted in the 2015 WPS, out of 17 incidents identified in the comments, only one could have been prevented if the AEZ was limited to the boundaries of the agricultural establishment, as would have been established had the 2020 AEZ Rule gone into effect. EPA's analysis at the time indicated that the AEZ, if complied with, could have prevented at least four of the incidents reported in the 2015 WPS comments, and possibly as many as 12, depending on the actual distances between the workers and application equipment (Ref. 3). While the Agency is unable to quantify the number of incidents that could be reduced by the AEZ, the AEZ requirements serve as an important supplement to the ''Do Not Contact'' requirements and are expected to reduce the total number of exposures if implemented correctly and consistently.

C. Additional Considerations for the Final Rule

While this final rule does not impose additional requirements beyond what the 2015 WPS requires, stakeholders also requested that EPA codify 2016/2018 Guidance stating that applicators could resume applications when people off the establishment were in the AEZ, provided they first suspended the application and then evaluated the situation to ensure that no contact would occur (Refs. 4 through 6). While EPA determined not to codify the 2016/2018 Guidance (for reasons explained in Unit V.E.), stakeholders highlighted a potential burden to handlers: pesticide applications may be more difficult in areas where vehicles can pass through the AEZ. EPA considered but chose not to adopt an exception for some vehicles passing through an AEZ. An exception for some vehicles could create additional risks to vehicle occupants, as described in Units V.B. and V.E. There is no additional burden relative to the 2015 WPS in choosing not to adopt the exception, because the 2015 WPS contained no exception to the requirement to suspend the application when someone is in the AEZ (except for properly trained and equipped handlers involved in the application). The 2016/2018 Guidance simply clarified when suspended applications could resume. Therefore, EPA concluded that the

benefits of including an exception for some vehicles were outweighed by potential risks to vehicle occupants passing through the AEZ. Although the exception would reduce the complexity of an application when some vehicles pass through an AEZ, the benefits are unlikely to be substantial in most cases.

Under this final rule, as in the 2015 WPS, suspending an application is required when a vehicle enters the AEZ. A vehicle could only enter the AEZ when the field is adjacent to a road, a portion of the road is within the AEZ (after considering any ditches or turnrows between the field and the road), and a vehicle is passing through the AEZ during an application at the edge of the field nearest the road. In most cases, the burden could be managed by the applicator suspending the application as the vehicle approaches the AEZ and resuming the application once the vehicle has left the AEZ, which could increase the time to complete the task as an applicator would suspend and resume application. In many rural areas where heavy traffic is unlikely, cases of vehicles passing through the AEZ during an application may be infrequent. In some cases, such as when a heavily trafficked road is adjacent to an agricultural establishment, it may be difficult for the applicator to suspend and resume applications between passing vehicles. In these cases, applicators may be able to change the timing of application to a time when there is less traffic or alter the application in such a way as to have a smaller AEZ (*i.e.,* choosing a product that allows larger droplet size, which might require changing the pesticide applied). If none of these approaches are feasible, the owner or handler could be unable to treat the area of the agricultural establishment bordering the road. Owners could use another, potentially less cost-effective pest control method in this area, cease pest control in this area, or stop production in the area entirely. The latter options could imply a substantial impact on the affected area of the field where a vehicle could pass through an AEZ. The relative impact will be larger on smaller or narrow fields that border a busy road, as a larger portion of the field would be affected. EPA is unable to quantify how many growers would be substantially affected considering that growers typically manage multiple fields, but substantial impacts to a farm as a whole are likely to be rare.

IV. Proposed Changes to the AEZ Requirements

On March 13, 2023, EPA published a proposed rule (2023 Proposed Rule) that reconsidered the 2020 AEZ Rule requirements in response to Executive Order 13990 (Ref. 1). The Agency proposed to rescind three amendments from the 2020 AEZ Rule and reinstate the corresponding requirements from the 2015 WPS (see Unit IV.A.). The Agency also proposed three amendments to improve the clarity of the AEZ provisions and provide some regulatory relief to family-operated farms. Two of these amendments were provisions from the 2020 AEZ Rule that the Agency proposed to retain, as they do not increase risk for workers and bystanders (see Unit IV.B.). The third was a new provision to clarify the meaning of the ''medium'' droplet size (see Unit IV.C.). The proposed amendments are outlined in this unit.

A. Rescind Provisions From the 2020 AEZ Rule

The Agency proposed to rescind the following amendments from the 2020 AEZ Rule and reinstate the corresponding 2015 WPS Rule requirements.

1. The Area Where the AEZ Applies

EPA proposed to revise the AEZ provision at 40 CFR 170.505(b) requiring that pesticide handlers ''suspend the application'' if a worker or other person (other than a trained and equipped handler) is in the AEZ. The 2020 AEZ Rule added a clause limiting the applicability of the suspension requirement to the agricultural employer's property, such that the AEZ would no longer cover bystanders on adjacent establishments. As a result, had the 2020 AEZ Rule gone into effect, it would have relied solely upon the ''Do Not Contact'' requirement in the WPS as the method of protecting people on adjacent properties. EPA proposed to reinstate the 2015 WPS regulatory text requiring pesticide handlers to suspend applications if any worker or other person, other than appropriately trained and equipped handlers involved in the application, enters an AEZ, regardless of whether those people are on or off the establishment. EPA also proposed to make conforming revisions to the handler training requirements at 40 CFR 170.501(c)(3)(xi), and the exemptions at 40 CFR 170.601(a)(1)(vi) to reflect the applicability of the AEZ both on and off the establishment.

2. The Exception to Application Suspension Requirements for Property Easements

EPA proposed to remove language from 40 CFR 170.405(a)(2)(ii) and 170.505(b)(1)(ii) and (b)(2)(ii) that made the AEZ requirements inapplicable in easements. The 2020 AEZ Rule would have created an exception for agricultural employers and handlers, wherein they would not have been required to suspend pesticide applications if an individual not employed by the establishment was within an AEZ but in an area subject to an easement, where the agricultural employer may not be able to restrict entry. EPA proposed to reinstate the 2015 WPS regulatory text that requires pesticide handlers to suspend applications if any worker or other person, other than appropriately trained and equipped handlers involved in the application, enters an AEZ, regardless of whether they are in an area subject to an easement.

3. The Distances From the Application Equipment in Which Entry Restrictions Associated With Ongoing Pesticide Applications Apply

EPA proposed to reinstate the 2015 WPS criteria and factors for determining AEZ distances at 40 CFR 170.405(a) for ground spray applications, except for language around a VMD as a determining factor (see Unit IV.C.). The 2020 AEZ Rule would have eliminated the criteria for determining the AEZ distances based on droplet size, establishing a single 25-foot AEZ for all ground-based spray applications made from a height greater than 12 inches from the soil surface or planting medium, irrespective of droplet size. EPA proposed to reinstate the 2015 WPS regulatory text, which specifies an AEZ distance of 100 feet for sprays using a spray quality (droplet spectrum) of smaller than medium, and a 25-foot AEZ for ground applications sprayed from a height greater than 12 inches from the soil surface or planting medium using a spray quality (droplet spectrum) of medium or larger.

B. Retain Provisions From the 2020 AEZ Rule

EPA proposed to retain two provisions from the 2020 AEZ Rule that did not increase exposure risk to workers and bystanders. These provisions sought to improve the clarity of the AEZ requirements and to provide some regulatory relief for family-operated farms.

1. Clarification on When Suspended Applications Could Be Resumed

In the 2020 AEZ Rule, EPA revised 40 CFR 170.505(b) to clarify that applications that had been suspended because individuals were in the AEZ could be resumed after those individuals had left the AEZ. EPA proposed to retain this revision.

2. Exemption Allowing Owners and Their Immediate Family To Remain Within the AEZ in Certain Scenarios

EPA proposed to retain the immediate family exemption at 40 CFR 170.601. In the 2020 AEZ Rule, EPA added an exemption that allows farm owners and members of their immediate family (as defined in 40 CFR 170.305) to shelter within closed structures within an AEZ during pesticide applications, provided that the owner has instructed the handlers that only the owner's immediate family are inside the closed shelter and that the application should proceed despite their presence. The exemption also permits handlers to proceed with an application when owners or their immediate family members remain inside closed buildings, housing, and structures, provided that the owner has expressly instructed the handler that only the owner and/or their immediate family members remain inside the closed building and that the application can proceed despite the owner and their immediate family members' presence inside the closed building. It does not permit non-family members to remain within the closed structure.

C. Replace the VMD Criteria With the ASABE Droplet Size Classification Standards

In addition to rescinding and retaining the provisions from the 2020 AEZ Rule discussed in Units IV.A. and IV.B., EPA proposed to incorporate the droplet size categories of all versions of the ASAE Standard 572 (S572) (Refs. 13 through 16) by reference in 40 CFR 170.405, to give meaning to the ''medium'' droplet size criterion (for more information on the incorporation by reference, see Unit VII.). The 2015 WPS used a VMD value of 294 microns to distinguish between fine spray applications and spray applications using medium or larger droplet sizes; this VMD value was the determining criterion for AEZ distances. The VMD criterion reflected an older version of S572, which used the value of 294 microns to define ''medium'' (Ref. 13). However, S572 has been revised several times (see Unit VII.; Refs. 14 through 16). While the categorization of ''medium'' droplet sizes has remained largely constant, the specific VMD values that were the basis for the criteria in the 2015 WPS requirements have changed. Moreover, applicators in the field often determine droplet size by selecting the appropriate nozzle according to its S572 rating. EPA therefore proposed to replace VMD with an incorporation by reference to S572 for droplet size, which defines droplet size categories for the classification of spray nozzles, relative to specified reference fan nozzles. The S572 classifications and categories are generally well understood by the regulated community and are referenced in several places, including on pesticide product labels as updated through EPA's Registration Review process, as well as in nozzle manufacturers' selection guides to assist applicators in determining which nozzles and spray characteristics will produce various droplet sizes that are consistent with the S572 classifications.

To maintain consistency in the requirements between outdoor production applications and applications associated with enclosed space production, EPA also proposed to remove VMD as a criterion for entry restriction distances during enclosed space production pesticide applications, instead using the same droplet size standards as those used for outdoor production.

V. Public Comments and EPA Responses

The public comment period for the 2023 Proposed Rule closed on May 13, 2023. EPA received feedback from 25 commenters (28 submissions total) specific to the 2023 Proposed Rule. USDA submitted additional comments during the public comment period. Some of the 25 comments discussed the AEZ as a general principle while others focused on specific requirements.

A. General Comments on the AEZ

1. Comments

Several agricultural business stakeholders, as well as State lead agencies represented by the National Association of State Departments of Agriculture (NASDA), expressed general opposition to the AEZ requirements, characterizing them as complex, burdensome for growers and handlers, and duplicative of existing protections (*e.g.,* label requirements and ''Do Not Contact''). They stated that the need for the AEZ is not supported by incident data.

Several farmworker advocacy organizations, along with numerous State Attorneys General and one State lead agency commented that the AEZ is necessary to protect human health, including that of farmworkers, bystanders, and surrounding communities. They characterized the AEZ as consistent with EPA's responsibilities under FIFRA, as well as EPA policies and principles of environmental justice and children's health. To support their statements, commenters cited studies, incident data, and anecdotal evidence of pesticide exposures to workers and bystanders beyond that which EPA considered for the 2015 WPS. One commenter presented a series of photographs and maps demonstrating the proximity of agricultural fields to schools and playgrounds. Commenters also noted that pesticide exposure incidents are underreported.

2. Response

EPA disagrees with commenters who suggested that the AEZ requirements are duplicative or unjustified by incident data. The Agency considers the AEZ necessary to address incidents of contact from agricultural pesticide applications. As EPA determined during its analysis for the 2015 WPS, ''Do Not Contact,'' on its own, has been insufficient to protect workers and bystanders; handlers require a guideline (Ref. 3). Although EPA published amendments to the AEZ requirements in 2020, the Agency maintained that some sort of guideline is necessary. Furthermore, commenters on this action and the proposal that was finalized as the 2020 AEZ Rule (2019 Proposed Rule) identified several incidents that might have been prevented by correct implementation of the AEZ requirements. EPA's review of data from the Sentinel Event Notification System for Occupational Risks-Pesticides (SENSOR-pesticides), the National Pesticide Information Center (NPIC), EPA's Incident Data System, and State surveillance systems identified others, including incidents in the years after the AEZ requirements went into effect and incidents involving sensitive populations (Refs. 17 through 20). For example, in June 2023, after the public comment period for the 2023 Proposed Rule closed, 12 workers in Oregon appear to have been exposed to an application less than 25 feet from a tractor applying pesticides in a neighboring field (Ref. 19). Of the 12 workers, 10 had adverse health effects and one was hospitalized. Similarly, in California in 2016, 2018, and 2019, State surveillance data captured incidents of agricultural pesticides contacting passing school buses (Ref. 18). While much incident data lacks specific details about the distance to application equipment, it supports the need for handlers to be aware of their surroundings and suspend applications when workers and bystanders are nearby; in other words, it supports the general approach of the AEZ requirements. Moreover, EPA agrees with commenters that exposure

incidents are underreported. As described in the economic analysis for the 2015 WPS, health care providers may not always report incidents of pesticide exposure because there is no universal reporting requirement or central reporting point (Ref. 21). In addition to these barriers for health care providers, EPA acknowledges that the literacy, language, legal, economic, and immigration status of agricultural workers creates challenges for those who wish to access the health care that would be a primary route for reporting pesticide incidents. Due to underreporting and limitations in the information collected, there may have been incidents supporting the need for an AEZ that pesticide surveillance systems did not capture. While the Agency is unable to quantify the number of incidents that may have been prevented by correct implementation of the AEZ requirements, the information from incidents that EPA has reviewed and the Agency's understanding of factors contributing to underreporting generally support the necessity of an AEZ as an additional administrative control measure for handlers in support of protecting public health.

EPA agrees with commenters that the AEZ is consistent with its obligations under FIFRA, Agency policy, and executive orders on environmental justice and children's health (Refs. 7, 22 and 23). EPA's analysis of the 2015 WPS showed that the regulation would reduce risks that fall disproportionately on populations of environmental justice concern, such as workers, handlers, and their families and nearby communities. EPA reexamined the 2020 AEZ Rule in accordance with Executive Order 13990, which identifies environmental justice as an Administration priority, and found that the 2020 AEZ Rule reduced key protections established by the 2015 WPS (Ref. 7). Therefore, EPA is finalizing this rule to reinstate those provisions and restore protections. Similarly, although this action is not expected to have a disproportionate impact on children, EPA is persuaded by the specific examples that commenters provided, as well as its own findings from incident data, that the AEZ could reduce the potential for children to be exposed to pesticides.

B. Area Where the AEZ Is Applicable and Exception for Easements

1. Proposed Rule

EPA proposed to reinstate the 2015 WPS regulatory text requiring pesticide handlers to suspend applications if any worker or other person, other than appropriately trained and equipped handlers involved in the application, enters an AEZ, regardless of whether they are on or off the establishment or in an area subject to an easement.

2. Final rule

EPA has finalized as proposed the area where the AEZ requirements are applicable, and removed the exception for easements that would have been established under the 2020 AEZ Rule.

3. Comments

Several Attorneys General, farmworker advocacy organizations, a State lead agency, and two members of the public commented in support of the proposal to reinstate the applicability of the AEZ requirements off-establishment and in easements. These commenters stated that the AEZ must extend off-establishment to protect the health of farmworkers, farmworker families, and surrounding communities, since pesticide drift does not automatically stop at the establishment boundaries. Similarly, one organization and several Attorneys General noted that the proposal to reinstate the applicability of AEZ requirements in easements protects essential utility and postal workers, among others.

Commenters in support of reinstating this requirement cited studies, incident data, and anecdotes from both before and after the 2015 WPS rulemaking to demonstrate that people near agricultural establishments, not just on them, are at risk from pesticide exposure. Children and populations of environmental justice concern may live or spend time near agricultural fields (for example, in migrant farmworker housing or childcare centers). Therefore, commenters also suggested that requiring AEZ protections to extend off the establishment and into easements is consistent with executive orders, EPA policies, and general principles of children's health and environmental justice.

One commenter noted that the ''Do Not Contact'' requirement does not stop at the establishment boundaries. They suggested that the applicability of the AEZ requirements off-establishment supports ''Do Not Contact'' and would improve compliance.

NASDA and several agricultural business stakeholders opposed requiring AEZs to be applicable in all areas near an ongoing application, including off the establishment and in easements. Many of these commenters noted that establishment owners, agricultural employers, and handlers cannot control the movement of people off-establishment or in easements, and that pesticide applications are time-sensitive. They suggested that the requirement to suspend for individuals within an AEZ off the establishment could delay applications until the optimal application time had passed, resulting in less effective applications and lost yield. Similarly, one commenter suggested that off-establishment AEZ requirements could restrict access to farm roads and facilities for long periods, disrupting local economies. These commenters indicated that the requirements would particularly affect fields with easements, fields bordering roads and houses, and aerial applications.

Some commenters suggested that off-establishment AEZ requirements could result not only in delayed applications but also in permanent setbacks. USDA, agricultural business stakeholders, and a member of the public suggested that owners might choose to leave parts of their land unsprayed rather than repeatedly suspend the application. They identified fields bordering busy roads, fields bordering housing, and areas with limited visibility (such as orchards) as situations where setbacks might be more likely. Setbacks would lead to lost yield. Commenters stated that the impact of leaving land unused would be greatest for smaller farms.

Several agricultural business stakeholders raised legal concerns with the applicability of the AEZ off-establishment. Two commenters suggested that owners, employers, and handlers who attempted to restrict entry to or activities on areas not on their property but within the AEZ could face legal liability. Another commenter expressed the same concern over easements, noting that easements grant a right of access to certain parties.

While not opposing the applicability of the AEZ off-establishment or in easements, one State lead agency noted that handlers may struggle to make determinations about whether people are in the AEZ when the AEZ extends past the property line. They encouraged EPA to hold the agricultural employer or a licensed applicator responsible for implementation of this provision.

Several commenters discussed how AEZ requirements that apply off-establishment will affect communication among handlers and others in agricultural areas. USDA expressed concern that handlers would have to engage in burdensome communication with people off-establishment, while two advocacy organizations suggested that extending AEZ requirements off-establishment would encourage positive, proactive communication among neighbors about upcoming applications.

4. Response

EPA agrees with commenters who assert it is necessary for the AEZ requirements to apply off-establishment and in easements to protect human health, including that of communities of environmental justice concern (such as workers, handlers, and their families) and sensitive populations, such as children. As noted in the preamble to the 2015 WPS, out of 17 incidents of pesticide exposure identified in the comments, only one could have been prevented if the AEZ were limited to the boundaries of the agricultural establishment. EPA's analysis indicated that the AEZ could have prevented at least four of the incidents reported in the comments on the 2015 WPS, and possibly as many as 12 (Ref. 3).

EPA also agrees with commenters who state that for the AEZ requirements to effectively supplement the ''Do Not Contact'' provision, the AEZ must extend beyond the boundary of the establishment as the ''Do Not Contact'' provision does. The AEZ regulation provides an additional requirement for handlers such that their applications do not contact people either directly or through drift. That requirement should be equally useful to handlers complying with ''Do Not Contact'' whether the AEZ is on- or off-establishment. Incident data from NPIC, SENSOR-pesticides, State surveillance, and EPA's incident data system suggests generally that the need for this requirement is ongoing (Refs. 17 through 20). For example, pesticide surveillance systems continue to capture exposure incidents involving people on off-establishment roads, such as the incidents involving contact to school buses referenced in Unit V.A.2. EPA found examples of incidents involving contact to people on roads even after the AEZ went into effect. For instance, in 2018, Washington State surveillance captured an incident in which a man driving to work was contacted by an airblast application 30 to 40 feet away (Ref. 20). This incident and the school bus incidents referenced above are meant to serve only as examples, not to establish trends; but they provide additional support for EPA's finding in the 2015 WPS that the AEZ is necessary to supplement ''Do Not Contact'' beyond the boundary of the establishment.

EPA disagrees with commenters who suggested that AEZ requirements applicable beyond the boundary of the establishment and in easements are equivalent to permanent setbacks in all or even most cases. There are several means by which agricultural employers and handlers can limit the need to suspend their applications due to the movement of people off-establishment and in easements. They may choose to adjust the type of pesticide application such that the AEZ is only 25 feet, selecting a product that allows for medium or coarser droplets. Alternatively, employers and handlers may choose to provide advanced notification of planned applications to ensure no one is in the AEZ or choose to complete the application at a time when there are fewer people present in the area (although the requirement to suspend an application if people are in the AEZ remains). Moreover, as discussed in further detail in Unit III.C., these alternatives are likely only necessary in select, infrequent circumstances.

In the same way, EPA is not persuaded that the applicability of the AEZ requirements off-establishment and in easements causes unreasonable delays to applications, restricts access to farm facilities for long periods of time, or places an undue burden of communication on owners, employers, and handlers. The AEZ moves with the application equipment and exists only while the application is ongoing. As discussed in Unit III.B., EPA anticipates that the economic impacts of the requirements off-establishment and in easements are likely small in most cases, even as compared to the 2020 AEZ Rule. Furthermore, the ''Do Not Contact'' requirement has always been applicable beyond the boundary of the establishment, so the AEZ requirement adds minimal (if any) burden to what was already required in many situations before 2015. Owners, employers, and handlers can also reduce any potential disruption to the application by adjusting application type or timing or by providing advance notification, as discussed in the previous paragraph.

Commenters' concerns that the AEZ puts owners, employers, and handlers in legal jeopardy by forcing them to restrict access to or activities on others' property appear to reflect a misunderstanding of the AEZ requirements. The AEZ does not require that owners, employers, or handlers restrict access to others' property. The ''keep out'' requirement at 170.405(a)(2) (where the agricultural employer is prohibited from allowing or directing any worker or other person to enter or remain in the AEZ,) is only applicable on the agricultural establishment and within the boundaries of the AEZ or treated area. Similarly, the AEZ does not force owners, employers, or handlers to control the activities of people off-establishment. If someone is in the AEZ off-establishment (for example, if a neighbor pulls into their home's driveway and into the AEZ), the requirement is for the handler to suspend the application until the person leaves the AEZ. Therefore, EPA is not placing an affirmative duty on agricultural establishment owners or handlers to restrict the movement of people outside the boundaries of the agricultural establishment or creating potential legal liability for owners or handlers.

Similarly, EPA is not persuaded by comments stating that the AEZ requirements put agricultural employers in legal jeopardy by forcing them to restrict access to easements on the agricultural establishment. If an AEZ overlaps with part of an easement on the agricultural establishment, the agricultural employer is required to ensure that no one enters that AEZ; however, they are not required to keep people out of the easement entirely. As the AEZ exists only immediately around the application equipment and during the application, any limitations to easement access would be small in scope and temporary. Furthermore, if someone in an easement were within the AEZ, the handler would only have to suspend the application to comply with the AEZ requirements. Therefore, EPA is not placing an affirmative duty on handlers or owners to control the actions of persons in easements and in turn, is not creating potential legal liability for owners or handlers in extending the AEZ into easements.

Overall, EPA maintains that even if the AEZ provisions cause minor disruption to agricultural operations or necessitate some additional communication, the benefits of the AEZ extending to workers and bystanders off-establishment outweigh the burden on the regulated community. Continued reports of incidents since the 2015 WPS went into effect highlight the need for compliance with the AEZ requirements to protect human health. As discussed in Unit III.B., EPA anticipates that the applicability of the AEZ requirements off-establishment and in easements will likely have only a small impact in most cases as compared to the 2020 AEZ Rule. Furthermore, EPA reiterates that the requirements to suspend the application for individuals off-establishment and in easements have been in place since the 2015 WPS and thus do not represent new costs for the regulated community.

With respect to the comment stating that handlers may struggle to determine whether people are in the AEZ when it extends off-establishment, the Agency reiterates that handlers already bear responsibility under the WPS for

ensuring that pesticides do not contact people beyond the boundaries of the establishment. The AEZ indicates *how* to avoid contact, setting minimum required distances for suspending the application. However, it should also be noted that there is no restriction in the rule limiting responsibility to the handler. The decision to hold liable the owner of the establishment or a certified applicator is made on a case-by-case basis.

EPA plans to issue guidance to support establishment owners, agricultural employers, and handlers in complying with AEZ requirements related to applications near the boundaries of the establishment and easements. In this compliance assistance guidance, EPA will consider including suggestions on communication, as well as strategies that limit the need for such communication (*e.g.,* changing the path or timing of the application).

C. Distance Requirements and Replacing the VMD Criteria With the ASABE Droplet Size Classification Standards

1. Proposed Rule

EPA proposed to reinstate the 2015 WPS regulatory text, which specifies a distance of 100 feet for sprays using a spray quality of smaller than medium, and a 25-foot AEZ for ground applications sprayed from a height greater than 12 inches from the soil surface or planting medium using a spray quality of medium or larger.

EPA also proposed to replace the VMD criteria with the ASABE droplet size classification standards, for both indoor and outdoor production (Refs. 13 through 16).

2. Final Rule

EPA has finalized as proposed the AEZ distances and droplet size criteria. EPA has finalized its proposal to replace VMD criteria with the ASABE droplet size classification standard, as proposed, for both indoor and outdoor production.

3. Comments

Several agricultural business stakeholders opposed the AEZ distances in the 2023 Proposed Rule, as well as the use of droplet size as the criterion to determine the size of the AEZ. These commenters advocated for the use of product-specific distances, as EPA has established for pesticides that require buffer zones; or for the use of factors besides droplet size to control drift, such as spray pressure, wind direction, and wind speed.

Some farmworker advocacy organizations, though generally supportive of the 2023 Proposed Rule, questioned whether the size of the AEZ is sufficiently protective of human health. These stakeholders cited studies and State incident data that found drift from airblast applications at distances greater than 100 feet, as well as anecdotal reports of continued exposures.

Other farmworker advocacy organizations, as well as several Attorneys General, commented in support of the AEZ distance requirements in the 2023 Proposed Rule, stating that they are necessary to protect human health. One commenter cited anecdotes, enforcement cases, and incident data of farmworkers and community members within 100 feet of an ongoing application who were contacted by pesticides. Several commenters referenced studies demonstrating that smaller droplets drift farther than larger ones, reasoning that finer-droplet sprays require larger AEZs.

Two farmworker advocacy organizations also commented in support of using the ASABE standards for droplet size to determine the size of the AEZ. They remarked that the ASABE standards are well understood by the regulated community because they are used to rate spray nozzles, which could reduce the complexity of implementing the rule and improve compliance. A farm bureau also expressed support for use of the ASABE standards, though opposing the distance requirements. Another farmworker advocacy organization noted that the ASABE standards are not well understood by farmworkers and asked that this information be provided to workers in a language they understand.

4. Response

While EPA appreciates the data and studies cited by commenters, the Agency has determined that re-establishing the AEZ distances from the 2015 WPS is the best approach.

Studies cited in response to this action and in response to the 2020 AEZ Rule (Refs. 24 through 28), as well as information contained in the administrative record for the 2015 WPS rule, show that pesticide applications using sprays with droplets smaller than medium are prone to drift greater than 25 feet. Therefore, EPA has determined that a 100-foot AEZ for sprays with droplets smaller than medium is needed to protect workers or bystanders near these fine-spray applications.

With respect to comments urging an AEZ distance of greater than 100 feet for certain application types, EPA notes, firstly, that the WPS does not function in isolation. The AEZ is intended to serve as a baseline protection measure when product labels do not provide greater protections. When labels are more protective, they take precedence. For example, rather than the AEZ, which exists only during the application, soil fumigants may have label-mandated buffer zones that begin during the application and remain after the application has concluded. These buffers may be up to half a mile wide. In this way, EPA already supplements the AEZ distances with product label-specific instructions in cases where there is a particular, increased risk.

Second, in this rulemaking, EPA reconsidered AEZ distances only with respect to application type. To reconsider the distances themselves would require a new evaluation of the human health and economic impacts of the AEZ requirements, as well as their enforceability. EPA finds the current human health and economic impacts analyses detailed in this final rule to be sufficient for establishing AEZ distances. Finally, the 100-foot distance is familiar to stakeholders, having been the operative AEZ distance for certain applications since 2015. This distance is also consistent with previous protective distances for nursery production under the 1992 WPS (Ref. 8). Familiarity and consistency aid compliance.

Though EPA appreciates that some commenters have considered the range of techniques available to reduce drift, the Agency is similarly not persuaded by commenters' request for further product- or application-specific protections in lieu of the AEZ. As discussed above, the WPS and labeling requirements work in tandem: the WPS is a more general, uniform set of standards for pesticide safety while the labeling requirements provide more tailored protections based on the specifics of each chemical and application method. A uniform AEZ is consistent with that approach. Moreover, while EPA is aware of the many methods and technologies to reduce drift, it agrees with one State lead agency's comment that not all pesticide handlers are highly trained and equipped certified applicators. There is need for a supplement to ''Do Not Contact'' that serves all handlers, regardless of training or experience.

EPA agrees with commenters who asserted the ASABE standards are well understood by regulated community. EPA believes that the incorporation of the ASABE standard into the rule will allow handlers to quickly and easily determine AEZ size, reducing the complexity of implementation, since the

standard is often referenced in nozzle manufacturers' selection guides. EPA also anticipates that this revision will improve compliance with other AEZ requirements and make it easier to enforce these provisions by eliminating any need to determine the VMD.

In developing its compliance assistance guidance, EPA will consider providing clarity around the ASABE droplet size standard as needed.

D. Clarification on Resuming Suspended Applications

1. Proposed Rule

In the 2020 AEZ Rule, EPA added text clarifying that applications that had been suspended because individuals were in the AEZ could be resumed after those individuals had left the AEZ. EPA proposed to retain the clarification under this action.

2. Final Rule

EPA has finalized as proposed the clarification on resuming applications.

3. Comments

NASDA, agricultural business stakeholders, and several farmworker advocacy stakeholders supported the proposal to clarify when suspended applications could resume. Commenters agreed that the language provides necessary clarity. A farmworker advocacy organization suggested that by providing certainty to handlers, the clarification would improve compliance with ''Do Not Contact.'' NASDA qualified its support, indicating that the clarification should only apply on-establishment.

While not opposing this provision, one State lead agency noted that pesticide handlers may not be certified applicators or even native English speakers. As such, handlers may not have language skills to ask bystanders to leave the AEZ so that the application can resume or the training to adjust the application path. The State agency recommended that the rule be further clarified so that an employer or certified applicator is held responsible for resuming applications.

4. Response

Although EPA always intended for suspended applications to resume once persons have left the AEZ, EPA agrees with commenters that the regulation is clearer when this is made explicit. EPA hopes that the provision also improves compliance. EPA disagrees that the clarification should only apply to applications within the agricultural establishment's boundaries, for the reasons outlined in Unit V.B.

While EPA recognizes the comment stating that handlers are not always certified applicators or native English speakers, the Agency believes that all handlers should have the skills necessary to suspend the application when people enter the AEZ and resume it after they leave. Handlers already bear responsibility under the WPS for ensuring that pesticides do not contact people; the AEZ complements implementation of the ''Do Not Contact'' provision by providing a minimum distance at which they must suspend the application.

It should be noted that there is no restriction in the rule limiting responsibility to the handler. The decision to hold liable the owner of the establishment or a certified applicator are made on a case-by-case basis. In its compliance assistance guidance, EPA will consider including best practices to support agricultural employers and various handlers with the new clarification on resuming applications.

E. EPA's 2016/2018 Guidance on Resuming Suspended Applications

1. Proposed Rule

In Units II.B.3. and II.C.3. of the 2023 Proposed Rule, EPA requested input on the adequacy of procedures laid out in previous interpretive guidance documents (two from 2016 and one from 2018) for resuming applications in situations where the AEZ extends off-establishment or into easements (Refs. 4 through 6). These procedures allow pesticide handlers to resume applications when people off-establishment or in easements are in the AEZ, provided handlers first suspend the application and then evaluate conditions to ensure there will be no contact. The 2016/2018 Guidance provides a number of best application practices handlers could use to evaluate conditions, ranging anywhere from asking people to move from the AEZ until the application equipment has moved on to assessing wind direction and other weather conditions to determine that the application will not blow toward bystanders. Because the 2023 Proposed Rule specifies that applications (whether on- or off-establishment) can only resume once people have left the AEZ, it nullifies the 2016/2018 Guidance.

2. Final Rule

EPA has finalized as proposed the clarification regarding when suspended applications may resume. Procedures from EPA's 2016/2018 Guidance are nullified by this action.

3. Comments

USDA and agricultural business stakeholders commented in support of the procedures from the 2016/2018 Guidance, maintaining that they accommodate economic and logistical needs without posing additional risk to workers and bystanders. Commenters suggested that, if applicators were not able to resume applications as indicated in the 2016/2018 Guidance, applications along busy roads and near houses or farm facilities would be frequently disrupted. Additionally, USDA described difficulties for ground-based applicators in orchards or vineyards even with the flexibilities of the 2016/2018 Guidance. If visibility is poor, these handlers ''might not even see people passing [off-establishment] who are within the AEZ and would only have the option to make applications under conditions that ensure no pesticide contact.''

USDA suggested that, in the absence of the 2016/2018 Guidance, establishment owners would be forced to set back from their property lines, foregoing part of their yield. They laid out a hypothetical estimating the potential impact of 50-foot setbacks on an agricultural operation. USDA also noted that guidance does not have the force of regulation and can be inconsistently enforced, or else revoked. To prevent potential losses and avoid inconsistencies, USDA suggested codifying language similar to the 2016/2018 Guidance in this rule that permits handlers to resume applications after they have evaluated and determined that people outside of the establishment's boundaries will not be contacted by the pesticide application, either directly or through drift.

A farmworker advocacy organization commented in opposition to the procedures from the 2016/2018 Guidance, stating that they posed an unreasonable risk to bystanders. This commenter suggested that the 2016/2018 Guidance contradicts the common-sense interpretation of the requirement that applications must be suspended when ''any worker or other person . . . is in'' the AEZ. They also noted that the 2016/2018 Guidance procedures rely heavily on the discretion of the handler; under the 2016/2018 Guidance, the handler determines case by case whether contact will occur, how to prevent contact, and when it was safe to resume the application. In contrast, if the handler could not resume the application until people have left the AEZ, regardless of whether they were on- or off-establishment, the only determination they had to make was

whether people were within 25 or 100 feet. Referencing EPA's analysis from the 2015 WPS and decision to supplement ''Do Not Contact'' with an AEZ, the commenter maintained that there is a need to simplify handlers' decision-making, rather than rely exclusively on their judgment; and that allowing handlers broad discretion increases the risk of bystander exposure.

Similarly, the State lead agency noted that pesticide handlers are not always highly trained certified applicators. As a result, some handlers may not have the skills to evaluate whether environmental conditions allow them to safely resume applications, or the knowledge to choose an appropriate drift-reduction technology. The commenter proposed that the employer or a certified applicator be held responsible for determining when to resume applications.

4. Response

Comments revealed a number of limitations to the 2016/2018 Guidance that EPA had not previously considered. First, rather than provide the intended clarity, the 2016/2018 Guidance introduced ambiguity into the AEZ and opened the door to inconsistent interpretation and enforcement of the AEZ requirements. Codifying the procedures would continue this ambiguity. The ''evaluation'' step is open-ended, with any number of methodologies that could be used to determine whether an application can resume. The lack of specificity could again lead to complexity and inconsistencies in implementation and enforcement across states.

Second, as one commenter noted, the procedures outlined in the 2016/2018 Guidance relied extensively on handlers' discretion and involve a more complex assessment beyond what the current AEZ provisions require. While judgments may be made with the benefit of extensive training and advanced technology, EPA agrees with the State lead agency's comment, which noted that not all handlers are certified applicators. The open-ended ''evaluation'' step is inconsistent with the AEZ's purpose: to serve as a uniform guideline for all types of handlers. Incident data continues to suggest that there is a need to supplement ''Do Not Contact'' in a way that relies less on handler discretion. For example, under the 2016/2018 Guidance a handler might evaluate and determine that they can safely resume an application despite the presence of a passing car, believing that people inside a car are safe from contact. Yet pesticide surveillance data has captured any number of ways in which people inside moving vehicles may be contacted by pesticides: via open windows, open sunroofs, and through the vehicle's ventilation system. In California in 2018, for instance, a student in a school bus was contacted by foam from an airblast application, which drifted through the open window (Ref. 18). While it is uncertain whether correct implementation of the AEZ requirements and 2016/2018 Guidance would have prevented the incident, it illustrates a scenario in which relying on the discretion of a handler could increase the human health risk of the application.

Finally, in light of comments, EPA believes that the 2016/2018 Guidance procedures do not necessarily reduce logistical burdens in the ways originally thought or as commenters described, if implemented correctly. The 2016/2018 Guidance did not create an exception to the 2015 WPS suspension requirement; the procedures outlined in guidance only describe when handlers can resume applications after they first suspend them and then evaluate the situation to ensure there will be no contact. In the case of a property bounded by an off-establishment road, the handler would still have to suspend the application when a vehicle enters the AEZ. If a handler is unable to suspend in time because visibility is poor or because cars pass through the AEZ too quickly, they would not have been consistent with the 2016/2018 Guidance procedures even if they had evaluated the situation before beginning application and determined no contact would occur. While the 2016/2018 Guidance may have reduced some logistical burdens, it did not allow applications near establishment boundaries to proceed entirely unimpeded. Thus, upon further consideration, EPA does not believe correct implementation of the 2016/2018 Guidance would result in substantial benefit. Moreover, with regard to concerns about ground-based applicators, EPA notes that irrespective of the AEZ requirements and any associated guidance, handlers are always required under the 2015 WPS to ensure that pesticide applications are made under conditions that ensure no contact.

F. Exemption Allowing Owners and Their Immediate Family To Remain Within the AEZ in Certain Scenarios, and Other Comments on Pesticide Applications Near Housing

1. Proposed Rule

EPA proposed to include an immediate family exemption for certain AEZ scenarios. Specifically, EPA proposed to allow owners and their immediate family members to remain inside closed houses or structures in the AEZ during pesticide applications. The exemption also permits handlers to proceed with an application under these circumstances, provided that the owner has communicated certain information beforehand.

2. Final Rule

EPA has finalized the exemption for owners and their immediate family members, as proposed.

3. Comments

Agricultural business stakeholders discussed logistical and financial difficulties for owners and handlers when housing lies within the AEZ. They described delays in farming operations if immediate family members were forced to leave the house during applications on their property. One farm bureau also noted the potential for delays stemming from houses located off-establishment less than 100 feet from the property line. This commenter noted that local regulations may not always require houses to be built farther away, and that it can be difficult for a handler to determine whether off-establishment houses are occupied.

As a result, NASDA and agricultural business stakeholders, as well as one advocacy organization, commented in favor of the immediate family exemption. These commenters noted that the exemption provides flexibility for farming families and reduces delays in applications.

Farmworker advocacy organizations discussed the potential human health risks associated with pesticide applications near farmworker housing. Commenters cited studies and anecdotal evidence of the poor quality of farmworker housing; houses may not be fully sealed to the outdoors, and cooking and laundry facilities may be open-air. These commenters suggested that the AEZ requirements do not account sufficiently for the risk of drift into houses or the risk of post-application exposure. In response, three organizations recommended that the AEZ be enforced as a buffer zone around employer-provided housing. One proposed an advanced notification requirement when housing will fall into the AEZ, so that residents can proactively take in laundry and cover cooking facilities.

Several commenters also elaborated on the logistical and financial difficulties that people who live near agricultural establishments face when housing falls in the AEZ, suggesting that

families may be forced to relocate for long periods, and even overnight, due to ongoing pesticide applications. In response, one commenter suggested that applications near housing be restricted to certain times of day.

Two farmworker advocacy organizations stated that they did not oppose the exemption or took no position on it. One of these commenters recommended that owners clarify for handlers that the immediate family exemption does not apply to labor housing.

4. Response

EPA agrees with comments in support of the immediate family exemption that suggested that the immediate family exemption will make some pesticide applications on family farms simpler and less burdensome. As stated in the 2023 Proposed Rule, EPA anticipates that owners will take appropriate steps to protect their family members in the AEZ; thus, the exemption provides flexibility at minimal risk to human health and without compromising the health of workers and non-family bystanders. As commenters requested, EPA plans to issue compliance assistance guidance. In this guidance, EPA will consider including best practices on communications between establishment owners and handlers to support the implementation of the immediate family exemption.

EPA agrees with commenters who cited studies demonstrating that the quality of housing in agricultural communities is variable (see, *e.g.,* Refs. 29 through 32). Thus, EPA has limited housing-related exceptions to owners of agricultural establishments and immediate family members in enclosed structures on the establishment, as proposed. In the case of on-establishment structures occupied by the owner and their immediate family, the owner is likely to know about major physical deficiencies and whether the structure is sufficiently enclosed (for example, free from leaks and broken windows) to protect family members inside. In contrast, an establishment owner will have less insight into the quality of off-establishment housing.

EPA acknowledges commenters' concerns over pesticide applications near housing. EPA believes many of these commenters' suggestions, such as advanced notification or clarifying that the immediate family exemption does not apply to labor housing, can be addressed through guidance. Others, such as buffer zones around employer-provided housing, are beyond the scope of this action and would require additional analysis and public discussion to determine the appropriateness of buffers and buffer sizes around employee housing or other structures on the establishment where workers may be present. Employer-provided housing is not uniform (for example, workers with temporary H–2A agricultural visas may be housed in hotels off-establishment), nor is it regulated by EPA.

In its compliance assistance guidance, EPA will consider including best practices for handlers applying pesticides near housing, to take into account the logistical and economic difficulties that they may face. Some commenters have also expressed concern for people who live near agricultural establishments that may be disproportionately at risk from pesticide applications; EPA will also consider guidance that may include suggestions on best practices for communicating with people who live near agricultural establishments and whose housing may fall within the AEZ. EPA disagrees with commenters that communication about applications near housing is unreasonably burdensome. However, EPA will also consider including strategies that limit the need for such communication in its compliance guidance. For example, if local ordinances do not require that houses be set back more than 100 feet from property lines, handlers may need to adjust the application type or droplet size to decrease the size of the AEZ to 25 feet.

G. Enforcement of the AEZ Requirements

1. Proposed Rule

In Unit III. of the 2023 Proposed Rule, EPA asked for commenters' recommendations or considerations on improving the enforceability of the AEZ provisions.

2. Final Rule

In this final rule, EPA did not make any changes to proposed regulatory text based on public comments related to enforcement.

3. Comments

AAPCO, NASDA, and another agricultural business stakeholder expressed concerns about the enforceability of the 2023 Proposed Rule. AAPCO asked how AEZ violations would be documented or even detected in the first place, given that one would have to measure from moving application equipment to moving bystanders. NASDA remarked that it would be difficult to enforce AEZ requirements off-establishment, as handlers have no control over people beyond the property boundaries. Similarly, NASDA noted that enforcement of the immediate family exemption requires further consideration to ensure it does not become burdensome to handlers or regulators. Despite its other concerns, NASDA agreed that clarifying when applications would resume would aid enforcement.

In contrast, an advocacy organization suggested that the AEZ provisions should aid enforcement of contact violations. The organization stated that ''Do Not Contact,'' on its own, may be difficult to enforce, as farmworkers may be reluctant to report a pesticide exposure to authorities and healthcare providers might not recognize the symptoms. In comparison, the commenter suggested that it should be easier to prove the distance between application equipment and bystanders.

A farmworker advocacy organization offered suggestions to aid enforcement of the AEZ requirements, as well as the WPS more generally. Noting that farmworkers often fear workplace retaliation or immigration consequences, they recommended interagency collaboration, inspections that prioritize workers' confidentiality, unannounced inspections, and a general awareness of farmworkers' cultural context and language needs on the part of inspectors.

4. Response

EPA appreciates the comments received in response to the request for recommendations or considerations on improving the enforceability of the AEZ provisions. To assist inspectors with monitoring compliance with the WPS, EPA provides two guidance documents: the FIFRA Inspection Manual and the WPS Inspection Manual (Refs. 33 through 34). These guidance documents are reviewed and updated periodically. The manuals include sampling procedures that may be used to confirm the distance the pesticide traveled. As discussed elsewhere in this preamble, the AEZ requirement complements the ''Do Not Contact'' requirement by providing a measurement that may be used for enforcement to better protect farmworkers and others from pesticide exposure.

Additionally, EPA funds training through a State and Tribal Assistance Grant that specifically addresses the needs of pesticide inspectors, including the conduct of WPS inspections. EPA considers the feedback from stakeholders to be invaluable to ensure that inspector guidance and training continue to address evolving needs,

especially given the unique WPS inspection challenges identified by farmworker advocacy organizations, including the significant cultural concerns raised by the commenters.

The enforceability of the WPS is important to the EPA and the Agency appreciates all comments received. Permitting applications to resume once all persons have left the AEZ is sufficiently clear to provide an enforceable standard.

The risks of retaliation that farmworkers face from reporting pesticide exposures, though beyond the scope of the AEZ rule, are contemplated by other sections of the WPS. (See 40 CFR 170.401(c)(2)(xi) (requiring worker training on existing protections against retaliatory acts) and 170.501(c)(2)(xiii) (requiring handler training on existing protections against retaliatory acts)). Furthermore, EPA has requested that the National Environmental Justice Advisory Council (NEJAC), a Federal advisory committee to EPA, recommend how EPA can incorporate a deeper understanding of farmworker concerns about WPS inspections into training materials (Ref. 35). As EPA receives feedback on the WPS from NEJAC and other Federal advisory committees to the Agency, EPA will use this information to help inform its efforts to enhance training and to improve inspections and enforcement of the WPS.

H. ''Do Not Contact'' and Restricted Entry Intervals

1. Proposed Rule

EPA did not propose any changes to the ''Do Not Contact'' or Restricted Entry Interval (REI) provisions of the WPS.

2. Final Rule

EPA has finalized the 2023 Proposed Rule as proposed, retaining the ''Do Not Contact'' and Restricted Entry Interval (REI) requirements as written in the 2015 WPS.

3. Comments

Two farmworker advocacy stakeholders asked that EPA review more generally the ''Do Not Contact'' provision of the WPS, which the AEZ supplements. These commenters stated that pesticide exposure can occur not just due to direct spray incidents but due to drift, pesticide residues on surfaces, and pesticide vapors in the air. According to these commenters, an AEZ that exists only while the application is ongoing does not prevent these exposures. One commenter requested that EPA add additional entry restrictions post-application, suggesting that the existing REIs are insufficient.

A farm bureau also expressed its support for the ''Do Not Contact'' provision, though opposing other aspects of the 2023 Proposed Rule.

4. Response

EPA acknowledges commenters' concerns over indirect exposure pathways. Drift that results in pesticide exposure is considered a violation of the ''Do Not Contact'' provision. REIs restrict entry to the treated area after pesticide applications to prevent exposure to pesticide residues. While the WPS does govern some aspects of REIs, such as requirement surrounding early entry activities, the length of REIs is determined through the extensive analysis of chemicals' effects on people and the environment during the registration and registration review process. To redefine REIs in this rulemaking would be to go beyond its scope.

I. Handler Training Requirements

1. Proposed Rule

To conform with the revised AEZ requirements, EPA proposed revisions to the handler training requirements at 40 CFR 170.501(c)(3)(xi). The new training requirements specify that ''handlers must suspend a pesticide application if workers or other persons are in the application exclusion zone and must not resume the application while workers or other persons remain in the application exclusion zone.'' The training requirements also incorporate the immediate family exemption, explaining that the applicator may resume the application ''provided that the handlers have been expressly instructed by the owner(s) of the agricultural establishment that only immediate family members remain inside those closed buildings, housing, or shelters and that the application should proceed despite the presence of the owner(s) or their immediate family members inside those closed buildings, housing, or shelters.''

2. Final Rule

EPA finalized the handler training requirements at 40 CFR 170.501 as proposed.

3. Comments

Two farmworker advocacy organizations and USDA commented on proposed revisions to the mandatory annual pesticide handler training. One farmworker advocacy organization expressed support for EPA's proposal to bring trainings into line with the revised requirements on suspending and resuming applications. One farmworker advocacy organization discussed handler trainings more generally, encouraging employers to offer engaging, multilingual trainings.

USDA commented that trainings should also address pesticide applications at the boundaries of the agricultural establishment, including how and when handlers should communicate with people on neighboring establishments who may be within the AEZ. In keeping with its comments on maintaining language from the 2016/2018 Guidance, USDA also requested that handler trainings be updated to reflect procedures for situations where people off-establishment are in the AEZ, and to clarify how and when employers and handlers should communicate regarding the boundaries of the agricultural establishment.

4. Response

Under the 2015 WPS, handler trainings are required to contain all of the topics for worker trainings at 40 CFR 170.401(c)(3), as well as additional topics such as proper application and use of pesticides, following label directions, and the AEZ and ''Do Not Contact'' requirements. Like worker trainings, handler trainings must be delivered in a format handlers can understand, such as through a translator, and must be held in a place free of distractions. All worker and handler trainings must be EPA-approved and presented by a qualified trainer of workers and/or handlers. (For the full list of handler training and trainer requirements, see 40 CFR 170.501.)

Through its cooperative agreements and its review and approval of individual training submissions as required by 40 CFR 170.501(c)(1), EPA supports the development of interactive WPS trainings for pesticide handlers in multiple languages. As of March 2024, EPA had approved 11 handler trainings (including trainings in both Spanish and English) that reflected the 2015 WPS. Because EPA is mostly reinstating the 2015 WPS requirements with some minor revisions, the training topics in 40 CFR 170.501(c)(3) will remain largely the same with the exception of adding content related to the immediate family exemption and clarification on resuming applications. Some trainings will also need to be revised to varying degrees to be reflective of changes in Agency policy moving forward under this rulemaking. While all approved trainings include the required content under the 2015 WPS, some trainings have gone further by incorporating some

of the best application practices and procedures (*e.g.,* assessing wind direction before proceeding with an application) for resuming applications that were provided in the 2016/2018 Guidance (Refs. 4 through 6). That guidance will be nullified because of this action and will be replaced with new guidance (see Units V.K. and VI.B.). EPA will work with the developers of these trainings to update their AEZ content both in response to this action and the change in policy and guidance direction. Additionally, EPA will continue to review handler and worker trainings and ensure that they are in line with the new AEZ requirements under this action.

For reasons explained in Unit V.E., EPA is not codifying 2016/2018 Guidance procedures for situations where people off-establishment are in the AEZ. As such, EPA will also not require that handler trainings include those procedures. However, EPA agrees with USDA that employers and handlers would benefit from more clarity regarding procedures and communication when applications are made near agricultural establishment boundaries, especially if people off the establishment may enter the AEZ. Therefore, EPA will consider providing clarity for these and other circumstances through compliance assistance guidance.

J. Applications to Crop Canopies

1. Proposed Rule

EPA did not propose any changes to the AEZ requirements at 40 CFR 170.405(a)(1)(ii) to account for agricultural practices from different industries.

2. Final Rule

EPA has finalized the regulatory text at 40 CFR 170.405(a)(1)(ii) as proposed.

3. Comments

A trade organization representing the horticulture industry asked that EPA add clarifying language to 40 CFR 170.405(a)(1)(ii). The commenter noted that it is common practice in horticulture to apply pesticides directly to the canopies of ornamental plants. They asked that the language be amended to include ''crop canopy'' in the height requirements for the 25-foot AEZ distance criteria. Currently, if an application is made from a height of 12 inches or higher off the ground, it is subject to an AEZ, regardless of the distance from the crop canopy. The change the commenter suggested would mean that, if the application was made from a height of 12 inches or higher off the ground, but less than 12 inches from a crop canopy, there would be no AEZ.

4. Response

When EPA developed the 2015 WPS, it did not intend to except from the AEZ requirements applications made from more than 12 inches off the ground but within 12 inches of a crop canopy. This rulemaking was focused primarily on reinstating the AEZ protections from the 2015 WPS, and therefore language around crop canopies goes beyond the scope of this action. EPA will consider clarifying in its compliance assistance guidance that applications made less than 12 inches from a crop canopy are still subject to an AEZ if they are more than 12 inches off the ground.

K. Requests for Guidance

1. Proposed Rule

At various places in the 2023 Proposed Rule, EPA requested feedback on whether additional guidance is needed and how it could be improved for various AEZ provisions, including implementation for off-establishment individuals and individuals in easements, the ASABE droplet size standards, and the immediate family exemption.

2. Final Rule

EPA plans to supplement this action with guidance to assist stakeholders with compliance.

3. Comments

Many commenters requested that EPA issue guidance on this action. Several commenters asked for guidance clarifying the immediate family exemption. AAPCO requested that EPA provide guidance on the communication required to ensure that only family members remain inside closed buildings. They also requested guidance on how EPA will determine compliance.

AAPCO requested a general How-to-Comply manual on the AEZ for all stakeholders. To aid enforcement, they also asked for specific guidance and training for inspectors and State regulatory officials. A trade association asked for guidance for growers on implementing the AEZ off-establishment.

Another commenter asked for guidance on the notifications that establishment owners and employers must provide to workers.

USDA asked that EPA clarify whether it has previously developed an interpretive policy on the definition of airblast sprayers as they relate to the AEZ. If EPA has not, USDA asked for EPA to clarify where and when the interpretive policy will be published.

Related to its comments on the 2016/2018 Guidance, USDA also requested that EPA update the guidance document to specify whether then 2018 Guidance document superseded the 2016 one, and to clarify the term ''treated area.''

One farmworker advocacy organization asked for the Agency to issue guidance on ''Do Not Contact.'' The commenter suggested that, to avoid violations, guidance should recommend that employers coordinate applications and fieldwork so that workers do not reenter a field immediately after application, but rather move away from the AEZ.

4. Response

EPA plans to address many of the commenters' requests for guidance, as indicated throughout Unit V. Guidance will support establishment owners, agricultural employers, and handlers with compliance. Specifically, EPA will consider addressing the following topics, as needed, based on feedback after this rule is published:

- Best practices for applications near the boundaries of the agricultural establishment and in easements.
- ASABE standard as applies to the AEZ requirements.
- Clarification on resuming applications.
- Implementation of the immediate family exemption, including the fact that the exemption does not apply to labor housing.
- Best practices for applications near housing.
- Best practices for communication, including communication with people off-establishment and in easements; communication between employers and handlers regarding the boundaries of the establishment; communication around who remains inside closed structures during an application in accordance with the immediate family exemption; communication with residents of surrounding communities whose houses may fall into the AEZ; and advance notification of applications.
- Strategies to limit the need for such communication.
- How the AEZ applies to agricultural practices from different industries, including that applications more than 12 inches off the ground but less than 12 inches from a crop canopy are still subject to an AEZ.
- Clarify the relationship between the AEZ, REI, and ''Do Not Contact'' requirements.

EPA anticipates that some compliance assistance materials, such as the How-to-Comply Manual for the WPS (Ref. 36), may be updated through its cooperative agreements. Guidance

manuals for inspectors, such as the FIFRA Inspection Manual and the WPS Inspection Manual (Refs. 33 and 34), are reviewed and updated on a periodic basis.

In response to USDA's request for clarification on what qualifies as an *airblast sprayer,* EPA's Office of Pesticide Programs Electronic Label (OPPEL) definition of *airblast sprayer* is a ''general term describing sprays directed into the foliage with a forced air stream, usually created with a powered fan mounted on or pulled behind a truck or tractor typically used in a vineyard, orchard, and some nurseries. Includes electrostatic sprayers.'' (Ref. 37). EPA will use definitions that are consistent with current agency policy and update its guidance as needed to reflect changes as they occur.

Given that there have now been changes to the AEZ requirements, the AEZ-specific 2018 guidance document, titled ''Worker Protection Standard Application Exclusion Zone Requirements: Updated Question and Answers'' (Ref. 4) will be replaced with new compliance assistance guidance. EPA's 2016 AEZ-specific guidance document, titled ''Q&A Fact Sheet on the Worker Protection Standard (WPS) Application Exclusion Zone (AEZ) Requirements'' was superseded by the 2018 guidance (Ref. 5). EPA's 2016 document ''Worker Protection Standard Frequently Asked Questions,'' which provides answers to frequently asked questions on the full WPS (not just the AEZ requirements), will remain a resource for non-AEZ related guidance and will be updated consistent with this action (Ref. 6).

VI. The Final Rule

A. Regulatory Changes

EPA is finalizing the 2023 Proposed Rule without changes.

B. 2016/2018 Guidance

Because EPA is finalizing the clarification on when suspended applications may resume, upon the effective date of this rule, the rule supersedes EPA's 2018 interpretive guidance document, ''Worker Protection Standard Application Exclusion Zone Requirements: Updated Questions and Answers'' (Ref. 4). EPA's 2016 guidance document ''Q&A Fact Sheet on the Worker Protection Standard (WPS) Application Exclusion Zone (AEZ) Requirements'' was superseded by the 2018 interpretive guidance document (Ref. 5). EPA's 2016 document ''Worker Protection Standard Frequently Asked Questions,'' which provides answers to frequently asked questions on the WPS (not just the AEZ requirements), will remain a resource for non-AEZ related guidance (Ref. 6).

C. Future Compliance Assistance Guidance

After this final rule is published, EPA will consider addressing the following topics, as needed:

- Best practices for applications near the boundaries of the agricultural establishment and in easements.
- ASABE standard as applies to the AEZ requirements.
- Clarification on resuming applications.
- Implementation of the immediate family exemption, including the fact that the exemption does not apply to labor housing.
- Best practices for applications near housing.
- Best practices for communication, including communication with people off-establishment and in easements; communication between employers and handlers regarding the boundaries of the establishment; communication around who remains inside closed structures during an application in accordance with the immediate family exemption; communication with residents of surrounding communities whose houses may fall into the AEZ; and advance notification of applications.
- Strategies to limit the need for such communication.
- How the AEZ applies to agricultural practices from different industries, including that applications more than 12 inches off the ground but less than 12 inches from a crop canopy are still subject to an AEZ.

EPA anticipates that some compliance assistance materials, such as the How-to-Comply Manual for the WPS (Ref. 36), may be updated through its cooperative agreements. Guidance manuals for inspectors, such as the FIFRA Inspection Manual and the WPS Inspection Manual (Refs. 33 and 34), are reviewed and updated on a periodic basis.

VII. Incorporation by Reference

A. Incorporation of ASABE Standards

This final rule incorporates voluntary consensus standards by reference. EPA identified an applicable voluntary consensus standard developed by ASABE for defining droplet sizes. Instead of fully reinstating the droplet size criteria established in the 2015 WPS, EPA is incorporating by reference the ASABE standard identified as ''ANSI/ASAE S572, Spray Nozzle Classification by Droplet Spectra'' and certain successor editions (ANSI/ASAE S572.1, ANSI/ASAE S572.2, and ANSI/ASAE S572.3) (Refs. 13 through 16) to enhance the Agency's compliance with the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 *note*). (ASABE standards, engineering practices, and data initially approved prior to the society name change from ''ASAE'' to ''ASABE'' in July 2005 are designated as ''ASAE'', regardless of the revision approval date.) The NTTAA and Office of Management and Budget (OMB) Circular A–119 require agencies to use voluntary consensus standards in its regulatory, procurement, and program activities in lieu of government-unique standards, unless use of such standards would be inconsistent with applicable law or otherwise impractical.

The ASABE categorization of ''medium'' droplet sizes has remained largely unchanged despite various updates to the standard over the years. Updates of the standard are briefly summarized as follows:

1. ANSI/ASAE S572. Spray Nozzle Classification by Droplet Spectra (Ref. 13). This original standard established 6 droplet size classes: Very Fine (VF), Fine (F), Medium (M), Coarse (C), Very Coarse (VC) and Extra Coarse (XC).
2. ANSI/ASAE S572.1. Spray Nozzle Classification by Droplet Spectra (Ref. 14). This standard added two new classes: Extra Fine (XF) and Ultra Coarse (UC).
3. ANSI/ASAE S572.2. Spray Nozzle Classification by Droplet Spectra (Ref. 15). This standard corrected flowrate values that were used to establish classification category thresholds but did not substantially change the standard.
4. ANSI/ASAE S572.3. Spray Nozzle Classification by Droplet Spectra (Ref. 16). This standard updated some classification boundaries to harmonize with the International Standards Organization's (ISO) operating pressures established in ISO 25358.

Given the relative stability of the categorization of ''medium'' droplet sizes, removing VMD from the AEZ criteria and instead using droplet size classifications (*i.e.,* ''medium'' as defined by the ASABE; see Unit IV.C. and V.C.) is expected to provide a clear, practical, and easy approach for determining AEZ distances. EPA anticipates that this revision will improve compliance with other AEZ requirements and make it easier to enforce these provisions by eliminating any need to determine whether an application is over or under the specified VMD of 294 microns, as required by the 2015 WPS.

B. Reasonable Availability

Copies of the ASABE standards identified in Unit VII.A. may be purchased from the ASABE, 2950 Niles Road, St. Joseph, MI 49085, or by calling (269) 429–0300, or at *https://www.asabe.org*. Additionally, each of these standards are available for inspection at the OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. EDT, Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744. EPA has determined that the standards are reasonably available to the class of persons affected by this rulemaking.

If you have a disability and the format of any material on an EPA web page interferes with your ability to access the information, please contact EPA's Rehabilitation Act Section 508 (29 U.S.C. 794d) Program at *https://www.epa.gov/accessibility/forms/contact-us-about-section-508-accessibility* or via email at *section508@epa.gov*. To enable us to respond in a manner most helpful to you, please indicate the nature of the accessibility issue, the web address of the requested material, your preferred format in which you want to receive the material (electronic format (ASCII, etc.), standard print, large print, etc.), and your contact information.

VIII. Severability

The Agency intends that the provisions of this rule be severable. In the event that any individual provision or part of this rule is invalidated, the Agency intends that this would not render the entire rule invalid, and that any individual provisions that can continue to operate will be left in place. The amendments to 40 CFR part 170 finalized in this rule involve separate aspects of the AEZ and EPA finds that each provision is able to operate independently of the others. This has been demonstrated by the Agency's revisions to the AEZ provisions from the 2015 WPS, to the 2020 AEZ Rule, to the current final rule. With each final rule concerning the AEZ, EPA has been able to retain certain provisions while amending or vacating others. For the foregoing reasons, EPA finds that the amendments in this final rule are severable.

IX. References

The following is a listing of the documents that are specifically referenced in this **Federal Register** document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Pesticides; Agricultural Worker Protection Standard; Reconsideration of the Application Exclusion Zone Amendments; Proposed Rule. **Federal Register**. 88 FR 15346, March 13, 2023 (FRL–8528–03–OCSPP). *https://www.govinfo.gov/content/pkg/FR-2023-03-13/pdf/2023-03619.pdf*.
2. EPA. Pesticides; Agricultural Worker Protection Standard Revisions; Revision of the Application Exclusion Zone Requirements; Final Rule. **Federal Register**. 85 FR 68760, October 30, 2020 (FRL–10016–03). Available at *https://www.govinfo.gov/content/pkg/FR-2020-10-30/pdf/2020-23411.pdf*.
3. EPA. Pesticides; Agricultural Worker Protection Standard Revisions; Final Rule. **Federal Register**. 80 FR 67496, November 2, 2015 (FRL–9931–81). Available at *https://www.govinfo.gov/content/pkg/FR-2015-11-02/pdf/2015-25970.pdf*.
4. EPA. Worker Protection Standard Application Exclusion Zone Requirements: Updated Questions and Answers. February 15, 2018. Available at *https://www.regulations.gov/document/EPA-HQ-OPP-2017-0543-0008*.
5. EPA. WPS Guidance on the Application Exclusion Zone. Q&A Fact Sheet on the Worker Protection Standard (WPS) Application Exclusion Zone (AEZ) Requirements. April 14, 2016. Available at *https://www.regulations.gov/document/EPA-HQ-OPP-2017-0543-0007*.
6. EPA. Worker Protection Standard Frequently Asked Questions: 40 CFR part 170. April 14, 2016. Available at *https://www.epa.gov/sites/default/files/2016-04/documents/wps-faq.pdf*.
7. Executive Order 13990. Protecting Public Health and the Environment and Restoring 2976 Science to Tackle the Climate Crisis. **Federal Register** 86 FR 7037, January 25, 2021. *https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01765.pdf*.
8. EPA. Pesticides; Agricultural Worker Protection Standard; Final Rule. **Federal Register**. 57 FR 38102, August 13, 1992 (FRL–3774–6). *https://www.govinfo.gov/content/pkg/FR-1992-08-21/pdf/FR-1992-08-21.pdf*.
9. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, December 28, 2020). Amended Order Re: Complaint for Declaratory and Injunctive Relief.
10. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, August 15, 2022). Eleventh Stipulation and Consent Order Further Extending Stay and Extending Injunction.
11. The White House, Briefing Room. Fact Sheet: List of Agency Actions for Review. January 20, 2021. *https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/*.
12. EPA. Cost Analysis for Revisions to the Application Exclusion Zone in the Worker Protection Standard. 2020. EPA Document ID No. EPA–HQ–OPP–2017–0543–0152. *https://www.regulations.gov/document/EPA-HQ-OPP-2017-0543-0152*.
13. ASABE. *Spray Nozzle Classification by Droplet Spectra.* ASAE S572 FEB2004, reaffirmed February 2004 (ANSI/ASAE S572).
14. ASABE. *Spray Nozzle Classification by Droplet Spectra.* ANSI/ASAE S572.1 MAR2009 (R2017), reaffirmed December 2017.
15. ASABE. *Spray Nozzle Classification by Droplet Spectra.* ANSI/ASAE S572.2 JUL2018, July 2018.
16. ASABE. *Spray Nozzle Classification by Droplet Spectra.* ANSI/ASAE S572.3 FEB2020, February 2020.
17. National Pesticide Information Center (NPIC). Specific data requested from NPIC. 2024.
18. California Department of Pesticides Regulation (DPR). Data from the California DPR's Pesticide Illness Query (CalPIQ). 2024. *https://apps.cdpr.ca.gov/calpiq/*.
19. EPA. Data from EPA's pesticide Incident Data System (IDS). 2024. *https://ordspub.epa.gov/ords/pesticides/f?p=359:1*.
20. National Institute for Occupational Safety & Health (NIOSH). Specific data requested from the NIOSH Sentinel Event Notification System for Occupational Risk—Pesticides Program. 2024.
21. EPA. Economic Analysis of the Agricultural Worker Protection Standard Revisions, RIN 2070–AJ22. September 2015. EPA Document ID No. EPA–HQ–OPP–2011–0184–2522. *https://www.regulations.gov/document/EPA-HQ-OPP-2011-0184-2522*.
22. Executive Order 14096. Revitalizing Our Nation's Commitment to Environmental Justice for All. **Federal Register**. 88 FR 25251, April 26, 2023. *https://www.govinfo.gov/content/pkg/FR-2023-04-26/pdf/2023-08955.pdf*.
23. EPA. 2021 Policy on Children's Health. October 5, 2021. *https://www.epa.gov/system/files/documents/2021-10/2021-policy-on-childrens-health.pdf*.
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34. EPA. Office of Enforcement and Compliance Assurance Inspection Manual: Worker Protection Standard Inspection Manual. August 15, 2018. *https://www.epa.gov/sites/default/files/2013-09/documents/wpsinspectionsguide.pdf*.
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X. FIFRA Review Requirements

Pursuant to FIFRA section 25(a), EPA submitted the draft final rule to the United States Department of Agriculture (USDA) for review (see 89 FR 57770, July 16, 2024 (FRL–8528–04–OCSPP), with a copy sent to the appropriate Congressional Committees as required under FIFRA section 25(a). USDA responded and provided comments on July 24, 2024 (Ref. 38). USDA did not object to the final rule; however, USDA expressed concerns about the burden that the AEZ could place on growers and applicators in the absence of EPA's 2016/2018 Guidance. EPA responded to these comments on August 28, 2024, explaining its rationale for superseding the guidance and reiterating the importance of the AEZ as a uniform baseline requirement to support pesticide handlers and protect human health (Ref. 38).

In accordance with FIFRA section 25(d), the EPA asked the FIFRA Scientific Advisory Panel (SAP) to waive review of the draft final rule, as was done for the draft proposed rule. The FIFRA SAP waived its scientific review of the draft final rule on June 29, 2024, because the final rule does not raise scientific or science policy issues that warrant a scientific review by the SAP.

XI. 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 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023), 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 or modify information collection burden that would require additional review or approval by OMB under the PRA, 44 U.S.C. 3501 *et seq.* OMB has previously approved the information collection activities contained in the existing regulations and assigned OMB Control No. 2070–0190 and it is identified by EPA ICR No. 2491.06. This action does not impose an information collection burden, because the revisions do not affect the approved 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.* The small entities subject to the requirements of this action are agricultural and handler employers, and commercial pesticide handler employers. The Agency has determined that while reinstating several of the 2015 AEZ requirements could require agricultural employers to direct workers to move away from the edge of treatment areas as the application equipment passes, this would be a very temporary disruption in any worker activity and, as discussed in Unit III., would not lead to any quantifiable impacts on agricultural establishments, including small agricultural operations. On the part of the handlers, the requirement to cease an application if someone is in the AEZ clarifies the applicator or handler's responsibility and is unlikely to result in measurable costs for affected entities.

As explained in Unit II.A.4., the 2020 AEZ Rule never went into effect due to a series of court orders staying the effective date of the 2020 AEZ Rule. While the discussion compares the effects of this action to the 2020 AEZ Rule, the AEZ requirements have always extended beyond the boundary of an agricultural establishment and within easements since it originally went into effect in 2018. Therefore, given that the 2015 rule has remained in effect since its establishment, there are no new impacts expected with this rule.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million (adjusted annually for inflation) or more (in 1995 dollars) 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 and the costs involved are estimated not to exceed $183 million in 2023 dollars ($100 million in 1995$ adjusted for inflation using the GDP implicit price deflator) or more in any one year.

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because 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 (65 FR 67249, November 9, 2000), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Tribal governments, or on the distribution of power and responsibilities between the Federal Government and Tribal governments.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. While the environmental health or safety risks addressed by this action present a disproportionate risk to children, this action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866. However, EPA's *Policy on Children's Health* (*Ref. 23*) applies to this action.

The WPS is intended to apply to myriad agricultural pesticides, and the Agency has not developed a health or risk assessment to evaluate any impact of the amendments of the AEZ provisions for each pesticide subject to the WPS. The Agency finds that it is reasonable to expect that this rule will address existing environmental health or safety risks from agricultural pesticide applications that may have a disproportionate effect on children. Children face the risk of pesticide exposure from work in pesticide-treated areas or near ongoing pesticide applications, from the use of pesticides near their homes and schools, and from pesticide residues brought into the home by family members after a day of working with pesticides or being in or near pesticide-treated areas. Children also face the risk of pesticide exposure from drift. The rule is intended to limit these exposures and risks by reinstating AEZ requirements that no longer limit it to the property boundary of an agricultural establishment and expanding the AEZ back to 100 feet for sprayed applications with droplet sizes smaller than medium.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This action involves voluntary standards subject to consideration under the NTTAA section 12(d), 15 U.S.C. 272 note. EPA has decided to use ANSI/ASAE S572, ANSI/ASAE S572.1, ANSI/ASAE S572.2, and ANSI/ASAE S572.3 to define ''medium'' droplet sizes. Additional information about these standards is provided in Unit VII., including how to access them and our incorporation of these standards into the regulation pursuant to 1 CFR part 51.

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

EPA believes that the human health or environmental conditions that exist prior to this action result in or have the potential to result in disproportionate and adverse human health or environmental effects on communities with environmental justice concerns in accordance with Executive Orders 12898 (59 FR 7629, February 16, 1994) and 14096 (88 FR 25251, April 26, 2023). As noted in past assessments (Ref. 3), affected populations include minority and/or low-income individuals that may have a higher risk of exposure and/or are more vulnerable to the impacts of pesticides due to occupation, economic status, health and obstacles to healthcare access, language barriers, and other sociodemographic characteristics.

EPA believes that this action is likely to reduce existing disproportionate and adverse effects on communities with environmental justice concerns. This action will limit exposures to pesticides for agricultural workers, handlers, and communities adjacent to agricultural establishments; improve public health; and prioritize environmental justice by rescinding certain changes to the AEZ provisions that were reflected in the 2020 AEZ Rule but have not yet taken effect. This action will reinstate, for example, regulatory text requiring agricultural employers to keep workers and other people out of the AEZ during the pesticide application regardless of whether the individuals are outside of establishments' boundaries or within easements. Additionally, these changes will reinstate larger AEZs for those sprays with the highest spray drift potential. As discussed in Unit III., reinstating the 2015 WPS requirements for these AEZ provisions better balances social and health-related costs than the 2020 AEZ Rule.

EPA additionally identified and addressed environmental justice concerns by engaging with stakeholders from affected communities extensively in the development of the 2015 WPS rulemaking that originally established the AEZ requirements that the Agency is reinstating. Those efforts were conducted to obtain meaningful involvement of all affected parties. Consistent with those efforts and assessments, EPA believes this rule will better protect the health of agricultural workers and handlers by reinstating the complementary protections of the AEZ that were intended to support the ''Do Not Contact'' requirements within the WPS.

The information supporting this executive order review is contained in Unit III. and the Economic Analysis from the 2015 WPS (Ref. 21).

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 170

Environmental protection, Agricultural worker, Employer, Farms, Forests, Greenhouses, Incorporation by

reference, Nurseries, Pesticide handler, Pesticides, Worker protection standard.

Michael S. Regan,

Administrator.

Therefore, for the reasons stated in the preamble, 40 CFR chapter I is amended as follows:

PART 170—WORKER PROTECTION STANDARD

■ 1. The authority citation for part 170 continues to read:

Authority: 7 U.S.C. 136w.

■ 2. Amend § 170.405 by:
■ a. Revising paragraphs (a)(1)(i) and (ii), and (a)(2);
■ b. Revising and republishing paragraph (b); and
■ c. Adding paragraph (c).

The revisions and additions read as follows:

§ 170.405 Entry restrictions associated with pesticide applications.

(a) * * *

(1) * * *

(i) The application exclusion zone is the area that extends 100 feet horizontally from the point(s) of pesticide discharge from the application equipment in all directions during application when the pesticide is applied by any of the following methods:

(A) Aerially.

(B) Air blast or air-propelled applications.

(C) As a fumigant, smoke, mist, or fog.

(D) As a spray using nozzles or nozzle configurations which produce a droplet size of smaller than medium, in accordance with the meaning given to ''medium'' in ANSI/ASAE S572, ANSI/ASAE S572.1, ANSI/ASAE S572.2, or ANSI/ASAE S572.3 (all incorporated by reference, see paragraph (c) of this section).

(ii) The application exclusion zone is the area that extends 25 feet horizontally from the point(s) of pesticide discharge from the application equipment in all directions during application when the pesticide is sprayed from a height of greater than 12 inches from the soil surface or planting medium using nozzles or nozzle configurations which produce a droplet size of medium or larger in accordance with the meaning given to ''medium'' in ANSI/ASAE S572, ANSI/ASAE S572.1, ANSI/ASAE S572.2, or ANSI/ASAE S572.3 (all incorporated by reference, see paragraph (c) of this section), and not as in paragraph (a)(1)(i) of this section.

* * * * *

(2) During any outdoor production pesticide application, the agricultural employer must not allow or direct any worker or other person to enter or to remain in the treated area or an application exclusion zone that is within the boundaries of the establishment until the application is complete, except for:

(i) Appropriately trained and equipped handlers involved in the application, and

(ii) Owners of the agricultural establishment and their immediate family members who remain inside closed buildings, housing, or shelters under the conditions specified in § 170.601(a)(1)(vi).

* * * * *

(b) *Enclosed space production pesticide applications.* (1) During any enclosed space production pesticide application described in column A of table 1 to paragraph (b) of this section, the agricultural employer must not allow or direct any worker or other person, other than an appropriately trained and equipped handler involved in the application, to enter or to remain in the area specified in column B of table 1 to paragraph (b) of this section during the application and until the time specified in column C of table 1 to paragraph (b) of this section has expired.

(2) After the time specified in column C of table 1 to paragraph (b) of this section has expired, the area subject to the labeling-specified restricted-entry interval and the post-application entry restrictions specified in § 170.407 is the area specified in column D of table 1 to paragraph (b) of this section.

(3) When column C of table 1 to paragraph (b) of this section specifies that ventilation criteria must be met, ventilation must continue until the air concentration is measured to be equal to or less than the inhalation exposure level required by the labeling. If no inhalation exposure level is listed on the labeling, ventilation must continue until after one of the following conditions is met:

(i) Ten air exchanges are completed.

(ii) Two hours of ventilation using fans or other mechanical ventilating systems.

(iii) Four hours of ventilation using vents, windows, or other passive ventilation.

(iv) Eleven hours with no ventilation followed by one hour of mechanical ventilation.

(v) Eleven hours with no ventilation followed by two hours of passive ventilation.

(vi) Twenty-four hours with no ventilation.

TABLE 1 TO PARAGRAPH (b)—ENTRY RESTRICTIONS DURING ENCLOSED SPACE PRODUCTION PESTICIDE APPLICATIONS

A. When a pesticide is applied:	B. Workers and other persons, other than appropriately trained and equipped handlers, are prohibited in:	C. Until:	D. After the expiration of time specified in column C, the area subject to the restricted-entry interval is:
1. As a fumigant	Entire enclosed space plus any adjacent structure or area that cannot be sealed off from the treated area.	The ventilation criteria of paragraph (b)(3) of this section are met.	No post-application entry restrictions required by § 170.407 after criteria in column C are met.
2. As a Smoke; Mist; Fog; or Spray using a spray quality (droplet spectrum) of smaller than medium, in accordance with the meaning given to ''medium'' by the American Society of Agricultural and Biological Engineers in ANSI/ASAE S572, ANSI/ASAE S572.1, ANSI/ASAE S572.2, or ANSI/ASAE S572.3 (all incorporated by reference, see § paragraph (c) of this section).	Entire enclosed space	The ventilation criteria of paragraph (b)(3) of this section are met.	Entire enclosed space.
3. Not as in entry 1 or 2 of this table, and for which a respiratory protection device is required for application by the pesticide product labeling.	Entire enclosed space	The ventilation criteria of paragraph (b)(3) of this section are met.	Treated area.

TABLE 1 TO PARAGRAPH (b)—ENTRY RESTRICTIONS DURING ENCLOSED SPACE PRODUCTION PESTICIDE APPLICATIONS—Continued

A. When a pesticide is applied:	B. Workers and other persons, other than appropriately trained and equipped handlers, are prohibited in:	C. Until:	D. After the expiration of time specified in column C, the area subject to the restricted-entry interval is:
4. Not as in entry 1, 2, or 3 of this table, and From a height of greater than 12 inches from the planting medium; or As a spray using a spray quality (droplet spectrum) of medium or larger in accordance with the meaning given to ''medium'' by the American Society of Agricultural and Biological Engineers in ANSI/ASAE S572, ANSI/ASAE S572.1, ANSI/ASAE S572.2, or ANSI/ASAE S572.3 (all incorporated by reference, see § 170.405(c)).	Treated area plus 25 feet in all directions of the treated area, but not outside the enclosed space.	Application is complete	Treated area.
5. Otherwise	Treated area	Application is complete	Treated area.

(c) *Incorporation by reference.* The material listed in this paragraph (c) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the Environmental Protection Agency (EPA) and at the National Archives and Records Administration (NARA). Contact EPA at: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading room and the OPP Docket is (202) 566–1744. For information on the availability of this material at NARA, visit *https://www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.* The material may be obtained from the American Society of Agricultural and Biological Engineers, 2950 Niles Road, St. Joseph, MI 49085, (269) 429–0300, *https://www.asabe.org.*

(1) ANSI/ASAE S572 FEB2004, Spray Nozzle Classification by Droplet Spectra, reaffirmed February 2004 (ANSI/ASAE S572).

(2) ANSI/ASAE S572.1 MAR2009 (R2017), Spray Nozzle Classification by Droplet Spectra, reaffirmed December 2017 (ANSI/ASAE S572.1).

(3) ANSI/ASAE S572.2 JUL2018, Spray Nozzle Classification by Droplet Spectra, ANSI approved July 2018 (ANSI/ASAE S572.2).

(4) ANSI/ASAE S572.3, Spray Nozzle Classification by Droplet Spectra, ANSI approved February 2020 (ANSI/ASAE S572.3).

■ 3. Amend § 170.501 by revising paragraph (c)(3)(xi) to read as follows:

§ 170.501 Training requirements for handlers.

* * * * *

(c) * * *

(3) * * *

(xi) Handlers must suspend a pesticide application if workers or other persons are in the application exclusion zone and must not resume the application while workers or other persons remain in the application exclusion zone, except for appropriately trained and equipped handlers involved in the application, and the owner(s) of the agricultural establishment and members of their immediate families who remain inside closed buildings, housing, or shelters, provided that the handlers have been expressly instructed by the owner(s) of the agricultural establishment that only immediate family members remain inside those closed buildings, housing, or shelters and that the application should proceed despite the presence of the owner(s) or their immediate family members inside those closed buildings, housing, or shelters.

* * * * *

■ 4. Amend § 170.505 by revising paragraph (b) to read as follows:

§ 170.505 Requirements during applications to protect handlers, workers, and other persons.

* * * * *

(b) *Suspending applications.* (1) Any handler performing a pesticide application must immediately suspend the pesticide application if any worker or other person is in an application exclusion zone described in § 170.405(a)(1) or the area specified in column B of table 1 to paragraph (b) of § 170.405, except for:

(i) Appropriately trained and equipped handlers involved in the application, and

(ii) The owner(s) of the agricultural establishment and members of their immediate families who remain inside closed buildings, housing, or shelters, provided that the handlers have been expressly instructed by the owner(s) of the agricultural establishment that only immediate family members remain inside those closed buildings, housing, or shelters and that the application should proceed despite the presence of the owner(s) or their immediate family members inside those closed buildings, housing, or shelters.

(2) A handler must not resume a suspended pesticide application while any workers or other persons remain in an application exclusion zone described in § 170.405(a)(1) or the area specified in column B of table 1 to paragraph (b) of § 170.405, except for:

(i) Appropriately trained and equipped handlers involved in the application, and

(ii) The owner(s) of the agricultural establishment and members of their immediate families who remain inside closed buildings, housing, or shelters, provided that the handlers have been expressly instructed by the owner(s) of the agricultural establishment that only immediate family members remain inside those closed buildings, housing, or shelters and that the application should proceed despite the presence of the owner(s) or their immediate family members inside those closed buildings, housing, or shelters.

* * * * *

■ 5. Amend § 170.601 by revising paragraph (a)(1) to read as follows:

§ 170.601 Exemptions.

(a) * * *

(1) On any agricultural establishment where a majority of the establishment is owned by one or more members of the same immediate family, the owner(s) of the establishment (and, where specified in the following, certain handlers) are not required to provide the protections of the following provisions to themselves or members of their immediate family when they are performing handling activities or tasks related to the production of agricultural plants that would otherwise be covered by this part on their own agricultural establishment.

(i) Section 170.309(c).

(ii) Section 170.309(f) through (j).
(iii) Section 170.311.
(iv) Section 170.401.
(v) Section 170.403.
(vi) Sections 170.405(a)(2) and 170.505(b), but only in regard to owner(s) of the establishment and their immediate family members who remain inside closed buildings, housing, or shelters. This exception also applies to handlers (regardless of whether they are immediate family members) who have been expressly instructed by the owner(s) of the establishment that:
(A) Only the owner(s) or their immediate family members remain inside the closed building, housing, or shelter, and
(B) The application should proceed despite the presence of the owner(s) or their immediate family members remaining inside the closed buildings, housing, or shelters.
(vii) Section 170.409.
(viii) Sections 170.411 and 170.509.
(ix) Section 170.501.
(x) Section 170.503.
(xi) Section 170.505(c) and (d).
(xii) Section 170.507(c) through (e).
(xiii) Section 170.605(a) through (c), and (e) through (j).

* * * * *

[FR Doc. 2024–22832 Filed 10–3–24; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R07–UST–2023–0534; FRL–11633–02–R7]

Iowa: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Iowa's Underground Storage Tank (UST) program submitted by the Department of Natural Resources (DNR). This action also codifies EPA's approval of Iowa's State program and incorporates by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under RCRA Subtitle I and other applicable statutory and regulatory provisions.

DATES: This rule is effective December 3, 2024, unless EPA receives adverse comment by November 4, 2024. If EPA receives adverse comments, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of December 3, 2024, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: pomes.michael@epa.gov.*

Instructions: Direct your comments to Docket ID No. EPA–R07–UST–2023–0534. 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, EPA recommends that you include your name and other contact information in the body of your comment and also with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, 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. EPA encourages electronic submittals, but if you are unable to submit electronically, please reach out to the EPA contact person listed in the document for assistance.

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information might not be publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available electronically through *www.regulations.gov.*

IBR and supporting material: You can view and copy the documents that form the basis for this codification and associated publicly available materials either through *www.regulations.gov* or by contacting Angela Sena, Tanks, Toxics & Pesticides Branch, Land Chemical, and Redevelopment Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219; (913) 551–7989; *sena.angela@epa.gov.* Please call or email the contact listed above if you need access to material indexed but not provided in the docket.

FOR FURTHER INFORMATION CONTACT: Michael L Pomes, Remediation Branch, Land, Chemical, and Redevelopment Division, U.S. Environmental Protection Agency, Region 5, 77 W Jackson Boulevard, Chicago, Illinois 60604; (312) 886–2406; *pomes.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Iowa's Underground Storage Tank Program

A. Why are revisions to State programs necessary?

States that have received final approval from the EPA under section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain an underground storage tank program that is equivalent to, consistent with, and no less stringent than the Federal UST program. Either EPA or the approved State may initiate program revision. When EPA makes revisions to the regulations that govern the UST program, States must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or when responsibility for the State program is shifted to a new agency or agencies.

B. What decisions has the EPA made in this rule?

On June 22, 2023, in accordance with 40 CFR 281.51(a), Iowa submitted a complete program revision application seeking the EPA approval for its UST program revisions (State Application). Iowa's revisions correspond to the EPA

final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 State program approval (SPA) regulations (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: a transmittal letter requesting approval, a description of the program and operating procedures, a demonstration of the State's procedures to ensure adequate enforcement, a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency, a statement of certification from the Attorney General, and copies of all relevant State statutes and regulations. We have reviewed the State Application and determined that the revisions to Iowa's UST program are equivalent to, consistent with, and no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that the Iowa program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, the EPA grants Iowa final approval to operate its UST program with the changes described in the program revision application and as outlined below in section I.G. of this document.

C. What is the effect of this approval decision?

This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already effective in Iowa and they are not changed by this action. This action merely approves the existing State regulations as meeting the Federal requirements and renders them federally enforceable.

D. Why is EPA using a direct final rule?

EPA is publishing this direct final rule concurrent with a proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. EPA is providing an opportunity for public comment now.

E. What happens if the EPA receives comments that oppose this action?

Along with this direct final rule, the EPA is publishing a separate document in the ''Proposed Rules'' section of this issue of the **Federal Register** that serves as the proposal to approve the State's UST program revisions, providing opportunity for public comment. If EPA receives comments that oppose this approval, EPA will withdraw the direct final rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the approval of the State program changes after considering all comments received during the comment period. EPA will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

F. For what has Iowa previously been approved?

On March 7, 1995, the EPA finalized a rule approving the UST program, effective May 8 1995, to operate in lieu of the Federal program. On March 7, 1995, effective May 8, 1995, the EPA codified the approved Iowa program, incorporating by reference the State statutes and regulatory provisions that are subject to EPA's inspection and enforcement authorities under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions.

G. What changes are we approving with this action?

On June 22, 2023, in accordance with 40 CFR 281.51(a), Iowa submitted a complete application for final approval of its UST program revisions adopted on June 23, 2021. The EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Iowa's UST program revisions satisfy all of the requirements necessary to qualify for final approval. Therefore, EPA grants Iowa final approval for the following program changes:

Required Federal element	Implementing State authority
40 CFR 281.30, New UST Systems and Notification	567 Iowa Admin. Code 135.1(3)(a). IAC 135.1(3)(a) and (4). IAC 135.3(1). IAC 135.3(1)(a), (b), (d), (e). IAC 135.3(1)(c)(1) through (4). IAC 135.3(1)(f)(1) and (4). IAC 135.3(3)(d)(1) through (4). IAC 135.3(9).
40 CFR 281.30, New UST Systems and Notification continued . . .	567 Iowa Admin. Code 135.4(5)(a)(1) through (6). IAC 135.21(1)(a). IAC 135.21(2)(a).
40 CFR 281.31, Upgrading Existing UST Systems	567 Iowa Admin. Code 135.1(3)(a). IAC 135.1(3)(a). IAC 135.3(2)(b), (c), (d). IAC 135.21(1)(a). IAC 135.21(2).

Required Federal element	Implementing State authority
40 CFR 281.32, General Operating Requirements	567 Iowa Admin. Code 135.3(1)(a)(4)(2). IAC 135.3(1)(b). IAC 135.3(1)(c)(4). IAC 135.3(9)(b)(2). IAC 135.4(1). IAC 135.4(2)(a) through (d). IAC 135.4(3). IAC 135.4(3)(a). IAC 135.4(4)(a), (b), (c)(1) and (3), (d), (e), (f). IAC 135.4(4)(h). IAC 135.4(5)(b)(8) and (11). IAC 135.4(5)(b). IAC 135.4(5)(c). IAC 135.4(12). IAC 135.4(12)(c). IAC 135.4(13). IAC 135.4(13)(e). IAC 135.5(6).
40 CFR 281.33, Release Detection	567 Iowa Admin. Code 135.5(1)(a), through (d). IAC 135.5(2). IAC 135.5(4)(a), (b), (c), (d)(1) through (3), (e)(1) through (7), (f), (g)(1), (g)(2), (h)(1) and (2), (i). IAC 135.5(3). IAC 135.5(5)(a), (b), (c), (d). IAC 135.21(2)(d)(1) and (2). IAC 135.21(2)(d)(3).
40 CFR 281.34, Release Reporting, Investigation, and Confirmation	567 Iowa Admin. Code 135.4(1)(b). IAC 135.6(1). IAC 135.6(2). IAC 135.6(3)(a). IAC 135.6(4)(a) and (b).
40 CFR 281.35, Release Response and Corrective Action	567 Iowa Admin. Code 135.7(2). IAC 135.7(3). IAC 135.7(5)(a), (b), (c), (d)(1), (2), (4) through (8).
40 CFR 281.35, Release Response and Corrective Action Continued . . .	567 Iowa Admin. Code 135.13.
40 CFR 281.36, Out-of-service Systems and Closure	567 Iowa Admin. Code 135.15(1)(a). IAC 135.15(1)(b)(1), (2), (3), (6). IAC 135.15(1)(c)(2), (3), (6). IAC 135.15(1)(d). IAC 135.15(2)(b) and (c). IAC 135.15(3)(a) and (f). IAC 135.15(5). IAC 135.21(2)(e).
40 CFR 281.37, Financial Responsibility for USTs Containing Petroleum	567 Iowa Admin. Code 136.4. IAC 136.5 through 136.16. IAC 136.17. IAC 136.18. IAC 136.20. IAC 136.24.
40 CFR 281.39, Operator Training	567 Iowa Admin. Code 135.4(6)(a), (g), (h). IAC 135.4(8)(a)(1), (10), (11), (13), (15), (17), (19). IAC 135.4(8)(b)(2), (3), (6), (7), (10), (11), (16), (18). IAC 135.4(8)(c), (c)(6) 135.4(10). IAC 135.4(11)(a), (a)(1), (b).
40 CFR 281.41, Legal Authorities for Enforcement Response	Iowa Code 17(A)(19)(10)(f). IC 455B.474(1)(a)(6)(k). IC 455B.476. IC 455B.476(3). IC 455B.477(1). IC 455B.477(2). IC 455B.477(3). IC 455B.477(6). IC 455B.474(8)(b). 567 Iowa Admin. Code 135.3(5)(d). IAC 135.3(8).

The State also demonstrates that its program provides adequate enforcement of compliance as described in 40 CFR 281.11(b) and part 281, subpart D. The Iowa DNR UST Section has broad statutory authority with respect to USTs to regulate installation, operation, maintenance, closure, and UST releases, and to the issuance of orders. These statutory authorities are found in: Code of Iowa Chapter 455B, Jurisdiction of the Department of Natural Resources,

Division IV, Solid Waste Disposal, Part 8—Underground Storage Tanks (455B.471 *et seq.*), and 567 Iowa Administrative Code Chapter 134—Underground Storage Tank Licensing and Certification Programs, Chapter 135—Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, and Chapter 136—Financial Responsibility for Underground Storage Tanks.

H. Where are the revised rules different from the Federal rules?

Broader in Scope Provisions

The following statutory and regulatory provisions are considered broader in scope than the Federal program, and are therefore not enforceable as a matter of Federal law pursuant to 40 CFR 281.12(a)(3)(ii):

Code of Iowa

Code of Iowa 455B.471(1), (2), (3), (4), (10)
Code of Iowa 455B.472
Code of Iowa 455B.473(4) through (9)
Code of Iowa 455B.473A
Code of Iowa 455B.474
Code of Iowa 455B.474A
Code of Iowa 455B.475
Code of Iowa 455B.476
Code of Iowa 455B.477
Code of Iowa 455B.478
Code of Iowa 455B.479

567 Iowa Administrative Code

Iowa Administrative Code Chapter 134
Iowa Administrative Code Chapter 135.2 definitions not listed in 40 CFR 280.12
Iowa Administrative Code 135.3(1)(c)(5) and (e)(1) and (2)
Iowa Administrative Code 135.3(2)(a)
Iowa Administrative Code 135.3(3)(a), (b), (d)(5) and (6), (g), (j), and (k)
Iowa Administrative Code 135.3(5)
Iowa Administrative Code 135.3(9)(b)(1)(1)
Iowa Administrative Code 135.4(2)(e)
Iowa Administrative Code 135.4(3)(b), (c)
Iowa Administrative Code 135.4(4)(c)(2) and (4)
Iowa Administrative Code 135.4(4)(g) and (i)
Iowa Administrative Code 135.4(5)(a)(7) and (8)
Iowa Administrative Code 135.4(6)(a) through (f)
Iowa Administrative Code 135(4)(7)
Iowa Administrative Code 135.4(8)(a), (a)(4), (5), (7), (8), (9), (14), (16), (18)
Iowa Administrative Code 135.4(8)(b), (b)(4), (5), (8), (9), (12), (13), (14), (17). (19)
Iowa Administrative Code 135.4(8)(c)(1), (2), (3), (4), (5)
Iowa Administrative Code 135.4(9)
Iowa Administrative Code 135.4(11)(a)(2), (c) and (d)
Iowa Administrative Code 135.5(1)(e)
Iowa Administrative Code 135.5(4)(c)
Iowa Administrative Code 135.5(4)(d)(4)
Iowa Administrative Code 135.5(4)(e)(8)
Iowa Administrative Code 135.5(4)(g)(1)(1) through (3)
Iowa Administrative Code 135.5(4)(h)(3)(1) through (3)
Iowa Administrative Code 135.5(4)(h)(4) through (6)
Iowa Administrative Code 135.5(5)(b), (d)(1) and (2)
Iowa Administrative Code 135.6(3)(b)
Iowa Administrative Code 135.7(5)
Iowa Administrative Code 135.7(5) (d)(3), (9), (10), (11)
Iowa Administrative Code 135.7(5) (e), (f), (g)
Iowa Administrative Code 135.8
Iowa Administrative Code 135.9
Iowa Administrative Code 135.10
Iowa Administrative Code 135.11
Iowa Administrative Code 135.12
Iowa Administrative Code 135.14
Iowa Administrative Code 135.15(1)(b)(4) and (5)
Iowa Administrative Code 135.15(1)(c)(1), (4), and (5)
Iowa Administrative Code 135.15(1)(e) and (f)
Iowa Administrative Code 135.15(2), (2)(a) and (d)
Iowa Administrative Code 135.15(3)(a) through (e)
Iowa Administrative Code 135.15(4)
Iowa Administrative Code 135.15(7)
Iowa Administrative Code 135.16
Iowa Administrative Code 135.17
Iowa Administrative Code 135.18
Iowa Administrative Code 135.19
Iowa Administrative Code 135.20
Iowa Administrative Code Chapter 135 Appendices A, B, C, and D

More Stringent Provisions (Give examples):

The following regulatory requirements are considered more stringent than the Federal program, and on approval, they become part of the federally approved program and are federally enforceable pursuant to 40 CFR 281.12(a)(3)(i):

Iowa required the notification for USTs taken out of operation from January 1, 1974, to July 1, 1985, USTs that existed and still in operation on or before July 1, 1985, and those brought into service after July 1, 1985, making them more stringent: Iowa Code 455B.473(1), (2), (3).

Iowa specifically excludes residential septic tanks as being underground storage tanks making them more stringent: Code of Iowa 455B.471(11)(b)(1)(c).

Iowa specifically excluded piping associated with tanks used for storing heating oil for consumptive use on the premises where stored as being underground storage tanks making them more stringent: Code of Iowa 455B.471(11)(b)(2).

Farm and residential tanks installed in Iowa after July 1, 1987, are subject to the requirements of 567 Iowa Admin. Code Chapters 135 and 136 making them more stringent: IAC 135.2 and 136.1(4).

Iowa specifies when under dispenser containment must be installed depending on what dispensing equipment is installed or replaced, what connections are made to the dispensers, and whether or not replaced or new piping is within 10 feet given dispensers making them more stringent: IAC 135.3(1)(f)(2) and (3).

Iowa requires that owners must have tank tags affixed to the fill pipe in order to receive deliveries of product into the USTs they own making them more stringent: IAC 135.3(3)(c).

Iowa requires that a person installing an underground storage tank and the owner or operator of the underground storage tank must notify the department of their intent to install the tank 30 days prior to installation making them more stringent: IAC 135.3(3)(h).

Iowa specifies the codes of practice to be discussed during UST Operator training making them more stringent: IAC 135.4(6)(a)(2), (3); IAC 135.4(8)(a)(2); IAC 135.4(8)(b)(1).

Iowa requires that C UST Operator be retrained in 15 days making them more stringent: IAC 135.4(6)(i).

Iowa specifies what financial responsibility topics must be covered during Class A UST Operator Training making them more stringent: IAC 135.4(8)(a)(12).

Iowa specifies the types of methods used for monitoring containment spaces, how often the monitoring is done, and containment should be kept free of liquid or debris that would affect the monitoring making them more stringent: 135.5(5)(d).

Iowa requires a 60-day timeframe for implementing and installing free product recovery system approved by the department making them more stringent: IAC 135.7(5)(e).

Iowa sets requirements for returning a UST to service after an extended period of temporary closure making them more stringent: IAC 135.15(1)(f).

Iowa requires department approval for removals undertaken with less than 30 days of notice making them more stringent: IAC 135.15(2)(a).

Iowa requires that department receives notice of bankruptcy within 10

days making them more stringent: IAC 136.23(3).

II. Codification

A. What is codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's approved UST program into the CFR. Section 9004(b) of RCRA, as amended, allows the EPA to approve State UST programs to operate in lieu of the Federal program. The EPA codifies its authorization of State programs in 40 CFR part 282 and incorporates by reference State statutes and regulations that the EPA will enforce under sections 9005 and 9006 of RCRA and any other applicable State provisions. The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the approved State program and State requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the approved program in each State.

B. What is the history of codification of Iowa's UST program?

EPA incorporated by reference the Iowa DNR approved UST program effective May 8, 1995 (60 FR 12631, March 7, 1995). In this document, EPA is revising 40 CFR 282.65 to include the approved revisions.

C. What codification decisions have we made in this rule?

Incorporation by reference: In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the federally approved Iowa UST program described in the amendments to 40 CFR part 282 set forth below. The EPA has made, and will continue to make, this document generally available through *www.regulations.gov* or by contacting the EPA Region 5 contact listed in the **ADDRESSES** section of this preamble.

The purpose of this **Federal Register** document is to codify Iowa's approved UST program. The codification reflects the State program that would be in effect at the time EPA's approved revisions to the Iowa UST program addressed in this direct final rule become final. The document incorporates by reference Iowa's UST statutes and regulations and clarifies which of these provisions are included in the approved and federally enforceable program. By codifying the approved Iowa program and by amending the CFR, the public will more easily be able to discern the status of the federally-approved requirements of the Iowa program.

EPA is incorporating by reference the Iowa approved UST program in 40 CFR 282.65. Section 282.65(d)(1)(i) incorporates by reference for enforcement purposes the State's statutes and regulations.

Section 282.65 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the UST program under Subtitle I of RCRA. These documents are not incorporated by reference.

D. What is the effect of Iowa's codification on enforcement?

The EPA retains the authority under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in approved States. With respect to these actions, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State authorized analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Iowa procedural and enforcement authorities. Section 282.65(d)(1)(ii) of 40 CFR lists those approved Iowa authorities that would fall into this category.

E. What State provisions are not part of the codification?

The public also needs to be aware that some provisions of the State's UST program are not part of the federally approved State program. Such provisions are not part of the RCRA Subtitle I program because they are ''broader in scope'' than Subtitle I of RCRA. Section 281.12(a)(3)(ii) of 40 CFR states that where an approved State program has provisions that are broader in scope than the Federal program, those provisions are not a part of the federally approved program. As a result, State provisions which are broader in scope than the Federal program are not incorporated by reference for purposes of Federal enforcement in part 282. Section 282.65(d)(1)(iii) lists for reference and clarity the Iowa statutory and regulatory provisions which are broader in scope than the Federal program and which are not, therefore, part of the approved program being codified in this document. Provisions that are broader in scope cannot be enforced by EPA; the State, however, will continue to implement and enforce such provisions under State law.

III. Statutory and Executive Order Reviews

This action only applies to Iowa's UST Program requirements pursuant to RCRA section 9004 and imposes no requirements other than those imposed by State law. It complies with applicable Executive Orders (EOs) and statutory provisions as follows:

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 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023), because this action approves and codifies State requirements for the purpose of RCRA section 9004 and imposes no additional requirements beyond those imposed by State law. Therefore, this action was not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

This rule does not impose an information collection burden under the provisions of the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

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.,* because this action authorizes State requirements pursuant to RCRA section 9004 and imposes no requirements beyond those imposed by State law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandates as described in UMRA, 2 U.S.C. 1501 *et seq.,* and does not significantly or uniquely affect small governments because this action approves and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law.

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

This action approves 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 (2 U.S.C. 1531–1538). 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).

F. Executive Order 13132: Federalism

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 approves and codifies State requirements as part of the State RCRA underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that 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 approves a State program.

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

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Under RCRA section 9004(b), EPA grants a State's application for approval as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State approval 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 NTTAA, 15 U.S.C. 272 note, do not apply to this action.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations. Because this action approves pre-existing State rules that are 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, this rule is not subject to Executive Order 12898.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report containing this document and other required information to each House of the Congress 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). However, this action will be effective December 3, 2024 because it is a direct final rule.

Authority: This rule is issued under the authority of sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Incorporation by reference, Insurance, Intergovernmental relations, Oil pollution, Penalties, Petroleum, Reporting and recordkeeping requirements, Surety bonds, Water pollution control, Water supply.

Dated: September 18, 2024.

Cecilia Tapia,

Acting Deputy Regional Administrator, EPA Region 7.

For the reasons set forth in the preamble, EPA is amending 40 CFR part 282 as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

■ 1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

■ 2. Revise § 282.65 to read as follows:

§ 282.65 Iowa State-Administered Program.

(a) *History of the approval of Iowa's program.* The State of Iowa is approved to administer and enforce an underground storage tank program in lieu of the Federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Iowa Department of Natural Resources, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Iowa program on March 7, 1995, and it was effective on May 8, 1995. A subsequent program revision application was approved by EPA and became effective on December 3, 2024.

(b) *Enforcement authority.* Iowa has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retaining program approval.* To retain program approval, Iowa must revise its approved program to adopt new changes to the Federal Subtitle I program which makes it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c and 40 CFR part 281, subpart E. If Iowa obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) *Final program approval.* Iowa has final approval for the following elements of its program application originally submitted to EPA and

approved on March 7, 1995, and effective May 8, 1995, and the program revision application approved by EPA, effective on December 3, 2024:

(1) *State statutes and regulations—(i) Incorporation by reference.* The material cited in this paragraph, and listed in Appendix A to Part 282, is incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* (See § 282.2 for incorporation by reference approval and inspection information.) You may obtain copies of the Iowa regulations and statutes that are incorporated by reference in this paragraph from the Iowa Department of Natural Resources website at: *https://www.iowadnr.gov/Environmental-Protection/Land-Quality/Underground-Storage-Tanks/UST-LUST-Regulations* for 567 Iowa Administrative Code regulations and *https://www.legis.iowa.gov/law/administrativeRules/agencies* for Code of Iowa statutes or the Iowa Department of Natural Resources, UST Section, 6200 Park Avenue, Suite 200, Des Moines, IA 50321.

(A) EPA-Approved Iowa Regulatory Requirements Applicable to the Underground Storage Tank Program, August 2023.

(B) EPA-Approved Iowa Statutory Requirements Applicable to the Underground Storage Tank Program, December 22, 2023.

(ii) *Legal basis.* EPA evaluated the following statutes and regulations, which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference for enforcement purposes and do not replace Federal authorities. Iowa's no less stringent, underground storage tank program compliance criteria is included in their regulations. Iowa includes brief statements in their statutes establishing the authority of the Iowa Department of Natural Resources to create and implement the underground storage tank program. None of these statutes are incorporated by reference.

(A) Code of Iowa 455B.17(A)(19)(10)(f).

(B) Code of Iowa 455B.472, 473A, 474, 474A, 475, 476, 477, 478, 479.

(iii) *Provisions not incorporated by reference.* The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the approved program, and are not incorporated by reference in this section for enforcement purposes:

(A) Code of Iowa Chapter 455B, Jurisdiction of the Department of Natural Resources, Division IV, Solid Waste Disposal, Part 8—Underground Storage Tanks Sections: 455B.471(1), (2), (3), (4), (10); 455B.473(4) through (9).

(B) 567 Iowa Administrative Code Chapter 134—Underground Storage Tank Licensing and Certification Programs—entire Chapter.

(C) 567 Iowa Administrative Code Chapter 135—Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks: 135.2 definitions not listed in 40 CFR 280.12; 135.3(1)(c)(5) and (e)(1) and (2); 135.3(2)(a); 135.3(3)(a), (b), (d)(5) and (6), (g), (j), and (k); 135.3(5); 135.3(9)(b)(1)(1); 135.4(2)(e); 135.4(3)(b), (c); 135.4(4)(c)(2) and (4); 135.4(4)(g) and (i); 135.4(5)(a)(7) and (8); 135.4(6)(a) through (f); 135.(4)(7); 135.4(8)(a), (a)(4), (5), (7), (8), (9), (14), (16), (18); 135.4(8)(b), (b)(4), (5), (8), (9), (12), (13), (14), (17). (19); 135.4(8)(c)(1), (2), (3), (4), (5); 135.4(9); 135.4(11)(a)(2), (c) and (d); 135.5(1)(e); 135.5(4)(c); 135.5(4)(d)(4); 135.5(4)(e)(8); 135.5(4)(g)(1)(1) through (3); 135.5(4)(h)(3)(1) through (3); 135.5(4)(h)(4) through (6); 135.5(5)(b), (d)(1) and (2); 135.6(3)(b); 135.7(5); 135.7(5) (d)(3), (9), (10), (11); 135.7(5) (e), (f), (g); 135.8; 135.9; 135.10; 135.11; 135.12; 135.14; 135.15(1)(b)(4) and (5); 135.15(1)(c)(1), (4), and (5); 135.15(1)(e) and (f); 135.15(2), (2)(a) and (d); 135.15(3)(a) through (e); 135.15(4); 135.15(7); 135.16; 135.17; 135.18; 135.19; 135.20; Chapter 135 Appendices A, B, C, and D.

(2) *Statement of legal authority.* The ''Attorney General's Statement Letter'', signed by the Iowa Attorney General on December 22, 1993, and May 9, 2023, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Adequate Enforcement Procedures'' submitted as part of the original application on March 17, 1994, and as part of the program revision application on June 22, 2023, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application on March 17, 1994, and as part of the program revision application on June 22, 2023, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 7 and the Iowa Department of Natural Resources, signed by the EPA Regional Administrator on April 4, 2019, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 3. Appendix A to part 282 is amended by revising the entry for ''Iowa'' to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Iowa

(a) The statutory provisions include Code of Iowa Chapter 455B, Jurisdiction of the Department of Natural Resources, Division IV, Solid Waste Disposal, Part 8—Underground Storage Tanks (455B.471 *et seq.*):

455B.471(5), (6), (7), (8), (9), (11)(a) and 11(b) except for as indicated: 471(11)(b)(1)(c)—Iowa specifically excludes residential septic tanks as being underground storage tanks making them more stringent; and 455B.471(11)(b)(2)—Iowa specifically excluded piping associated with tanks used for storing heating oil for consumptive use on the premises where stored as being underground storage tanks making them more stringent.

Iowa Code 455B.473 except for 455B.473(1), (2), (3) Iowa required the notification for USTs taken out of operation from January 1, 1974, to July 1, 1985, USTs that existed and still in operation on or before July 1, 1985, and those brought into service after July 1, 1985, making them more stringent.

(b) The regulatory provisions include 567 Iowa Administrative Chapter 135—Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks and Chapter 136—Financial Responsibility for Underground Storage Tanks:

567 Iowa Administrative Code Chapter 135—Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks

Iowa Administrative Code 135.2 except for the farm and residential tanks of 1100 gallons or less capacity used for storing motor fuel for noncommercial purposes component of the definition of underground storages tanks that requires that such tanks installed in Iowa after July 1, 1987, to be subject to the requirements of 567 Iowa Administrative Code Chapter 135 making them more stringent. All other definitions corresponding to those listed in 40 CFR 280.12 are incorporated by reference.

Iowa Administrative Code 135.1(3)(a), 135.1(3)(a)(4).

Iowa Administrative Code 135.3(1), 135.3(1)(a), 135.3(1)(a)(4)(2), 135.3(1)(b), 135.3(1)(c)(1) through (4), 135.3(1)(d), 135.3(1)(e), 135.3(1)(f)(1) and (4), except for IAC 135.3(1)(f)(2) and (3) language that specifies when under dispenser containment must be installed depending on what dispensing equipment is installed or replaced, what connections are made to the dispensers, and whether or not replaced or new piping is within 10 feet given dispensers making them more stringent.

Iowa Administrative Code 135.3(2)(b), 135.3(2)(c), 135.3(2)(d), except for IAC 135.3(3)(c) language Iowa requiring that owners must have tank tags affixed to the fill pipe in order to receive deliveries of product into the USTs they own making them more stringent.

Iowa Administrative Code 135.3(3)(d)(1) through (4) except for IAC 135.3(3)(h) language requiring that a person installing an underground storage tank and the owner or operator of the underground storage tank must notify the department of their intent to install the tank 30 days prior to installation making them more stringent.

Iowa Administrative Code 135.3(9), 135.3(9)(b)(2).

Iowa Administrative Code 135.4 except for 135.4(6)(a)(2), (3); IAC 135.4(8)(a)(2); IAC 135.4(8)(b)(1) language that specifies the codes of practice to be discussed during UST Operator training making them more stringent.

Iowa Administrative Code 135.4(1), 135.4(1)(b), 135.4(2)(a) through (d), 135.4(3), 135.4(3)(a), 135.4(4)(a), 135.4(4)(b), 135.4(4)(c)(1) and (3), 135.4(4)(d), 135.4(4)(e), 135.4(4)(f), 135.4(4)(h), 135.4(5)(a)(1) through (6), 135.4(5)(b), 135.4(5)(b)(8) and (11), 135.4(5)(c) except for IAC 135.4(6)(i) language requiring that C UST Operator be retrained in 15 days making them more stringent and except for IAC 135.4(8)(a)(12) language Iowa specifying what financial responsibility topics must be covered during Class A UST Operator Training making them more stringent.

Iowa Administrative Code 135.4(12), 135.4(12)(c), 135.4(13), 135.4(13)(e).

Iowa Administrative Code 135.5(1)(a) through (d), 135.5(2), 135.5(3), 135.5(4)(a), 135.5(4)(b), 135.5(4)(c), 135.5(4)(d)(1) through (3), 135.5(4)(e)(1) through (7), 135.5(4)(f), 135.5(4)(g)(1), 135.5(4)(g)(2), 135.5(4)(h)(1) and (2), 135.5(4)(i), 135.5(5)(a), 135.5(5)(b), 135.5(5)(c), 135.5(5)(d), 135.5(6) except for IAC 135.5(5)(d) language specifying the types of methods used for monitoring containment spaces, how often the monitoring is done, and containment should be kept free of liquid or debris that would affect the monitoring making them more stringent.

Iowa Administrative Code 135.6(1), 135.6(2), 135.6(3)(a), 135.6(4)(a) and (b).

Iowa Administrative Code 135.7(2), 135.7(3), 135.7(5)(a), 135.7(5)(b), (c), 135.7(5)(d)(1), 135.7(5)(d)(2), 135.7(5)(d)(4) through (8) except for IAC 135.7(5)(e) language requiring a 60-day timeframe for implementing and installing free product recovery system approved by the department making them more stringent:

Iowa Administrative Code 135.13.

Iowa Administrative Code 135.15(1)(a), 135.15(1)(b)(1), 135.15(1)(b)(2), 135.15(1)(b)(3), 135.15(1)(b)(6), 135.15(1)(c)(2), 135.15(1)(c)(3), 135.15(1)(c)(6), 135.15(1)(d) except for IAC 135.15(1)(f) language setting requirements for returning a UST to service after an extended period of temporary closure making them more stringent.

Iowa Administrative Code 135.15(2)(b) and (c), 135.15(3)(a) and (f), 135.15(5) except for IAC 135.15(2)(a) language requiring department approval for removals undertaken with less than 30 days of notice making them more stringent.

567 Iowa Administrative Code Chapter 136—Financial Responsibility for Underground Storage Tanks

Iowa Administrative Code 136.1 except for 136.1(4) requiring that farm and residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes installed in Iowa after July 1, 1987, be made subject to the requirements of 567 Iowa Administrative Code Chapter 136 making them more stringent.

Iowa Administrative Code 136.3
Iowa Administrative Code 136.4
Iowa Administrative Code 136.5
Iowa Administrative Code 136.6
Iowa Administrative Code 136.7
Iowa Administrative Code 136.8
Iowa Administrative Code 136.9
Iowa Administrative Code 136.10
Iowa Administrative Code 136.11
Iowa Administrative Code 136.12
Iowa Administrative Code 136.13
Iowa Administrative Code 136.14
Iowa Administrative Code 136.15
Iowa Administrative Code 136.16
Iowa Administrative Code 136.17
Iowa Administrative Code 136.18
Iowa Administrative Code 136.19
Iowa Administrative Code 136.20
Iowa Administrative Code 136.21
Iowa Administrative Code 136.22

Iowa Administrative Code 136.23 except for IAC 136.23(3) language requiring that department receives notice of bankruptcy within 10 days making them more stringent.

Iowa Administrative Code 136.24

* * * * *

[FR Doc. 2024–22912 Filed 10–3–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 231215–0305; RTID 0648–XE352]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From North Carolina to Rhode Island

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2024 commercial summer flounder quota to the State of Rhode Island. This adjustment to the 2024 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2024 commercial quotas for North Carolina and Rhode Island.

DATES: Effective October 3, 2024 through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Matthew Rigdon, Fishery Management Specialist, (978) 281–9336.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102, and the final 2024 allocations were published on December 21, 2023 (88 FR 88266).

The final rule implementing Amendment 5 to the FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfers or combinations would not preclude the overall annual quota from being fully harvested; (2) the transfers address an unforeseen variation or contingency in the fishery; and (3) the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

North Carolina is transferring 1,835 pounds (lb; 832 kilograms (kg)) to Rhode Island through a mutual agreement between the states. This transfer was requested to repay landings made by an

out-of-state permitted vessel under a safe harbor agreement. The revised summer flounder quotas for 2024 are: North Carolina, 2,329,900 lb (1,056,825 kg); and Rhode Island, 1,396,261 lb (633,333 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.102(c)(2)(i) through (iv), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempted from review under Executive Order 12866.

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

Dated: October 1, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–22995 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 193
Friday, October 4, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[NRC–2020–0101]

RIN 3150–AK55

Generic Environmental Impact Statement for Licensing of New Nuclear Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule, draft guidance, and draft generic environmental impact statement; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend the regulations that govern the NRC's environmental reviews of new nuclear reactor applications under the National Environmental Policy Act. The rulemaking would codify the generic findings of the NRC's draft Generic Environmental Impact Statement for Licensing of New Nuclear Reactors. The draft Generic Environmental Impact Statement for Licensing of New Nuclear Reactors uses a technology-neutral framework and a set of plant and site parameters to determine which potential environmental impacts would be common to the construction, operation, and decommissioning of many new nuclear reactors, and thus appropriate for a generic analysis, and which potential environmental impacts would be unique, and thus require a project-specific analysis. The NRC expects that both the proposed rule and the Generic Environmental Impact Statement for Licensing of New Nuclear Reactors would streamline the environmental reviews for future nuclear reactor applicants. The NRC is also issuing for public comment draft regulatory guide (DG), ''Preparation of Environmental Reports for Nuclear Power Stations,'' and ''Environmental Considerations Associated with New Nuclear Reactor Applications that Reference the Generic Environmental Impact Statement.''

DATES: Submit comments by December 18, 2024. 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 before this date. The NRC plans to hold three public meetings to promote a full understanding of the proposed rule and facilitate public comments. Public meetings will be held on November 7, 2024, November 13, 2024, and November 14, 2024. See Section XV, ''Public Meetings,'' of this document for more information on the meetings.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject); 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–2020–0101. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: *Helen.Chang@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. eastern time, Federal workdays; telephone: 301–415–1677.

You can read a plain language description of this proposed rule at *https://www.regulations.gov/docket/NRC-2020-0101.* 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: Stewart Schneider, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–4123, email: *Stewart.Schneider@nrc.gov,* Stacey Imboden, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–2462, email: *Stacey.Imboden@nrc.gov,* or Laura Willingham, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–0857, email: *Laura.Willingham@nrc.gov.* All are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Executive Summary

A. Purpose of the Regulatory Action

The U.S. Nuclear Regulatory Commission (NRC) is proposing to revise its regulations to codify the findings of the draft generic environmental impact statement, NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors'' (NR GEIS). The draft NR GEIS analyzes the potential environmental impacts of the construction, operation, and decommissioning of a new nuclear reactor. The NR GEIS is intended to improve the efficiency of the NRC staff's environmental review of a new nuclear reactor application by identifying those potential environmental issues that are expected to be common, or generic, to the construction, operation, and decommissioning of many new nuclear reactors. If the Commission approves issuance of the NR GEIS, the NRC staff would be able to rely on the NR GEIS' generic findings when conducting a subsequent, project-specific environmental review for a new nuclear reactor if specific conditions are met. The proposed rule would codify these generic findings into the NRC's regulations in part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' thus making the NRC's licensing process for new nuclear reactors more efficient. Specifically, these findings would be codified into subpart A of 10 CFR part 51, which sets forth the NRC's regulations to implement its obligations under the National Environmental Policy Act (NEPA).[1]

[1] 42 U.S.C. 4321 *et seq.* (1969).

B. Major Provisions

Major provisions of this proposed rule and guidance would include:

1. Addition of a new appendix C, ''Environmental Effect of Issuing a Permit or License for a New Nuclear Reactor,'' to subpart A of 10 CFR part 51 to codify the findings in the NR GEIS and state that, on a 10-year cycle, the Commission intends to review the material in this appendix and update if necessary.

2. Changes to the regulations for the preparation of environmental reports for new reactors (§ 51.50, ''Environmental report—construction permit, early site permit, or combined license stage'') to provide the applicant with the option to use the NR GEIS.

3. Changes to the regulations for the preparation of draft environmental impact statements (EISs) for new reactors (§ 51.75, ''Draft environmental impact statement—construction permit, early site permit, or combined license'') to require the NRC staff to use the NR GEIS in preparing its draft EIS if an applicant for a new nuclear reactor referenced the NR GEIS in its application.

4. Addition of new section (§ 51.96, ''Final supplemental environmental impact statement relying on Appendix C to Subpart A'') to provide the NRC staff with directions on the preparation of final EISs that reference the NR GEIS.

5. Draft revisions to Regulatory Guide (RG) 4.2, ''Preparation of Environmental Reports for Nuclear Power Stations,'' [2] to provide guidance to applicants regarding the use of the NR GEIS. In addition, the NRC staff has prepared a draft interim staff guidance document, COL–ISG–030, ''Environmental Considerations Associated with New Nuclear Reactor Applications that Reference the Generic Environmental Impact Statement (NUREG–2249)'' to provide guidance to the NRC staff regarding the use of the NR GEIS.

C. Costs and Benefits

The NRC prepared a draft regulatory analysis to determine the expected quantitative costs and benefits of this proposed rule and associated guidance. Assuming 20 applications over the next decade, the regulatory analysis concluded that, compared to the no-action alternative, the proposed rule alternative and associated guidance would result in undiscounted total net savings for the NRC and applicants up to $40.1 million or $2.0 million per application if the NR GEIS is fully utilized.

The draft regulatory analysis also considered qualitative factors to be considered in the NRC's rulemaking decision. Qualitative aspects include greater regulatory stability, predictability, and clarity to the licensing process. The proposed rule would reduce the cost to industry of preparing environmental reports for new nuclear reactor applications by focusing resources on project-specific analyses. The NRC also would recognize similar reductions in cost and be better able to focus its resources on the project-specific issues during new nuclear reactor licensing environmental reviews.

The NR GEIS could potentially be utilized for micro-reactors, but the NRC staff does not have sufficient information at this time to determine whether the proposed rule could potentially affect any small entities as defined in § 2.810, ''NRC size standards.'' Therefore, the NRC staff has included an initial regulatory flexibility analysis in Section VI, Regulatory Flexibility Certification, of this document and is requesting public comment on the potential impact of the proposed rule on small entities.

For more information, please see the draft regulatory analysis (available as indicated in Section XVI, Availability of Documents, of this document).

Table of Contents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0101 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–2020–0101.
- *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 reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the Availability of Documents section.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.
- *Technical Library:* The Technical Library, which is located at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852, is open by appointment only. Interested parties may make appointments to examine documents by contacting the NRC Technical Library by email at *Library.Resource@nrc.gov* between 8 a.m. and 4 p.m. eastern time, 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–2020–0101 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.

[2] Unless stated otherwise, references to RG 4.2 refer to DG–4032, the draft revision to RG 4.2, which is being published at the same time as this notice.

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. Background

The Generic Environmental Impact Statement for Licensing of New Nuclear Reactors (NR GEIS) is intended to streamline the NRC's environmental review for new nuclear reactor applications received as part of the reactor licensing process.[3] This Background section provides an overview of the two existing reactor licensing processes, 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities,'' and 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' under which an applicant may apply for a license for a new nuclear reactor. This section also describes the environmental review process and the Commission's policy and past practice with respect to the use of generic rulemakings to adopt improvements to the licensing process.

A. New Reactor Licensing Processes—10 CFR Part 50 and 10 CFR Part 52

The NRC licenses and regulates the construction and operation of nuclear reactor facilities in the United States. The NRC's evaluation and ultimate decision on a reactor application will involve a safety review, governed by the NRC's regulations in either 10 CFR part 50 or 10 CFR part 52, and an environmental review, governed by the NRC's regulations in 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' All nuclear reactors that were operating prior to 2021 were licensed under a two-step licensing process governed by 10 CFR part 50. The first step is an application for and issuance of a construction permit. The second step, upon substantial completion of facility construction, is issuance of an operating license.

In an effort to improve regulatory efficiency and add greater predictability to the reactor licensing process, the NRC issued 10 CFR part 52 on April 18, 1989 (54 FR 15372). The rule added licensing processes for issuance of early site permits, standard design certifications, and combined licenses. Early site permits allow an applicant to obtain approval for a reactor site for future use, while certified standard plant designs can be used as pre-approved designs. Early site permits and certified designs can then be referenced in an application for a combined license. Combined licenses combine a construction permit and an operating license in a single authorization.

A nuclear reactor applicant could apply for a license under 10 CFR part 50 or 10 CFR part 52. The proposed rule to adopt the generic environmental conclusions of the NR GEIS in 10 CFR part 51 would be available for use in conjunction with either of these two licensing processes. Additionally, the NRC staff is preparing a rulemaking that would provide a new framework for licensing reactors in a proposed 10 CFR part 53.[4] The NRC staff anticipates that the NR GEIS would be available for use with this new 10 CFR part 53 licensing process for new nuclear reactors.

B. Environmental Review—Current 10 CFR Part 51 Regulations

As a Federal agency, the NRC must comply with the National Environmental Policy Act (NEPA) by assessing the potential environmental effects of a proposed agency action prior to making a decision to approve or disapprove of that proposed action. The regulations implementing the NRC's NEPA obligations are found in 10 CFR part 51.

Under NEPA, the environmental review of a proposed action can involve one of three different levels of analysis depending on the significance of a proposed action's potential effects on the environment: (1) a categorical exclusion,[5] (2) an environmental assessment,[6] or (3) an environmental impact statement (EIS). An EIS, the most complex, resource-intensive, and thorough of the three levels of NEPA analysis, is a document that describes the potential environmental impacts of the proposed action as well as a reasonable range of alternatives to the proposed agency action. Under NEPA, Federal agencies shall prepare an EIS for any proposed agency action that may result in a significant impact to an environmental resource. In addition, the Commission has identified, by its § 51.20, ''Criteria for and identification of licensing and regulatory actions requiring environmental impact statements,'' regulation, certain categories of NRC proposed actions that require the preparation of an EIS. In this regard, § 51.20(b)(1) identifies the issuance of a construction permit (under the 10 CFR part 50 licensing process) or an early site permit (under the 10 CFR part 52 licensing process) for a nuclear power reactor or testing facility, as proposed actions requiring the preparation of an EIS.[7] Similarly, § 51.20(b)(2) identifies the issuance or renewal of an operating license (under 10 CFR part 50) or a combined license (under 10 CFR part 52) for a nuclear power reactor or testing facility, as proposed actions requiring the preparation of an EIS.

The NRC's regulation at § 51.45, ''Environmental report,'' requires a reactor applicant to submit an environmental report that discusses: (1) the impact of the proposed action on the environment, (2) any adverse environmental impacts that cannot be avoided, (3) alternatives to the proposed action, (4) the relationship between local short-term uses of the environment and maintenance and enhancement of

[3] In staff requirements memorandum, SRM–SECY–20–0020, ''Results of Exploratory Process for Developing a Generic Environmental Impact Statement for the Construction and Operation of Advanced Nuclear Reactors,'' dated September 21, 2020, the Commission approved the development of a GEIS for the construction and operation of advanced nuclear reactors and directed staff to codify the generic findings in the *Code of Federal Regulations.* In SRM–SECY–21–0098, ''Proposed Rule: Advanced Nuclear Reactor Generic Environmental Impact Statement,'' dated April 17, 2024, the Commission directed the staff to proceed with publication of the NR GEIS after modifying it to be applicable to any new nuclear reactor application.

[4] Risk-Informed, Technology Inclusive Regulatory Framework for Advanced Reactors (Docket ID NRC–2019–0062; RIN 3150–AK31).

[5] The NRC defines a ''categorical exclusion'' as a category of actions which do not individually or cumulatively have a significant effect on the human environment and which the Commission has found to have no such effect in accordance with procedures set out in § 51.22, ''Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review,'' and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. 10 CFR 51.14(a). The NRC's list of categorical exclusions is set forth in § 51.22.

[6] The NRC defines an ''environmental assessment'' as a concise public document . . . that serves to: (1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact. (2) Aid the Commission's compliance with NEPA when no environmental impact statement is necessary. (3) Facilitate preparation of an environmental impact statement when one is necessary. 10 CFR 51.14(a).

[7] The terms ''nuclear reactor'' and ''testing facility'' are defined in § 50.2, ''Definitions.''

long-term productivity, and (5) any irreversible or irretrievable commitments of resources. In addition, the applicant is required to include in its environmental report, an analysis that considers and balances the environmental effects of the proposed action and the alternatives available for reducing or avoiding adverse environmental effects, as well as the benefits of the action. The NRC will independently evaluate the applicant's environmental report as part of the NRC's preparation of the draft EIS.

Before issuing a construction permit or an operating license for a nuclear plant under 10 CFR part 50 or an early site permit or combined license (that does not reference an early site permit for the proposed nuclear reactor) under 10 CFR part 52, the NRC is required to prepare a draft EIS that assesses the potential environmental impacts that may result from the construction, operation, and decommissioning of the proposed nuclear reactor plant. In preparing the draft EIS, the NRC staff will analyze the potential environmental impacts in regard to different aspects or resources of the human environment (*e.g.,* air quality). For each environmental aspect or resource area, the NRC staff will identify and analyze issues that correspond to specific, potential environmental impacts (*e.g.,* for the air quality resource area, the criteria pollutant emissions likely to result during construction). In the draft EIS, the NRC staff also evaluates alternatives to the proposed agency action.

After analyzing the potential environmental impacts for each issue,[8] the NRC assigns one of the following three significance levels to describe its evaluation of those impacts on that issue:

SMALL—The environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource. For the purposes of assessing radiological impacts, the Commission has concluded that those impacts that do not exceed permissible levels in the Commission's regulations are considered small as the term is used in this definition.

MODERATE—The environmental effects are sufficient to alter noticeably, but not to destabilize, important attributes of the resource.

LARGE—The environmental effects are clearly noticeable and are sufficient to destabilize important attributes of the resource.

For issues where probability is a key consideration (*i.e.,* accident consequences), probability is a factor in determining significance.

The NRC will document its environmental review and analysis through the preparation of a draft EIS that will be published for public comment in the **Federal Register**, with a minimum 45-day comment period, in accordance with § 51.73, ''Request for comments on draft environmental impact statement.'' Further, as provided in § 51.74, ''Distribution of draft environmental impact statement and supplement to draft environmental impact statement; news releases,'' the NRC will distribute the draft EIS to the Environmental Protection Agency, Federal agencies that have a special expertise or jurisdiction with respect to any potential environmental impact that may be relevant to the proposed action, the applicant, and appropriate State, Tribal, and local agencies and clearinghouses.

Following the public comment period, the NRC will analyze any comments received, revise its environmental analyses as appropriate, and then prepare the final EIS in accordance with the requirements of § 51.91, ''Final environmental impact statement—contents.'' [9] Pursuant to § 51.93, ''Distribution of final environmental impact statement and supplement to final environmental impact statement; news releases,'' the NRC will distribute the final EIS to many of the same entities as the draft EIS and to each commenter. The NRC also will publish a notice of availability for the final EIS in the **Federal Register**. As set forth in § 51.102, ''Requirement to provide a record of decision; preparation,'' and following the preparation and distribution of the final EIS, the Commission will prepare and issue the record of decision, which is a concise, publicly-available statement that documents the NRC's decision, as informed by the final EIS. The requirements for a record of decision are described in § 51.103, ''Record of decision—general,'' and include stating the Commission's decision (*e.g.,* the approval or disapproval of the nuclear reactor application), identifying the alternatives (including the proposed agency action) considered by the Commission, and a statement as to whether the Commission has taken all practicable measures within its jurisdiction to avoid or minimize environmental harm from the alternative selected, and if not, to explain why those measures were not adopted (*e.g.,* lack of jurisdiction or authority). In cases of an adjudicatory proceeding before the NRC's Atomic Safety and Licensing Board (ASLB), the initial decision of the presiding officer, or if appealed, the final decision of the Commission, will constitute the record of decision. To meet the § 51.102 requirement that the record of decision be a concise document, the NRC staff will also prepare a ''Summary Record of Decision,'' signed by the NRC's Director, Office of Nuclear Reactor Regulation, that summarizes the presiding officer's initial, or the Commission's final, decision.[10]

C. Use of Rulemaking and Generic Environmental Impact Statements

The use of rulemaking to adopt improvements to the licensing process for classes of applicants, such as reactor applicants, has several advantages, including the following, which were identified in a 1978 NRC interim policy statement: [11] (1) enhance stability and predictability of the licensing process by providing regulatory criteria and requirements in discrete generic areas on matters which are significant in the review and approval of license applications; (2) enhance public understanding and confidence in the integrity of the licensing process by inviting public participation in important generic issues which are of concern to the agency and the public; (3) enhance administrative efficiency in licensing by removing, in whole or in part, generic issues from NRC staff review and adjudicatory resolution in individual licensing proceedings and/or by establishing the importance (or lack of importance) of various safety and environmental issues to the decision process; (4) assist the Commission in resolving complex methodological and policy issues involved in recurring issues in the review and approval of individual licensing applications; and

[8] Each issue corresponds to a specific type of environmental impact potentially resulting from building, operating, or decommissioning of a new nuclear reactor.

[9] For a 10 CFR part 52 combined license that references an early site permit, the NRC will prepare a supplement to the final EIS for the early site permit in accordance with § 51.92(e) and will provide an opportunity for public comment on the supplement pursuant to § 51.92(f)(1). Similarly, for a 10 CFR part 50 operating license, the NRC will prepare a supplement to the final EIS for the construction permit in accordance with § 51.95(b) and will provide an opportunity for public comment on the supplement pursuant to § 51.95(a).

[10] For the issuance of a 10 CFR part 50 operating license supported by a supplement prepared pursuant to § 51.95(b) that is uncontested (*i.e.,* no hearing before the NRC's ASLB), the Director, Office of Nuclear Reactor Regulation, will prepare the record of decision in accordance with § 51.103.

[11] Generic Rulemaking to Improve Nuclear Power Plant Licensing, Interim Policy Statement (43 FR 58377; December 14, 1978).

(5) yield an overall savings in the utilization of resources in the licensing process by the utility industry, those of the public whose interest may be affected by the rulemaking, the NRC, and other Federal, State, and local governments with an expected improvement in the quality of the decision process.

The NRC has prepared the draft NR GEIS, which provides generic findings with respect to many environmental issues. The NRC is proposing to codify these generic findings in 10 CFR part 51 to streamline and make more efficient the preparation of environmental reports by new nuclear reactor applicants and the NRC's environmental reviews. This proposed rule is consistent with past NRC part 51 rulemakings that adopted generic findings with respect to certain environmental issues related to the reactor licensing process. For example, table S–3, ''Table of Uranium Fuel Cycle Environmental Data,'' in § 51.51 identifies the generic findings related to various environmental impacts of the nuclear fuel cycle.[12] As such, these applicants are not required to conduct their own analysis of these impacts in their environmental reports and the NRC staff can likewise rely upon these findings when preparing its draft EIS.

Based upon past experience, the NRC has determined that the use of a generic environmental impact statement (GEIS) and the codification of the generic findings into an NRC regulation is an efficient and thorough method of NEPA compliance when applied to a particular class of facilities or licensing and regulatory actions. Specifically, the NRC has relied upon the ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants'' (NUREG–1437), which was issued in 1996 and recently updated in 2024, for operating power reactor license renewal actions, and the ''Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel'' (NUREG–2157), which was issued in 2014, for the continued storage of spent fuel beyond the licensed life for operation of a reactor. In this regard, the NRC added appendix B to 10 CFR part 51, which codifies the generic findings of the NUREG–1437, and amended § 51.23, ''Environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor,'' which codifies the findings of NUREG–2157.

The NUREG–1437, which identifies the environmental issues that may apply to the renewal of an operating power reactor license, serves as a model for the preparation of the NR GEIS. For each operating power reactor license renewal action, the NRC prepares a project-specific supplemental EIS (SEIS) that is issued as a supplement to NUREG–1437. To date, the NRC has issued SEISs to NUREG–1437 associated with initial license renewal and subsequent license renewal for 61 plants. In NUREG–1437, the NRC staff determined that those issues that were common, or generic, to all nuclear reactors were identified as Category 1. Further, the NRC staff determined that the vast majority of the Category 1 issues were of a SMALL significance level.[13] Provided that neither the license renewal applicant nor the NRC identifies any new and significant information, no further analysis is needed for that issue by the applicant in its environmental report or by the NRC in its preparation of the draft SEIS. Those issues that cannot be resolved generically and are identified as Category 2 issues must be analyzed by both the applicant in its environmental report and by the NRC in the draft SEIS. The applicant in its environmental report and the NRC in its draft SEIS must also address any new and significant information.

The NRC has codified the findings for the NUREG–1437 Category 1 issues into its regulations; the findings are listed in table B–1, ''Summary of Findings on NEPA Issues for License Renewal of Nuclear Power Plants,'' of appendix B to subpart A of 10 CFR part 51. The regulatory direction to use NUREG–1437 is set forth in § 51.53(c) for applicant environmental reports, in § 51.71(d) for the NRC staff's preparation of the draft SEIS, and in § 51.95(c) for the NRC staff's preparation of the final SEIS. In accordance with § 2.335(a), the codification of the generic findings and the direction to use NUREG–1437 for operating power reactor license renewal actions bars any challenge to a generic finding or the NRC's reliance upon NUREG–1437 in a site-specific licensing proceeding before the NRC's ASLB.[14] A person seeking to challenge a codified generic finding must either file a petition for rulemaking pursuant to § 2.802, ''Petition for rulemaking—requirements for filing,'' or, if a party to an ASLB proceeding, file a request to waive the regulation pursuant to § 2.335(b), such waiver being subject to Commission approval.

The use of a GEIS for meeting the NRC's NEPA obligations and the concomitant codification of generic findings into an NRC regulation has been upheld by Federal courts. In its 1983 decision, *Baltimore Gas and Electric Co.* v. *NRDC,* the Supreme Court adjudicated a challenge to table S–3, codified at § 51.51.[15] The Court described table S–3 as ''a numerical compilation of the estimated resources used and effluents released by fuel cycle activities supporting a year's operation of a typical light-water reactor.'' [16] Section 51.51 requires that an environmental report, prepared by an applicant for a construction permit, an early site permit, or a combined license for a light-water-cooled nuclear power reactor, use the data in table S–3 ''as the basis for evaluating the contribution of the environmental effects'' of all aspects of the uranium fuel cycle, such as uranium mining and milling, ''to the environmental costs of licensing the nuclear power reactor.'' [17] The Court held that ''the generic method chosen by the [NRC] is clearly an appropriate method of conducting the hard look required by NEPA.'' [18] The Court further stated that ''administrative efficiency and consistency of decision are both furthered by a generic determination of these effects without needless repetition of the litigation in individual proceedings, which are subject to review by the Commission in any event.'' [19] Lower Federal courts have applied the *Baltimore Gas* holding to the NRC's reliance on NUREG–1437 for operating power license renewal

[12] As described in § 51.51(a), the nuclear fuel cycle includes uranium mining and milling, the production of uranium hexafluoride, isotopic enrichment, fuel fabrication, reprocessing of irradiated fuel, transportation of radioactive materials and management of low-level wastes and high-level wastes related to these activities.

[13] Certain issues such as the offsite radiological impacts of spent nuclear fuel storage and high-level waste disposal were not given a significance level because of uncertainty; however, the Commission concluded that the impacts would not be sufficiently large to require the NEPA conclusion, for any plant, that the option of extended operation under 10 CFR part 54 should be eliminated. Accordingly, while the Commission has not assigned a single level of significance for the offsite radiological impacts of spent fuel and high-level waste disposal, these issues were considered to be Category 1 issues by the Commission.

[14] 10 CFR 2.335(a) (''[N]o rule or regulation of the Commission, or any provision thereof, concerning the licensing of production and utilization facilities, source material, special nuclear material, or byproduct material, is subject to attack by way of discovery, proof, argument, or other means in any adjudicatory proceeding subject to this part.'').

[15] *Baltimore Gas and Electric Co.* v. *NRDC,* 462 U.S. 87 (1983).

[16] *Id.*

[17] 10 CFR 51.51(a).

[18] *Baltimore Gas,* 462 U.S. at 101. The NEPA requires that a Federal agency ''take a 'hard look' at the environmental consequences before taking a major action. *Id.* at 97 *citing Kleppe* v. *Sierra Club,* 427 U.S. 390, 410, n. 21.

[19] *Id.* at 101.

licensing actions.[20] Similarly, the NRC's codification of the generic findings of NUREG–2157 into § 51.23 have been upheld.[21]

D. Advanced Nuclear Reactors

The NRC initially developed NUREG–2249 as a document that would be applicable only to ''advanced nuclear reactors'' that met the values and assumptions of the plant parameter envelopes and the site parameter envelopes used to develop the GEIS. See SECY–21–0098, ''Proposed Rule: Advanced Nuclear Reactor Generic Environmental Impact Statement (RIN 3150–AK55; NRC–2020–0101),'' dated November 29, 2021. However, in staff requirements memorandum (SRM)–SECY–21–0098, ''Proposed Rule: Advanced Nuclear Reactor Generic Environmental Impact Statement (RIN 3150–AK55; NRC 2020–0101),'' dated April 17, 2024, the Commission directed the NRC staff to change the applicability of the GEIS and rule from ''advanced nuclear reactors'' to any new nuclear reactor application that meets the values and assumptions of the plant parameter envelopes and the site parameter envelopes used to develop the GEIS. Based on the direction from the Commission, the draft GEIS and proposed rule would be applicable to any new nuclear reactor, as defined in 10 CFR 50.2, ''Definitions,'' that meets the values and assumptions of the plant parameter envelopes and the site parameter envelopes used to develop the GEIS.

The NRC has also retitled this rulemaking from ''Advanced Nuclear Reactor Generic Environmental Impact Statement'' (ANR GEIS) to ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors'' (NR GEIS), to reflect the change in the applicability of the GEIS and rule.

III. Discussion

A. Proposed Amendments

The proposed amendments to 10 CFR part 51 would establish new requirements for environmental reviews of applications for an early site or construction permit or an operating or a combined license for new nuclear reactors.

Specifically, the proposed amendments would codify the generic conclusions of the draft NR GEIS for those issues for which a generic conclusion regarding the potential environmental impacts of issuing a permit or license for a new nuclear reactor can be reached. These issues are identified as Category 1 issues in the NR GEIS. Similar to the NUREG–1437, the Category 1 issues identified and described in the NR GEIS may be applied to any new nuclear reactor application and have been determined to have a SMALL impact or significance level. The proposed appendix C, ''Environmental Effect of Issuing a Permit or License for a New Nuclear Reactor,'' to subpart A of 10 CFR part 51 summarizes the Commission's findings for all Category 1 issues. In addition, the proposed amendments provide an applicant for a new nuclear reactor with the option to use the NR GEIS, including the reliance upon its generic analyses and the Category 1 findings.

In this regard, an applicant can rely upon a given generic or Category 1 finding if it can demonstrate that the design of its proposed nuclear reactor and the parameters of the proposed site meet or are bounded by the values and assumptions of the NR GEIS analysis supporting that Category 1 finding. For each Category 1 issue, each supporting value and assumption is further classified as being part of the plant parameter envelope (PPE) or the site parameter envelope (SPE). The PPE consists of those values and assumptions relating to the design and operation of the nuclear reactor, such as building height, water use, air emissions, employment levels, and noise generation levels. The SPE consists of those values and assumptions relating to the siting of the plant, such as the site size, size of water bodies supplying water to the reactor, and demographics of the region surrounding the site. The NR GEIS provides the analysis evaluating the environmental impacts of a proposed nuclear reactor that fits within the bounds of the PPE on a site that fits within the bounds of the SPE. By using this approach, impact analyses for the environmental issues common to many new reactors can be addressed generically, thereby eliminating the need to repeatedly reproduce the same analyses each time a licensing application is submitted and allowing applicants and the NRC staff to focus future environmental review efforts on issues that only can be resolved once a site and facility are identified.

Thus, if an applicant can demonstrate that the proposed nuclear reactor or the proposed site meets or is bounded by these PPE/SPE values and assumptions, then the applicant can adopt the conclusions of that Category 1 finding without having to conduct a project-specific analysis in its environmental report. Conversely, if an applicant cannot demonstrate that the proposed nuclear reactor or the proposed site meets or is bounded by these values and assumptions, or if the applicant determines that there is new and significant information regarding that Category 1 issue,[22] then the applicant cannot adopt the conclusions of that Category 1 finding. In such case, the applicant would then have to prepare a project-specific analysis for that issue in its environmental report.

Likewise, in preparing its draft SEIS, the NRC staff would rely upon those Category 1 findings for which the applicant has demonstrated meeting or being bounded by the underlying values and assumptions and would likewise not be required to include a project-specific analysis within the draft SEIS, unless the NRC staff became aware of new and significant information regarding that Category 1 issue. The Category 1 findings in proposed table C–1 to appendix C, ''Summary of Findings on Environmental Issues for Issuing a Permit or License for a New Nuclear Reactor,'' can only be challenged in an individual ASLB licensing proceeding if a waiver is granted by the Commission in accordance with § 2.335(b).

The NR GEIS also identifies and describes environmental issues for which a generic finding regarding the respective environmental impacts cannot be reached because the issue requires the consideration of project-specific information that can only be evaluated once the proposed site and facility are identified. The NRC classifies these issues as Category 2 issues in the NR GEIS and within the proposed amendments. The NRC staff will prepare a project-specific analysis in the draft SEIS for each Category 2 issue, and for each Category 1 issue that the applicant cannot demonstrate that its project has met the underlying values and assumptions or for which there is

[20] *Massachusetts* v. *U.S. Nuclear Regulatory Commission,* 708 F.3d 63, 68 (1st Cir. 2013) (upholding the NRC's reliance upon NUREG–1437 and its codified findings in appendix B of subpart A, 10 CFR part 51).

[21] *New York* v. *U.S. Nuclear Regulatory Commission,* 824 F.3d 1012, 1019 (D.C. Cir. 2016) (*citing New York* v. *U.S. Nuclear Regulatory Commission,* 681 F.3d 471, 480 (D.C. Cir. 2012) (the court stated that ''the cornerstone of our holding was that the NRC may generically analyze risks that are 'essentially common' to all plants so long as that analysis is 'thorough and comprehensive.' In this case, we are convinced that the NRC has met that standard.'')).

[22] The proposed amendments would require the applicant, for each Category 1 finding that it relies upon in preparing its environmental report, to describe the process it used to determine whether there is any new and significant information that may change that Category 1 issue's generic analysis or finding. This proposed requirement is modeled after the requirement in § 51.50(c)(1)(iv) that has been used for new reactor combined license applications that referenced an early site permit.

new and significant information. The draft SEIS will also include the NRC staff's preliminary conclusions regarding the potential environmental impacts for each of these issues.

Two additional issues are designated as non-applicable (N/A) (*i.e.,* impacts are uncertain) in the NR GEIS, in that a classification of the issue as either Category 1 or 2 is not possible. These issues relate to human health effects from exposure to electromagnetic fields (EMFs) during both construction and operation. Because the state of the science is currently inadequate, no generic conclusion on human health impacts is possible for these issues. If, in the future, the Commission finds that a general agreement has been reached by appropriate Federal health agencies that there are adverse health effects from EMFs, the Commission will require applicants to submit plant-specific reviews of these health effects as part of their application. The proposed amendments do not require applicants to submit information on these issues in the environmental report nor will the NRC staff prepare a plant-specific analysis for these issues in the draft SEIS.

The NRC wishes to emphasize the importance of the public commenting at this time on environmental analyses set forth in the NR GEIS, on the NRC's classification of the potential environmental impacts of the construction, operation and decommissioning of a new nuclear reactor as either a generic (Category 1) or project-specific (Category 2) issue for each of the issues identified in the NR GEIS, and on the proposed rule changes that would codify the generic findings of the NR GEIS. After a final rule is published and effective, challenging the NRC's reliance upon a Category 1 issue in an individual new nuclear reactor permitting or licensing action will be prohibited except through an approved waiver in accordance with § 2.335(b). On a 10-year cycle, the Commission intends to review the material in this GEIS and the associated rule and update it if necessary.

B. The Fiscal Responsibility Act of 2023

The NRC acknowledges recent amendments to the NEPA statute in the Fiscal Responsibility Act of 2023 (Pub. L. 118–5, 137 Stat. 10) (FRA).

The FRA added to NEPA a new section 107(e), which establishes page limits for environmental impact statements, including 300 pages for environmental impact statements for agency actions of ''extraordinary complexity'' (not including appendices, citations, figures, tables, and other graphics). The NRC finds that, to the extent that section 107(e) applies to the NR GEIS, a 300-page limit is appropriate because the NR GEIS addresses a proposed action of ''extraordinary complexity'' in light of the complicated systems, structures, and components deployed in operating nuclear power plants; the number of resource areas addressed; and the variety of environments in which nuclear power plants operate. The draft NR GEIS is less than 300 pages and therefore complies with the NEPA page limits.

C. Environmental Impacts To Be Reviewed

In the draft NR GEIS, the NRC has preliminarily made generic findings that many of the potentially adverse environmental impacts of constructing, operating, and decommissioning a new nuclear reactor will be SMALL provided that the applicant's proposed nuclear reactor and the proposed site meets or is bounded by the respective values and assumptions supporting the Category 1 finding under consideration. See Section III.C., ''Environmental Impacts to be Reviewed,'' of this document for a more detailed discussion of the process used in the NR GEIS.

The NRC divided its conclusions about environmental impacts in the NR GEIS into the following three categories:

- *Category 1.* Environmental issues for which the NRC has been able to make a generic finding of SMALL adverse environmental impacts, or beneficial impacts, provided that the applicant's proposed reactor facility and site meet or are bounded by the relevant values and assumptions in the PPE and SPE that support the generic finding for that Category 1 issue.[23]
- *Category 2.* Environmental issues for which a generic finding regarding the environmental impacts cannot be reached because the issue requires the consideration of project-specific information that can only be evaluated once the proposed site is identified. The impact significance (*i.e.,* SMALL, MODERATE, or LARGE) [24] for these issues will be determined in a project-specific evaluation.
- *Not Applicable (N/A).* Environmental issues for which the state of the science is currently inadequate, and no generic conclusion on human health impacts is possible.

In the NR GEIS, the NRC identifies a total of 122 environmental issues that may be associated with constructing, operating, and decommissioning a new nuclear reactor; of these issues, the NRC identified 100 environmental issues as Category 1 issues. Chapter 3, ''Affected Environment and Environmental Consequences,'' of the NR GEIS provides the analyses supporting the generic finding of a SMALL significance level impact for each Category 1 issue and indicates the relevant values and assumptions in the PPE and SPE underlying the analyses. Applicants and the NRC staff may rely on the generic finding for each Category 1 issue, as codified in proposed table C–1, provided that the applicant's proposed reactor facility and the proposed site meet or are bounded by the relevant values and assumptions for that Category 1 issue and that there is no new and significant information that changes the issue's generic analysis or finding, as determined by the NRC.

The NR GEIS identifies 20 environmental issues as Category 2 issues. These issues cannot be evaluated generically and must be evaluated by the applicant, in its environmental report, and the NRC staff, in the draft SEIS, using project-specific information. For example, the Endangered Species Act of 1973 (ESA) requires every Federal agency to consult with the ''Service'' [25] and document its consideration of the impacts of its actions on threatened and endangered species and critical habitats. The NRC typically conducts this ESA analysis in parallel with its NEPA process.

Finally, for two environmental issues, the NR GEIS identifies the category as N/A. The two issues concern the potential exposure to EMFs from construction and operation. Studies of 60 Hertz (Hz) EMFs have not uncovered consistent evidence linking harmful effects with field exposures. Because the state of the science is currently inadequate, no generic conclusion on human health impacts is possible. If, in the future, the Commission finds that a general agreement has been reached by appropriate Federal health agencies that there are adverse health effects from EMFs regarding these two issues, the Commission will then treat the issue in a manner similar to a Category 2 issue and require applicants to submit

[23] Beneficial impacts may include increased tax revenues associated with the increased assessed value of new reactor projects, and other economic activity such as increases in local employment, labor income, and economic output.

[24] See Section II.B. of this document for a description of the SMALL, MODERATE, and LARGE significance levels used by the NRC in its EISs.

[25] Depending on the species impacted, the agency will consult with either the U.S. Fish & Wildlife Service (U.S. Department of the Interior) or the National Marine Fisheries Service (U.S. Department of Commerce), as provided in the Services' joint regulations at 50 CFR part 402, ''Interagency Cooperation—Endangered Species Act of 1973, as Amended.''

project-specific reviews of these health effects in their environmental report. Until such time, applicants are not required to submit information on these issues.

D. Generic Environmental Impact Statement

The purpose of the NR GEIS is to present impact analyses for the environmental issues common to many new nuclear reactors that can be addressed generically, thereby eliminating the need to repeatedly reproduce the same analyses each time a licensing application is submitted and allowing applicants and NRC staff to focus future environmental review efforts on issues that can only be resolved once a site is identified. The NR GEIS is intended to improve the efficiency of licensing new nuclear reactors by: (1) identifying the types of potential environmental impacts of constructing, operating, and decommissioning a new nuclear reactor, (2) assessing impacts that are expected to be generic (the same or similar) for many new nuclear reactors (Category 1 issues), and (3) defining the environmental issues that will need to be addressed in project-specific SEISs (Category 2 issues). The NRC staff has preliminarily concluded in the draft NR GEIS that the potential environmental impacts will be beneficial or of a SMALL adverse significance level for Category 1 issues.

In the NR GEIS, the NRC staff evaluated the impacts of constructing, operating, and decommissioning a new nuclear reactor sited within the United States that meets or is bounded by the values and assumptions in the PPE and SPE for each Category 1 issue. The term ''building,'' as used in the NR GEIS, includes the full range of preconstruction activities (*e.g.,* site grading) and NRC-authorized ''construction'' activities.[26] Further, for purposes of the NR GEIS, the NRC staff assumed that the U.S. Army Corps of Engineers would be a cooperating agency, in accordance with the memorandum of understanding (MOU) between the two agencies dated September 12, 2008.[27] In this regard, the U.S. Army Corps of Engineers has been a cooperating agency since the MOU was signed in 2008. In addition, the NR GEIS considered fuel cycle impacts and the impacts from continued storage of spent fuel, including incorporating by reference the NRC's NUREG–2157, as further described below.

Because there may be multiple new nuclear reactor designs and a new nuclear reactor could be sited anywhere in the United States that meets the NRC siting requirements in 10 CFR part 100, ''Reactor Site Criteria,'' the NRC applied a technology-neutral, performance-based approach using a PPE. The PPE consists of parameters for specific reactor design features regardless of the site. Examples of parameters include the permanent footprint of disturbance, building height, water use, air emissions, employment levels, and noise generation levels. For each PPE parameter, the NRC staff developed a set of bounding values and assumptions that if met, and absent any new and significant information, would demonstrate that the potential environmental impacts for that PPE parameter would be SMALL.

In addition, the NRC staff developed a set of site-related parameters termed the SPE. Examples of parameters include site size, size of water bodies supplying water to the reactor, and demographics of the region surrounding the site. For each SPE parameter, the NRC staff developed a set of bounding values and assumptions related to the condition of the affected environment, such as the extent and occurrence of nearby bodies of water, wetlands and floodplains, and proximity to sensitive noise receptors. Similar to a PPE parameter, if an applicant can demonstrate that the proposed reactor site meets the SPE parameter's bounding values and assumptions, and absent any new and significant information, then the potential environmental impacts for that SPE parameter would be SMALL. Under this proposed rule, a proposed reactor site would be determined to meet a given Category 1 issue if the applicant has demonstrated that it has met the bounding values and assumptions of each PPE and SPE parameter relevant to that Category 1 issue and that there is no new and significant information.

The PPE and SPE values and assumptions in the NR GEIS were developed by an interdisciplinary team of subject matter experts (SMEs) assigned to prepare the NR GEIS. The SMEs developed the values and assumptions based on one or more criteria, as described in the NR GEIS.

The NR GEIS identifies specific types of potential environmental impacts for 16 environmental resource areas: land use, visual resources, meteorology and air quality, water resources (surface and groundwater), terrestrial ecology, aquatic ecology, historic and cultural resources, environmental hazards (radiological and nonradiological), noise, waste management (radiological and nonradiological), postulated accidents, socioeconomics, environmental justice, fuel cycle, transportation of fuel and waste, and decommissioning. Each resource area includes one or more types of potential impacts, and each type of potential impact is termed an issue. In addition to the 16 environmental resource areas, the NRC staff considered climate change, cumulative impacts, purpose and need, need for power, site alternatives, energy alternatives, and system design alternatives. Each of the 122 issues that were identified corresponds to a specific type of environmental impact determined by the interdisciplinary team of SMEs that could potentially result from construction, operation, or decommissioning of a new nuclear reactor. For each issue, the SMEs then determined whether it would be possible to identify values and assumptions in the PPE and SPE that could effectively bound a meaningful generic analysis and provided the basis for each value and assumption. The SMEs then performed and described their generic analyses for each issue, for a hypothetical reactor/site that meets the PPE and SPE values and assumptions in the NR GEIS. The values and assumptions were set such that the SMEs could reach a generic conclusion of SMALL adverse impacts, and the issue was then designated as a Category 1 issue. Issues for which the potential impacts are beneficial were also designated as Category 1. Issues for which the NRC staff could not reach a generic conclusion regarding impacts were designated as Category 2 issues. In addition, two issues were placed in the category of N/A because the state of the science is currently inadequate, and no generic conclusion on human health impacts is possible.

An applicant addressing a Category 1 issue in its environmental report may refer to the generic analysis in the NR GEIS for that issue and rely upon the generic finding of a SMALL significance level, without further analysis, provided that it demonstrates that the relevant values and assumptions of the PPE and SPE used in the resource analysis are met and there is no new and significant information that would require project-specific analysis. The applicant will

[26] The NRC has regulatory authority over those construction activities that are related to radiological health and safety, physical security, or otherwise pertain to radiological controls. The NRC defines these activities as ''construction'' in § 51.4, ''Definitions.'' As stated in § 51.45(c) preconstruction is defined as those activities listed in § 51.4(1)(ii).

[27] The MOU between the NRC and the U.S. Army Corps of Engineers, dated September 12, 2008, is available in ADAMS under the accession number ML082540354.

have to document how the proposed reactor facility and the proposed site meet or are bounded by the applicable values and assumptions for that Category 1 issue and describe the process it used to determine whether there is any new and significant information that may change that Category 1 issue's generic analysis or finding. The extent of the information necessary to demonstrate that the applicant's project meets or is bounded by a given value or assumption will vary. In some cases, the demonstration may only require showing that the project falls within a parameter value or assumption (*e.g.,* building height). But in other cases, analysis may be required to demonstrate that a value or assumption has been met (*e.g.,* noise levels).

In its environmental report, the applicant would have to supply the requisite information necessary for the NRC staff to perform a project-specific analysis for (1) Category 1 issues for which the relevant values and assumptions are not met, or for which new and significant information was identified, and (2) all Category 2 issues. Guidance for applicants providing information to the NRC staff in an environmental report is available in RG 4.2, ''Preparation of Environmental Reports for Nuclear Power Stations.'' If a project-specific analysis is required for a Category 1 issue, the applicant may be able to incorporate by reference all or part of the generic analysis provided in the NR GEIS as a part of its analysis and focus on providing any additional project-specific information needed to support its conclusion.

After the applicant submits its environmental report, the NRC staff will prepare the draft SEIS, and following the public comment period, the final SEIS. When considering a Category 1 issue in a SEIS, the NRC staff will likewise refer to the generic analysis in the NR GEIS for that issue without further analysis, provided that the relevant values and assumptions in the PPE and SPE are met and there is no new and significant information that changes the generic finding for that Category 1 issue. The NRC staff also will document that the applicant has demonstrated that the values and assumptions are met for that issue. The NRC staff will complete a project-specific analysis in accordance with the latest version of the Environmental Standard Review Plan or related guidance (such as any relevant interim staff guidance) for (1) Category 1 issues for which the relevant values and assumptions are not met, or for which new and significant information was identified, and (2) all Category 2 issues. If a project-specific analysis is required for a Category 1 issue, the NRC staff may be able to incorporate by reference all or part of the generic analysis provided in the NR GEIS as a part of its analysis and focus on providing any additional project-specific information needed to support its conclusion.

E. Summary of Issues Analyzed in the NR GEIS

The following describes those environmental issues that were examined for the NR GEIS and summarizes the conclusions by resource area. The determination that an applicant can rely on the finding for a Category 1 issue assumes that the applicant can demonstrate that its proposed reactor facility and the proposed site meet or is bounded by all the respective values and assumptions of that Category 1 issue, and further, that there is no new and significant information related to that issue.

1. Land Use

The NRC staff evaluated the potential impacts to onsite and offsite land use for both construction and operation. In addition, the NRC staff considered the impacts of the project in accordance with the Coastal Zone Management Act and the Farmland Protection Policy Act, if applicable. The NRC staff concluded that all identified issues can be classified as Category 1 issues.

2. Visual Resources

The NRC staff evaluated the potential visual impacts in the site and vicinity and along the transmission lines for both the construction and operation. The NRC staff concluded that all identified issues can be classified as Category 1 issues.

3. Meteorology and Air Quality

The NRC staff evaluated the potential air quality impacts from the emissions of criteria pollutants, dust and hazardous pollutants, and greenhouse gas emissions for both construction and operation. In addition, the NRC staff considered the potential operations-related air quality impacts from cooling-system emissions and the emission of ozone and nitrogen oxides during transmission line operations. The NRC staff concluded that all identified issues can be classified as Category 1 issues.

4. Water Resources

The NRC staff evaluated the potential impacts to water use and water quality for both surface water and groundwater for both construction and operation. The NRC staff concluded that all identified issues can be classified as Category 1 issues, with one exception. The NRC staff determined that surface water quality degradation due to chemical and thermal discharges could not be resolved generically because there was no practical way to develop a comprehensive bounding set of water quality criteria, including both thermal and chemical criteria, for the PPE and SPE. Therefore, this issue is a Category 2 issue, and thus requires a project-specific evaluation.

5. Terrestrial Ecology

The NRC staff evaluated the potential impacts to terrestrial wildlife, habitats, and wetlands for both construction and operation. The NRC staff concluded that all identified issues can be classified as Category 1 issues, with two exceptions. The NRC staff determined that the potential impacts to wildlife regulated under the ESA could not be generically resolved for either construction or operations because the NRC staff would need to consult individually with the U.S. Fish and Wildlife Service under ESA Section 7 regarding the potential effects of each specific licensing action. Therefore, these issues are Category 2 issues, and thus require a project-specific evaluation.

6. Aquatic Ecology

The NRC staff evaluated the potential impacts to aquatic wildlife and habitats for both construction and operation. The NRC staff concluded that all identified issues can be classified as Category 1 issues, with four exceptions. The NRC staff determined that the potential impacts to resources regulated under the ESA and the Magnuson-Stevens Fishery Conservation and Management Act could not be generically resolved for either construction or operations because the NRC staff would need to consult individually with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service under ESA Section 7 and the Magnuson-Stevens Act regarding the potential effects of each specific licensing action. In addition, the NRC staff determined that potential thermal impacts on aquatic biota and other potential effects of cooling-water discharges on aquatic biota could not be resolved generically. For both of these issues, the NRC staff would have to first review the discharge plume analysis and the aquatic biota potentially present before being able to reach a conclusion regarding the possible significance of impacts on the biota. Therefore, these four issues are Category 2 issues, and thus require project-specific evaluations.

7. Historic and Cultural Resources

Both construction and operation of a new nuclear reactor have the potential to affect historic and cultural resources. The NRC staff would need to complete a project-specific consultation in accordance with Section 106 of the National Historic Preservation Act as part of its environmental review. Therefore, these two issues are Category 2 issues, and thus require project-specific evaluations.

8. Environmental Hazards

This resource area encompasses both radiological impacts and nonradiological impacts. The NRC staff evaluated the potential impacts of environmental hazards for both construction and operation. The NRC staff concluded that all identified issues can be classified as Category 1 issues, with two exceptions. These two issues are the human health impacts of EMFs for both construction and operation. The NRC staff determined that because the state of the science regarding the human health impacts of EMFs is currently inadequate, no generic conclusion on those impacts is possible, and has classified these issues as N/A. If, in the future, the Commission finds that a general agreement has been reached by appropriate Federal health agencies that there are adverse health effects from EMFs, the Commission will require applicants to submit plant-specific reviews of these health effects as part of their application. Until such time, applicants are not required to submit information on this issue.

9. Noise

The NRC staff evaluated the potential impacts of noise for both construction and operation. The NRC staff concluded that all identified issues can be classified as Category 1 issues.

10. Waste Management

This resource area encompasses the potential impacts of both radiological waste management and nonradiological waste management. The NRC staff evaluated the potential operational impacts of radiological waste management. In addition, the NRC staff evaluated the potential impacts of nonradiological waste management for both construction and operation. The NRC staff concluded that all identified issues can be classified as Category 1 issues.

11. Postulated Accidents

The NRC staff evaluated the potential operational impacts of postulated accidents (because these impacts occur only during operations). The NRC staff concluded that all identified issues can be classified as Category 1 issues, with one exception. The NRC staff determined that severe accidents are a Category 2 issue. Based on the analysis in the preliminary or final safety analysis report regarding severe accidents and probabilistic risk assessments, if a new nuclear reactor design has severe accident progressions that involve radiological or hazardous chemical releases, then a project-specific environmental risk evaluation must be performed.

12. Socioeconomics

The NRC staff evaluated the potential impacts of socioeconomics for both construction and operation. The NRC staff concluded that these two issues can be classified as Category 1 issues.

13. Environmental Justice

Both construction and operation may raise environmental justice issues. The NRC staff has determined that potential environmental justice impacts during construction or operations cannot be determined without the consideration of meaningful project-specific factors, and therefore, are Category 2 issues. Project-specific factors include the presence, geographic location, and size of specific minority or low-income populations; impact pathways derived from the plant design, layout, or site characteristics; or other community characteristics affecting specific minorities or low-income populations.

14. Fuel Cycle

The NRC staff evaluated the potential operational impacts of the fuel cycle (because these impacts do not occur during construction). The NRC staff concluded that all identified issues can be classified as Category 1 issues. However, because the values and assumptions do not encompass the potential fuel fabrication impacts for metal fuel and liquid-fueled molten salt, such fuels would require a project-specific analysis.

The NR GEIS incorporates by reference NUREG–2157, in which the NRC evaluated the environmental impacts of the continued storage of spent nuclear fuel beyond the licensed life for the operation of light-water reactors (LWRs). In § 51.23, the NRC specifies that NUREG–2157 is deemed to be incorporated into the EIS for a new reactor. However, NUREG–2157 did not evaluate the storage of spent nuclear fuel from non-LWRs. The NRC staff expects that many new nuclear reactors will not be LWRs. The NR GEIS therefore evaluates the applicability of NUREG–2157 and determines that the findings in NUREG–2157 are applicable to non-LWR fuel, provided that the non-LWR fuel is stored in a manner that meets the regulatory requirements for spent fuel storage cask approval and fabrication in accordance with subpart L, ''Approval of Spent Fuel Storage Casks,'' to 10 CFR part 72.

15. Transportation

The NRC staff evaluated the potential operational impacts of the transportation of fuel and waste to and from new nuclear reactors (because these impacts occur only during operations). The NRC staff concluded that all identified issues can be classified as Category 1 issues.

16. Decommissioning

The NRC staff previously evaluated the environmental impacts of the decommissioning of nuclear power reactors as residual radioactivity at the site is reduced to levels that allow for termination of the NRC license. This evaluation was documented in the ''Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities'' (Decommissioning GEIS, NUREG–0586, Supplement 1). The NRC staff evaluated NUREG–0586, Supplement 1, and determined that its conclusions and analysis are applicable to new reactors in the NR GEIS. Therefore, for the purposes of the NR GEIS, the environmental impacts of decommissioning for certain resource areas that were generically addressed in NUREG–0586, would be limited to operational areas, would not be detectable or destabilizing, and are expected to have a negligible effect on the impacts of terminating operations and decommissioning.

The issues for which these generic findings were made in the Decommissioning GEIS are designated as a Category 1 issue in the NR GEIS. However, certain issues in NUREG–0586, Supplement 1 were determined to require project-specific analysis and certain others to require project-specific analysis under certain conditions. These issues are therefore designated as Category 2 issues in the NR GEIS. NUREG–0586, Supplement 1, is incorporated into the NR GEIS.

17. Issues Applying Across Resources

The NRC staff determined that the impacts related to climate change and the consideration of cumulative impacts could not be evaluated generically. As such, both of these issues have been classified as Category 2 issues and thus require a project-specific evaluation.

18. Non-Resource Related Category 2 Issues

The NR GEIS addresses the environmental impact issues associated with constructing, operating, and decommissioning a new nuclear reactor. However, the environmental report and the NRC staff's SEIS must also include other information, as required by the regulations and discussed in regulatory guidance. These are not resource-specific issues. Rather, they are project-specific issues, not tied to any specific environmental resource, that are necessary to support the NRC staff's completion of its environmental review in accordance with NEPA. These issues cannot be evaluated generically and must be addressed in the environmental report and SEIS using project-specific information. In the NR GEIS, the NRC staff identified the following issues: purpose and need, need for power, site alternatives, energy alternatives, and system design alternatives. This list is not all-inclusive. NRC regulations at 10 CFR part 51 and guidance such as RG 4.2 describe information not included in this list that must be included as part of an application.

F. Public Comments on Notice of Exploratory Process and Notice of Intent To Prepare a Generic Environmental Impact Statement

On November 15, 2019 (84 FR 62559), the NRC published in the **Federal Register**, ''Agency Action Regarding the Exploratory Process for the Development of an Advanced Nuclear Reactor Generic Environmental Impact Statement,'' announcing an exploratory process and soliciting comments to determine the possibility of developing a GEIS for licensing advanced nuclear reactors. The exploratory process included two public meetings, a public workshop attended by multiple stakeholders, and a site visit to the Idaho National Laboratory, a location that is being contemplated for construction and operation of advanced nuclear reactors.

Advice and recommendations on the possibility of preparing an advanced nuclear reactor GEIS were invited from all interested persons. Comments were specifically requested on the whether the scope of the GEIS should include reactors regardless of technology or be limited to specific reactor technologies, what reactor sizes (footprint) and power levels should be included in the scope of the GEIS, whether the geographical site of a reactor should be considered in developing the scope of the GEIS, and whether a set of bounding plant parameters should be consider in developing the scope of the GEIS, and if so, what parameters should be considered.

The NRC received comments that both supported and opposed the development of an advanced nuclear reactor GEIS. Commenters who supported development of an advanced nuclear reactor GEIS stated that it would improve the efficiency of the environmental review process, would avoid duplication of effort, and would focus future reviews on important environmental issues. Commenters who did not support development of an advanced nuclear reactor GEIS stated that the GEIS would be premature at this time and that the NRC staff did not have sufficient information available to resolve issues generically. Based on the results of the exploratory process, the NRC staff concluded that there was sufficient information to complete an advanced nuclear reactor GEIS which would generically resolve many environmental issues, save resources for individual reviews, and provide predictability for potential applicants in developing their applications. The results of the exploratory process were summarized in SECY–20–0020, ''Results of Exploratory Process for Developing a Generic Environmental Impact Statement for the Construction and Operation of Advanced Nuclear Reactors,'' issued on February 28, 2020.

On April 30, 2020 (85 FR 24040), the NRC published in the **Federal Register**, ''Notice To Conduct Scoping and Prepare an Advanced Nuclear Reactor Generic Environmental Impact Statement.'' Advice and recommendations on the scope of the GEIS were invited from all interested persons.

Comments were requested regarding the parameters that the NRC should use to bound the advanced nuclear reactors in the PPE (including power level and size of the site) and the parameters that should be used to bound the affected environment in the SPE. In addition, comments were requested on resources or issues that could be resolved generically and ones that could not.

The NRC received comments concerning the NEPA process, the PPE and SPE, hydrology, socioeconomics, environmental justice, historic and cultural resources, climate change, radiological health, uranium fuel cycle, accidents, transportation of spent fuel, and need for power. The NRC also received general comments in support of and opposition to the advanced nuclear reactor GEIS, and comments concerning issues outside the scope of the GEIS. A summary of comments and the NRC staff response are available in the scoping summary report issued on September 25, 2020, which is available as indicated in the ''Availability of Documents'' section of this document.

G. Clarifying Amendment for Postoperating Licenses

The NRC is proposing to add to §§ 51.53(d) a cross-reference to the license termination provisions under § 52.110, ''Termination of license.'' This change will clarify in § 51.53(d) that NRC's requirements at 10 CFR part 52 also include license termination provisions.

IV. Specific Requests for Comment

The NRC is seeking public comment on this proposed rule, the NR GEIS, draft regulatory guide (DG), DG–4032, ''Preparation of Environmental Reports for Nuclear Power Stations,'' and draft Interim Staff Guidance COL–ISG–030, ''Environmental Considerations Associated with New Nuclear Reactor Applications that Reference the Generic Environmental Impact Statement (NUREG–2249).'' In addition, the NRC staff developed two draft documents referenced in DG–4032, the ''Energy and System Design Mitigation Alternatives White Paper'' (''White Paper'') and ''Recommendations for an Applicant to Calculate Activity Data for Greenhouse Gases Estimates'' (''GHG Estimates''). These documents are references to DG–4032 and, therefore, are open to review and comment from the public. The DG–4032, COL ISG–030, the White Paper, and the GHG Estimates document are described in Section XIV, ''Availability of Guidance,'' of this document.

Further, the NRC staff is particularly interested in comments and supporting rationale from the public on the following:

1. *Plant parameter envelope and site parameter envelope values and assumptions:* If a commenter believes the NRC staff is using an inappropriate value to result in a SMALL impact (either too restrictive, or not restrictive enough), explain the basis for that position and provide an alternative proposed parameter value.

2. *Environmental issues evaluated:* Are there any environmental issues that the NRC staff did not include in the scope of the NR GEIS and the proposed rule that should be included? Commenters should provide the basis for considering any proposed environmental issues.

3. *Categorization of issues:* Are the environmental issues categorized appropriately? In other words, are there Category 1 issues that should be Category 2, or Category 2 issues that

should be Category 1? Provide a basis for such conclusions.

4. *Scope of proposed rule changes and GEIS:* Is the applicability of the GEIS to new reactors (which includes advanced nuclear reactors) clearly articulated? Do the proposed revisions adequately address all licensing scenarios associated with evaluating the environmental impacts of permitting and licensing new nuclear reactor construction and operation? For example, no changes are proposed to § 51.53(b), ''Post-construction environmental report–operating license stage,'' because this provision already references the requirements of § 51.50, ''Environmental report—construction permit, early site permit, or combined license stage,'' which is modified by the proposed rule. Commenters should clearly specify any proposed regulatory text additions or changes and provide the basis for such proposed changes.

5. *Guidance for applicants:* Are the methods described in the draft revision to RG 4.2 for demonstrating values and assumptions appropriate? Describe and justify any methods that the commenter believes are not appropriate.

6. *Limited Work Authorizations:* Should the NRC expand the NR GEIS and the rule to include NRC approval of limited work authorizations (LWAs) [28] for new nuclear reactor applications? Specifically, should an LWA applicant that demonstrates that its proposed project meets or is bounded by the PPE and SPE values and assumptions for a given Category 1 issue be able to rely on the generic findings for that issue in preparing the environmental report that it will submit in support of its LWA application? Similarly, should the NRC be able to rely on the generic findings for that Category 1 issue in preparing its supplemental environmental impact statement? If the NRC were to expand the NR GEIS and the rule to include NRC approval of LWAs, the expansion would cover both LWAs submitted as a stand-alone application and an LWA request submitted in conjunction with an application for another form of NRC approval described in the NR GEIS and in the proposed rule (*e.g.,* a construction permit application).

[28] A LWA permits a nuclear power plant applicant to engage in certain reactor construction activities before the NRC issues a 10 CFR part 50 construction permit or a 10 CFR part 52 combined license. The applicable NRC regulations for LWAs include §§ 50.10, ''License required; limited work authorization;'' 52.1(a); 52.17(c); 52.24, ''Issuance of early site permit;'' 52.27, ''Limited work authorization after issuance of early site permit;'' 52.80, ''Contents of applications; additional technical information;'' and 52.91, ''Authorization to conduct limited work authorization activities.'' The NRC last amended its LWA regulations in 2007 (72 FR 57416; October 9, 2007).

V. Section-by-Section Analysis

The following paragraphs describe the specific changes proposed by this rulemaking.

Section 51.50, Environmental Report—Construction Permit, Early Site Permit, or Combined License Stage

The NRC proposes to amend paragraph (a) by adding a new second sentence regarding the requirement for non-LWR applicants to address fuel cycle impacts, making this paragraph consistent with the existing language in paragraphs (b) and (c).

The NRC proposes to add a new paragraph (d) to permit the use of the NR GEIS for an application for a construction permit, early site permit, or combined license for a new nuclear reactor.

Section 51.53, Postconstruction Environmental Reports

The NRC proposes to amend the first sentence of paragraph (d) by adding ''§ 52.110'' to reflect that 10 CFR part 52 also includes license termination provisions.

Section 51.75, Draft Environmental Impact Statement—Construction Permit, Early Site Permit, or Combined License

The NRC proposes to add a new paragraph (d) to provide direction on the preparation of a draft supplemental environmental impact statement for an application that makes use of the NR GEIS for a construction permit, early site permit, or combined license for a new nuclear reactor.

Section 51.96, Final Supplemental Environmental Impact Statement Relying on Appendix C to Subpart A

The NRC proposes to add a new section to provide direction on preparation of a final supplemental environmental impact statement for a new nuclear reactor application that relied on any of the findings in appendix C to subpart A of this part in preparing a draft supplemental environmental impact statement in accordance with § 51.75(d).

Appendix C to Subpart A, Environmental Effect of Issuing a Permit or License for a New Nuclear Reactor

The NRC proposes to add appendix C to add a table to codify the NR GEIS findings and to specify values and assumptions that need to be met by the applicant to incorporate Category 1 conclusions into the environmental report and identify the Category 2 and uncategorized issues that need to be evaluated on a project-specific basis. Proposed appendix C states that, on a 10-year cycle, the Commission intends to review the material in this appendix and update it if necessary.

VI. Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980 (RFA), as amended at 5 U.S.C. 601 *et seq.,* requires that agencies consider the impact of their rulemakings on small entities and, consistent with applicable statutes, consider alternatives to minimize these impacts on the businesses, organizations, and government jurisdictions to which they apply.

In accordance with the Small Business Administration's regulation at 13 CFR 121.903(c), the NRC has developed its own size standards for performing an RFA analysis and has verified with the SBA Office of Advocacy that its size standards are appropriate for NRC analyses. The NRC size standards at 10 CFR 2.810, ''NRC size standards,'' are used to determine whether an applicant or licensee qualifies as a small entity in the NRC's regulatory programs. Section 2.810 defines the following types of small entities:

small business is a for-profit concern and is a—(1) Concern that provides a service or a concern not engaged in manufacturing with average gross receipts of $8.0 million or less over its last 5 completed fiscal years; or (2) Manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months.

small organization is a not-for-profit organization which is independently owned and operated and has annual gross receipts of $8.0 million or less.

small governmental jurisdiction is a government of a city, county, town, township, village, school district, or special district with a population of less than 50,000.

small educational institution is one that is—(1) Supported by a qualifying small governmental jurisdiction; or (2) Not state or publicly supported and has 500 or fewer employees.

Number of Small Entities Affected

The NRC is currently aware of no known small entities as defined in § 2.810 that are planning to apply for a new nuclear reactor construction permit or operating license under 10 CFR part 50 or an early site permit or combined license under 10 CFR part 52, which would be impacted by this proposed

rule. Based on this finding, the NRC has preliminarily determined that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Economic Impact on Small Entities

Depending on how the ownership and/or operating responsibilities for such an enterprise were structured, applicants for a new nuclear reactor rated 8 megawatts electric (MWe) or less could conceivably meet the definition of small entities as defined by § 2.810. Owners that operate power reactors rated greater than 8 MWe could generate sufficient electricity revenue that exceeds the gross annual receipts limit of $7 million, assuming a 90 percent capacity factor and the 2023 U.S. Department of Energy's Energy Information Administration U.S. average price of electricity to the ultimate customer for all sectors of 12.7 cents per kilowatt-hour. [29]

Although the NRC is not aware of any small entities that would be affected by the proposed rule, there is a possibility that future applications for a new nuclear reactor permit or license could be submitted by small entities who plan to own and operate a nuclear reactor rated 8 MWe or less. Nuclear reactors that are rated 8 MWe or less would most likely be used to support electrical demand for military bases, small remote towns, and process heat and would not directly compete with larger nuclear reactors that typically produce electricity for the grid. As a result of these differing purposes, the NRC would expect that small and large entities would not be in direct competition with each other.

Regulations at § 171.16(c) allow for certain NRC licensees to pay reduced annual fees if they qualify as small entities, although these regulations do not include licensees authorized to conduct activities under either 10 CFR part 50 or 10 CFR part 52. However, should a small entity apply for a nuclear reactor license or permit, the small entity could request a one-time fee exemption. In subsequent years, the NRC licensee could submit a new request for a fee exemption for each fiscal year for which it desires an exemption. Additionally, after the small entity receives an operating license under 10 CFR part 50 or under part 52 and has completed power ascension testing, the small entity would be eligible for a reduced annual fee under § 171.15, ''Annual fees: Non-power production or utilization licenses, reactor licenses, and independent spent fuel storage licenses,'' based on the cumulative licensed thermal power rating of the reactor. The fiscal year 2023 annual fee for each large operating power reactor is $5,492,000.

Therefore, the NRC preliminarily concludes that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Request for Comments

The NRC is seeking comments on both its initial RFA analysis and on its preliminary conclusion that this proposed rule would not have a significant economic impact on a substantial number of small entities because of the likelihood that most expected applicants would not qualify as a small entity. Additionally, the NRC is seeking comments on its preliminary conclusion that if a small entity were to submit a new nuclear reactor application, the small entity would not incur a significant economic impact as it would most likely not be in competition with a large entity.

Any small entity that could be subject to this regulation that determines, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission of this opinion in a comment that indicates—

(1) The applicant's size and how the proposed regulation would impose a significant economic burden on the applicant as compared to the economic burden on a larger applicant;

(2) How the proposed regulations could be modified to take into account the applicant's differing needs or capabilities;

(3) The benefits that would accrue or the detriments that would be avoided if the proposed regulations were modified as suggested by the applicant;

(4) How the proposed regulation, as modified, would more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individual or group; and

(5) How the proposed regulation, as modified, would still adequately meet the NRC's obligations under NEPA.

VII. Regulatory Analysis

The NRC has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the NRC. The NRC requests public comment on the draft regulatory analysis. The regulatory analysis is available as indicated in the ''Availability of Documents'' section of this document. Comments on the draft analysis may be submitted to the NRC as indicated under the ADDRESSES caption of this document.

VIII. Backfitting and Issue Finality

The proposed rule would codify in 10 CFR part 51 certain environmental issues identified in the NR GEIS. The proposed rule also revises 10 CFR part 51 to allow an applicant for a new nuclear reactor construction permit or operating license under 10 CFR part 50, or a new nuclear reactor early site permit or combined license under 10 CFR part 52, to use the NR GEIS in preparing its environmental report. The proposed rule would require the NRC staff to prepare a project-specific draft SEIS and final SEIS for each application that references the NR GEIS. The NRC has determined that the backfitting rule in § 50.109, ''Backfitting,'' and the issue finality provisions in 10 CFR part 52 do not apply to this proposed rule because this amendment does not involve any provision that would either constitute backfitting as that term is defined in 10 CFR chapter I or affect the issue finality of any approval issued under 10 CFR part 52.

The proposed rule would not constitute backfitting for applicants for construction permits or operating licenses under 10 CFR part 50 and would not affect the issue finality of applicants for early site permits or combined licenses under 10 CFR part 52. These applicants are not, with certain exceptions not applicable here, within the scope of the backfitting or issue finality provisions. The backfitting and issue finality regulations include language delineating when the backfitting and issue finality provisions begin; in general, they begin after the issuance of a license, permit, or other approval (*e.g.,* §§ 50.109(a)(1)(iii) and 52.98(a)). Furthermore, neither the backfitting provisions nor the issue finality provisions, with certain exceptions not applicable here, are intended to apply to NRC actions that substantially change the expectations of current and future applicants. Applicants cannot reasonably expect that future requirements will not change.

The exceptions to the general principle are applicable when an applicant references a 10 CFR part 52 approval (*e.g.,* an early site permit or design certification rule) with specified issue finality provisions or a construction permit under 10 CFR part 50. However, this proposed rule would have no effect on a construction permit held by an applicant for a 10 CFR part

[29] *https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_03.*

50 operating license or an early site permit referenced by an applicant for a 10 CFR part 52 combined license. Therefore, for purposes of this proposed rule, the exceptions to the general principle do not apply.

IX. Cumulative Effects of Regulation

The NRC is following its cumulative effects of regulation (CER) process by engaging with external stakeholders throughout the rulemaking and related regulatory activities. Public involvement has included (1) the publication of a notice announcing an exploratory process and opportunity for comment to determine the possible utility of developing an advanced nuclear reactor GEIS on November 15, 2019 (84 FR 62559); (2) public meetings on November 15 and November 20, 2019, and a workshop on January 8, 2020, to gather information for the exploratory process; (3) the publication of a notice of intent to conduct scoping and prepare an advanced nuclear reactor GEIS on April 30, 2020 (85 FR 24040); (4) a public meeting on May 28, 2020, to receive comments on the scope of the GEIS; and (5) public meetings on October 1, 2020 and April 15, 2021, to share information about the NRC's progress on the development of the GEIS.

The NRC is issuing draft guidance along with this proposed rule to support more informed external stakeholder understanding and feedback. The draft guidance is available as indicated in the ''Availability of Documents'' section of this document. Further, the NRC will continue to hold public meetings throughout the rulemaking process.

In addition to the questions on the implementation of this proposed rule presented in the ''Specific Requests for Comments'' section of this document, the NRC is requesting CER feedback on the following questions:

1. In light of any current or projected CER challenges, does the proposed rule's effective date, compliance date, or submittal date(s) provide sufficient time to implement the new proposed requirements, including changes to programs, procedures, and the facility? Provide a rationale for your answer.

2. If CER challenges currently exist or are expected, what should be done to address them? For example, if more time is required for implementation of the new requirements, what period of time is sufficient?

3. Do other (NRC or other agency) regulatory actions (*e.g.,* orders, generic communications, license amendment requests, inspection findings of a generic nature) influence the implementation of this proposed rule's requirements? Provide a rationale for your answer.

4. Are there unintended consequences? Does the proposed rule create conditions that would be contrary to this proposed rule's purpose and objectives? If so, what are the unintended consequences, and how should they be addressed?

5. Please comment on the NRC's cost and benefit estimates in the draft regulatory analysis that supports the proposed rule. The draft regulatory analysis is available as indicated in the ''Availability of Documents'' section of this document.

X. Plain Writing

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

XI. National Environmental Policy Act

The NRC has determined that this proposed rule is the type of action described in § 51.22(c)(3), an NRC categorical exclusion. Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this proposed rule. This action is procedural in nature in that it pertains to the type of environmental information to be reviewed.

XII. Paperwork Reduction Act

This proposed rule contains new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed rule has been submitted to the Office of Management and Budget for review and approval of the information collections.

Type of submission: Revision.

The title of the information collection: 10 CFR part 51, Generic Environmental Impact Statement for Licensing of New Nuclear Reactors.

The form number if applicable: Not applicable.

How often the collection is required or requested: On occasion.

Who will be required or asked to respond: Applicants for new nuclear reactors.

An estimate of the number of annual responses: 6.

The estimated number of annual respondents: 6.

An estimate of the total number of hours needed annually to comply with the information collection requirement or request: A burden reduction of 39,288 hours.

Abstract: The NRC is proposing to amend the regulations that govern the NRC's environmental reviews of new nuclear reactor applications under NEPA. The NRC's regulations in § 51.45, ''Environmental report,'' require each applicant to prepare and submit an environmental report which includes, among other things, a description of the proposed action, a statement of its purposes, a description of the environment affected, and a discussion of the environmental impacts of the proposed action and alternatives. The rulemaking would codify the generic findings of NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors'' (NR GEIS), which presents impact analyses for the environmental issues common to many new nuclear reactors that can be addressed generically, thereby eliminating the need to repeatedly reproduce the same analyses each time a licensing application is submitted. The proposed rule would reduce burden on an applicant because they would not be required to assess the environmental impacts of NR GEIS Category 1 issues if: (1) the applicant has demonstrated that it has met the bounding values and assumption of each PPE and SPE parameter relevant to that Category 1 issue, and (2) the applicant has not identified any new and significant information that would change a conclusion related to a Category 1 issue in the NR GEIS. If a value or assumption is not met, then the applicant may be able to limit its analysis to just the impact of not meeting the value or assumption. Similarly, if the applicant identifies new and significant information that would change a conclusion in the NR GEIS, then the applicant may be able to limit its analysis to just the impact of the new and significant information. To comply with NEPA, the NRC uses the information in the environmental report along other information to conduct an independent environmental evaluation.

The NRC is seeking public comment on the potential impact of the information collection contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility? Please explain your response.

2. Is the estimate of the burden of the proposed information collection accurate? Please explain your response.

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected? Please explain your response.

4. How can the burden of the proposed information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the Office of Management and Budget (OMB) clearance package and proposed rule are available in ADAMS as indicated in the ''Availability of Documents'' section of this document or may be viewed free of charge by contacting the NRC's Public Document Room reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.resource@nrc.gov.* You may obtain information and comment submissions related to the OMB clearance package by searching on *https://www.regulations.gov* under Docket ID NRC–2020–0101.

You may submit comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above issues, by the following methods:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0101.
- *Mail comments to:* FOIA, Library, and Information Collections Branch, Office of the Chief Information Officer, Mail Stop: T6–A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 or by email to *Infocollects.Resource@nrc.gov* or to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150–0021), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503.

Submit comments by November 4, 2024. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XIII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC will amend various provisions of 10 CFR part 51. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XIV. Availability of Guidance

The NRC is issuing for comment two draft guidance documents, DG–4032, ''Preparation of Environmental Reports for Nuclear Power Stations,'' and draft interim staff guidance (ISG) document COL–ISG–030, ''Environmental Considerations Associated with New Nuclear Reactor Applications that Reference the Generic Environmental Impact Statement (NUREG–2249)—Interim Staff Guidance,'' to support the implementation of the requirements in this proposed rulemaking. The guidance documents are available as indicated in the ''Availability of Documents'' section of this document. You may submit comments on the draft regulatory guidance by the methods provided in the **ADDRESSES** section of this document.

The DG–4032 has been prepared as a revision to RG 4.2, ''Preparation of Environmental Reports for Nuclear Power Stations.'' The revision updates and re-titles Appendix C to the regulatory guide, which previously provided guidance specifically for small modular reactors and non-LWRs and makes conforming changes to the body of the regulatory guide. The revisions provide supplemental guidance for applicants to establish a uniform format and content acceptable to the NRC staff for structuring and presenting the environmental information to be compiled and submitted by an applicant for a new nuclear reactor permit or license that will rely on any of the findings in the NR GEIS. More specifically, the draft regulatory guide describes the content of environmental information to be included in an application for a permit or license for a new nuclear reactor, including the process for confirming the applicability of Category 1 issues, and criteria to address appropriate Category 1 and Category 2 issues, as specified in the proposed amendments to 10 CFR part 51. To assist the public in providing comments on DG–4032, the NRC has provided a redline/strikeout version that highlights substantial changes which can be accessed in ADAMS at Accession No. ML24176A229.

In addition, the NRC is seeking comment on two draft documents referenced in DG–4032, the ''Energy and System Design Mitigation Alternatives White Paper'' (''White Paper'') and ''Recommendations for an Applicant to Calculate Activity Data for Greenhouse Gases Estimates'' (''GHG Estimates''). The draft White Paper describes the potential environmental impacts of various energy alternatives to the construction and operation of a new nuclear reactor, including energy alternatives both requiring and not requiring new generation capacity. The draft GHG Estimates document provides guidance to nuclear reactor applicants on estimating greenhouse gas emissions. The applicant could then rely upon the information provided in both the White Paper and the GHG Estimates documents, as appropriate, in preparing its environmental report that is submitted with its application. The draft White Paper and the draft GHG Estimates document can be accessed in ADAMS at Accession Nos. ML21225A754 and ML21225A768, respectively.

The draft COL–ISG–030 supplements NUREG–1555, ''Environmental Standard Review Plans,'' and will be incorporated into a future update to the NUREG. The ISG provides guidance for the NRC staff when performing a 10 CFR part 51 environmental review of an application for a permit or license for a new nuclear reactor that relies on any of the findings in the NR GEIS. The plan parallels the revisions to RG 4.2. The primary purpose of the ISG is to ensure that these reviews are focused on the significant environmental concerns associated with new nuclear reactor permitting or licensing as described in 10 CFR part 51. Specifically, it provides guidance to the NRC staff about environmental issues that should be reviewed and provides acceptance criteria to help the reviewer evaluate the information submitted as part of the permit or license application. It is also the intent of this review plan to make information about the regulatory process available and to improve communication between the NRC, interested members of the public, and the nuclear industry, thereby increasing understanding of the review process.

XV. Public Meetings

The NRC will conduct three public meetings on the proposed rule for the purpose of explaining the changes and answering questions from the attendees to facilitate the development of public comments.

An in-person public meeting will be held on November 7, 2024, at NRC headquarters in Rockville, MD between 1 p.m. and 4 p.m. eastern time.

In addition, the NRC will hold two virtual public meetings as online webinars. The online webinars will be conducted on November 13, 2024, between 1 p.m. and 4 p.m. eastern time

and November 14, 2024, between 6 p.m. and 9 p.m. eastern time.

Persons interested in attending the meetings should monitor the NRC's Public Meeting Schedule website at *https://www.nrc.gov/pmns/mtg* for additional information and agenda for the meetings. Please contact Stacey Imboden, 301–415–2462, *Stacey.Imboden@nrc.gov,* no later than October 31, 2024, if accommodations or special equipment is needed to attend or to provide comments, so that the NRC can determine whether the request can be accommodated.

XVI. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No./ **Federal Register** citation
Draft Generic Environmental Impact Statement	
Draft NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors,'' dated September 2024.	ML24176A220.
Draft Guidance Documents	
Draft Regulatory Guide DG–4032, ''Preparation of Environmental Reports for Nuclear Power Stations,'' dated September 2024.	ML24176A228.
Draft Regulatory Guide DG–4032, ''Preparation of Environmental Reports for Nuclear Power Stations,'' Redline/Strikeout Version to Support Public Comment, dated September 2024.	ML24176A229.
Energy and System Design Mitigation Alternatives White Paper Report, dated September 2024	ML21225A754.
Recommendations for an Applicant to Calculate Activity Data for Greenhouse Gases Estimates White Paper, dated September 2024.	ML21225A768.
Draft Interim Staff Guidance, COL–ISG–030, ''Environmental Considerations for New Nuclear Reactor Applications that Reference the Generic Environmental Impact Statement (NUREG–2249),'' dated September 2024.	ML24176A231.
Proposed Rule Documents	
Draft Regulatory Analysis for the 10 CFR Part 51, Generic Environmental Impact Statement for Licensing of New Nuclear Reactors Proposed Rule, dated September 2024.	ML24176A218.
Draft Information Collection Clearance Package	ML21222A060.
Public Meetings	
Summary of November 15 and 20, 2019, Public Meetings to Discuss Exploratory Process for Developing an Advanced Nuclear Reactor Generic Environmental Impact Statement, dated December 10, 2019.	ML19337C862.
Workshop to Discuss the Environmental Information Needed to Develop a Generic Environmental Impact Statement for Advanced Nuclear Reactors, dated December 13, 2019.	ML19347A733.
Summary of May 28, 2020, Advanced Reactor Generic Environmental Scoping Meeting, dated June 2, 2020	ML20161A339 (package).
Summary of October 1, 2020, Advanced Reactor Stakeholder Public Meeting, dated December 22, 2020	ML20350B457.
Summary of April 15, 2021, Advanced Reactor Stakeholder Public Meeting, dated August 24, 2021	ML21232A429.
Related Documents	
Advanced Nuclear Reactor Generic Environmental Impact Statement Scoping Process—Summary Report, dated September 16, 2020.	ML20260H180 (package).
Notice of Availability of Memorandum of Understanding Between U.S. Army Corps of Engineers and U.S. Nuclear Regulatory Commission on Environmental Reviews Related to the Issuance of Authorizations to Construct and Operate Nuclear Power Plants, dated September 25, 2008.	73 FR 55546.
NUREG–0586, ''Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities,'' Supplement 1, Vol. 1, ''Regarding the Decommissioning of Nuclear Power Reactors,'' dated November 30, 2002.	ML023470327 (package).
NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants,'' Revision 2, dated August 2024.	ML24087A133 (package).
NUREG–2157, ''Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel,'' dated September 30, 2014.	ML14198A440 (package).
Agency Action Regarding the Exploratory Process for the Development of an Advanced Nuclear Reactor Generic Environmental Impact Statement, dated November 15, 2019.	84 FR 62559.
Notice to Conduct Scoping and Prepare an Advanced Nuclear Reactor Generic Environmental Impact Statement, dated April 30, 2020.	85 FR 24040.
SECY–20–0020, ''Results of Exploratory Process for Developing a Generic Environmental Impact Statement for the Construction and Operation of Advanced Nuclear Reactors,'' dated February 28, 2020.	ML20052D175.
SRM–SECY–20–0020, ''Results of Exploratory Process for Developing a Generic Environmental Impact Statement for the Construction and Operation of Advanced Nuclear Reactors,'' dated September 21, 2020.	ML20265A112.
SECY–21–0098, ''Proposed Rule: Advanced Nuclear Reactor Generic Environmental Impact Statement (RIN 3150–AK55; NRC–2020–0101),'' dated November 29, 2021.	ML21222A044.
Staff Requirements Memorandum (SRM)-SECY–21–0098, ''Proposed Rule: Advanced Nuclear Reactor Generic Environmental Impact Statement (RIN 3150–AK55; NRC–2020–0101),'' dated April 17, 2024.	ML24108A199.

The NRC may post documents related to this rule, including public comments, on the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2020–0101. In addition, the Federal rulemaking website allows

members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2020–0101); (2) click the ''Subscribe'' link; and (3) enter an email address and click on the ''Subscribe'' link.

List of Subjects in 10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing to amend 10 CFR part 51:

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note. Sections 51.20, 51.30, 51.60, 51.80. and 51.97 also issued under Nuclear Waste Policy Act secs. 135, 141, 148 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under Atomic Energy Act sec. 274 (42 U.S.C. 2021) and under Nuclear Waste Policy Act sec. 121 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act sec. 114(f) (42 U.S.C. 10134(f)).

■ 2. In § 51.50, amend paragraph (a) by adding a new second sentence, and add paragraph (d) to read as follows:

§ 51.50 Environmental report—construction permit, early site permit, or combined license stage.

(a) * * * For non-light-water reactors as defined in § 50.2, the environmental report shall contain the basis for evaluating the contribution of the environmental effects of fuel cycle activities for the nuclear reactor. * * * * * * * * *

(d) *Application for a construction permit, early site permit, or combined license for a nuclear reactor.* If an application is for a construction permit, an early site permit, or a combined license that does not reference an early site permit for a nuclear reactor, as defined in 10 CFR 50.2, and further, if the applicant chooses to rely upon the findings of one or more of the issues identified as Category 1 issues in appendix C to subpart A of this part, then, in addition to the information and analyses required in paragraph (a), (b), or (c) of this section, as appropriate, the applicant's environmental report will be subject to the following conditions and considerations:

(1) The environmental report must contain information to demonstrate that the values and assumptions in appendix C to subpart A of this part are met, and no new and significant information is identified in accordance with paragraph (d)(5) of this section, for each Category 1 issue for which the applicant relies on the finding for that issue.

(2) The environmental report is not required to contain analyses of the environmental impacts of any issue identified as a Category 1 issue in appendix C to subpart A of this part, provided that the environmental report contains the information specified in paragraph (d)(1) of this section.

(3) The environmental report must contain analyses of the environmental impacts of the proposed action, including the construction, operation, and decommissioning of the proposed nuclear reactor, for:

(i) Any Category 1 issue for which the values and assumptions are not met or for which new and significant information is identified in accordance with paragraph (d)(5) of this section; and

(ii) Each issue identified as a Category 2 issue in appendix C to subpart A of this part.

(4) The environmental report must contain a consideration of alternatives for reducing adverse environmental impacts, as required by § 51.45(c), for all issues identified as Category 1 issues in appendix C to subpart A of this part for which the environmental report does not contain the information specified in paragraph (d)(1) of this section, and for all issues identified as Category 2 issues in appendix C to subpart A of this part. No such consideration is required for Category 1 issues in appendix C to subpart A of this part that meet the applicable values and assumptions as specified in paragraph (d)(1) of this section.

(5) The environmental report must contain any new and significant information of which the applicant is aware regarding the environmental impacts for all issues identified as Category 1 issues in appendix C to subpart A of this part for which the applicant relies on the findings for those issues.

(6) The environmental report must contain a description of the process used to identify new and significant information regarding the issues identified as Category 1 issues in appendix C to subpart A of this part for which the applicant relies on the findings for those issues.

§ 51.53 [Amended]

■ 3. In § 51.53, amend paragraph (d) by removing the reference ''§ 50.82 of this chapter'' and adding in its place the references ''§§ 50.82 and 52.110 of this chapter''.

■ 4. In § 51.75, add paragraph (d) to read as follows:

§ 51.75 Draft environmental impact statement—construction permit, early site permit, or combined license.

* * * * * *

(d) *Construction permit, early site permit, or combined license for a nuclear reactor.* If a draft environmental impact statement is being prepared in accordance with paragraph (a), (b), or (c) of this section, and if applicant's environmental report relied upon the findings of one or more of the issues identified as Category 1 issues in appendix C to subpart A of this part, the draft environmental impact statement must be prepared as a supplement to NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors'' (September 2024), which is available in the NRC's Public Document Room, 11555 Rockville Pike, Rockville, Maryland 20852. In addition, the NRC staff must comply with 40 CFR 1506.6(b)(3) in conducting the additional scoping process as required by § 51.71(a). The draft supplemental environmental impact statement will incorporate the conclusions in NUREG–2249 for issues identified as Category 1 for which the applicant has demonstrated that the applicable values and assumptions have been met and for which neither the applicant nor the NRC identified any new and significant information. The draft supplemental environmental impact statement must contain an analysis for those issues identified as Category 1 for which the applicant could not demonstrate that the applicable values and assumptions were met or for which any new and significant information was identified by the applicant or the NRC, and for those issues identified as Category 2.

■ 5. Add § 51.96 to read as follows:

§ 51.96 Final supplemental environmental impact statement relying on a generic environmental impact statement for licensing new nuclear reactors.

(a) In connection with a construction permit, an early site permit, or a

combined license that does not reference an early site permit for a nuclear reactor, as defined in 10 CFR 50.2, and for which the NRC staff relied on any of the findings in appendix C to subpart A of this part in preparing a draft supplemental environmental impact statement in accordance with § 51.75(d), the NRC shall prepare a final supplemental environmental impact statement, which is a supplement to the Commission's NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors'' (September 2024), and available in the NRC's Public Document Room, 11555 Rockville Pike, Rockville, Maryland 20852.

(b) The final supplemental environmental impact statement required by paragraph (a) of this section must contain the NRC staff's recommendation regarding the environmental acceptability of approving the construction permit, the early site permit, or the combined license. In order to make recommendations and reach a final decision on the proposed action, the NRC staff, adjudicatory officers, and Commission shall integrate:

(1) The conclusions in NUREG–2249 for issues designated as Category 1 for which the applicant has demonstrated that the applicable values and assumptions have been met and for which neither the applicant nor the NRC staff identified any new and significant information with

(2) Information developed for those Category 1 issues for which the applicant could not demonstrate that the applicable values and assumptions were met and those Category 2 issues applicable to the plant under § 51.50(d) and any new and significant information.

(c) The final supplemental environmental impact statement required by paragraph (a) of this section shall address those issues as required by § 51.91 and shall be distributed in accordance with § 51.93.

(d) In connection with a combined license that references an early site permit for which the NRC staff relied on any of the findings in appendix C to subpart A of this part in preparing the supplemental environmental impact statement for that early site permit, the NRC shall prepare a supplement to that final supplemental environmental impact statement. The supplement must meet the requirements of § 51.92(e) and shall be considered a supplement to NUREG–2249.

(e) In connection with a combined license that references an early site permit for which the NRC staff relied on any of the findings in appendix C to subpart A of this part in preparing the draft supplemental environmental impact statement, the NRC staff shall prepare a supplement to the early site permit environmental impact statement. The supplement must be prepared in accordance with § 51.92(e) and shall be considered a supplement to NUREG–2249.

(f) In connection with the issuance of an operating license for which the NRC staff relied on any of the findings in appendix C to subpart A of this part in preparing the supplemental environmental impact statement for the construction permit for that nuclear reactor, the NRC shall prepare a supplement to the final supplemental environmental impact statement. The supplement must meet the requirements of § 51.95(b) and shall be considered a supplement to NUREG–2249.

■ 6. Add appendix C to subpart A of part 51 to read as follows:

Appendix C to Subpart A of Part 51—Environmental Effect of Issuing a Permit or License for a New Nuclear Reactor

The Commission has assessed the environmental impacts associated with authorizing the construction, operation, and decommissioning of a nuclear reactor. Table C–1 summarizes the Commission's generic findings on the scope and magnitude of environmental impacts of such an authorization as required by section 102(2) of the National Environmental Policy Act of 1969, as amended. Table C–1 presents the results of the generic analysis of those environmental impacts associated with building,[1] operating, and decommissioning a nuclear reactor that the staff has designated as Category 1, as well as listing the issues that could not be resolved generically, designated as Category 2. The use of this table by applicants will be in accordance with § 51.50(d), and the use by the staff will be in accordance with §§ 51.75(d) and 51.96. On a 10-year cycle, the Commission intends to review the material in this appendix and update it if necessary. A scoping notice must be published in the **Federal Register** indicating the results of the NRC's review and inviting public comments and proposals for other areas that should be updated.

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Land Use			
Construction:			
Onsite Land Use	1	SMALL	The proposed project, including any associated land uses, complies with applicable NRC siting regulations such as 10 CFR part 100. The site size is 100 ac (40.5 ha) or less. The permanent footprint of disturbance includes 30 ac (12 ha) or less of vegetated lands, and the temporary footprint of disturbance includes no more than an additional 20 ac (8.1 ha) or less of vegetated lands. The proposed project complies with the site's zoning and is consistent with any relevant land use plans or comprehensive plans. The site would not be situated closer than 0.5 mi (0.8 km) to existing residential areas or 1.0 mi (1.6 km) to sensitive land uses such as Federal, State, or local parks; wildlife refuges; conservation lands; Wild and Scenic Rivers; or Natural Heritage Rivers. The site does not have a history of past industrial use capable of leaving a legacy of contamination requiring cleanup to protect human health and the environment. The total wetland loss from use of the site, including use of any offsite rights-of-way (ROWs), would be no more than 0.5 ac (0.2 ha). Best management practices (BMPs) for erosion, sediment control, and stormwater management would be used. Compliance with any mitigation measures established through zoning ordinances, local building permits, site use permits, or other land use authorizations.

[1] The term ''building,'' as used in the NR GEIS, includes the full range of preconstruction (building activities not within the NRC's regulatory authority), and construction and installation activities (building activities within the NRC's regulatory authority).

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Offsite Land Use	1	SMALL	New offsite ROWs for transmission lines, pipelines, or access roads would be no more than 100 ft (30.5 m) in width and total no more than 1 mi (1.6 km) in length. No new offsite ROW would be situated closer than 0.5 mi (0.8 km) to existing residential areas or sensitive land uses such as Federal, State, or local parks; wildlife refuges; conservation lands; Wild and Scenic Rivers; or Natural Heritage Rivers. No existing ROWs in residential areas would be used or widened to accommodate project features. No ROW has a history of past industrial use capable of leaving a legacy of contamination requiring cleanup to protect human health and the environment. The total wetland loss from use of the entire project, including use of the site and any offsite ROWs, would be no more than 0.5 ac (0.2 ha). BMPs for erosion, sediment control, and stormwater management would be used. Compliance with any mitigation measures established through zoning ordinances, local building permits, site use permits, or other land use authorizations.
Impacts to Prime and Unique Farmland.	1	SMALL	The site size is 100 ac (40.5 ha) or less. The site does not contain any prime or unique farmland or other farmland of statewide or local importance; or the site does not abut any agricultural land and is not situated in a predominantly agricultural landscape.
Coastal Zone and Compliance with the Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*).	1	SMALL	The site is not situated in any designated coastal zone, or the applicant can demonstrate that the affected state(s) have or will issue a consistency determination or other indication that the project complies with the Coastal Zone Management Act.
Operation:			
Onsite Land Use	1	SMALL	The proposed project, including any associated land uses, complies with applicable NRC siting regulations such as 10 CFR part 100. The site size is 100 ac (40.5 ha) or less. If needed, cooling towers would be mechanical draft, not natural draft; less than 100 ft (30.5 m) in height; and equipped with drift eliminators. Any makeup water for the cooling towers would be fresh water (less than 1 ppt salinity). BMPs for erosion, sediment control, and stormwater management would be used.
Offsite Land Use	1	SMALL	New offsite ROWs for transmission lines, pipelines, or access roads would be no more than 100 ft (30.5 m) in width and total no more than 1 mi (1.6 km) in length. BMPs for erosion, sediment control, and stormwater management would be used (wherever land is disturbed during the course of ROW management).
Visual Resources			
Construction:			
Visual Impacts in Site and Vicinity	1	SMALL	The site size is 100 ac (40.5 ha) or less. The site would not be situated closer than 0.5 mi (0.8 km) to existing residential areas or 1 mi (1.6 km) to sensitive land uses such as Federal, State, or local parks; wildlife refuges; conservation lands; Wild and Scenic Rivers; or Natural Heritage Rivers. The maximum proposed building and structure height is no more than 50 ft (15.2 m), except that the maximum height is 200 ft (61 m) for proposed meteorological towers and 100 ft (30.5 m) for transmission line poles/towers and mechanical draft cooling towers. The proposed project structures would not be visible from Federal or State parks or wilderness areas designated as Class 1 under Section 162 of the Clean Air Act (42 U.S.C. 7472); or as a Wild and Scenic River, a Natural Heritage River, or a river of similar State designation.
Visual Impacts from Transmission Lines.	1	SMALL	New offsite ROWs for transmission lines, pipelines, or access roads would be no more than 100 ft (30.5 m) in width and total no more than 1 mi (1.6 km) in length. No transmission line structures (poles or towers) would be over 100 ft (30.5 m) in height. The new offsite ROWs would not be situated closer than 1 mi (1.6 km) to existing residential areas or sensitive land uses such as Federal, State, or local parks; wildlife refuges; conservation lands; Wild and Scenic Rivers; or Natural Heritage Rivers. Any proposed new structures on offsite ROWs would not be visible from Federal or State parks or wilderness areas designated as Class 1 under Section 162 of the Clean Air Act (42 U.S.C. 7472); or as a Wild and Scenic River, a Natural Heritage River, or a river of similar State designation.
Operation:			
Visual Impacts During Operations	1	SMALL	The site would not be situated closer than 1 mi (1.6 km) to existing residential areas or sensitive land uses such as Federal, State, or local parks; wildlife refuges; conservation lands; Wild and Scenic Rivers; or Natural Heritage Rivers. The maximum proposed building and structure height would be no more than 50 ft (15.2 m), except that the maximum height would be 200 ft (61 m) for proposed meteorological towers and 100 ft (30.5 m) for proposed transmission line poles/towers and proposed mechanical draft cooling towers. The proposed project structures would not be visible from Federal or State parks or wilderness areas designated as Class 1 under Section 162 of the Clean Air Act (42 U.S.C. 7472); or as a Wild and Scenic River, a Natural Heritage River, or a river of similar State designation. If needed, cooling towers would be mechanical draft, not natural draft; less than 100 ft (30.5 m) in height; and equipped with drift eliminators. Any makeup water for the cooling towers would be fresh water (less than 1 ppt salinity).
Meteorology and Air Quality			
Construction:			

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Emissions of Criteria Pollutants and Dust During Construction.	1	SMALL	The site size is 100 ac (40.5 ha) or less. The permanent footprint of disturbance is 30 ac (12 ha) or less of vegetated lands and the temporary footprint of disturbance is an additional 20 ac (8.1 ha) or less of vegetated land. New offsite ROWs for transmission lines, pipelines, or access roads would be no longer than 1 mi (1.6 km) and have a maximum ROW width of 100 ft (30.5 m). Criteria pollutants emitted from vehicles and standby power equipment during construction are less than Clean Air Act de minimis levels set by the U.S. Environmental Protection Agency (EPA) if the site is located in a nonattainment or maintenance area, or the site is located in an attainment area. The site is not located within 1 mi (1.6 km) of a mandatory Class I Federal area where visibility is an important value. The level of service (LOS) determination for affected roadways does not change. Mitigation necessary to rely on the generic analysis includes implementation of BMPs for dust control. Compliance with air permits under State and Federal laws that address the impact of air emissions during construction.
Greenhouse Gas Emissions During Construction.	1	SMALL	Greenhouse gases emitted by equipment and vehicles during the 97-year greenhouse gas life-cycle period would be equal to or less than 2,534,000 metric tons (MT) of carbon dioxide equivalent (CO_2(e)). Appendix H of NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors'' contains the staff's methodology for developing this value, which includes emissions from construction, operation, and decommissioning. As long as this total value is met, the impacts for the life-cycle of the project and the individual phases of the project are determined to be SMALL.
Operation:			
Emissions of Criteria and Hazardous Air Pollutants during Operation.	1	SMALL	Criteria pollutants emitted from vehicles and standby power equipment during operations are less than Clean Air Act de minimis levels set by the EPA if located in a nonattainment or maintenance area. The site is not located within 1 mi (1.6 km) of a mandatory Class I Federal area where visibility is an important value. The LOS determination for affected roadways does not change. The generic analysis can be relied on without applying any mitigation measures. Compliance with air permits under State and Federal laws that address the impact of air emissions. Hazardous air pollutant (HAP) emissions will be within regulatory limits.
Greenhouse Gas Emissions During Operation.	1	SMALL	Greenhouse gases emitted by equipment and vehicles during the 97-year greenhouse gas life-cycle period would be equal to or less than 2,534,000 MT of CO_2(e). Appendix H of NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors'' contains the staff's methodology for developing this value, which includes emissions from construction, operation, and decommissioning. As long as this total value is met, the impacts for the life-cycle of the project and the individual phases of the project are determined to be SMALL.
Cooling-System Emissions	1	SMALL	If needed, cooling towers would be mechanical draft, not natural draft. Cooling towers would be equipped with drift eliminators. The site is not located within 1 mi (1.6 km) of a mandatory Class I Federal area where visibility is an important value. Mechanical draft cooling towers would be less than 100 ft (30.5 m) tall. Makeup water would be fresh (with a salinity less than 1 ppt). Operation of cooling towers is assumed to be subject to State permitting requirements. HAP emissions would be within regulatory limits. No existing residential areas within 0.5 mi (0.8 km) of the site.
Emissions of Ozone and Nitrogen Oxides during Transmission Line Operation.	1	SMALL	The transmission line voltage would be no higher than 1,200 kV.
Water Resources			
Construction:			
Surface Water Use Conflicts during Construction.	1	SMALL	Total Plant Water Demand Less than or equal to a daily average of 6,000 gpm (0.379 m^3/s). If water is obtained from a flowing water body, then the following plant parameter envelope/site parameter envelope (PPE/SPE) parameter and associated assumptions also apply: Average plant water withdrawals do not reduce discharge from the flowing water body by more than 3 percent of the 95 percent exceedance daily flow and do not prevent the maintenance of applicable instream flow requirements. The 95 percent exceedance flow accounts for existing and planned future withdrawals. Water availability is demonstrated by the ability to obtain a withdrawal permit issued by State, regional, or Tribal governing authorities. Water rights for the withdrawal amount are obtainable, if needed. If water is obtained from a non-flowing water body, then the following PPE/SPE parameter and associated value and assumptions also apply: Water availability of the Great Lakes, the Gulf of Mexico, oceans, estuaries, and intertidal zones exceeds the amount of water required by the plant. Water availability is demonstrated by the ability to obtain a withdrawal permit issued by State, regional, or Tribal governing authorities. Water rights for the withdrawal amount are obtainable, if needed. The Coastal Zone Management Act consistency determination is obtainable, if applicable, for the non-flowing water body.
Groundwater Use Conflicts due to Excavation Dewatering.	1	SMALL	The long-term dewatering withdrawal rate is less than or equal to 50 gpm (0.003 m^3/s) (the initial rate may be larger). Dewatering results in negligible groundwater level drawdown at the site boundary.
Groundwater Use Conflicts due to Construction-Related Groundwater Withdrawals.	1	SMALL	Groundwater withdrawal for all plant uses (excluding dewatering) is less than or equal to 50 gpm (0.003 m^3/s). Withdrawal results in no more than 1 ft (0.3 m) of groundwater level drawdown at the site boundary. Withdrawals are not derived from an EPA-designated Sole Source Aquifer (SSA), or from any aquifer designated by a State, Tribe, or regional authority to have special protections to limit drawdown. Withdrawals meet any applicable State or local permit requirements.

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Water Quality Degradation due to Construction-Related Discharges.	1	SMALL	The permanent footprint of disturbance includes 30 ac (12 ha) or less of vegetated lands, and the temporary footprint of disturbance includes no more than an additional 20 ac (8.1 ha) or less of vegetated lands. Adherence to requirements in National Pollutant Discharge Elimination System (NPDES) permits issued by the EPA or State permitting program, and any other applicable permits. The long-term groundwater dewatering withdrawal rate is less than or equal to 50 gpm (0.003 m^3/s). Dewatering discharge has minimal effects on the quality of the receiving water body (*e.g.,* as demonstrated by conformance with NPDES permit requirements). There are no planned discharges to the subsurface (by infiltration or injection), including stormwater discharge.
Water Quality Degradation due to Inadvertent Spills during Construction.	1	SMALL	The site size is 100 ac (40.5 ha) or less. The permanent footprint of disturbance includes 30 ac (12 ha) or less of vegetated lands, and the temporary footprint of disturbance includes no more than an additional 20 ac (8.1 ha) or less of vegetated lands. Applicable requirements and guidance on spill prevention and control are followed, including relevant BMPs and Integrated Pollution Prevention Plans (IPPPs).
Water Quality Degradation due to Groundwater Withdrawal.	1	SMALL	Groundwater Withdrawal for Excavation or Foundation Dewatering The long-term dewatering withdrawal rate is less than or equal to 50 gpm (0.003 m^3/s) (the initial rate may be larger). Dewatering results in negligible groundwater level drawdown at the site boundary. Groundwater Withdrawal for Plant Uses Groundwater withdrawal for all plant uses (excluding dewatering) is less than or equal to 50 gpm (0.003 m^3/s). Withdrawal results in no more than 1 ft (0.3 m) of groundwater level drawdown at the site boundary. Withdrawals are not derived from an EPA-designated SSA, or from any aquifer designated by a State, Tribe, or regional authority to have special protections to limit drawdown. Withdrawals meet any applicable State or local permit requirements.
Water Quality Degradation due to Offshore or In-Water Construction Activities.	1	SMALL	In-water structures (including intake and discharge structures) are constructed in compliance with provisions of the Clean Water Act (CWA) Section 404 (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401 *et seq.*). Adverse effects of building activities controlled and localized using BMPs such as installation of turbidity curtains or installation of cofferdams. Construction duration would be less than 7 years.
Water Use Conflict Due to Plant Municipal Water Demand.	1	SMALL	The amount available from municipal water systems exceeds the amount of municipal water required by the plant (gpm). Municipal Water Availability accounts for all existing and planned future uses. An agreement or permit for the usage amount can be obtained from the municipality.
Degradation of Water Quality from Plant Effluent Discharges to Municipal Systems.	1	SMALL	Municipal Systems' Available Capacity to Receive and Treat Plant Effluent accounts for all existing and reasonably foreseeable future discharges. Agreement to discharge to a municipal treatment system is obtainable.
Operation:			
Surface Water Use Conflicts during Operation due to Water Withdrawal from Flowing Waterbodies.	1	SMALL	Total plant water demand is less than or equal to a daily average of 6,000 gpm (0.379 m^3/s). Average plant water withdrawals do not reduce discharge from the flowing water body by more than 3 percent of the 95 percent exceedance daily flow and do not prevent the maintenance of applicable instream flow requirements. The 95 percent exceedance flow accounts for existing and planned future withdrawals. Water availability is demonstrated by the ability to obtain a withdrawal permit issued by State, regional, or Tribal governing authorities. Water rights for the withdrawal amount are obtainable, if needed.
Surface Water Use Conflicts during Operation due to Water Withdrawal from Non-flowing Waterbodies.	1	SMALL	Total plant water demand is less than or equal to a daily average of 6,000 gpm (0.379 m^3/s). Water availability of the Great Lakes, the Gulf of Mexico, oceans, estuaries, and intertidal zones exceeds the amount of water required by the plant. Water availability is demonstrated by the ability to obtain a withdrawal permit issued by State, regional, or Tribal governing authorities. Water rights for the withdrawal amount are obtainable, if needed. Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*) consistency determination is obtainable, if applicable.
Groundwater Use Conflicts Due to Building Foundation Dewatering.	1	SMALL	The long-term dewatering withdrawal rate is less than or equal to 50 gpm (0.003 m^3/s) (the initial rate may be larger). Dewatering results in negligible groundwater level drawdown at the site boundary.
Groundwater Use Conflicts Due to Groundwater Withdrawals for Plant Uses.	1	SMALL	Groundwater withdrawal for all plant uses (excluding dewatering) is less than or equal to 50 gpm (0.003 m^3/s). Withdrawal results in no more than 1 ft (0.3 m) of groundwater level drawdown at the site boundary. Withdrawals are not derived from an EPA-designated SSA, or from any aquifer designated by a State, Tribe, or regional authority to have special protections to limit drawdown. Withdrawals meet any applicable State or local permit requirements.
Surface Water Quality Degradation Due to Physical Effects from Operation of Intake and Discharge Structures.	1	SMALL	Total plant water demand is less than or equal to a daily average of 6,000 gpm (0.379 m^3/s). Adhere to best available technology requirements of CWA 316(b) (33 U.S.C. 1326). Operated in compliance with CWA Section 316 (b) and 40 CFR 125.83, including compliance with monitoring and recordkeeping requirements in 40 CFR 125.87 and 40 CFR 125.88, respectively (40 CFR part 125). Best available technologies are employed in the design and operation of intake and discharge structures to minimize alterations due to scouring, sediment transport, increased turbidity, and erosion. Adherence to requirements in NPDES permits issued by the EPA or a given state. If water is obtained from a flowing water body, then the following PPE/SPE parameter and associated value also apply: The average rate of plant withdrawal does not exceed 3 percent of the 95 percent exceedance daily flow for the water body. If water is obtained from a non-flowing water body, then the following PPE/SPE parameters and associated values and assumptions also apply: Water availability of the Great Lakes, the Gulf of Mexico, oceans, estuaries, and intertidal zones exceeds the amount of water required by the plant.

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Surface Water Quality Degradation Due to Changes in Salinity Gradients Resulting from Withdrawals.	1	SMALL	Total plant water demand is less than or equal to a daily average of 6,000 gpm (0.379 m^3/s). If water is obtained from a flowing water body, then the following PPE/SPE parameter and associated assumptions also apply: Average plant water withdrawals do not reduce discharge from the flowing water body by more than 3 percent of the 95 percent exceedance daily flow and do not prevent the maintenance of applicable instream flow requirements. The 95 percent exceedance flow accounts for existing and planned future withdrawals. Water availability is demonstrated by the ability to obtain a withdrawal permit issued by State, regional, or Tribal governing authorities. Water rights for the withdrawal amount are obtainable, if needed. If withdrawals are from an estuary or intertidal zone, then changes to salinity gradients are within the normal tidal or seasonal movements that characterize the water body. If water is obtained from a non-flowing water body, then the following PPE/SPE parameter and associated values and assumptions also apply: Water availability of the Great Lakes, the Gulf of Mexico, oceans, estuaries, and intertidal zones exceeds the amount of water required by the plant. Water availability is demonstrated by the ability to obtain a withdrawal permit issued by State, regional, or Tribal governing authorities. Water rights for the withdrawal amount are obtainable, if needed. If withdrawals are from an estuary or intertidal zone, then changes to salinity gradients are within the normal tidal or seasonal movements that characterize the water body.
Surface Water Quality Degradation Due to Chemical and Thermal Discharges.	2	Undetermined	The staff determined that a generic analysis to determine operational impacts on surface water quality due to chemical and thermal discharges was not possible because (1) some States may impose effluent constituent limitations more stringent that those required by the EPA, (2) limitations imposed on effluent constituents may vary among States, and (3) the establishment of a mixing zone may be required. Because all of these issues related to degradation of surface water quality from chemical and thermal discharges require consideration of project-specific information, a project-specific assessment should be performed in the supplemental environmental impact statement.
Groundwater Quality Degradation Due to Plant Discharges.	1	SMALL	The plant is outside the recharge area for any EPA-designated SSA, or any aquifer designated to have special protections by a State, Tribal, or regional authority. The plant is outside the wellhead protection area or designated contributing area for any public water supply well. There are no planned discharges to the subsurface (by infiltration or injection).
Water Quality Degradation due to Inadvertent Spills and Leaks during Operation.	1	SMALL	Applicable requirements and guidance on spill prevention and control are followed, including relevant BMPs and IPPPs. There are no planned discharges to the subsurface (by infiltration or injection), including stormwater discharge. A groundwater protection program conforming to currently applicable industry guidance is established and followed. The site size is 100 ac (40.5 ha) or less. Use of BMPs for soil erosion, sediment control, and stormwater management. Adherence to requirements in NPDES permits issued by the EPA or a given State, and any other applicable permits.
Water Quality Degradation due to Groundwater Withdrawals.	1	SMALL	The long-term dewatering withdrawal rate is less than or equal to 50 gpm (0.003 m^3/s) (the initial rate may be larger). Dewatering results in negligible groundwater level drawdown at the site boundary. Groundwater withdrawal for all plant uses (excluding dewatering) is less than or equal to 50 gpm (0.003 m^3/s). Withdrawal results in no more than 1 ft (0.3 m) of groundwater level drawdown at the site boundary. Withdrawals are not derived from an EPA-designated SSA, or from any aquifer designated by a State, Tribe, or regional authority to have special protections to limit drawdown. Withdrawals meet any applicable State or local permit requirements.
Water Use Conflict from Plant Municipal Water Demand.	1	SMALL	Usage amount is within the existing capacity of the system(s), accounting for all existing and planned future uses. An agreement or permit for the usage amount can be obtained from the municipality.
Degradation of Water Quality from Plant Effluent Discharges to Municipal Systems.	1	SMALL	Municipal Systems' Available Capacity to Receive and Treat Plant Effluent accounts for all existing and reasonably foreseeable future discharges. Agreement to discharge to a municipal treatment system is obtainable.
Terrestrial Ecology			
Construction:			
Permanent and Temporary Loss, Conversion, Fragmentation, and Degradation of Habitats.	1	SMALL	The permanent footprint of disturbance would include 30 ac (12 ha) or less of vegetated lands, and the temporary footprint of disturbance would include no more than an additional 20 ac (8.1 ha) or less of vegetated lands. Temporarily disturbed lands would be revegetated using regionally indigenous vegetation once the lands are no longer needed to support building activities. New offsite ROWs for transmission lines, pipelines, or access roads would be no more than 100 ft (30.5 m) in width and total no more than 1 mi (1.6 km) in length. The footprint of disturbance (permanent and temporary) would contain no ecologically sensitive features such as floodplains, shorelines, riparian vegetation, late-successional vegetation, land specifically designated for conservation, or habitat known to be potentially suitable for one or more Federal or State threatened or endangered species. Total wetland impacts from use of the site and any offsite ROWs would be no more than 0.5 ac (0.2 ha). Applicants would demonstrate an effort to minimize fragmentation of terrestrial habitats by using existing ROWs, or widening existing ROWs, to the extent practicable. BMPs would be used for erosion, sediment control, and stormwater management.

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Permanent and Temporary Loss and Degradation of Wetlands.	1	SMALL	Applicant would provide a delineation of potentially impacted wetlands, including wetlands not under CWA jurisdiction. Total wetland impacts from use of the site and any offsite ROWs would be no more than 0.5 ac (0.2 ha). If activities regulated under the CWA are performed, those activities would receive approval under one or more nationwide permits (NWPs) (33 CFR part 330) or other general permits recognized by the U.S. Army Corps of Engineers. Temporary groundwater withdrawals for excavation or foundation dewatering would not exceed a long-term rate of 50 gpm (0.003 m^3/s). Applicants would be able to demonstrate that the temporary groundwater withdrawals would not substantially alter the hydrology of wetlands connected to the same groundwater resource. Any required state or local permits for wetland impacts would be obtained. Any mitigation measures indicated in the NWPs or other permits would be implemented. BMPs would be used for erosion, sediment control, and stormwater management.
Effects of Building Noise on Wildlife	1	SMALL	Noise generation would not exceed 85 dBA 50 ft (15.2 m) from the source.
Effects of Vehicular Collisions on Wildlife.	1	SMALL	The site size would be 100 ac (40.5 ha) or less. The permanent footprint of disturbance would include 30 ac (12 ha) or less of vegetated lands, and the temporary footprint of disturbance would include no more than an additional 20 ac (8.1 ha) or less of vegetated lands. There would be no decreases in the LOS designation for affected roadways. The licensee would communicate with Federal and State wildlife agencies and implement mitigation actions recommended by those agencies to reduce potential for vehicular injury to wildlife.
Bird Collisions and Injury from Structures and Transmission Lines.	1	SMALL	The site size would be 100 ac (40.5 ha) or less. New offsite ROWs for transmission lines, pipelines, or access roads would be no more than 100 ft (30.5 m) in width and total no more than 1 mi (1.6 km) in length. No transmission line structures (poles or towers) would be more than 100 ft (30.5 m) in height. Licensees would implement common mitigation measures.
Important Species and Habitats—Resources Regulated under the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*).	2	Undetermined	The NRC staff is unable to determine the significance of potential impacts without consideration of project-specific factors, including the specific species and habitats affected and the types of ecological changes potentially resulting from each specific licensing action.
Important Species and Habitats—Other Important Species and Habitats.	1	SMALL	Applicants would communicate with State natural resource or conservation agencies regarding wildlife and plants and implement mitigation recommendations of those agencies.
Operation:			
Permanent and Temporary Loss or Disturbance of Habitats.	1	SMALL	Temporarily disturbed lands would be revegetated using regionally indigenous vegetation once the lands are no longer needed to support building activities. The total wetland loss from site disturbance over the operational life of the plant would be no more than 0.5 ac (0.2 ha). Any State or local permits for wetland impacts would be obtained. Any mitigation measures indicated in the NWPs or other wetland permits would be implemented. BMPs would be used for erosion, sediment control, and stormwater management.
Effects of Operational Noise on Wildlife	1	SMALL	Noise generation would not exceed 85 dBA 50 ft (15.2 m) from the source. There would be no decreases in the LOS designation for affected roadways. The licensee would communicate with Federal and State wildlife agencies and implement mitigation actions recommended by those agencies to reduce potential for vehicular injury to wildlife.
Effects of Vehicular Collisions on Wildlife.	1	SMALL	Noise generation would not exceed 85 dBA 50 ft (15.2 m) from the source. There would be no decreases in the LOS designation for affected roadways. The licensee would communicate with Federal and State wildlife agencies and implement mitigation actions recommended by those agencies to reduce potential for vehicular injury to wildlife.
Exposure of Terrestrial Organisms to Radionuclides.	1	SMALL	Applicants would demonstrate in their application that any radiological nonhuman biota doses would be below applicable guidelines.
Cooling-Tower Operational Impacts on Vegetation.	1	SMALL	If needed, cooling towers would be mechanical draft, not natural draft; less than 100 ft (30.5 m) in height; and equipped with drift eliminators. Any makeup water for the cooling towers would be fresh water (less than 1 ppt salinity).
Bird Collisions and Injury from Structures and Transmission Lines.	1	SMALL	The site size would be 100 ac (40.5 ha) or less. New offsite ROWs for transmission lines, pipelines, or access roads would be no more than 100 ft (30.5 m) in width and total no more than 1 mi (1.6 km) in length. No transmission line structures (poles or towers) would be more than 100 ft (30.5 m) in height. Licensees would implement common mitigation measures.
Bird Electrocutions from Transmission Lines.	1	SMALL	New offsite ROWs for transmission lines, pipelines, or access roads would be no more than 100 ft (30.5 m) in width and total no more than 1 mi (1.6 km) in length. Common mitigation measures would be implemented.
Water Use Conflicts with Terrestrial Resources.	1	SMALL	Total plant water demand would be less than or equal to a daily average of 6,000 gpm (0.379 m^3/s). If water is withdrawn from flowing water bodies, average plant water withdrawals would not reduce flow by more than 3 percent of the 95 percent exceedance daily flow and would not prevent maintenance of applicable instream flow requirements. Any water withdrawals would be in compliance with any EPA or State permitting requirements. Applicants would be able to demonstrate that hydroperiod changes are within historical or seasonal fluctuations.
Effects of Transmission Line ROW Management on Terrestrial Resources.	1	SMALL	Vegetation in transmission line ROWs would be managed following a plan consisting of integrated vegetation management practices. All ROW maintenance work would be performed in compliance with all applicable laws and regulations. Herbicides would be applied by licensed applicators, and only if in compliance with applicable manufacturer label instructions.

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Effects of Electromagnetic Fields on Flora and Fauna.	1	SMALL	Based on the literature review in the License Renewal Generic Environmental Impact Statement (GEIS), the staff determined that this is a Category 1 issue and impacts would be SMALL regardless of the length, location, or size of the transmission lines. The staff did not recommend any mitigation in the License Renewal GEIS; hence, none is needed here. The staff did not rely on any PPE and SPE values or assumptions in reaching this conclusion.
Important Species and Habitats—Resources Regulated under the ESA of 1973.	2	Undetermined	The NRC staff is unable to determine the significance of potential impacts without consideration of project-specific factors, including the specific species and habitats affected and the types of ecological changes potentially resulting from each specific licensing action.
Important Species and Habitats—Other Important Species and Habitats.	1	SMALL	Applicants would communicate with State natural resource or conservation agencies regarding wildlife and plants and implement mitigation recommendations of those agencies.
Aquatic Ecology			
Construction:			
Runoff and sedimentation from construction areas.	1	SMALL	BMPs would be used for erosion and sediment control. Temporarily disturbed lands would be revegetated using regionally indigenous vegetation once the lands are no longer needed to support building activities.
Dredging and filling aquatic habitats to build intake and discharge structures.	1	SMALL	Applicant would obtain approval, if required, under NWP 7 in 33 CFR part 330. Applicant would implement any mitigation required under NWP 7 in 33 CFR part 330. Applicant would minimize any temporarily disturbed shoreline and riparian lands needed to build the intake and discharge structures and restore those areas with regionally indigenous vegetation suited to those landscape settings once the disturbances are no longer needed. BMPs would be used for erosion and sediment control.
Building transmission lines, pipelines, and access roads across surface waterbodies.	1	SMALL	If activities regulated under the CWA are performed, they would receive approval under one or more NWPs (33 CFR part 330) or other general permits recognized by the U.S. Army Corps of Engineers. Pipelines would be extended under (or over) surface through directional drilling without physically disturbing shorelines or bottom substrate. Access roads would span streams and other surface waterbodies with a bridge or ford, and any fords would include placement and maintenance of matting to minimize physical disturbance of shorelines and bottom substrates. No access roads would be extended across stream channels over 10 ft (3 m) in width (at ordinary high water). Any bridges or fords would be removed once no longer needed, and any exposed soils or substrate would be revegetated using regionally indigenous vegetation appropriate to the landscape setting. Any mitigation measures indicated in the NWPs or other permits would be implemented. BMPs would be used for erosion and sediment control.
Important Species and Habitats—Resources Regulated under the ESA and Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).	2	Undetermined	The NRC staff is unable to determine the significance of potential impacts without consideration of project-specific factors, including the specific species and habitats affected and the types of ecological changes potentially resulting from each specific licensing action. Furthermore, the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) require consultations for each licensing action that may affect regulated resources.
Important species and habitats—Other Important Species and Habitats.	1	SMALL	Applicants would communicate with State natural resource or conservation agencies regarding aquatic fish, wildlife, and plants and implement mitigation recommendation of those agencies.
Operation:			
Stormwater runoff	1	SMALL	Preparation, approval by applicable regulatory agencies, and implementation of a stormwater management plan. Obtaining and compliance with any required permits for the storage and use of hazardous materials issued by Federal and State agencies under Resource Conservation and Recovery Act (RCRA). BMPs would be used for stormwater management.
Exposure of aquatic organisms to radionuclides.	1	SMALL	Applicants would demonstrate in their application that any radiological nonhuman biota doses would be below applicable guidelines.
Effects of refurbishment on aquatic biota.	1	SMALL	BMPs would be used for erosion, sediment control, and stormwater management. Exposed soils would be restored as soon as possible with regionally indigenous vegetation.
Effects of maintenance dredging on aquatic biota.	1	SMALL	If activities regulated under the CWA are performed, those activities would receive approval under one or more NWPs (33 CFR part 330) or other general permits recognized by the U.S. Army Corps of Engineers. Any mitigation measures indicated in the NWPs or other permits would be implemented. BMPs would be used for erosion and sediment control.
Impacts of transmission line ROW management on aquatic resources.	1	SMALL	Vegetation in transmission line ROWs would be managed following a plan consisting of integrated vegetation management practices. All ROW maintenance work would be performed in compliance with all applicable laws and regulations. Herbicides would be applied by licensed applicators, and only if in compliance with applicable manufacturer label instructions. BMPs would be used for erosion and sediment control.
Impingement and entrainment of aquatic organisms.	1	SMALL	Intakes would comply with regulatory requirements established by EPA in 40 CFR 125.84 to be protective of fish and shellfish. Best available control technology would be employed in the design of intakes to minimize entrainment and impingement, such as use of screens and intake rates recognized to minimize effects.
Thermal impacts on aquatic biota	2	Undetermined	Staff would have to first review the discharge plume analysis (as described in Section 3.4) and the aquatic biota potentially present before being able to reach a conclusion regarding the possible significance of impacts to that biota.

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Other effects of cooling-water discharges on aquatic biota.	2	Undetermined	Staff would have to first review the discharge plume analysis (as described in Section 3.4) and the aquatic biota potentially present before being able to reach a conclusion regarding the possible significance of impacts to that biota.
Water use conflicts with aquatic resources.	1	SMALL	If needed, cooling towers would be mechanical draft, not natural draft; less than 100 ft (30.5 m) in height; and equipped with drift eliminators. Any makeup water for the cooling towers would be fresh water (less than 1 ppt salinity). Total plant water demand would be less than or equal to a daily average of 6,000 gpm (0.379 m^3/s). If water is withdrawn from flowing waterbodies, average plant water withdrawals would not reduce flow by more than 3 percent of the 95 percent exceedance daily flow and would not prevent maintenance of applicable instream flow requirements. Any water withdrawals would be in compliance with any EPA or State permitting requirements. Applicants would be able to demonstrate that hydroperiod changes are within historical or seasonal fluctuations.
Important Species and Habitats—Resources Regulated under the ESA and Magnuson-Stevens Fishery Conservation and Management Act.	2	Undetermined	The NRC staff is unable to determine the significance of potential impacts without consideration of project-specific factors, including the specific species and habitats affected and the types of ecological changes potentially resulting from each specific licensing action. Furthermore, the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) require consultations for each licensing action that may affect regulated resources.
Important species and habitats—Other Important Species and Habitats.	1	SMALL	Applicants would communicate with State natural resource or conservation agencies regarding aquatic fish, wildlife, and plants and implement mitigation recommendations of those agencies.
Historic and Cultural Resources			
Construction:			
Construction impacts on historic and cultural resources.	2	Undetermined	Impacts on historic and cultural resources are analyzed on a project-specific basis. The NRC will perform a National Environmental Policy Act (NEPA) analysis and a National Historic Preservation Act (NHPA) Section 106 analysis, in accordance with 36 CFR part 800, in its preparation of the supplemental environmental impact statement. The NHPA Section 106 analysis includes consultation with the State and Tribal Historic Preservation Officers, American Indian Tribes, and other interested parties.
Operation:			
Operation impacts on historic and cultural resources.	2	Undetermined	Impacts on historic and cultural resources are analyzed on a project-specific basis. The NRC will perform a NEPA analysis and a NHPA Section 106 analysis, in accordance with 36 CFR part 800, in its preparation of the supplemental environmental impact statement. The NHPA Section 106 analysis includes consultation with the State and Tribal Historic Preservation Officers, American Indian Tribes, and other interested parties.
Environmental Hazards—Radiological Environment			
Construction:			
Radiological dose to construction workers.	1	SMALL	For protection against radiation, the applicant must meet the regulatory requirements of: 10 CFR 20.1101 Radiation Protection Programs if issued a license 10 CFR 20.1201 Occupational dose limits for adults 10 CFR 20.1301 Dose limits for individual members of the public Appendix B to 10 CFR part 20 Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage Applicable NRC radiation protection regulations, such as: 10 CFR 50.34a Design objectives for equipment to control releases of radioactive material in effluents—nuclear power reactors 10 CFR 50.36a Technical specifications on effluents from nuclear power reactors Application contains sufficient technical information for the staff to complete the detailed technical safety review. Application will be found to be in compliance by the staff with the above regulations through a radiation protection program and an effluent release monitoring program.
Operation:			
Occupational doses to workers	1	SMALL	For protection against radiation, the applicant must meet the regulatory requirements of: 10 CFR 20.1101 Radiation Protection Programs if issued a license 10 CFR 20.1201 Occupational dose limits for adults Appendix B to 10 CFR part 20 Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage Applicable radiation protection regulations, such as: 10 CFR 50.34 a Design objectives for equipment to control releases of radioactive material in effluents—nuclear power reactors 10 CFR 50.36 a Technical specifications on effluents from nuclear power reactors Application contains sufficient technical information for the staff to complete the detailed technical safety review Application will be found to be in compliance by the staff with the above regulations through a radiation protection program and an effluent release monitoring program.

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Maximally exposed individual annual doses.	1	SMALL	For protection against radiation, the applicant must meet the regulatory requirements of: 10 CFR 20.1101 Radiation Protection Programs if issued a license 10 CFR 20.1301 Dose limits for individual members of the public Appendix B to 10 CFR part 20 Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage Applicable radiation protection regulations, such as: 10 CFR 50.34a Design objectives for equipment to control releases of radioactive material in effluents—nuclear power reactors 10 CFR 50.36a Technical specifications on effluents from nuclear power reactors Application contains sufficient technical information for the staff to complete the detailed technical safety review Application will be found to be in compliance by the staff with the above regulations through a radiation protection program and an effluent release monitoring program.
Total population annual doses	1	SMALL	For protection against radiation, the applicant must meet the regulatory requirements of: 10 CFR 20.1101 Radiation Protection Programs if issued a license 10 CFR 20.1301 Dose limits for individual members of the public Appendix B of 10 CFR part 20 Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage Applicable radiation protection regulations, such as: 10 CFR 50.34a Design objectives for equipment to control releases of radioactive material in effluents—nuclear power reactors 10 CFR 50.36a Technical specifications on effluents from nuclear power reactors Application contains sufficient technical information for the staff to complete the detailed technical safety review Application will be found to be in compliance by the staff with the above regulations through a radiation protection program and an effluent release monitoring program.
Nonhuman biota doses	1	SMALL	Applicants would demonstrate in their application that any radiological nonhuman biota doses would be below applicable guidelines.
Environmental Hazards—Nonradiological Environment			
Construction:			
Building impacts of chemical, biological, and physical nonradiological hazards.	1	SMALL	The applicant must adhere to all applicable Federal, State, local or Tribal regulatory limits and permit conditions for chemical hazards, biological hazards, and physical hazards. The applicant will follow nonradiological public and occupational health BMPs and mitigation measures, as appropriate.
Building impacts of electromagnetic fields (EMFs).	N/A	Uncertain	Studies of 60 Hz EMFs have not uncovered consistent evidence linking harmful effects with field exposures. Because the state of the science is currently inadequate, no generic conclusion on human health impacts is possible. If, in the future, the Commission finds that a general agreement has been reached by appropriate Federal health agencies that there are adverse health effects from EMFs, the Commission will require applicants to submit plant-specific reviews of these health effects as part of their application. Until such time, applicants are not required to submit information about this issue.
Operation:			
Operation impacts of chemical, biological, and physical nonradiological hazards.	1	SMALL	The applicant must adhere to all applicable Federal, State, local or Tribal regulatory limits and permit conditions for chemical hazards, biological hazards, and physical hazards. The applicant will follow nonradiological public and occupational health BMPs and mitigation measures, as appropriate.
Operation impacts of EMFs	N/A	Uncertain	Studies of 60 Hz EMFs have not uncovered consistent evidence linking harmful effects with field exposures. Because the state of the science is currently inadequate, no generic conclusion on human health impacts is possible. If, in the future, the Commission finds that a general agreement has been reached by appropriate Federal health agencies that there are adverse health effects from EMFs, the Commission will require applicants to submit plant-specific reviews of these health effects as part of their application. Until such time, applicants are not required to submit information about this issue.
Noise			
Construction:			
Construction-related noise	1	SMALL	The noise level would be no more than 65 dBA at site boundary, unless a relevant State or local noise abatement law or ordinance sets a different threshold, which would then be the presumptive threshold for PPE purposes. If an applicant cannot meet the 65 dBA threshold through mitigation, then the applicant must obtain a various or exception with the relevant State or local regulator. The project would implement BMPs, including such as modeling, foliage planting, construction of noise buffers, and the timing of construction and/or operation activities.
Operation:			
Operation-related noise	1	SMALL	The noise level would be no more than 65 dBA at site boundary, unless a relevant State or local noise abatement law or ordinance sets a different threshold, which would then be the presumptive threshold for PPE purposes. If an applicant cannot meet the 65 dBA threshold through mitigation, then the applicant must obtain a various or exception with the relevant State or local regulator. The project would implement BMPs, including such as modeling, foliage planting, construction of noise buffers, and the timing of construction and/or operation activities.
Waste Management—Radiological Waste Management			
Operation:			

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Low-level radioactive waste (LLRW)	1	SMALL	Applicants must meet the regulatory requirements of 10 CFR part 20 (*e.g.,* 10 CFR 20.1406 and subpart K), 10 CFR part 61, 10 CFR part 71, and 10 CFR part 72. Quantities of LLRW generated at a new nuclear reactor would be less than the quantities of LLRW generated at existing nuclear power plants, which generate an average of 21,200 ft^3 (600 m^3) and 2,000 Ci (7.4 × 1013 Bq) per year for boiling water reactors and half that amount for pressurized water reactors.
Onsite spent nuclear fuel management	1	SMALL	Compliance with 10 CFR part 72.
Mixed waste	1	SMALL	Resource Conservation and Recovery Act (RCRA) Small Quantity Generator for Mixed Waste.
Waste Management—Nonradiological Waste Management			
Construction:			
Construction nonradiological waste	1	SMALL	The applicant must meet all the applicable permit conditions, regulations, and BMPs related to solid, liquid, and gaseous waste management. For hazardous waste generation, applicants must meet conformity with hazardous waste quantity generation levels in accordance with RCRA. For sanitary waste, applicants must dispose of sanitary waste in a permitted process. For mitigation measures, the applicant would perform mitigation measures to the extent practicable, such as recycling, process improvements, or the use of a less hazardous substance.
Operation:			
Operation nonradiological waste	1	SMALL	The applicant must meet all the applicable permit conditions, regulations, and BMPs related to solid, liquid, and gaseous waste management. For hazardous waste generation, applicants must meet conformity with hazardous waste quantity generation levels in accordance with RCRA. For sanitary waste, applicants must dispose of sanitary waste in a permitted process. For mitigation measures, the applicant would perform mitigation measures to the extent practicable, such as recycling, process improvements, or the use of a less hazardous substance.
Postulated Accidents			
Operation:			
Design Basis Accidents Involving Radiological Releases.	1	SMALL	For the exclusion area boundary, the maximum total effective dose equivalent for any 2-hour period during the radioactivity release should be calculated. For the low-population zone, the total effective dose equivalent should be calculated for the duration of the accident release (*i.e.,* 30 days, or other duration as justified). The above calculations should demonstrate that the design basis accident doses satisfy the dose criteria given in regulations related to the application (*e.g.,* 10 CFR 50.34(a)(1), 10 CFR 52.17(a)(1), and 10 CFR 52.79(a)(1)), standard review plans (*e.g.,* standard review plan criteria, Table 1 in standard review plan Section 15.0.3 of NUREG–0800), and Regulatory Guides, (*e.g.,* Regulatory Guide 1.183), as applicable.
Accidents Involving Releases of Hazardous Chemicals.	1	SMALL	Reactor inventory of a regulated substance is less than its Threshold Quantity. Threshold Quantities are found in 40 CFR 68.130, Tables 1, 2, 3, and 4; and Reactor inventory of an extremely hazardous substance is less than its Threshold Planning Quantity. Threshold Planning Quantities are found in 40 CFR part 355, Appendices A and B.
Severe Accidents	2	Undetermined	Based on the analysis in the Final Safety Analysis Report/Preliminary Safety Analysis Report regarding severe accidents, if a reactor design has severe accident progressions with radiological or hazardous chemical releases, then an environmental risk evaluation must be performed.
Severe Accident Mitigation Design Alternatives.	1	SMALL	If a cost-screening analysis determines that the maximum benefit for avoiding an accident is so small that a severe accident mitigation design alternative analysis is not justified based on a minimum cost to design an appropriate severe accident mitigation design alternative.
Acts of Terrorism	1	SMALL	The environmental impacts of acts of terrorism and sabotage only need to be addressed if a reactor facility is subject to the jurisdiction of the U.S. Court of Appeals for the Ninth Circuit.
Socioeconomics			
Construction:			
Community Services and Infrastructure	1	SMALL	The housing vacancy rate in the affected economic region does not change by more than 5 percent, or at least 5 percent of the housing stock remains available after accounting for in-migrating construction workers. Student:teacher ratios in the affected economic region do not exceed locally mandated levels after including the school age children of the in-migrating worker families.
Transportation Systems and Traffic	1	SMALL	The LOS determination for affected roadways does not change. Mitigation measures may include implementation of traffic flow management, management of shift-change timing, and encouragement of ride-sharing and use of public transportation options, such that LOS values can be maintained with the increased volumes.
Economic Impacts	1	Beneficial	The economic impacts of construction and operation of a new nuclear reactor are expected to be beneficial; therefore, this is a Category 1 issue. If, during the project-specific environmental review, the NRC staff determines a detailed analysis of economic costs and benefits is needed for analysis of the range of alternatives considered or relevant to mitigation, the staff may require further information from the applicant.

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Tax Revenue Impacts	1	Beneficial	The tax revenue impacts of construction and operation of a new nuclear reactor are expected to be beneficial; therefore, this is a Category 1 issue. If, during the project-specific environmental review, the NRC staff determines a detailed analysis of tax revenue costs and benefits is needed for analysis of the range of alternatives considered or relevant to mitigation, the staff may require further information from the applicant.
Operation:			
Community Services and Infrastructure	1	SMALL	The housing vacancy rate in the affected economic region does not change by more than 5 percent, or at least 5 percent of the housing stock remains available after accounting for in-migrating construction workers. Student:teacher ratios in the affected economic region do not exceed locally mandated levels after including the school age children of the in-migrating worker families.
Transportation Systems and Traffic	1	SMALL	The LOS determination for affected roadways does not change. Mitigation measures may include implementation of traffic flow management, management of shift-change timing, and encouragement of ride-sharing and use of public transportation options, such that LOS values can be maintained with the increased volumes.
Economic Impacts	1	Beneficial	The economic impacts of construction and operation of a nuclear reactor are expected to be beneficial; therefore, this is a Category 1 issue. If, during the project-specific environmental review, the NRC staff determines a detailed analysis of economic costs and benefits is needed for analysis of the range of alternatives considered or relevant to mitigation, the staff may require further information from the applicant.
Tax Revenue Impacts	1	Beneficial	The tax revenue impacts of construction and operation of a nuclear reactor are expected to be beneficial; therefore, this is a Category 1 issue. If, during the project-specific environmental review, the NRC staff determines a detailed analysis of tax revenue costs and benefits is needed for analysis of the range of alternatives considered or relevant to mitigation, the staff may require further information from the applicant.
Environmental Justice			
Construction:			
Construction Environmental Justice Impacts.	2	Undetermined	Project-specific analysis would be necessary, including analysis of the presence and size of specific minority or low-income populations, impact pathways derived from the plant design, layout, or site characteristics, or other community characteristics affecting specific minority or low-income populations. In performing its environmental justice analysis, the NRC staff will be guided by the NRC's ''Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions,'' which was published in the **Federal Register** on August 24, 2004 (69 FR 52040).
Operation:			
Operation Environmental Justice Impacts.	2	Undetermined	Project-specific analysis would be necessary, including analysis of the presence and size of specific minority or low-income populations, impact pathways derived from the plant design, layout, or site characteristics, or other community characteristics affecting specific minority or low-income populations. In performing its environmental justice analysis, the NRC staff will be guided by the NRC's ''Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions,'' which was published in the **Federal Register** on August 24, 2004 (69 FR 52040).
Fuel Cycle			
Operation:			
Uranium Recovery	1	SMALL	Table S–3 as codified in 10 CFR 51.51 is expected to bound the impacts for new nuclear reactor fuels, because of uranium fuel cycle changes since WASH–1248, including: Increasing use of in situ leach uranium mining has lower environmental impacts than traditional mining and milling methods. Current light-water reactors (LWRs) are using nuclear fuel more efficiently due to higher levels of fuel burnup resulting in less demand for mining and milling activities. Less reliance on coal-fired electrical generation plants is resulting in less gaseous effluent releases from electrical generation sources supporting mining and milling activities. Must satisfy the regulatory requirements of 10 CFR part 40, Domestic Licensing of Source Material and 10 CFR part 71, Packaging and Transportation of Radioactive Material.
Uranium Conversion	1	SMALL	Table S–3 is expected to bound the impacts for new nuclear reactor fuels because of uranium fuel cycle changes since WASH–1248, including: Current LWRs are using nuclear fuel more efficiently due to higher levels of fuel burnup resulting in less demand for conversion activities. Less reliance on coal-fired electrical generation plants is resulting in less gaseous effluent releases from electrical generation sources supporting conversion activities. Must satisfy the regulatory requirements of 10 CFR part 40, Domestic Licensing of Source Material and 10 CFR part 71, Packaging and Transportation of Radioactive Material, and 10 CFR part 73, Physical Protection of Plants and Materials.

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Enrichment	1	SMALL	Table S–3 is expected to bound the impacts for new nuclear reactor fuels, because of uranium fuel cycle changes since WASH–1248, including: Transitioning of U.S. uranium enrichment technology from gaseous diffusion to gas centrifugation, which requires less electrical usage per separative work unit. Current LWRs are using nuclear fuel more efficiently due to higher levels of fuel burnup resulting in less demand for enrichment activities. Less reliance on coal-fired electrical generation plants is resulting in less gaseous effluent releases from electrical generation sources supporting enrichment activities. Must satisfy the regulatory requirements of 10 CFR part 40, Domestic Licensing of Source Material, 10 CFR part 70, Domestic Licensing of Special Nuclear Material, 10 CFR part 71, Packaging and Transportation of Radioactive Material, and 10 CFR part 73, Physical Protection of Plants and Materials.
Fuel Fabrication (excluding metal fuel and liquid-fueled molten salt).	1	SMALL	Table S–3 is expected to bound the impacts for new nuclear reactor fuels, because of uranium fuel cycle changes since WASH–1248, including: Current LWRs are using nuclear fuel more efficiently due to higher levels of fuel burnup resulting in fewer discharged fuel assemblies to be fabricated each year and due to longer time periods between refueling. Less reliance on coal-fired electrical generation plants is resulting in less gaseous effluent releases from electrical generation sources supporting fabrication. Must satisfy the regulatory requirements of 10 CFR part 40, Domestic Licensing of Source Material, 10 CFR part 70, Domestic Licensing of Special Nuclear Material, 10 CFR part 71, Packaging and Transportation of Radioactive Material, and 10 CFR part 73, Physical Protection of Plants and Materials.
Reprocessing	1	SMALL	Table S–3 is expected to bound the impacts for new nuclear reactor fuels, because of uranium fuel cycle changes since WASH–1248, including: Current LWRs are using nuclear fuel more efficiently due to higher levels of fuel burnup resulting in fewer discharged fuel assemblies to be reprocessed each year. Less reliance on coal-fired electrical generation plants is resulting in less gaseous effluent releases from electrical generation sources supporting reprocessing. Reprocessing capacity up to 900 MTU/yr Must satisfy the regulatory requirements of 10 CFR part 40, Domestic Licensing of Source Material, 10 CFR part 50, Domestic Licensing of Production and Utilization Facilities,10 CFR part 70, Domestic Licensing of Special Nuclear Material, 10 CFR part 71, Packaging and Transportation of Radioactive Material, 10 CFR part 72, Licensing Requirements for the Independent Storage of Spent Fuel, High-Level Radioactive Waste, and Reactor-related Greater Than Class C Waste, and 10 CFR part 73, Physical Protection of Plants and Materials.
Storage and Disposal of Radiological Wastes.	1	SMALL	Table S–3 is expected to bound the impacts for new nuclear reactor fuels, because of uranium fuel cycle changes since WASH–1248, including: Current LWRs are using nuclear fuel more efficiently due to higher levels of fuel burnup resulting in fewer discharged fuel assemblies to be stored and disposed. Less reliance on coal-fired electrical generation plants is resulting in less gaseous effluent releases from electrical generation sources supporting storage and disposal. Waste and spent fuel inventories, as well as their associated certified spent fuel shipping and storage containers, are not significantly different from what has been considered for LWR evaluations in NUREG–2157. Must satisfy the regulatory requirements of 10 CFR part 40, Domestic Licensing of Source Material, 10 CFR part 70, Domestic Licensing of Special Nuclear Material, 10 CFR part 71, Packaging and Transportation of Radioactive Material, 10 CFR part 72, Licensing Requirements for the Independent Storage of Spent Fuel, High-Level Radioactive Waste, and Reactor-related Greater Than Class C Waste, and 10 CFR part 73, Physical Protection of Plants and Materials.
Transportation of Fuel and Waste			
Operation:			
Transportation of Unirradiated Fuel	1	SMALL	The maximum annual one-way shipment distance does not exceed 36,760 mi (59,160 km). The annual shipments associated with the one-way shipment distance have been normalized to a net electrical output of 880 MW(e), *i.e.,* 1,100 MW(e) with an 80 percent capacity factor from WASH–1238. The maximum annual round-trip shipment distance does not exceed 73,520 mi (118,320 km). The annual shipments associated with the round-trip shipment distance have been normalized to a net electrical output of 880 MW(e), *i.e.,* 1,100 MW(e) with an 80 percent capacity factor from WASH–1238.
Transportation of Radioactive Waste	1	SMALL	The maximum annual round-trip shipment distance does not exceed 182,152 mi (293,145 km). The annual shipments associated with the round-trip shipment distance have been normalized to a net electrical output of 880 MW(e), *i.e.,* 1,100 MW(e) with an 80 percent capacity factor and a shipment volume of 2.34 m^3/shipment from WASH–1238.
Transportation of Irradiated Fuel	1	SMALL	The maximum annual one-way shipment distance does not exceed 314,037 mi (505,393 km). The annual shipments associated with the one-way shipment distance have been normalized to a net electrical output of 880 MW(e), *i.e.,* 1,100 MW(e) with an 80 percent capacity factor and a shipment capacity of 0.5 MTU/shipment from WASH–1238. The maximum annual round-trip shipment distance does not exceed 628,073 mi (1,010,786 km). The annual shipments associated with the round-trip shipment distance have been normalized to a net electrical output of 880 MW(e), *i.e.,* 1,100 MW(e) with an 80 percent capacity factor and a shipment capacity of 0.5 MTU/shipment from WASH–1238. A maximum peak rod burnup of 62 GWd/MTU for UO2 fuel and peak pellet burnup of 133 GWd/MTU for TRi-structural ISOtropic (TRISO) fuel.

TABLE C–1—SUMMARY OF FINDINGS ON ENVIRONMENTAL ISSUES FOR ISSUING A PERMIT OR LICENSE FOR A NEW NUCLEAR REACTOR [1]—Continued

Issue	Category [2]	Finding [3]	Plant parameter envelope/site parameter envelope values and assumptions [4]
Decommissioning:			
Decommissioning	1	SMALL	The environmental impacts for the following resource areas were generically addressed in NUREG–0586, Supplement 1, would be limited to operational areas, would not be detectable or destabilizing and are expected to have a negligible effect on the impacts of terminating operations and decommissioning: —Onsite Land Use. —Water Use. —Water Quality. —Air Quality. —Aquatic Ecology within the operational area. —Terrestrial Ecology within the operational area. —Radiological. —Radiological Accidents (non-spent-fuel-related). —Occupational Issues. —Socioeconomic. —Onsite Cultural and Historic Resources for plants where the disturbance of lands beyond the operational areas is not anticipated. —Aesthetics. —Noise. —Transportation. —Irretrievable Resource. The following issues were not addressed in NUREG–0586, Supplement 1, but have been determined to be Category 1 issues: —Non-radiological waste. —-Greenhouse Gases.
Decommissioning	2	Undetermined	The following two issues were identified in NUREG–0586, Supplement 1, as requiring a project-specific review: —Environmental justice. —Threatened and endangered species. Four conditionally project-specific issues identified in NUREG–0586, Supplement 1, will require a project-specific review if present: —Land use involving offsite areas to support decommissioning activities. —Aquatic ecology for activities beyond the licensed operational area. —Terrestrial ecology for activities beyond the licensed operational area. —Historic and cultural resources (archaeological, architectural, structural, historic) for activities within and beyond the licensed operational area with no current (*i.e.,* at the time of decommissioning) evaluation of resources for National Register of Historic Places (NRHP) eligibility. Additionally, the following two environmental resource areas are additional decommissioning impacts that require project-specific review: —Climate Change: the effects of climate change are location-specific and cannot, therefore, be evaluated generically (see Section 1.4.3.2.2, Category 2 Issues Applying Across Resources, of NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors''). —Cumulative: must be considered on a project-specific basis where impacts would depend on regional resource characteristics, the resource specific impacts of the project, and the cumulative significance of other factors affecting the resource. (see Section 1.4.3.2.2, Category 2 Issues Applying Across Resources, of NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors'').
Issues Applying Across Resources			
Climate Change	2	Undetermined	The effects of climate change are location-specific and cannot, therefore, be evaluated generically. For example, while climate change may cause many areas to receive less than average annual precipitation, other areas may see an increase in average annual precipitation. Therefore, applicants and staff would address the effects of climate change in the environmental documents for new nuclear reactor licensing.
Cumulative Impacts	2	Undetermined	Applications must individually consider the cumulative impacts from past, present, and reasonably foreseeable future actions known to occur at specific sites for proposed new nuclear reactors, and briefly present those considerations in supplemental NEPA documentation. The staff would explain whether these individualized evaluations of potential cumulative impacts alter any of the generic analyses and conclusions relied upon for Category 1 issues. The individualized cumulative impact analyses may also identify opportunities where staff might rely upon the generic analyses for some Category 1 issues for which certain of the PPE or SPE values and assumptions might be exceeded.
Non-Resource Related Issues			
Purpose and Need	2	Undetermined	Must be described in the environmental report associated with a given application.
Need for Power	2	Undetermined	Must be described in the environmental report associated with a given application.
Site Alternatives	2	Undetermined	Must be described in the environmental report associated with a given application.
Energy Alternatives	2	Undetermined	Must be described in the environmental report associated with a given application.
System Design Alternatives	2	Undetermined	Must be described in the environmental report associated with a given application.

[1] Data supporting this table are contained in NUREG–2249, ''Generic Environmental Impact Statement for Licensing of New Nuclear Reactors'' (September 2024).
[2] The categories are defined as follows:
Category 1 issues—environmental issues for which the NRC has been able to make a generic finding of SMALL adverse environmental impacts, or beneficial impacts, provided that the applicant's proposed reactor facility and site meet or are bounded by relevant values and assumptions in the PPE and SPE that support the generic finding for that Category issue.

Category 2 issues—Environmental issues for which a generic finding regarding the environmental impacts cannot be reached because the issue requires the consideration of project-specific information that can only be evaluated once the proposed site is identified. The impact significance (*i.e.,* SMALL, MODERATE, or LARGE) for these issues will be determined in a project-specific evaluation.

N/A—Issues related to exposure to electromagnetic fields (EMFs) for which there is no national scientific agreement regarding adverse health effects.

[3] A finding of SMALL impacts means that environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource. For the purposes of assessing radiological impacts, the Commission has concluded that those impacts that do not exceed permissible levels in the Commission's regulations are considered SMALL as the term is used in this table. For issues where probability is a key consideration (*i.e.,* accident consequences), probability was a factor in determining significance.

[4] Because the Category 2 issues require a project-specific review, there are no associated values and assumptions of the plant parameter envelope and site parameter envelope. A brief summary explanation for the designation of the Category 2 issues is provided in lieu of values and assumptions.

Dated: September 25, 2024.

For the Nuclear Regulatory Commission.

Carrie Safford,

Secretary of the Commission.

[FR Doc. 2024–22385 Filed 10–3–24; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–1287; Project Identifier AD–2023–00992–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: The FAA is revising an earlier notice of proposed rulemaking (NPRM) to supersede Airworthiness Directive (AD) 2012–07–06. AD 2012–07–06 applies to certain The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes. This action revises the NPRM by proposing to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products. Since these actions would impose an additional burden over those in the NPRM, the FAA is requesting comments on this SNPRM.

DATES: The FAA must receive comments on this SNPRM by November 18, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–1287; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, this SNPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Boeing material in this proposed AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com*.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2024–1287.

FOR FURTHER INFORMATION CONTACT: Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3958; email: *Luis.A.Cortez-Muniz@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–2024–1287; Project Identifier AD–2023–00992–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 again revise this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposed AD.

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 SNPRM 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 SNPRM, 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 SNPRM. Submissions containing CBI should be sent to: Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3958; email: *Luis.A.Cortez-Muniz@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2012–07–06, Amendment 39–17012 (77 FR 21429, April 10, 2012) (AD 2012–07–06), for The Boeing Company Model 777–200, 200LR, –300, –300ER, and 777F series airplanes with an original airworthiness certificate or original export certificate of airworthiness issued before September 1, 2010. AD 2012–07–06 requires revising the maintenance program to update inspection requirements to detect fatigue cracking of principal structural elements (PSEs). The FAA issued AD 2012–07–06 to ensure that fatigue cracking of various PSEs is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

The FAA issued an NPRM to amend 14 CFR part 39 by adding an AD to

supersede AD 2012–07–06 that would apply to certain The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes. The NPRM was published in the **Federal Register** on May 14, 2024 (89 FR 41908). The NPRM was prompted by a new revision to the airworthiness limitations (AWLs) of the maintenance planning document (MPD) and the damage tolerance rating (DTR) Check Form Document. In the NPRM, the FAA proposed to retain the requirements of AD 2012–07–06 and revise the existing maintenance or inspection program by incorporating the information in Subsection B, Airworthiness Limitations-Structural Inspections and Subsection C, Airworthiness Limitations-Structural Safe-Life Limits, of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision December 2022, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document; and Boeing 777–200/200LR/300/300ER/777F Damage Tolerance Rating (DTR) Check Form Document, D622W001–DTR, dated December 2022.

Actions Since the NPRM Was Issued

Since the FAA issued the NPRM, Boeing published Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision April 2023, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document; and Boeing 777–200/200LR/300/300ER/777F Damage Tolerance Rating (DTR) Check Form Document, D622W001–DTR, dated April 2023, which contain new and more restrictive airworthiness limitations (inspections and life limits have been updated). The FAA has determined it is necessary to mandate those airworthiness limitations.

Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or after September 5, 2024, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

Comments

The FAA received a comment from FedEx Express who supported the NPRM without change.

The FAA received additional comments from four commenters, including American Airlines (AAL), Boeing, Japan Airlines (JAL), and United Airlines (UAL). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Update the Document to the Latest Revision

JAL and UAL requested that the proposed AD be revised to change the reference to the December 2022 versions of the airworthiness limitation documents cited in the proposed AD. JAL and UAL noted that Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision April 2023, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document; and Boeing 777–200/200LR/300/300ER/777F Damage Tolerance Rating (DTR) Check Form Document, D622W001–DTR, dated April 2023, are already published. UAL stated that this change will simplify the implementation process for operators by removing the need for a new alternative method of compliance (AMOC) to implement the latest MPD revision. UAL stated it has already been working toward implementing the April 2023 revision, even before release of the NPRM.

The FAA agrees with the request. As previously stated, the FAA has determined it is necessary to mandate the new airworthiness limitations specified in the Revision April 2023 AWLs documents because the inspections and life limits have been updated. The FAA has revised this proposed AD accordingly.

Request To Add a Compliance Time for New Parts

JAL requested that a compliance time for new parts, similar to the statement in paragraph (g)(2) of AD 2012–07–06, be added to this proposed AD, *i.e.,* ''within the applicable time specified in Subsection B, Airworthiness Limitations-Structural Inspections, of Section 9, 'Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, from the time of installation for new parts.''

The FAA agrees with the request. The compliance time for new parts is still applicable as stated previously in AD 2012–07–06. This compliance time was inadvertently excluded from the proposed AD (in the NPRM). The FAA has revised paragraph (i)(2) of this proposed AD (in the SNPRM) accordingly.

Request To Remove a Duplicate Reporting Requirement

The Boeing company requested that the FAA removes paragraph (i)(3) of the proposed AD. Boeing stated that the same reporting requirement is included in Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision December 2022, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document.

The FAA agrees with the request. Both the Revision December 2022 and Revision April 2023 versions of the MPD already include a reporting requirement of 10 days after the airplane is returned to service. Therefore, the exception is not necessary for the Revision April 2023 MPD. However, the exception is still necessary for the Boeing 777–200/200LR/300/300ER/777F Damage Tolerance Rating (DTR) Check Form Document, D622W001–DTR, dated April 2023. The FAA has revised paragraph (i)(3) of the proposed AD (in the NPRM) accordingly.

Request for Clarification of Reporting Requirements

AAL requested that the language in the ''Proposed AD Requirements in This NPRM'' paragraph of the NPRM be revised from ''This proposed AD would also require sending inspection results to Boeing'' to ''This proposed AD would also require sending inspection results of crack findings to Boeing.'' AAL also requested that paragraph (i)(3) of the proposed AD be revised to change ''Reports specified in Section 9 . . .'' to ''Reports of crack findings as specified in Section 9 . . . .'' AAL stated that additional clarification is necessary to avoid any possible ambiguity in the intent of the proposed AD and makes the requirement eminently clear that only crack findings need to be reported, as specified in Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision April 2023, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document.

The FAA partially agrees with the requests. The FAA concurs that Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision April 2023, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document specifies to report crack findings of structural inspections. However, as stated previously, paragraph (i)(3) of the proposed AD (in

the NPRM) has been removed. In addition, the ''Proposed AD Requirements'' paragraph in the NPRM is not restated in this SNPRM. Therefore, the FAA has not revised this SNPRM in this regard.

Request To Extend Compliance Time

AAL requested that paragraph (i)(2) of the proposed AD be revised to ''. . . or within 18 months from the AD effective date, whichever occurs later,'' as was permitted in paragraph (g)(2) of AD 2012–07–06. AAL stated that extending the compliance time from 12 months to 18 months will allow operators greater flexibility to bridge these requirements into their maintenance program without the possibility of forcing aircraft out of service, especially considering some maintenance check intervals may have been escalated during the time between when AD 2012–07–06 was released, and when the proposed AD becomes an AD.

The FAA does not agree with the request. The 12-month compliance time (grace period) is being proposed to ensure a timely implementation of Subsection B, Airworthiness Limitations-Structural Inspections and Subsection C, Airworthiness Limitations-Structural Safe-Life Limits, of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision April 2023, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document; and Boeing 777–200/200LR/300/300ER/777F Damage Tolerance Rating (DTR) Check Form Document, D622W001–DTR, dated April 2023, and to maintain an adequate level of safety in the fleet. Therefore, the FAA has not changed this proposed AD regarding this request. However, under the provisions of paragraph (k) of this proposed AD, the FAA will consider requests for approval of alternative compliance times if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety.

FAA's Determination

The FAA is proposing this SNPRM after determining the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the NPRM. As a result, it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision April 2023, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document. Subsection B, Airworthiness Limitations—Structural Inspections and Subsection C, Airworthiness Limitations—Structural Safe-Life Limits, of this material contains airworthiness limitations for structural inspections and structural life limits, among other limitations.

The FAA also reviewed Boeing 777–200/200LR/300/300ER/777F Damage Tolerance Rating (DTR) Check Form Document, D622W001–DTR, dated April 2023. This material provides the DTR check forms and the procedure for their use.

This proposed AD would also require Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, which the Director of the Federal Register approved for incorporation by reference as of May 15, 2012 (77 FR 21429, April 10, 2012).

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 SNPRM

For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued before September 1, 2010, this proposed AD would retain all the requirements of AD 2012–07–06. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued before September 5, 2024, this proposed AD would require revising the existing maintenance or inspection program to incorporate new and more restrictive airworthiness limitations, which would then terminate the retained requirements of AD 2012–07–06. This proposed AD would also require sending inspection results to Boeing.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 326 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2012–07–06 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the FAA recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new proposed actions to be $7,650 (90 work × hours × $85 per work-hour).

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Reporting	1 work-hour × $85 per hour = $85	$0	$85

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour 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. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance

Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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) 2012–07–06, Amendment 39–17012 (77 FR 21429, April 10, 2012); and

■ b. Adding the following new AD:

The Boeing Company: Docket No. FAA–2024–1287; Project Identifier AD–2023–00992–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 18, 2024.

(b) Affected ADs

This AD replaces AD 2012–07–06, Amendment 39–17012 (77 FR 21429, April 10, 2012) (AD 2012–07–06).

(c) Applicability

This AD applies to The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued before September 5, 2024.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls; 28, Fuel; 32, Landing Gear; 52, Doors; 53, Fuselage; 54, Nacelles/Pylons; 55, Stabilizers; 57, Wings.

(e) Unsafe Condition

This AD was prompted by new revisions to the airworthiness limitations of the maintenance planning document and damage tolerance rating check form document. The FAA is issuing this AD to address fatigue cracking of various principal structural elements. The unsafe condition, if not addressed, could result in could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of Maintenance Program With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2012–07–06, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued before September 1, 2010: Comply with the requirements of paragraphs (g)(1) through (3) of this AD. Accomplishing the revision of the existing maintenance or inspection program required by paragraph (i) of this AD terminates the requirements of this paragraph.

(1) Within 12 months after May 15, 2012 (the effective date of AD 2012–07–06), revise the maintenance program by incorporating the information in Subsection B, Airworthiness Limitations-Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, except as provided by paragraph (h) of this AD.

(2) The initial compliance time for the inspections is within the applicable times specified in Subsection B, Airworthiness Limitations-Structural Inspections, of Section 9, of ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, or within 18 months after May 15, 2012 (the effective date of AD 2012–07–06), whichever occurs later, or within the applicable time specified in Subsection B, Airworthiness Limitations-Structural Inspections, of Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document, from the time of installation for new parts.

(3) Reports specified in Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document may be submitted within 10 days after the airplane is returned to service, instead of 10 days after each individual finding as specified in this document.

(h) Retained Alternative Inspections and Inspection Intervals With an Additional Exception

This paragraph restates the requirements of paragraph (h) of AD 2012–07–06, with an additional exception. After accomplishing the actions required by paragraph (g) of this AD, no alternative inspections or inspection intervals may be used unless the alternative inspection or interval is required by paragraph (i) of this AD or approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k) of this AD.

(i) Revision of Maintenance or Inspection Program

(1) Within 12 months after the effective date of this AD, revise the existing maintenance or inspection program by incorporating the information in Subsection B, Airworthiness Limitations-Structural Inspections and Subsection C, Airworthiness Limitations-Structural Safe-Life Limits, of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision April 2023, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document; and in Boeing 777–200/200LR/300/300ER/777F Damage Tolerance Rating (DTR) Check Form Document, D622W001–DTR, dated April 2023.

(2) The initial compliance time for the tasks is within the applicable times specified in Subsection B, Airworthiness Limitations-Structural Inspections and Subsection C, Airworthiness Limitations-Structural Safe-Life Limits, of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision April 2023, of the Boeing 777–200/200LR/300/300ER/777F

Maintenance Planning Data (MPD) Document; and in Boeing 777–200/200LR/300/300ER/777F Damage Tolerance Rating (DTR) Check Form Document, D622W001–DTR, dated April 2023, or within 12 months after the effective date of this AD, whichever occurs later, or within the applicable time specified in Subsection B, Airworthiness Limitations-Structural Inspections, and Subsection C, Airworthiness Limitations-Structural Safe-Life Limits, of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision April 2023, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document, from the time of installation for new parts.

(3) Reports specified in Boeing 777–200/200LR/300/300ER/777F Damage Tolerance Rating (DTR) Check Form Document, D622W001–DTR, dated April 2023 may be submitted within 10 days after the airplane is returned to service, instead of 10 days as specified in the document.

(j) Alternative Inspections and Inspection Intervals

After accomplishing the actions required by paragraph (i) of this AD, no alternative inspections or inspection intervals may be used unless the alternative inspection or interval is approved as an AMOC in accordance with the procedures specified in paragraph (k) of this AD.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l) of this AD. Information may be emailed to: *AMOC@faa.gov.*

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

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

(4) AMOCs approved for AD 2012–07–06 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(5) AMOCs approved for repairs and alterations for AD 2012–07–06 are approved as AMOCs for the corresponding provisions of paragraph (i) of this AD. All other AMOCs approved for AD 2012–07–06 are not approved as AMOCs for the corresponding provisions of paragraph (i) of this AD.

(l) Related Information

For more information about this AD, contact Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3958; email: *Luis.A.Cortez-Muniz@faa.gov.*

(m) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision April 2023, of the Boeing 777–200/200LR/300/300ER/777F Maintenance Planning Data (MPD) Document.

(ii) Boeing 777–200/200LR/300/300ER/777F Damage Tolerance Rating (DTR) Check Form Document, D622W001–DTR, dated April 2023.

(4) The following material was approved for IBR on May 15, 2012 (77 FR 21429, April 10, 2012).

(i) Section 9, ''Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs),'' D622W001–9, Revision July 2011, of the Boeing 777 Maintenance Planning Data (MPD) Document.

(ii) [Reserved]

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

(6) 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.

(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 September 27, 2024.

Peter A. White,

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

[FR Doc. 2024–22663 Filed 10–3–24; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1421

[Docket No. CPSC–2021–0014]

Notice of Availability and Request for Comment: Data Regarding Debris Penetration Hazards for Recreational Off-Highway Vehicles and Utility Task/Terrain Vehicles

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule; availability of supplemental information; request for comment.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) published a notice of proposed rulemaking (NPR) in July 2022 to address debris penetration hazards for recreational off-highway vehicles (ROVs) and utility task/terrain vehicles (UTVs). CPSC is announcing the availability of, and seeking comment on, details about incident data relevant to the rulemaking and associated with debris penetration hazards for ROVs and UTVs.

DATES: Submit comments by November 4, 2024.

ADDRESSES: Submit comments, identified by Docket No. CPSC–2021–0014, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. CPSC does not accept comments submitted by email, except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

Mail/Hand Delivery/Courier Written Submissions: Submit comments by mail/hand delivery/courier to: Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Instructions: All submissions must include the agency name and docket number for this notice. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *https://www.regulations.gov.* Do not submit electronically: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

Docket: To read background documents or comments regarding this proposed rulemaking, go to: *https://www.regulations.gov,* insert Docket No. CPSC–2021–0014 in the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Han Lim, Project Manager, Office of Hazard Identification and Reduction, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987–2327; email: *hlim@cpsc.gov.*

SUPPLEMENTARY INFORMATION: Section 7(a) of the Consumer Product Safety Act (CPSA) authorizes the Commission to promulgate a mandatory consumer product safety standard that sets forth performance or labeling requirements for a consumer product, if such requirements are reasonably necessary to prevent or reduce an unreasonable risk of injury. 15 U.S.C. 2056(a). Under this statutory authority, in 2021, the Commission initiated a rulemaking to reduce the risk of injuries and deaths associated with penetration of ROVs and UTVs by debris such as fallen tree branches. Debris penetration through the floorboard or wheel well of an ROV or UTV can impale the occupants of the vehicles, and incidents associated with debris penetration have caused severe injuries and deaths. The Commission published an advance notice of proposed rulemaking (ANPR) on May 11, 2021 (86 FR 25817), and an NPR on July 21, 2022 (87 FR 43688).[1] On December 21, 2022, the Commission also published a notice of availability and request for comment on a report from SEA, Ltd. titled ''Study of Debris Penetration of Recreational Off-Highway Vehicle (ROV) Proof-of-Concept (POC) Floorboard Guards'' (87 FR 78037).[2]

The Commission is now making available incident reports underlying the data discussed in and related to the NPR, as described below.[3] These reports have been redacted to protect personal information, confidential medical information, and other information protected from disclosure under section 6 of the CPSA. 15 U.S.C. 2055.

In particular, section 6(a) of the CPSA prohibits CPSC from disclosing trade secrets and commercial or financial information obtained from a person that is privileged or confidential, and it requires CPSC to offer such manufacturer or private labeler an opportunity to mark such information as confidential. 15 U.S.C. 2055(a). If the Commission determines that a report marked as confidential by a manufacturer or private labeler may be disclosed because it is not confidential information as provided by section 6(a)(2), the Commission must notify the manufacturer or private labeler within a specified time frame before any disclosure. 15 U.S.C. 2055(a)(5). Section 6(b) of the CPSA also imposes limitations on CPSC's public disclosure of information that will permit the public to ascertain readily the identity of a manufacturer or private labeler but contains specific exceptions for disclosure of such information in the course of or concerning a rulemaking proceeding. 15 U.S.C. 2055(b)(4). Section 6(b)(5) of the CPSA contains additional limitations on public disclosure of information if the information was submitted to CPSC pursuant to section 15(b) of the CPSA, 15 U.S.C. 2064(b). 15 U.S.C. 2055(b)(5). Section 6(b)(5)(C) also prohibits disclosure of information submitted pursuant to CPSA section 15(b) unless the firm submitting the information ''agrees to its public disclosure.'' 15 U.S.C. 2055(b)(5)(C). Thus, prior to disclosure, CPSC offers such a manufacturer or private labeler an opportunity to mark such information as confidential, and it asks for the firm's agreement to release the documents.

CPSC notified the two submitters who provided incident information underlying the NPR to CPSC under section 15(b) and sought consent to release the incident information pursuant to section 6 of the CPSA. Both submitters consented to disclosure with redactions.

The NPR also contains information about incidents from two databases: the Consumer Product Safety Risk Management System (CPSRMS)[4] and the National Electronic Injury Surveillance System (NEISS).[5] For the rulemaking, staff searched these databases for debris penetration fatalities and incidents involving all-terrain vehicles (ATVs), ROVs, and UTVs, reported to have occurred between 2009 and 2021.[6] None of the debris penetration incidents involved an ATV (other than an ROV or UTV incorrectly identified as an ATV). Given that ATVs do not have floorboards, the lack of debris penetration incidents involving ATVs was expected. Because of this, ATVs are not included within the scope of the proposed rule. For the timeframe from 2009 and 2021, staff's search revealed data pertaining to at least six fatalities and 22 injuries, with 107 total incidents reported to CPSC.

[1] The NPR defines an ''ROV'' as ''a motorized vehicle designed or intended for off-highway use with the following features: four or more wheels with tires designed for off-highway use, non-straddle-seating for one or more occupants, a steering wheel for steering controls, foot controls for throttle and braking, and a maximum vehicle speed greater than 30 miles per hour (mph).'' 87 FR 43725. The NPR defines an ''UTV'' as ''a motorized vehicle designed or intended for off-highway use with the following features: four or more wheels with tires designed for off-highway use, non-straddle seating for one or more occupants, a steering wheel for steering controls, foot controls for throttle and braking, and a maximum vehicle speed typically between 25 and 30 mph.'' 87 FR 43725–26.

[2] The contractor report provided test data and evaluation of proof-of-concept floorboard guards that were not available in the July 2022 NPR.

[3] The Commission voted 5–0 on September 27, 2024, to publish this document.

[4] CPSRMS includes data primarily from three groups of sources: incident reports, death certificates, and in-depth follow-up investigation reports. A large portion of CPSRMS data consists of incident reports from consumer complaints, media reports, medical examiner or coroner reports, retailer or manufacturer reports (incident reports received from a retailer or manufacturer involving a product they sell or make), safety advocacy groups, law firms, and federal, state, or local authorities, among others. It also contains death certificates that CPSC purchases from all 50 states, based on selected external cause of death codes (ICD–10). The third major component of CPSRMS is the collection of in-depth follow-up investigation reports. Based on the incident reports, death certificates, or NEISS injury reports, CPSC field staff conduct in-depth investigations (on-site, via telephone, or online) of incidents, deaths, and injuries, which are then stored in CPSRMS.

[5] NEISS is the source of the injury estimates; it is a statistically valid injury surveillance system. NEISS injury data are gathered from emergency departments of a representative sample of U.S. hospitals, with 24-hour emergency departments and at least six beds. The surveillance data gathered from the sample hospitals enable CPSC to make timely national estimates of the number of injuries associated with specific consumer products.

[6] CPSC staff performed a search of both the CPSRMS and NEISS databases for the following product codes: 5044 (Utility vehicles), 3285 (All-terrain vehicles with 3 wheels), 3286 (All-terrain vehicles with 4 wheels), 3287 (All-terrain vehicles, number of wheels not specified) and 3296 (All-terrain vehicles with more than 4 wheels). While the scope of the hazard is limited to ROVs and UTVs, which product code 5044 encompasses, these vehicles are sometimes mischaracterized as ATVs in CPSRMS and NEISS. The keywords used to identify the debris penetration hazard in the incident narratives were: floor/debris/penetrat/pierc/punctur/impal/branch/limb/stick. The reported incidents from CPSRMS occurred between January 1, 2009 and December 31, 2021. The injury cases from NEISS occurred from January 1, 2009 to December 31, 2020. The data were extracted in January 2022.

The NPR includes information about the hazard patterns of incidents, such as severity of incidents, and the age and gender of the primary victim.

Relevant data from CPSRMS include incident reports from medical examiners, consumers, death certificates, manufacturers, and media reports. Some of the incident data relied on for the rulemaking were obtained from 53 in-depth investigations (IDIs) conducted by CPSC. Among these IDIs, five involved fatal incidents and 48 involved nonfatal incidents. In the NEISS data, staff identified only three cases with sufficient descriptive information to conclude that the injuries were specifically associated with debris penetration. Due to this small sample size, CPSC was unable to report any estimate of injuries. Instead, these three injury cases from NEISS were counted with the other reported injuries from CPSRMS.

In addition, the Commission is considering five additional IDIs that were completed following publication of the NPR.[7] Four out of five of these IDIs involved injuries that resulted from debris penetrating through the floorboards and causing impalement, laceration, bruising, or ligament injury.[8] Three of those four incidents involved hospitalizations.

The Commission invites comments on the incident data and the NPR's analysis of these data. CPSC is making available for review and comment the incident reports relied upon and discussed in the NPR, to the extent allowed by applicable law, along with the associated IDIs and additional IDIs mentioned above. To obtain access to the data, submit a request to: *https://forms.office.com/g/Yz4tNFdhDp.* You will then receive a website link to access the data at the email address you provide. If you do not receive a link within two business days, please contact Han Lim, email: *hlim@cpsc.gov.* Information on how to submit comments and contact information for CPSC's Office of the Secretary are in the **ADDRESSES** section of this notice.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2024–22906 Filed 10–3–24; 8:45 am]

BILLING CODE 6355–01–P

[7] The IDI numbers associated with these five incidents are 221013HCC1142, 220802HEP8213, 220822HCC1212, 230601HCC1530, and 180125CBB3360.

[8] The IDI numbers associated with these four injuries are 221013HCC1142, 220802HEP8213, 220822HCC1212, and 230601HCC1530. IDI 180125CBB3360 involved a branch penetrating the floorboard, but no injury occurred.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2024–0333; FRL–11817–01–OAR]

RIN 2060–AW25

State Implementation Plan Submittal Deadlines and Implementation Requirements for Reclassified Nonattainment Areas Under the Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing deadlines for submission of state implementation plan (SIP) revisions and implementation of the relevant control requirements that will apply for nonattainment areas reclassified as Moderate, Serious, and Severe under the current and any future ozone National Ambient Air Quality Standards (NAAQS) as a result of either failing to attain the standard by the applicable classification attainment date or the EPA granting a voluntary reclassification request. This proposal articulates the implementation requirements and timeframes that will apply for all such areas once reclassified. The EPA is also proposing regulatory revisions to codify its existing interpretation that following reclassification, a state is no longer required to submit SIP revisions addressing certain, but not all, requirements related to the prior classification level for an ozone nonattainment area. In addition, the EPA is articulating in this document how the proposed default deadlines and codification of applicable requirements following reclassification would apply specifically to any nonattainment areas that are reclassified as Serious under the 2015 ozone NAAQS.

DATES: Comments must be received on or before November 4, 2024.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2024–0333, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2024–0333 in the subject line of the message.
- *Fax:* (202) 566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except federal holidays).

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

FOR FURTHER INFORMATION CONTACT: For information about this proposed rule, contact Erin Lowder, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C535–A Research Triangle Park, NC 27709; telephone number: (919) 541–5421; email address: *lowder.erin@epa.gov;* or Robert Lingard, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C539–01 Research Triangle Park, NC 27709; by telephone number: (919) 541–5272; email address: *lingard.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' means the EPA.

Table of Contents

I. Public Participation

Written comments: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2024–0333, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI or PBI and then identify electronically within the digital storage media the specific information that is claimed as CBI or PBI. In addition to one complete version of the comments that includes information claimed as CBI or PBI, you must submit a copy of the comments that does not contain the information claimed as CBI or PBI directly to the public docket through the procedures outlined in *Instructions.* If you submit any digital storage media that does not contain CBI or PBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI or PBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI or PBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Our preferred method to receive CBI or PBI is for it to be transmitted to electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office using the email address, *oaqpscbi@epa.gov,* and should include clear CBI or PBI markings as described earlier. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link. If sending CBI or PBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2024–0333. The mailed CBI or PBI material should be double wrapped and clearly marked. Any CBI or PBI markings should not show through the outer envelope.

II. Overview and Basis of Proposal

A. Overview of Proposal

The EPA is proposing default SIP submittal and implementation deadlines for the current and future ozone NAAQS that would apply for mandatory reclassifications (*e.g.,* from Marginal to Moderate, Moderate to Serious, and Serious to Severe), and also for areas voluntarily reclassified as Moderate, Serious, and Severe. These default reclassification SIP submittal and implementation deadlines would apply only in cases where the otherwise applicable deadlines that apply to areas initially designated nonattainment have passed or are less than 18 months in the future from the effective date of such a reclassification. In the near term, if these default deadlines are finalized as proposed, they will apply to any nonattainment areas that are reclassified as Serious under the 2015 ozone NAAQS for failing to attain the standard by the Moderate attainment date of August 3, 2024, unless otherwise established in a separate notice-and-comment rulemaking.

The EPA is proposing a general default SIP submittal deadline for such reclassified areas as the sooner of 18 months from the effective date of the reclassification notice or January 1 of the new classification attainment year, except for SIP revisions addressing Clean Air Act (CAA) section 185. For the CAA section 185 fee program SIP submittals for areas reclassified as Severe, the EPA is proposing a default deadline of the sooner of 36 months after the effective date of reclassification to Severe or January 1 of the Severe area attainment year. The EPA recognizes that in certain circumstances, states and areas may seek an adjustment of these default deadlines; the EPA therefore proposes that the default SIP submission deadlines could be adjusted where such adjustment is appropriate or necessary, through future notice-and-comment rulemaking in specific EPA actions. Further discussion of these proposed default deadlines is provided in section III.A. of this document.

The EPA is also proposing default deadlines for implementation of emissions control measures required by mandatory reclassifications (*e.g.,* from Marginal to Moderate, Moderate to Serious, and Serious to Severe), and also for voluntary reclassifications to Moderate, Serious, and Severe. The EPA is proposing a default control implementation deadline of the sooner of 18 months after the proposed SIP submittal deadline or the beginning of the relevant attainment year ozone season. Similar to the SIP deadlines, the EPA proposes that these default control measure implementation deadlines could be adjusted where such adjustment is appropriate or necessary subject to notice-and-comment rulemaking in specific EPA actions. Further discussion of these proposed default deadlines is provided in section III.A. of this document. In addition to establishing default SIP submittal and related implementation deadlines, the EPA is proposing regulations to codify its existing interpretation that, following reclassification, a state is no longer required to submit SIP revisions addressing the following requirements related to the prior classification level for an ozone nonattainment area: (1) a demonstration of attainment by the prior attainment date, (2) a reasonably available control measures (RACM) analysis tied to the prior attainment date; and (3) for areas that are voluntarily reclassified before the lower classification's attainment date, contingency measures specifically related to the area's failure to attain by the prior attainment date. As a general matter, this interpretation applies with respect to areas reclassified by operation of law from (1) Marginal to Moderate, (2) Moderate to Serious, and (3) Serious to Severe, and also to any voluntary

reclassification request granted by the EPA for these classifications.[1]

Under the CAA, the EPA is required to determine whether areas designated nonattainment for an ozone NAAQS attained the standard by the applicable attainment date, and to take certain steps for areas that failed to attain (*see* CAA section 181(b)(2)). For a concentration-based standard, such as the 2015 ozone NAAQS,[2] a determination of attainment is based on a nonattainment area's design value (DV).[3] In separate actions, the EPA will determine whether areas classified as Moderate for the 2015 ozone NAAQS factually attained the standard by the applicable attainment date of August 3, 2024, based on their DV as of the attainment date. As required under CAA section 181(b)(2)(A), where the EPA determines that areas failed to timely attain, those areas will be reclassified by operation of law as Serious upon the effective date of the EPA's determination. The reclassified areas will then be required to attain the 2015 ozone NAAQS as expeditiously as practicable, but not later than August 3, 2027 (*see* CAA section 181(a)(1) (table 1) and 40 CFR 51.1303(a) (table 1)). States with jurisdiction over such areas will be required to submit to the EPA the SIP revisions for these areas that satisfy the statutory and regulatory requirements applicable to Serious areas established in CAA section 182(c) and in the 2015 Ozone NAAQS SIP Requirements Rule (*see* 83 FR 62998, December 6, 2018, and 40 CFR 51.1300 *et seq.*).

The EPA proposes in this action to articulate applicable requirements and establish deadlines for submitting SIP revisions that will apply to these reclassified areas, consistent with CAA section 182(i). If the proposed default deadlines discussed in section III.A. of this document are finalized, new SIP revisions for nonattainment areas reclassified as Serious under the 2015 ozone NAAQS would be due to the EPA no later than 18 months after the effective date of the relevant reclassification notice or January 1, 2026, whichever is sooner.

Under the CAA and the Tribal Authority Rule (TAR), tribes may, but are not required to, submit implementation plans to the EPA for approval (*see* CAA section 301(d) and 40 CFR part 49). Accordingly, for tribal nonattainment areas, a tribe is not required to submit any tribal implementation plan (TIP) revisions applicable to Serious areas established in CAA section 182(c) and in the 2015 Ozone NAAQS SIP Requirements Rule. Tribes that are part of multi-jurisdictional nonattainment areas are also not required to submit implementation plan revisions applicable to Serious nonattainment areas.

If the proposed default deadlines discussed in section III.A. are finalized as proposed, states would be required to implement any new reasonably available control technology (RACT) required for reclassified Serious areas under the 2015 ozone NAAQS no later than 18 months from the RACT submittal deadline or the beginning of the 2026 attainment year ozone season for that area, whichever is earlier. Additionally, the deadline for any new or revised Enhanced vehicle inspection and maintenance (I/M) programs (for areas that do not need I/M emission reductions to demonstrate attainment by the attainment date or to meet reasonable further progress (RFP) milestones) to be fully implemented would be as expeditiously as practicable but no later than 4 years after the effective date of the reclassification. Lastly, the deadline for submitting the first transportation control demonstration, as required by CAA section 182(c)(5), would be 2 years after the attainment demonstration due date.

B. What is the background for the proposed actions?

On October 26, 2015, the EPA issued its final action to revise the NAAQS for ozone to establish a new 8-hour standard (*see* 80 FR 65452, October 26, 2015).[4] In that action, the EPA promulgated identical tighter primary and secondary ozone standards designed to protect public health and welfare that specified an 8-hour ozone level of 0.070 ppm. Specifically, the standards require that the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration may not exceed 0.070 ppm.

Effective on August 3, 2018, the EPA designated 51 areas throughout the country as nonattainment for the 2015 ozone NAAQS (*see* 83 FR 25776, June 4, 2018).[5] In a separate action, the EPA assigned classification thresholds and attainment dates based on the severity of an area's ozone levels, determined by the area's design value (DV) (*see* 83 FR 10376, March 9, 2018). In addition, the EPA established the attainment date for Marginal, Moderate, Serious, Severe, and Extreme nonattainment areas as 3 years, 6 years, 9 years, 15 years, and 20 years, respectively, from the effective date of the final designations. Thus, the attainment dates for each nonattainment area classification for the 2015 ozone NAAQS are as follows: August 3, 2021, for Marginal areas; August 3, 2024, for Moderate areas, August 3, 2027, for Serious areas; August 3, 2033, for Severe areas; and August 3, 2038, for Extreme areas.[6] The EPA also promulgated a rulemaking interpreting the CAA's ozone nonattainment area implementation requirements for the 2015 ozone NAAQS.[7] The implementation rulemaking articulated the Act's substantive requirements for ozone nonattainment areas for each classification level and established deadlines for submission of plan revisions to address those requirements that were triggered off of the date of the areas' initial designations for the 2015 ozone NAAQS (*e.g.,* 24 months from the effective date of designation).[8]

C. What is the statutory authority for the proposed actions?

The statutory authority for the actions proposed in this document is provided by the CAA, as amended (42 U.S.C. 7401 *et seq.*). Relevant portions of the CAA include, but are not necessarily limited to, CAA sections 172, 181, 182, and 301(a).

CAA section 107(d) provides that when the EPA establishes or revises a

[1] This rule does not address voluntary reclassifications to Extreme. The EPA expects that this type of reclassification will be rare. We would address the requirements around such a reclassification on a case-by-case basis, should the need arise.

[2] Because the 2015 primary and secondary NAAQS for ozone are identical, for convenience, the EPA refers to them in the singular as ''the 2015 ozone NAAQS'' or as ''the standard.''

[3] A design value is a statistic used to compare data collected at an ambient air quality monitoring site to the applicable NAAQS to determine compliance with the standard. The DV for the 2015 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The DV is calculated for each air quality monitor in an area, and the DV for an area is the highest DV among the individual monitoring sites located in the area. For more information on air quality design values, visit *https://www.epa.gov/air-trends/air-quality-design-values.*

[4] On October 26, 2015, the EPA issued its final action to revise the 8-hour NAAQS for ozone from 0.075 ppm to 0.070 ppm. The 0.075 ppm standard that was promulgated in 2008 has not been revoked and is still in effect. *See* 40 CFR 51.1100 *et seq.*

[5] Effective on September 24, 2018, the EPA also designated the San Antonio, Texas area as nonattainment for the 2015 ozone NAAQS. *See* 83 FR 35136 (July 25, 2018).

[6] Effective on September 24, 2018, the EPA classified the San Antonio, Texas area as Marginal by operation of law for the 2015 ozone NAAQS, with an attainment date of September 24, 2021. Upon any reclassification, the attainment deadline associated with each classification level for the San Antonio nonattainment area is based on this September 24, 2018, effective date. *See* 83 FR 35136 (July 25, 2018).

[7] 83 FR 10382 (March 9, 2018).

[8] *Id.;* 40 CFR 51.1300–1319.

NAAQS, the agency must designate areas of the country as nonattainment, attainment, or unclassifiable based on whether an area is not meeting (or is contributing to air quality in a nearby area that is not meeting) the NAAQS, meeting the NAAQS, or cannot be classified as meeting or not meeting the NAAQS, respectively. Part D of title I of the CAA establishes the plan requirements that apply to all areas designated nonattainment. The purpose of these plan requirements is ensuring that these areas achieve attainment of the applicable NAAQS by the applicable area attainment date. Subpart 1 of part D sets out the plan requirements for nonattainment areas in general, and subpart 2 of part D of title I of the CAA governs the classification, state planning, and emissions control requirements for any areas designated as nonattainment for a revised primary ozone NAAQS. In particular, CAA section 181(a)(1) requires each area designated as nonattainment for a revised ozone NAAQS to be classified at the same time as the area is designated based on the extent of the ozone problem in the area (as determined based on the area's DV). Classifications for ozone nonattainment areas range from Marginal to Extreme. CAA section 172 (in subpart 1) covers nonattainment area plan provisions in general, and CAA section 182 (in subpart 2) provides the specific attainment planning and additional requirements that apply to each ozone nonattainment area based on its classification. Subparts 1 and 2 also establish the timeframes by which air agencies must submit and implement SIP revisions to satisfy the applicable attainment planning elements, and require that such plans ''shall provide for attainment of the NAAQS,'' [9] and that the ''primary standard attainment date for ozone shall be as expeditiously as practicable'' but not later than a maximum attainment date measured from the effective date of the area's designation.[10] The EPA has also promulgated regulations interpreting these requirements for the 2008 ozone NAAQS and the 2015 ozone NAAQS at 40 CFR part 51, subparts X and CC, respectively.

CAA section 182(i) governs the Act's requirements for areas reclassified by operation of law. Specifically, CAA section 182(i) states that areas that are reclassified due to failure to timely attain by the attainment date ''shall meet such requirements of subsections (b) through (d) of this section as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the submissions.'' Subsections (b) through (d) of CAA section 182 cover the required SIP revisions for Moderate (182(b)), Serious (182(c)), and Severe (182(d)), and those requirements are generally cumulative (*see, e.g.,* CAA section 182(b) (requiring Moderate areas to make submissions relating to Marginal areas in addition to the revisions for the Moderate classification)). The SIP revisions, control measures, and timing of such submissions and controls are intended to, among other things, ensure that areas will attain the NAAQS as expeditiously as practicable, but no later than the applicable attainment date. As discussed in more detail later in this document, most SIP requirements are not dependent on the attainment date itself, but certain SIP requirements are inherently tied to the applicable attainment date and therefore are no longer required for the lower classification after the area is reclassified.

As noted, CAA section 182(i) also provides the Administrator with authority to adjust applicable deadlines (other than attainment dates) for areas that are reclassified as a result of failure to attain the NAAQS under CAA section 182(b)(2), ''to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.'' In proposing the adjustment of applicable deadlines for reclassified areas, the EPA considered the timeframes provided under the statute for the submission and implementation of requirements for initial area designations and classifications. Unsurprisingly, many of the nonattainment plan requirements in subparts 1 and 2 establish timing of the submission and implementation of controls such that those plans and controls will influence attainment of the NAAQS within the area by the attainment date.[11] The EPA's proposed submission and implementation schedules for reclassified areas in this document are consistent with the overall schedule of the submission of substantive requirements that are associated with a classification, but adjusts those schedules to fit the abbreviated timeframe available to reclassified areas before the next applicable attainment date. In particular, the EPA's proposed deadlines for implementation of controls and SIP submissions are informed by the need to ensure that the reductions resulting from the Act's requirements are consistently due in time to influence an area's attainment by the attainment date, to the extent the applicable controls are necessary to achieve attainment by that date.

While some areas are reclassified due to failure to attain by the attainment date, others may be reclassified as a result of a state's request. CAA section 181(b)(3) states that ''[t]he Administrator shall grant the request of any State to reclassify a nonattainment area in that State . . . to a higher classification.'' In some cases, states may seek voluntary reclassification to a higher classification early in the designation and planning cycle, and in those cases, the existing SIP submittal and implementation deadlines for the higher classification would continue to apply. In other instances, states may request a voluntary reclassification under CAA section 181(b)(3) where the SIP submittal and implementation deadlines have already passed or will occur in the near future. CAA section 182(i) specifically provides authority to the EPA to adjust applicable deadlines, other than attainment dates, for areas that are reclassified as a result of a failure to attain under CAA section 181(b)(2), but section 182(i) does not specifically reference areas that are voluntarily reclassified under CAA section 181(b)(3). Per CAA section 301(a)(1), the EPA has determined that regulations are necessary to prescribe the SIP submittal and implementation deadlines for such voluntarily reclassified areas, where the deadlines associated with the requested higher classification have already passed or will occur in the near future (*i.e.,* less than 18 months from the effective date of the reclassification).

The EPA's proposed deadlines in this document were also informed by the amount of time that the CAA prescribes when new implementation plans are

[9] CAA section 172(c)(1).

[10] CAA section 181(a)(1).

[11] *See, e.g.,* CAA section 172(c)(6) (''Such plan provisions shall include enforceable emission limitations . . . as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of such standard in such area by the applicable attainment date specified in this part.''); CAA section 182(b)(1)(A)(i) (''Such plan shall provide for such specific annual reductions in emissions of volatile organic compounds and oxides of nitrogen as necessary to attain the [NAAQS] of for ozone by the attainment date applicable under this chapter.''); CAA section 182(b)(2) (requiring control measures on major stationary sources of VOCs or sources of VOCs covered by a CTG to be implemented as expeditiously as practicable but no later than the beginning of the ozone season of the attainment year).

required to be submitted under various circumstances (*see, e.g.,* CAA section 110(k)(5) (allowing EPA to ''establish reasonable deadlines (not to exceed 18 months)'' after notification that a SIP is inadequate); CAA section 179(d) (subpart 1 requirement that within one year of a finding that a nonattainment area has failed to attain by its attainment date, States must submit a new SIP revision addressing nonattainment plan requirements)).

III. What is the EPA proposing and what is the rationale?

A. Default Deadlines for Reclassified Nonattainment Areas Under the Ozone NAAQS

The EPA is proposing to establish default SIP submittal and implementation deadlines for reclassifications by operation of law pursuant to section 181(b)(2) and voluntary reclassification requests pursuant to section 181(b)(3) for areas reclassified as Moderate, Serious, and Severe for all current and future ozone NAAQS. States responsible for areas initially designated as nonattainment are required to prepare and submit SIP revisions by deadlines relative to the effective date of the rule establishing area designations, and the submission deadlines vary depending on the SIP element required (*e.g.,* the statute provides 3 or 4 years from initial nonattainment designation to submit SIPs for some requirements and 2 years for others). Areas initially designated as nonattainment are also required to implement RACT as expeditiously as practicable, but no later than January 1 of the fifth year after the effective date of designations.

The EPA recognizes that upon reclassification, especially when under CAA section 181(b)(2), a state can be faced with limited time to submit and implement required SIP revisions prior to the next attainment date. In addition, in some cases, the SIP submission and implementation deadlines associated with areas initially classified at a level may have already passed at the time of reclassification, making it impossible to apply, for example, the Moderate area SIP submission and implementation deadlines to areas that are mandatorily reclassified to Moderate upon failure to attain by the Marginal area attainment date. In light of these considerations, the EPA has historically adjusted deadlines pursuant to the general rulemaking authority granted under CAA section 301(a) to prescribe regulations as are necessary to carry out the functions of the Act, and the specific authority granted by CAA section 182(i).[12] The EPA has promulgated these adjustments of SIP submission and implementation deadlines that apply to reclassified areas with the intent to ensure consistency amongst submissions, encourage meaningful reductions towards expeditious attainment of the NAAQS, and promote planning flexibility where possible, within the fixed outer bound of an area's new maximum attainment date.

We recognize that because the adjustments in these deadlines are not made until after an area's attainment date under a lower classification, the time between reclassification and a reclassified area's new attainment date will inherently provide less time than the period of time provided between initial designation and classification and that classification's initial attainment date. For example, an area that is initially classified as Marginal is afforded 3 years to attain the NAAQS per CAA section 181(a)(1). If that area fails to attain by the Marginal area attainment date, and the EPA timely issues its finding 6 months after the attainment date per CAA section 181(b)(2), then the area has no more than 2.5 years from that point in time to plan for and attain the NAAQS by its new Moderate area attainment date, which is far less than the 6 years that areas initially classified as Moderate are allotted.

In some cases, though, particularly where a state requests a voluntary reclassification pursuant to CAA section 181(b)(3) and does so well before the area's attainment date, the existing deadlines associated with the higher classification's requirements will not have passed and it will be practicable for the state to meet those deadlines without adjustment. The EPA is therefore proposing that, where the existing deadlines are 18 months or more from the effective date of reclassification, the EPA will not adjust such applicable deadlines or set new ones under its CAA section 182(i) and 301(a) authority. The 18-month timeframe is the outer boundary of what the CAA sets as a ''reasonable deadline'' for SIP revisions required following a finding of inadequacy (*see* CAA section 110(k)(5)), and where that period of time remains for SIP development for a reclassified area, we do not think adjustment is necessary, nor is it needed to assure expeditious attainment of the NAAQS or that the required submissions will be implemented consistently with the Act's structure. The Act's establishment of 18 months as an outer boundary in CAA section 110(k)(5) also indicates that Congress judged that this timeframe would be sufficient for states to identify and develop control measures, to draft revisions to address attainment plans and other requirements, and to complete the required public notice process, adopt such revisions, and to submit them to the EPA.

However, we note that the Act does not guarantee states will have 18 months to revise their SIPs following a finding of inadequacy, and nor does this proposal establish that states are entitled to have 18 months to revise plans to address requirements of the new classification. Expeditious attainment of the NAAQS and ensuring that requirements are in place in time to influence attainment by the attainment date will, in many cases, require that states are afforded much less than 18 months to revise SIPs. This will be particularly true where areas fail to attain by their attainment date, especially for the lower classifications where the interval between attainment dates is only 3 years,[13] and where states fail to request a voluntary reclassification early in the implementation schedule.

The EPA invites comments on its proposal to adjust applicable deadlines where the existing classification deadline has either passed or is less than 18 months away, and whether a different remaining time period for an existing deadline should be considered. The proposed default adjustment of deadlines that would apply in these circumstances will provide advance notice and certainty to any states with nonattainment areas that may fail to attain an ozone NAAQS by the applicable attainment date in the future. Because many of these same timing-related pressures will exist with voluntary reclassifications, the EPA is proposing to also set the same default SIP submission and implementation deadlines to provide certainty to any states that are contemplating making

[12] CAA section 182(i) specifically provides authority to the EPA to adjust applicable deadlines, other than attainment dates, for areas that are reclassified as a result of failure to attain under CAA section 182(b)(2), to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions. The provision does not specifically reference areas that are voluntarily reclassified under CAA section 181(b)(3); the EPA is therefore reasonably proposing to adjust deadlines for such areas under its general rulemaking authority in CAA section 301(a), consistent with CAA section 182(i).

[13] The difference in attainment deadlines between Marginal and Moderate classifications is 3 years, between Moderate and Serious areas is 3 years, and between Serious and Severe areas is 6 years. See CAA section 181(a) and 40 CFR 51.1302.

such requests. The proposed default deadlines are listed in table 1 for clarity.

TABLE 1—DEFAULT SIP SUBMISSION AND CONTROL MEASURE IMPLEMENTATION DEADLINES FOR RECLASSIFIED OZONE NONATTAINMENT AREAS WHEN THE CLASSIFICATION-RELATED DEADLINES FOR INITIAL DESIGNATIONS PROVIDE INSUFFICIENT TIME

SIP requirement	Proposed default deadline
Default Deadlines for Reclassified Nonattainment Areas	
SIP submittal deadline for all elements, unless addressed differently elsewhere in this table.	Within 18 months after the effective date of the relevant reclassification or January 1 of the applicable attainment year, whichever is sooner.
RACT implementation deadline	Within 18 months from the RACT SIP submittal deadline or the beginning of the applicable attainment year ozone season as defined by 40 CFR appendix D to part 58(i), whichever is sooner.
I/M implementation deadline (Basic and Enhanced)	No later than 4 years after the effective date of the relevant reclassification notice (unless needed for attainment by the attainment date or to demonstrate RFP).
Default Deadlines for Reclassified Severe Nonattainment Areas	
SIP submittal deadline for section 185 fee program element	36 months after the effective date of the relevant reclassification notice or no later than January 1 of the applicable attainment year, whichever is sooner.

Establishing default deadlines for areas reclassified under CAA sections 181(b)(2) and 181(b)(3) is necessary and appropriate to ensure states are submitting SIP revisions and implementing control measures triggered by reclassification on a consistent timeline that retains the statute's framework of applying requirements in time to achieve attainment by the attainment date. Doing so also provides states maximum advance visibility into the time that will be provided for development of SIP revisions and new control measures designed to expeditiously attain the NAAQS. The EPA's expectation is that providing a consistent framework for SIP development for reclassified areas will establish certainty for states with areas that fail to timely attain, and that such states can begin focusing on identifying meaningful reductions and developing SIPs to obtain those reductions earlier than they would under the EPA's historical practice of issuing SIP revision submission and control measure implementation deadlines after or in parallel with the determinations that result in area reclassifications. However, we recognize the possibility that in some situations, the default deadlines may not be appropriate or serve the statutory goals of consistency amongst submissions or expeditious attainment of the NAAQS. Therefore, we propose that the EPA would retain authority under CAA sections 301(a) and 182(i) to establish a set of SIP submission and control measure implementation deadlines on a case-by-case basis, through notice-and-comment rulemaking, that deviate from the default deadlines proposed in this document, if finalized, where appropriate.

1. Default Deadlines for Nonattainment Areas Reclassified as Moderate or Serious

SIP requirements that apply to Moderate areas are generally cumulative of CAA requirements for the Marginal classification and include additional Moderate area requirements (*see* CAA sections 172(c)(1) and 182(a) and (b)). The EPA has further interpreted and described these requirements in its implementation rules.[14] Similarly, SIP requirements that apply to Serious areas are generally cumulative of CAA requirements for the Marginal and Moderate area classifications and include additional Serious area requirements (*see* CAA sections 172(c)(1) and 182(a)–(c)). The EPA's implementation rules also provide further interpretation of the statutory Serious area requirements.[15]

a. Default Submission Deadline for Required SIP Revisions

The time period between designation and the maximum attainment date for nonattainment areas initially classified as Moderate or Serious is 6 or 9 years, respectively. In the case of mandatory reclassification after initial area designations pursuant to CAA section 181(b)(2), reclassified Moderate and Serious areas would typically have less than 3 years between the date of reclassification and the area's new maximum attainment date. Given the compressed timeline that reclassified Moderate and Serious areas face, and consistent with past practice,[16] we are proposing to set the SIP submission deadlines for all the various requirements for newly reclassified Moderate and Serious areas as within 18 months of the effective date of the relevant reclassification notice or January 1 of the applicable attainment year, whichever is sooner, unless otherwise specified in a separate notice-and-comment rulemaking establishing a different SIP submission deadline. While not all of the ''schedules prescribed in connection with'' the various subpart 2 requirements are the same, because the timeframe to attain by the newly applicable attainment date for Moderate and Serious areas is compressed from either 6 or 9 years to less than 3 years, we propose to apply one SIP revision deadline that is at most 18 months from the effective date of reclassification, but in any case no later than January 1 of the attainment year.

As previously stated, the EPA believes that, in most cases, 18 months should provide states sufficient time for assessing, adopting, and implementing emission reduction measures such that any reclassified nonattainment areas can expeditiously attain the ozone NAAQS, consistent with part D's purpose of achieving expeditious attainment by the attainment date. Similarly, a default SIP submission deadline of January 1 of the applicable attainment year would

[14] *See, e.g.,* 40 CFR 51.1100 *et seq.* (2008 ozone NAAQS), and 40 CFR 51.1300 *et seq.* (2015 ozone NAAQS).

[15] *Id.*

[16] *See, e.g.,* ''Final Rule—Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Marginal for the 2015 Ozone National Ambient Air Quality Standards'' (87 FR 60897, 60907, October 7, 2022).

promote expeditious attainment of the ozone NAAQS by requiring states to submit SIPs including control measures needed for attainment prior to when those controls are required to be implemented. In addition, establishing January 1 of the attainment year as the outer boundary for states to submit SIP revisions would ensure that reclassified nonattainment areas are subject to consistent deadlines in accordance with CAA section 182(i) and would be in line with past practice. For example, the EPA adopted this approach for Marginal areas reclassified as Moderate for failure to timely attain the 2008 and 2015 ozone NAAQS, to ensure consistency among required SIP submissions.[17] [18] Thus, the proposed deadline is necessary and appropriate to assure that these submissions are consistent with the Act's overall scheme for expeditious attainment of the NAAQS by the attainment date, and that similarly situated states are treated consistently.

In some historical instances, we have also established SIP submission deadlines that align with the beginning of an area's ozone season,[19] which we view as the outer boundary for establishing a SIP submission deadline for a reclassified area, because the beginning of the attainment year ozone season is the maximum deadline under the statutory ozone RACT provision and the EPA's existing regulations interpreting that provision to implement RACT. The EPA does not believe it is reasonable to establish a SIP submission date for controls subsequent to a date when those controls are required under the Act to already be implemented. For many ozone nonattainment areas in the country, January 1 is the beginning of the ozone season. But there are states that have a later start to the ozone season in March, April, or May. We therefore take comment on establishing the later alternative SIP submission deadline for reclassified Moderate and/or Serious areas as the beginning of the attainment year ozone season (rather than January 1 of the attainment year), recognizing that doing so would result in different SIP submission deadlines for different reclassified areas, depending on when the area's ozone season begins.

The EPA's proposed SIP submission deadline for areas reclassified as Moderate or Serious of no later than 18 months after the effective date of the relevant reclassification notice or January 1 of the applicable attainment year, whichever is earlier, would apply to all newly applicable requirements associated with the reclassification, including SIPs to address RACT and I/M. The EPA's implementing regulations for the 2015 ozone NAAQS established a default RACT SIP submission deadline for areas reclassified Moderate or higher of either 24 months from the reclassification effective date or a deadline established by the Administrator in the reclassification action using its discretion under CAA section 182(i) (*see* 40 CFR 51.1312(a)(2)(ii)). We have found that a RACT SIP submission deadline of 24 months after the effective date of the reclassification action has resulted in SIP submission deadlines that are later than the beginning of the attainment year ozone season, and in some cases, near or after an applicable Moderate or Serious area attainment date. In every case of reclassification under the 2008 and 2015 ozone NAAQS, it has not been possible to provide a RACT SIP submission deadline of 24 months from the effective date of the reclassification for an area that was reclassified as result of failure to attain by the attainment date. We are therefore proposing to remove the existing RACT SIP submission deadline in 40 CFR 51.1312(a)(2)(ii) and replace it with the general default deadlines discussed in this action.

Thus, if this action is finalized as proposed, the default SIP submission deadlines for newly required Basic or Enhanced I/M SIPs, would also become the sooner of 18 months from the effective date of the relevant reclassification notice or January 1 of the applicable attainment year. This is necessary to be consistent with the I/M regulations which provide that an I/M SIP shall be submitted no later than the deadline for submitting the area's attainment SIP.[20]

b. Default Implementation Deadlines for RACT and I/M

With respect to implementation deadlines, the EPA's implementing regulations for the 2008 ozone NAAQS require that, for areas initially classified as Moderate or higher, a state shall provide for implementation of RACT as expeditiously as practicable, but no later than January 1 of the 5th year after the effective date of designation.[21] Similarly, the EPA's implementing regulations for the 2015 ozone NAAQS require that, for areas initially classified as Moderate or higher, a state shall provide for implementation of RACT as expeditiously as practicable but no later than January 1 of the fifth year after the effective date of designation.[22] The EPA's implementing regulations for the 2015 ozone NAAQS also require that, for RACT required pursuant to reclassification, the state shall provide for implementation of RACT as expeditiously as practicable, but no later than the beginning of the attainment year ozone season associated with the area's new attainment deadline, or January 1 of the third year after the associated SIP submission deadline, whichever is earlier; or the deadline established by the Administrator in the final action issuing the area reclassification.[23] In addition, the modeling and attainment demonstration requirements for 2008 ozone nonattainment areas require that a state must provide for implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season.[24] Similarly, the EPA's implementing regulations for the 2015 ozone NAAQS require that the modeling and attainment demonstrations for areas classified Moderate or higher must provide for implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season, notwithstanding any alternative deadline established per 40 CFR 51.1312.[25] Underlying these implementation deadlines is the EPA's consideration that any RACT deadline should, where possible, provide at least one full ozone season in advance of an area's maximum attainment date for implemented controls to achieve emission reductions and positively influence an area's monitored design value.

The EPA recognizes that the beginning of the ozone season varies among states and nonattainment areas. For some nonattainment areas, the ozone season begins in January and for other areas it begins in March, April, or May. Consequently, the beginning of the attainment year ozone season ranges from January to May of the year before

[17] "Final Rule—Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards" (81 FR 26697, 26705, May 4, 2016).

[18] "Final Rule—Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Marginal for the 2015 Ozone National Ambient Air Quality Standards" (87 FR 60897, 60907, October 7, 2022).

[19] *See, e.g.,* 88 FR 6633 (February 1, 2023) establishing March 1, 2023, as the due date for SIP revisions addressing Moderate requirements for the Detroit, Michigan area.

[20] *See* 40 CFR 51.372(b)(2).

[21] *See* 40 CFR 51.1112(a)(3).

[22] *See* 40 CFR 51.1312(a)(3)(i).

[23] *See* 40 CFR 51.1312(a)(3)(ii).

[24] *See* 40 CFR 51.1108(d).

[25] *See* 40 CFR 51.1308(d).

the area's maximum attainment deadline. The EPA's existing implementing regulations informed the default RACT implementation deadline that we are proposing in this document for any area reclassified as Moderate or Serious. Such proposed default deadline would require states to implement RACT as expeditiously as practicable, but no later than 18 months from the proposed RACT SIP submittal deadline or the beginning of the applicable attainment year ozone season, whichever is earlier. We are proposing that this default deadline would apply instead of the existing regulatory provision in 40 CFR 51.1312(a)(3)(ii), which applied only to the 2015 ozone NAAQS. As we proposed for establishment of SIP submission deadlines, the EPA is also proposing that the regulation would allow the EPA to establish a different deadline in a notice-and-comment rulemaking in order to accommodate fact-specific circumstances, where appropriate.

With respect to the default implementation deadlines for Basic and Enhanced I/M programs required as the result of a mandatory reclassification, states wishing to use emission reductions from their newly required I/M programs for the ozone NAAQS would need to have such programs fully established and start testing as expeditiously as practicable, but no later than the beginning of the applicable attainment year ozone season, consistent with the CAA principle (and logic) that measures that are needed to demonstrate attainment by the attainment date must be in place early enough to impact the air quality design value that will be used to determine whether the area attained by that date. The EPA's implementing regulations for the 2008 and 2015 ozone NAAQS therefore adopt this principle with respect to implementation of I/M when required as a result of a reclassification. However, given the unique nature of I/M programs, there are many challenges, tasks, and milestones that must be met in establishing and implementing an I/M program. The EPA realizes that implementing a new or revised I/M program on an accelerated timeline may be difficult to achieve in practice. Therefore, for states that do not intend to rely upon emission reductions from their newly required Basic or Enhanced I/M program in attainment or RFP SIPs, we are proposing to allow these Basic and Enhanced I/M programs to be fully implemented no later than 4 years after the effective date of reclassification, explained as follows.

Under CAA section 182(i), mandatorily reclassified areas are generally required to meet the requirements associated with their new classification ''according to the schedules prescribed in connection with such requirements.'' The I/M regulations provide such a prescribed schedule in stating that newly required I/M programs are to be implemented as expeditiously as practicable. The I/M regulations also allow areas newly required to implement I/M up to ''4 years after the effective date of designation and classification'' to fully implement the I/M program.[26] With mandatory reclassifications, this 4-year implementation deadline for newly required I/M programs might extend beyond the corresponding attainment date. However, by proposing such a deadline for mandatorily reclassified areas newly required to implement a Basic or Enhanced I/M program (but not needing I/M emission reductions for attainment or RFP SIP purposes), the EPA maintains that these newly required I/M programs could reasonably be implemented after the area's relevant attainment date if reductions from an I/M program are not necessary for an area to achieve timely attainment of the applicable NAAQS. The EPA has long taken the position that the statutory requirement for states to implement I/M in ozone nonattainment areas classified Moderate and higher generally exists independently from the attainment planning requirements for such areas (*see also* section III.B.2. of this document).[27] This proposed implementation deadline of up to 4 years takes into consideration the numerous challenges and milestones necessary in implementing a Basic or an Enhanced I/M program. The EPA is proposing to establish that the same implementation deadline of up to 4 years for areas not relying on Basic or Enhanced I/M for attainment or RFP SIP purposes is appropriate to also apply to voluntarily reclassified areas, where the higher classification deadlines for those areas have either already passed or are less than 18 months from the effective date of reclassification. This proposed deadline is not only consistent with the proposed deadline for mandatorily reclassified areas, but it is also consistent with EPA's historical practice.[28]

The EPA requests comment on a proposed default deadline for reclassified Moderate and Serious areas requiring that any newly required Basic or Enhanced I/M programs be fully implemented as expeditiously as practicable, but no later than 4 years after the effective date of reclassification. The EPA again notes that if a state intends to rely upon emission reductions from its newly required Basic or Enhanced I/M programs in its attainment or RFP SIP, the state will need to have such I/M programs fully implemented no later than the beginning of the applicable attainment year ozone season.

c. Transportation Control Demonstration

CAA section 182(c)(5) requires states with Serious ozone nonattainment areas to submit, 6 years after November 15, 1990, and every 3 years thereafter, a demonstration as to whether current aggregate vehicle mileage, aggregate vehicle emissions, congestion levels, and other relevant parameters are consistent with those used for the area's demonstration of attainment. Six years after November 15, 1990, was 2 years after the statutory deadline established to submit attainment demonstrations for such areas. Because the transportation control demonstration is not itself a control that must be implemented in order for areas to attain by the attainment date, and is ideally spaced from the deadline of the attainment demonstration to allow sufficient time for the state to see whether actual vehicle emissions and parameters square with the projected emissions and parameters in the attainment demonstration modeling, it is appropriate to retain the Act's prescribed schedule without adjustment with respect to this element for reclassified areas. The EPA is therefore proposing that for all reclassified Serious ozone areas, the first transportation control demonstration must be submitted within 2 years after the deadline for the attainment demonstrations for these areas and every 3 years thereafter.

[26] The I/M program implementation deadline at 40 CFR 51.373(d) states: ''For areas newly required to implement enhanced I/M as a result of designation under the 8-hour ozone standard, the required program shall be fully implemented no later than 4 years after the effective date of designation and classification under the 8-hour ozone standard.'' A start date for I/M programs of 4 years after the effective date of designation and classification under the 8-hour ozone standard is also cited in the Basic I/M performance standard at 40 CFR 51.351(c) and (i)(2).

[27] John S. Seitz, Memo, ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' May 10, 1995, at 4.

[28] *See, e.g.,* 87 FR 60897 (October 7, 2022) (establishing Basic I/M implementation deadlines for areas reclassified from Marginal to Moderate for the 2015 ozone NAAQS); 89 FR 51829 (June 20, 2024) (establishing Enhanced I/M implementation deadlines for certain Texas areas that were voluntarily reclassified from Moderate to Serious for the 2015 ozone NAAQS).

2. Default Deadlines for Nonattainment Areas Reclassified as Severe

SIP requirements that apply to Severe areas are generally cumulative of CAA requirements for lower area classifications (*i.e.,* Marginal through Serious) and include additional Severe area requirements as interpreted and described in the final SIP Requirements Rules for the 2008 and 2015 ozone NAAQS (*see* 80 FR 12264, March 6, 2015; 83 FR 62998, December 6, 2018; CAA sections 172(c)(1) and 182(a)–(d); 40 CFR 51.1100 *et seq.;* and 40 CFR 51.1300 *et seq.*). For areas reclassified as Severe, SIP submissions must address the more stringent major source threshold of 25 tpy [29] for RACT and NNSR, and the more stringent NNSR emissions offset ratio of 1.3:1.[30] In order to fulfill their Severe area SIP submission requirements, states may, where appropriate, certify that existing SIP provisions for an area are adequate to address one or more Severe area requirements. Such certifications must be submitted as a SIP revision.[31]

The EPA is proposing the same default SIP submittal and implementation deadlines for reclassified Severe areas as is proposed in section III.A.1. of this document for reclassified Moderate and Serious areas, with one exception for SIP submissions addressing CAA section 185 fee programs. More specifically, for all newly applicable SIP requirements associated with an area's reclassification to Severe (except SIP submissions addressing section CAA section 185 fee programs), the EPA is proposing a default SIP submittal deadline as the earlier of 18 months after the effective date of the relevant reclassification notice or January 1 of the applicable attainment year.[32] This proposed SIP submission deadline is consistent with the EPA's historical adjustment of deadlines for ozone areas mandatorily reclassified from Serious to Severe under the 2008 ozone NAAQS as well as areas reclassified to Severe per a voluntary request from the state, for which we have previously established 18-month SIP submission deadlines.[33]

It is appropriate to align the default SIP submission and implementation deadlines for reclassified Severe nonattainment areas with those proposed in section III.A.1. of this document for reclassified Moderate and Serious nonattainment areas. The same considerations articulated in section III.A.1. also apply here. Additionally, areas that have been reclassified to Severe are areas that have struggled over time to expeditiously attain the NAAQS, and may face more complex and difficult implementation obstacles than areas classified at lower levels. However, it is the Agency's view that an outer boundary of 18 months remains an appropriate timeframe for states to revise SIPs as needed, even for areas reclassified as Severe. We recognize that the statute's later maximum attainment date associated with higher classifications, and the more stringent requirements imposed upon such areas under subpart 2, reflect the ''heavier lift'' that Severe areas may face to attain the NAAQS. The longer interval between attainment dates between Serious and Severe would provide states more time than is available for reclassifications between the lower classifications (*i.e.,* Marginal to Moderate or Moderate to Serious) for SIP development and identification and implementation of control measures. However, that same interval also means that establishing an 18-month maximum SIP submission and control measure implementation deadline will result in earlier implementation of the control measures prompted by the Severe area requirements, such that those measures may be in place to impact air quality in multiple ozone seasons before the maximum attainment date, rather than just the last ozone season preceding the attainment date, as may often be the practical outcome of the EPA's proposed deadline for areas in the lower classifications. Increasing the likelihood that Severe area measures will be in place for multiple ozone seasons prior to the attainment date correspondingly increases the likelihood that these reclassified Severe areas will expeditiously attain the NAAQS by the attainment date. The EPA's proposed deadline for reclassified areas, by providing 18 months for SIP development but requiring at least that those revisions and measures be submitted by the last calendar year preceding the attainment date, accommodates the varying positions areas may be in vis-à-vis their attainment date, while also meeting the CAA's requirement under section 182(i) ''to assure consistency among the required submissions.''

The EPA is therefore proposing a default deadline for states to submit Severe area SIP revisions of 18 months after the effective date of reclassification or January 1 of the applicable attainment year, whichever is earlier. Specifically, the EPA is proposing that SIP revisions required for all newly reclassified Severe areas must be submitted by the sooner of 18 months after the effective date of reclassification or January 1 of the applicable attainment year, except for SIP revisions required to address the section 185 fee program element, for which the EPA is proposing a submittal deadline of the earlier of 36 months after the effective date of reclassification or January 1 of the applicable attainment year. Consistent with past practice, the EPA is proposing a later submittal date for the CAA section 185 fee program element than what is proposed for the other requirements because implementation of a CAA section 185 fee program is a penalty for failing to attain the NAAQS by the applicable attainment date.[34] Thus, an extended deadline of the earlier of 36 months after the effective date of reclassification or January 1 of the applicable attainment year, could allow states to focus more attention on other elements in the first 18 months following reclassification while also allowing enough time for states to submit, and for the EPA to approve, a CAA section 185 fee program ahead of the applicable Severe area attainment date. However, to the degree that states want to take advantage of the administrative efficiency of adopting the CAA section 185 fee program element along with other required Severe area SIP elements, they have the option to submit their CAA section 185 fee programs earlier, including with the other elements.

CAA section 182(d)(1)(A) requires a state with a Severe ozone nonattainment

[29] ''For any Severe Area, the terms 'major source' and 'major stationary source' include (in addition to the sources described in section 7602 of this title) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 25 tpy of volatile organic compounds.'' CAA section 182(d).

[30] *See* CAA section 182(d)(2). If a state's plan requires all existing major sources in the nonattainment area to use best available control technology for VOCs consistent with CAA section 169(3), the required offset ratio is 1.2 to 1.

[31] Air agencies should review any existing regulation that was previously approved by the EPA to determine whether it is sufficient to fulfill obligations triggered by the revised ozone NAAQS. This review should include determining whether the nonattainment area boundary for the current ozone NAAQS is consistent with the boundary for the previous standards. Where an air agency determines that an existing regulation is adequate to meet applicable nonattainment area planning requirements of CAA section 182 (or ozone transport region RACT requirements of CAA section 184) for a revised ozone NAAQS, that air agency's SIP revision may provide a written statement certifying that determination in lieu of submitting new revised regulations.

[32] This proposed deadline would not apply for voluntarily reclassified areas where the existing Severe area SIP submission deadline is at least 18 months from the effective date of the reclassification. In those instances, the existing Severe area SIP submission deadline would apply.

[33] 87 FR 21825 (April 13, 2022).

[34] *See,* 87 FR 60926 at 60932 (October 7, 2022).

area to submit a SIP revision that identifies and adopts specific enforceable transportation controls strategies and transportation control measures (TCMs) to offset any growth in emissions from vehicle miles traveled (VMT) or number of vehicles trips in such area. The EPA has provided guidance to states on how to demonstrate whether there has been any growth in emissions from growth in VMT or growth in the number of vehicle trips.[35] In addition, states with Severe ozone nonattainment areas are required to submit a SIP revision that identifies and adopts specific enforceable transportation control strategies and TCMs to obtain reductions in motor vehicle emissions as necessary, in combination with other emission reduction requirements. States are also required to consider measures specified in CAA section 108(f) and choose from among those measures and implement such measures as necessary to demonstrate attainment with the relevant ozone NAAQS. In considering these measures, states should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them. The EPA proposes that a SIP revision to address the VMT offset demonstration requirement will be due the earlier of 18 months after the effective date of reclassification or January 1 of the applicable attainment year, consistent with all other Severe area requirements. If a demonstration shows that a state must adopt transportation control strategies or TCMs to offset any identified increase in emissions due to growth in VMT or vehicle trips or if additional transportation control strategies or TCMs are needed to address RFP or attainment, we are proposing that the transportation control strategies and/or TCMs be submitted at the same time as the SIP revision to address the VMT offset demonstration.

In addition to these submission deadlines, for any controls that air agencies determine are needed for meeting CAA requirements, the EPA is proposing that these controls must be implemented as expeditiously as practicable, but no later than 18 months from the SIP submission deadline or the beginning of the applicable attainment year ozone season, whichever is earlier. This proposed deadline would generally provide a 36-month schedule for SIP submission and controls implementation for reclassified Severe areas. These proposed default deadlines are consistent with the deadlines established for all other Severe area plan elements that are established under CAA sections 172(c)(1) and 182(a)–(d), and 40 CFR 51.1100 *et seq.* As proposed in section III.A.1. of this document for reclassified Moderate and Serious areas, the EPA is also proposing to reserve the right to establish different SIP submittal and implementation deadlines for reclassified Severe areas in a notice-and-comment rulemaking in order to accommodate fact-specific circumstances, where appropriate.

In addition to the SIP submission deadlines identified in this section, the CAA prohibits the sale of conventional gasoline in any ozone nonattainment area that is reclassified as Severe and requires that federal reformulated gasoline (RFG) be sold instead. The prohibition on the sale of conventional gasoline takes effect 1 year after the effective date of the reclassification (*see* CAA sections 211(k)(10)(D) and 211(k)(5)). The prohibition on the sale of conventional gasoline takes effect by operation of law; therefore, states with such reclassified areas are not required to make a SIP submission associated with the RFG requirement.

In summary, the EPA is proposing to establish default SIP submittal and implementation deadlines for reclassifications by operation of law under CAA section 181(a)(2) for areas that fail to attain by the attainment date and are thus reclassified as Moderate, Serious, or Severe for all current and future ozone NAAQS, and also for voluntary reclassifications to these classifications under CAA section 181(a)(3). Establishing default SIP submission deadlines that are triggered from the effective date of reclassification actions will provide consistency among the submissions in the sense that all states with jurisdiction over such areas will be treated uniformly by having the same amount of time to develop and submit SIPs. However, we acknowledge that our proposal could in some cases result in SIP deadlines for reclassified areas falling on different days (because such deadlines will be triggered by reclassification actions that are statutorily required to happen any time in a 6-month window following the attainment date, or are granted under voluntary reclassification requests that may occur at any time).

For areas reclassified as Moderate or Serious, where the initially established deadlines have passed or are less than 18 months from the effective date of reclassification, the EPA is requesting comment on: (1) establishing a default SIP submission deadline for all Moderate and Serious area plan elements of no later than 18 months from the effective date of the relevant reclassification notice or January 1 of the applicable attainment year, whichever is earlier; (2) requiring that RACT be implemented as expeditiously as practicable, but no later than 18 months from the RACT SIP submittal deadline or the beginning of the applicable attainment year ozone season, whichever is earlier; (3) requiring that any newly required Basic or Enhanced I/M programs be fully implemented as expeditiously as practicable, but no later than 4 years after the effective date of reclassification; and (4) requiring that the first transportation control demonstration be submitted 2 years after the due date for the attainment demonstrations for reclassified areas (*i.e.,* January 1 of the applicable attainment year) and every 3 years thereafter.

For areas reclassified as Severe, where the initially established deadlines have passed or are less than 18 months from the effective date of reclassification, the EPA is requesting comment on: (1) establishing a default SIP submission deadline for all Severe area plan elements of 18 months after the effective date of reclassification or January 1 of the applicable attainment year, whichever is earlier, with an exception for section 185 fee program SIPs; (2) establishing a default SIP submission deadline for section 185 fee program SIPs of 36 months from the effective date of reclassification or January 1 of the applicable attainment year, whichever is earlier; and (3) requiring that any controls needed for meeting RFP or timely attainment of the ozone NAAQS be implemented as expeditiously as practicable, but no later than 18 months after the proposed SIP submission deadline or the beginning of the applicable attainment year ozone season, whichever is earlier.

B. Status of Certain Requirements of Former Classification

1. Introduction

The EPA is also proposing to revise regulations to clarify whether, when an ozone nonattainment area is reclassified to a higher classification, certain ozone SIP requirements for that lower, former classification will still be required. The

[35] In August 2012, the EPA released guidance on VMT offset demonstrations titled ''Implementing Clean Air Act Section 182(d)(1)(A): Transportation Control Measures and Transportation Control Strategies to Offset Growth in Emissions Due to Growth in Vehicle Miles Travelled'' (EPA–420–B–12–053). This guidance is posted at *https://www.epa.gov/state-and-local-transportation/vehicle-miles-travelled-vmt-offset-demonstration-guidance.*

EPA has previously established its statutory interpretation and position on the status of certain SIP requirements for the previous classification in individual SIP actions, most recently in a reclassification action for three nonattainment areas in Texas.[36] This proposal restates these interpretations and proposes regulatory language to codify these interpretations to provide further clarity. Specifically, the EPA is restating its interpretation that ozone nonattainment area planning requirements continue to apply following a change in an area's classification level, except where the EPA has specifically determined that the planning requirement is no longer applicable. Specifically, the EPA's existing interpretation is that only three requirements applicable to the lower, former classification (*i.e.,* Moderate or Serious) are no longer required following a change in the area's classification (*i.e.,* to Serious or Severe, respectively): (1) the attainment demonstration, (2) RACM, and, (3) for areas that are voluntarily reclassified, contingency measures as necessary to address failure to attain by the attainment date.

As described elsewhere in this document, CAA section 182(i) specifies that reclassified areas must meet the requirements ''as may be applicable to the area as reclassified'' and describes the EPA's authority to adjust applicable deadlines (except attainment dates) for the new classification. In contrast, the CAA does not specify what then happens to the requirements that were applicable to the area as it was formerly classified. Nevertheless, this question commonly arises in the ozone program in circumstances where an area is reclassified—whether mandatorily as a result of failure to attain pursuant to CAA section 181(b)(2) or voluntarily (*i.e.,* at the request of a state) pursuant to CAA section 181(b)(3)—before the EPA determines that the requirements for the former classification have been met by the state. This can occur when reclassification takes effect before a state has submitted a SIP revision addressing the requirements applicable to the former classification, before the EPA has acted on a SIP submission to address such requirements, or where the EPA has disapproved or conditionally approved a SIP submission addressing such requirements. For the purposes of this proposal, the EPA refers to the unresolved requirements applicable to the former classification under any of these scenarios as ''leftover'' SIP requirements.

[36] 89 FR 51829 (June 20, 2024).

As an initial matter, the Agency notes that when the states and EPA timely meet CAA-specified deadlines for submitting and acting on SIPs, and the submissions are approvable, it is possible for there to be no leftover SIP requirements, but this is not guaranteed for every situation. To illustrate a possible circumstance, consider that under the 2015 ozone NAAQS, the Marginal attainment date was August 3, 2021. Assuming the EPA had completed the Marginal determinations of attainment by the attainment date (DAADs) within the 6 months provided by CAA section 181(b)(2) (*i.e.,* within 6 months of the August 3, 2021, attainment date), the reclassifications to Moderate would have taken effect no later than February 2022. The EPA, consistent with the principles articulated in the deadline portion of this document, could have established a SIP due date of January 1, 2023 (*i.e.,* the beginning of the Moderate attainment year), less than 11 months after the reclassification took effect. Had the states in turn made timely and complete submissions by January 1, 2023, the EPA could theoretically have acted to approve or disapprove them within the statutory 12 months allotted, or by January 1, 2024. This would have allowed for the possibility of final action before the Moderate attainment date of August 3, 2024. Assuming, for the sake of illustration, that such SIPs were approvable, final approval before the attainment date would ensure that there would be no leftover Moderate SIP requirements by the time the EPA would be required to complete the Moderate area DAAD (*i.e.,* by February 2025) and reclassify areas to Serious if they fail to attain. However, implementation of the ozone standards does not always follow the most straightforward path. To take the previous example, consider the changed circumstances and timeframe that might occur if the Marginal area qualified for a 1-year extension of the attainment date (under CAA section 181(a)(5) and 40 CFR 51.1307), but ultimately failed to attain by the extended attainment date of August 3, 2022. Even if the EPA issued its DAAD action reclassifying the area immediately after the attainment date (*i.e.,* August 4, 2022), the state would have less than four months between the reclassification and its applicable SIP due date under this proposal (*i.e.,* January 1 of the attainment year, 2023) to develop the SIP revisions, put them out for public notice and comment, legislatively approve them, and submit them to the EPA (*see,* CAA section 110(l)). This timeframe makes it nearly impossible for the state and the EPA to have approved Moderate area SIPs and controls in place to influence air quality to help the area attain by the Moderate area attainment date (*i.e.,* August 3, 2024). Thus, areas in circumstances like these may end up failing to attain by the Moderate area attainment date and being reclassified as Serious without having their Moderate area SIP revisions submitted and/or approved. Moreover, even where there is no attainment date extension, the CAA timelines under section 182 leave no margin for delay, particularly for areas that are reclassified by operation of law as Moderate or Serious. For such areas, the attainment year typically begins less than a year from when the SIP would be due, and the resulting timeframe for SIP development—which for ozone can involve complex analyses—is typically less than a year. Therefore, despite significant effort invested by the EPA and states to timely meet CAA-specified deadlines for ozone SIPs, these deadlines are sometimes not met, and leftover SIP requirements can result.

Accordingly, the EPA is restating in this national rulemaking its interpretations describing whether and how these types of SIP requirements leftover from lower classifications will still apply following the reclassification to a higher classification (*e.g.,* reclassification from Moderate to Serious). The EPA is also proposing regulatory text to codify these interpretations. If this proposed rule is finalized, it will codify the EPA's existing interpretation that certain requirements applicable to the lower, former classification (*i.e.,* Moderate or Serious) are no longer required following a change in the area's classification. Codifying this interpretation will improve the EPA's and states' abilities to identify and timely meet SIP deadlines.

2. Leftover SIP Requirements

The EPA has assessed the effect of reclassification on each of the SIP requirements—referred to in this document as SIP elements—that apply to Marginal, Moderate, and Serious areas.[37] We have concluded that certain SIP elements, discussed in this section, are explicitly tied to the current attainment date, and would therefore be mooted by reclassification. However,

[37] As noted previously, this rule does not address voluntary reclassifications from Severe to Extreme. The EPA expects that this type of reclassification will be rare. We would address the status of leftover Severe requirements following a reclassification to Extreme, if any, on a case-by-case basis, should the need arise.

most of the SIP elements required under the former classification are not explicitly tied to the attainment date for that former classification and are therefore unaffected by reclassification. The mere fact that an area is reclassified is not a sufficient basis to determine that a CAA requirement applicable to the prior classification no longer applies and there is no language in the statute which necessitates or even supports such a position. The SIP elements associated with each classification are generally cumulative from Marginal up to Extreme.[38] The requirement to submit such elements remains applicable, and the submittal and implementation deadlines are unchanged. If a state misses the submission deadline for these required SIP elements and has been subsequently reclassified, the EPA is obligated under CAA section 110(k)(1)© to issue a finding that the state has failed to make a complete submission (FFS) and promulgate a FIP unless the state submits, and the EPA approves, a corrective SIP. Thus, the EPA is not proposing any changes to the current rules with respect to these requirements. For clarity, the requirements associated with a prior classification that the EPA has concluded still apply following a reclassification are listed in table 2. The EPA has been, and will continue, to conduct any CAA-directed oversight on adherence to these listed requirements following reclassification.

TABLE 2—SIP REQUIREMENTS FROM A PRIOR CLASSIFICATION THAT CONTINUE TO APPLY FOLLOWING RECLASSIFICATION

SIP requirement	CAA section	Regulatory cite from 40 CFR (if applicable)
Marginal Area Requirements		
Emissions Inventory	182(a)(3)(A)	§51.1315.
Emissions Statement Rule	182(a)(3)(B)	§51.1300(p).
Moderate Area Requirements (also includes above Marginal Area Requirements)		
15 percent rate-of-progress (ROP) plan	182(b)(1)(a)	§51.1310.
Contingency measures for failure to achieve ROP	172(c)(9)	N/A.
Moderate Area RACT	182(b)(2)	§51.1312.
NNSR Moderate Area rules	173	§51.165.
Basic I/M	182(b)(4)	40 CFR part 51, subpart S.
Serious Area Requirements (also includes above Moderate Area Requirements)		
RFP	182(c)(2)(B) and (C)	§51.1310.
Serious Area RACT	182(b)(2)	§51.1312.
Contingency measures for failure to achieve RFP	182(c)(9)	N/A.
Enhanced I/M	182(c)(3)	40 CFR part 51, subpart S.
Clean-fuel Vehicle Programs	182(c)(4)	N/A.
NNSR Serious Area Rules	173	51.165.

The EPA is, however, proposing that following reclassification, there are three elements for nonattainment areas formerly classified as Moderate or Serious that are no longer required for the lower, former classification: (1) the attainment demonstration, (2) RACM, and (3) in the case of voluntary reclassification, contingency measures for failure to attain. These three elements are no longer required because they are explicitly tied to the applicable attainment date. CAA section 181(a)(1) provides that the attainment date for an ozone nonattainment area depends upon its classification. Therefore, when an ozone nonattainment area is reclassified, the attainment date for the prior classification is superseded by the attainment date for the new classification. Thus, once an ozone nonattainment area has been reclassified and as a result has a new statutory attainment deadline, these three elements are no longer required for the lower, former classification. Requiring a state to submit or the EPA to act on such SIP elements would make no logical or practical sense as described in more detail later in this section.

The first proposed element that is no longer required is the attainment demonstration requirement for the former classification. Following mandatory reclassification upon failure to attain, the former, superseded classification's attainment date is in the past and is no longer applicable, and it is no longer meaningful to evaluate whether a plan demonstrates that an area would attain by that superseded date. Moreover, it is impossible for a plan to demonstrate that an area would attain by that superseded date. At that point in time, no changes could be made that would change facts that have already come to pass (*i.e.,* that the area has failed to attain by its applicable attainment date). For a voluntary reclassification that becomes effective before the attainment date, the former attainment date is likewise superseded. 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 classification's attainment date is no longer applicable, it is therefore no longer relevant for the area to demonstrate attainment with respect to it (just as it is not relevant for an area initially classified as Serious to provide an attainment demonstration for a Moderate attainment date). Moreover, following voluntary reclassification, the EPA is no longer required to determine whether the area attained by the former attainment date. The EPA is therefore proposing to codify the Agency's existing interpretation that the leftover attainment demonstration requirement is no longer required upon reclassification.

[38] In subpart 2, subsections (b) through (d) of CAA section 182 cover the required SIP revisions for Moderate (182(b)), Serious (182(c)), and Severe (182(d)), and those requirements are generally cumulative. *See, e.g.,* CAA section 182(b) (requiring Moderate areas to make submissions relating to Marginal areas in addition to the revisions for the Moderate classification).

The second element that is proposed to be no longer required for the lower, superseded classification is RACM. 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.[39] 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 RFP.[40] 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.[41] The determination of whether a SIP contains all RACM requires an area-specific analysis that there are no additional economically and technologically feasible control measures (alone or cumulatively) that will advance the attainment date.[42] 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.[43] Thus, the basis for our proposal that the attainment demonstration is no longer required is applicable to the RACM analysis as well. For a mandatory reclassification, this means that the former classification's attainment date is in the past and was not met. Thus, it is not possible or meaningful to conduct an evaluation as to whether attainment could be achieved by the attainment date or advanced. Likewise, once a voluntary reclassification has occurred, it is no longer relevant to assess whether the former attainment date could have been met sooner. Thus, even though it may have been requested prior to the former attainment date, once granted, a voluntary reclassification would still render inapplicable those requirements specifically tied to the former, no longer applicable attainment date. Accordingly, the EPA interprets the CAA such that following reclassification, both the attainment demonstration and associated RACM analysis must be done with respect to the new and currently applicable attainment date. The CAA does not require attainment demonstrations (and accompanying RACM analysis) for attainment dates associated with any classification that is not applicable to the area.

The third element that the EPA interprets the CAA to no longer require, and therefore proposes to codify into regulatory text through this rule, is the contingency measure requirement with respect to contingency measures that are only tied to the attainment date.[44] The contingency measure provisions of the CAA require the submittal of measures that would take effect without further action by the EPA or the state if the area fails to make RFP, or fails to attain by the attainment date.[45] Unlike the first two elements, the EPA is proposing that the contingency measure requirement for failure to attain would no longer be required only in the case of a voluntary reclassification which becomes effective before the attainment date associated with the prior classification. In the case of mandatory reclassification upon failure to attain, the contingency measure requirement for failure to attain would continue to apply.[46] Furthermore, in no case would reclassification alone make the contingency measure requirement for RFP or milestone failure be no longer applicable. The contingency measure requirement for failure to attain no longer applies in the case of a voluntary reclassification because, in those circumstances, the state requests, and the EPA approves, a reclassification before the attainment date. When the area is voluntarily reclassified before the attainment date, the EPA is no longer required to determine whether the area attained by the former attainment date. Because the EPA would not issue such a finding of failure to attain, contingency measures for failure to attain by the attainment date associated with the previous classification would not be triggered, and thus no longer have logical significance. The EPA notes, however, that any mandatory or voluntary reclassification triggers the need to submit new contingency measures for failure to attain by the new attainment date, and further notes that there must still be contingency measures available to implement in the event the area fails to meet any RFP milestone associated with the current or former classification.

Aside from these three SIP requirements proposed to be no longer applicable following reclassification, the EPA is not proposing any clarifications or changes to its interpretation regarding the remaining required SIP elements. All other Marginal, Moderate, and Serious area elements continue to be required after these areas are reclassified. These requirements are unaffected because their meaning is not dependent upon the attainment date itself. For completeness, these requirements are listed in table 2. Reclassification does not change the submission requirement or due date for these elements. For example, the Moderate area 15 percent rate-of-progress (ROP) requirement of CAA section182(b) specifies an amount of reductions that must occur within 6 years of initial designation, and this requirement is not tied to the applicable attainment date, and therefore, is unaffected by supersession of the attainment date. Similarly, the 3 percent RFP requirement of CAA section 182(c)(2)(B) is expressed as an amount of reductions that must occur every 3 years, beginning 6 years after initial designation and continuing until the attainment year. A new, later attainment date would have no effect on the requirement to reduce emissions in years 6, 9, and so on. This same reasoning applies to the requirement to have contingency measures for failure to meet RFP. Where an area is reclassified and the attainment date is superseded, the EPA must still determine the adequacy of a state's demonstration that RFP milestones have been met, which, if inadequate, could trigger the implementation of contingency measures. Accordingly, and as discussed earlier, contingency measure submissions for this element associated with the current or former classification are still required.

Similar reasoning applies to the other elements listed in table 2. RACT, I/M,

[39] 40 CFR 51.1312(c)

[40] *Id.*

[41] *See* 83 FR 62998, 63008 (December 6, 2018).

[42] 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.'' *https://www.epa.gov/ttn/oarpg/t1/memoranda/121400_racmmemfin.pdf.*

[43] ''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 in that document contains other relevant history concerning the RACM requirement.

[44] The EPA notes that most state air agencies do not distinguish their contingency measures submissions as to which measures would be triggered by a failure to attain versus a failure to meet RFP, and the EPA does not necessarily encourage this. Because contingency measures will continue to be required for RFP following voluntary reclassification, the practical effect of the contingency measures element no longer being required for failure to attain may be negligible in most cases.

[45] CAA section 172(c)(9). The RFP contingency measure requirement is further specified in CAA section 182(c)(9) to be undertaken if the area fails to meet any applicable RFP milestone.

[46] Moreover, the determination that the area failed to attain would actually trigger implementation of these contingency measures. To the extent this requirement is still unmet following such a determination, the lack of contingency measures is a deficiency that states must correct by developing and implementing such measures as soon as reasonably possible (*See, e.g.,* 88 FR 67961.)

NNSR, and clean-fuel vehicle elements are required to be implemented on specific timeframes that are independent of the attainment date and therefore are unaffected by its supersession. Changing the submission requirement or implementation deadlines for these elements that are not tied to the attainment date would delay the implementation of these measures beyond what the CAA intended. While the CAA does provide for later attainment dates for higher classifications, it does not authorize altering requirements that came due as a result of the lower classifications, aside from the very particular situation outlined for the three requirements that are directly dependent on the attainment date. For example, the CAA requirement in section 182(b)(2) to implement RACT for specified sources is implemented and assessed based on whether the RACT rules are implementing what is economically and technologically feasible. In other words, this analysis of whether controls comprise RACT is done irrespective of the attainment deadline and on a timeline that does not change if the attainment deadline is superseded. There is nothing in the CAA to suggest that reclassification, and the associated change in an area's attainment date, should alter the preexisting requirement to submit a SIP implementing RACT level controls and the deadline to implement those controls. This same logic applies to all the identified SIP requirements not specifically tied to the attainment date. This also is consistent with the EPA's current practice with respect to these requirements.

Finally, the EPA notes that once a reclassification occurs, questions may arise as to how the EPA will implement the leftover SIP requirements. First, for the requirements that the EPA has determined still apply, the statutory planning obligations on states and the EPA would remain. Where a state has not submitted a plan addressing these requirements, the EPA would be required to issue an FFS (as it has done for the 2015 NAAQS Moderate SIP elements),[47] and where a state does not submit an approvable plan for these requirements, there would be FIP and sanctions obligations from any resulting disapprovals. We will continue to work with states to support the development of approvable SIPs for these required elements, and where such SIPs are received, we intend to act on them in a timely manner, notwithstanding that the area has been reclassified since the SIPs came due. There may be opportunities for states to harmonize certain analyses for the new classification with submittals for the former classification, but these are situationally dependent and beyond the scope of this rule. As to the SIP elements that the EPA interprets to no longer be required for areas that have been reclassified, the EPA can withdraw the existing FFS for these elements and thereby remove associated FIP and sanctions obligations. Similarly, where a submittal is pending before the EPA that contains SIP elements that are no longer required, the EPA expects that a state could withdraw such a submission, with the expectation that the EPA would not issue an FFS as to such no longer required SIP elements. For such submissions that remain pending before the EPA and for which the Agency is required to take action on under CAA section 110(k)(2), or if there are no longer required elements of a submission that the state still wishes the EPA to act on, the EPA would continue to evaluate those submissions in light of its view that the approvability of such a submission no longer depends upon the attainment date associated with the former classification.

C. Serious Area SIP Revisions for the 2015 Ozone NAAQS

Moderate nonattainment areas that the EPA has determined failed to attain the 2015 ozone NAAQS by the attainment date of August 3, 2024, will be reclassified as Serious by operation of law upon the effective date of the relevant final reclassification rule. Upon reclassification, each responsible state air agency must submit SIP revisions that satisfy the general air quality planning requirements under CAA section 172© and the ozone specific requirements for Serious nonattainment areas under CAA section 182©, as interpreted and described in the 2015 Ozone NAAQS SIP Requirements Rule (*see* 83 FR 62998, December 6, 2018, and 40 CFR 51.1300 *et seq.*). This section describes the required submission elements for Serious nonattainment areas and articulates how, if finalized, the proposed default SIP submission and implementation deadlines in section III.A.1. of this document will apply to all areas reclassified as Serious under the 2015 ozone NAAQS. In separate rulemakings, the EPA will determine whether specific areas classified as Moderate for the 2015 ozone NAAQS attained the standard by the applicable attainment date of August 3, 2024. The uniform deadlines the EPA is proposing to establish in this rulemaking document are intended to apply to all reclassified Serious nonattainment areas, unless otherwise established in a separate notice-and-comment rulemaking.

1. Required Submission Elements

SIP requirements that apply to areas classified as Serious are generally cumulative of CAA requirements for the Moderate classification and include additional requirements that are specific to areas classified as Serious, as interpreted and described in the final SIP Requirements Rule for the 2015 ozone NAAQS (*see* CAA sections 172(c)(1) and 182(b) and (c), and 40 CFR 51.1300 *et seq.*). The SIP requirements that apply specifically to Serious areas include: Enhanced monitoring (CAA section 182(c)(1) and 40 CFR 58.10); Emissions inventory and emissions statement rule (CAA section 182(a)(1), CAA section 182(a)(3)(A), 40 CFR 51.1300(p), and 40 CFR 51.1315); RFP (CAA section 182(c)(2)(B) and 40 CFR 51.1310); Attainment demonstration and RACM (CAA section 182(c)(2(A), CAA section 172(c)(6), 40 CFR 51.1308, and 40 CFR 51.1312(c)); RACT (CAA section 182(b)(2) and 40 CFR 51.1312); Nonattainment New Source Review (NSR) (CAA section 172(c)(5), CAA section 173, 40 CFR 51.1314, and 40 CFR 51.165); Enhanced I/M (CAA section 182(c)(3) and 40 CFR part 51, subpart S); Clean-fuel vehicle programs (CAA section 182(c)(4));[48] and Contingency measures (CAA sections 172(c)(9) and 182(c)(9)). In addition to these required SIP submissions, a demonstration evaluating the need for a transportation control measure program (CAA section 182(c)(5)) is required.

We are providing additional discussion in the following sections for these Serious area requirements: (a) RACT, (b) Nonattainment New Source Review, and (c) Enhanced I/M.

a. RACT

Subpart 2 of part D of title I of the CAA applies a specific RACT requirement for all ozone nonattainment areas that the EPA interprets as being independent of the Attainment Demonstration and RACM elements (*see* CAA section 182(b)(2), 40 CFR 51.1112, and 40 CFR 51.1312). For ozone nonattainment areas reclassified as Serious, the independent analysis addressing RACT level controls for major sources must include an evaluation of controls for sources emitting 50 tons per year (tpy) or more

[47] 88 FR 71757 (October 18, 2023).

[48] In June 2022, the EPA released guidance on clean fuel fleet programs titled ''Guidance for Fulfilling the Clean Fuel Fleets Requirement of the Clean Air Act'' (EPA–420–B–22–027). This guidance is posted at *https://www.epa.gov/state-and-local-transportation/clean-fuel-fleets-program-guidance.*

that are currently reasonably available, consistent with the definition of ''major source'' or ''major stationary source'' for areas classified as Serious *(see* CAA sections 182(c)). The RACT analysis must also include an evaluation of currently available RACT for all sources in the nonattainment area that emit, or have the potential to emit, at least 50 tpy of VOC or NO_X, as well as an evaluation of RACT for all sources subject to a Control Techniques Guideline (*see* CAA sections 182(b)(2) and 182(f)). The EPA recognizes that in the context of a reclassification to Serious, these areas should already have RACT in place to address the lower classification's requirements (*i.e.,* those required when the areas were previously classified as Moderate); RACT should already be implemented in these areas for sources that emit, or have the potential to emit, at least 100 tpy of VOC or NO_X. CAA subpart 2 requirements are generally cumulative and, for Serious areas, states are required to address not only those requirements listed in CAA section 182(c) but also in CAA sections 182(a) and (b), to the extent those requirements are not superseded by the more stringent requirements in CAA section 182(c) and/or have not been previously addressed. However, the primary focus for states with areas reclassified as Serious is expected to be on identifying and adopting new RACT measures required to control sources with the potential to emit between 50 to 100 tpy of VOC or NO_X, as long as the state has already addressed sources with at least 100 tpy of VOC or NO_X. In order to fulfill their Serious area SIP submission requirements under the 2015 ozone NAAQS, states may, where appropriate, certify that existing RACT SIP provisions for an area are adequate to address one or more Serious area requirements. Such certifications must be submitted as a SIP revision.[49]

As a general matter, the EPA expects that any new determination or certification that a state regulation meets RACT should be supported in the record with a state's assessment of relevant information. We informally refer to this assessment process as ''due diligence review'' and consider it a necessary component of approvable RACT SIP revisions. The EPA has articulated this policy previously in its implementation rules for the 2015 and 2008 ozone NAAQS, indicating that states should refer to all relevant information (including recent technical information and information received during the public comment period) that is available at the time that they are developing their RACT SIPs,[50] and that SIP certifications should explain how an applicable requirement is met by a previously approved regulation.[51]

The EPA has long taken the position that the statutory requirement for states to assess and adopt RACT for sources in ozone nonattainment areas classified Moderate and higher generally exists independently from the attainment demonstration for such areas.[52] In addition to the independent RACT requirement, states have a statutory obligation to apply RACM and adopt such measures needed to meet RFP requirements and to demonstrate attainment as expeditiously as practicable when also considering emissions reductions associated with the implementation of RACT on sources in the area.[53] Therefore, to the extent that a state adopts new or additional control measures as RACT and then relies on the emission reductions caused by those control measures to demonstrate RFP and/or to demonstrate attainment as expeditiously as practicable, those states must include such RACT revisions with the other SIP elements due as part of the attainment plan required under CAA sections 172(c) and 182(c).

b. Nonattainment New Source Review

Upon reclassification, stationary air pollution sources in newly reclassified Serious nonattainment areas for the 2015 ozone NAAQS will be subject to Serious ozone nonattainment area NSR permit requirements. The source applicability thresholds for major sources and major source modification emissions will be 50 tpy for volatile organic compounds (VOC) and nitrogen oxides (NO_X). For new and modified major stationary sources subject to NSR, VOC and NO_X emission increases from the proposed construction of the new or modified major stationary sources must be offset by emission reductions by a minimum offset ratio of 1.20 to 1 (*see* CAA section 182©(10)). We note that some newly reclassified Serious nonattainment areas for the 2015 ozone NAAQS may be classified as Severe under the 2008 ozone NAAQS and, therefore, the more stringent Severe area requirements are currently being implemented in those areas.[54] As noted in section III.C.1.a. of this document, in order to fulfill their Serious area SIP submission requirements under the 2015 ozone NAAQS, states may, where appropriate, certify that existing SIP provisions for an area are adequate to address one or more Serious area requirements. Such certifications must be submitted as a SIP revision.

c. Vehicle Inspection and Maintenance (I/M)

Background on I/M. Motor vehicles are a major contributor of ozone precursor (VOC and NO_X) emissions. I/M programs reduce these emissions by ensuring on-road motor vehicles are maintained to meet vehicle emission standards as certified, identify excessive emissions, and assure vehicle repairs.[55]

As mentioned in the preceding section, an Enhanced I/M program is a required Serious area SIP submission element for the 2015 ozone NAAQS. The applicable Enhanced I/M requirements for Serious ozone nonattainment areas are described in CAA section 182I(3) and further defined

[49] Air agencies should review any existing regulation that was previously approved by the EPA to determine whether it is sufficient to fulfill obligations triggered by the reclassification. This review should include determining whether the nonattainment area boundary for the 2015 ozone NAAQS is consistent with the boundary for any previous standards. Where an air agency determines that an existing regulation is adequate to meet any newly applicable nonattainment area planning requirements under CAA section 182, that air agency's SIP revision may provide a written statement certifying that determination in lieu of submitting new revised regulations.

[50] *See* 83 FR 62998, 63007 (December 6, 2018) and 80 FR 12264, 12279 (March 6, 2015).

[51] *See* 83 FR 62998 at 63002.

[52] *See* Memo from John Seitz, ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard'' (1995), at 5 (explaining that subpart 2 requirements linked to the attainment demonstration are suspended by a finding that a nonattainment area is attaining but that requirements such as RACT and I/M must be met whether or not an area has attained the standard); *see also* 40 CFR 51.1318 (suspending attainment demonstrations, RACM, RFP, contingency measures, and other attainment planning SIPs with a finding of attainment).

[53] Though not directly a part of a nonattainment area RACM analysis, the EPA has interpreted CAA section 172(c)(6) to require that air agencies also consider the impacts of emissions from sources outside an ozone nonattainment area (but within a state's boundaries) and must require other control measures on these intrastate sources if doing so is necessary to provide for attainment of the applicable ozone NAAQS within the area by the applicable attainment date. For discussion of this ''other control measures'' provision *see also* the final rule to implement the 2015 ozone NAAQS (83 FR 63015, December 6, 2018), the Phase 2 proposed rulemaking (68 FR 32829, June 2, 2003) and final rule to implement the 8-hour ozone NAAQS (70 FR 71623, November 29, 2005), and the final rule to implement the $PM_{2.5}$ NAAQS (81 FR 58035, August 24, 2016).

[54] For Severe ozone nonattainment areas, the nonattainment NSR source applicability thresholds for major sources and major source modification emissions are 25 tpy for VOC and NO_X, and the minimum emissions offset ratio is 1.30 to 1 (*see* CAA sections 182(d) and 182(d)(2)).

[55] *See* EPA's I/M website for a fact sheet and link to the I/M regulations at *https://www.epa.gov/state-and-local-transportation/vehicle-emissions-inspection-and-maintenance-im-regulations.*

in the EPA's I/M regulations (40 CFR part 51, subpart S). The EPA is not proposing changes to its I/M regulations in this document; however, additional clarification in this preamble is provided to assist states with nonattainment areas subject to Enhanced I/M in understanding specific I/M program requirements due to being reclassified as Serious. After a Moderate ozone area is reclassified to Serious or higher, an Enhanced I/M program is required to be implemented in the 1990 Census-defined urbanized area, if the 1980 Census-defined population is 200,000 or more (*see* 40 CFR 51.350(a)(9)).

Areas subject to Enhanced I/M program requirements for the 2015 ozone NAAQS. An Enhanced I/M program is required for all Serious areas under the 2015 ozone NAAQS which meet the urbanized area population criterion.[56] Consistent with the I/M regulations, states with these existing I/M programs would need to conduct and submit a performance standard [57] modeling (PSM) analysis [58] as well as make any necessary program revisions as part of their Serious area SIP submissions for these reclassified areas to ensure that their I/M programs are operating at or above the Enhanced I/M performance standard level for the 2015 ozone NAAQS. States may determine through the PSM analysis that an existing SIP-approved program would meet the Enhanced performance standard for purposes of the 2015 ozone NAAQS without modification. In this case, the state could submit a SIP revision with the associated performance standard modeling, a narrative describing how the regulations for the existing I/M program are consistent with EPA's I/M regulations, and a written statement certifying their determination for the 2015 ozone NAAQS in lieu of submitting new revised regulations.[59]

In addition to complying with the Enhanced performance standard, there are three other requirements unique to Enhanced I/M programs. First, Enhanced I/M programs must conduct on-road testing of in-use vehicles for a small percentage of the area's fleet of motor vehicles.[60] Second, Enhanced I/M programs are required to conduct evaluations, and report the results of, the program effectiveness every 2 years.[61] Third, Enhanced I/M programs have stricter provisions than Basic programs if the program chooses to issue repair waivers.[62] The Enhanced I/M program requirements are to be fully implemented as expeditiously as practicable but no later than the implementation deadline determined by the final action of this proposal, as discussed in section III.A.2.c. of this document.

2. Submission and Implementation Deadlines

a. Submission Deadline for SIP Revisions

As discussed in section III.A. of this document, CAA section 182(i) provides that areas reclassified under CAA section 181(b)(2) shall generally meet the requirements associated with their new classifications ''according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.'' Here, the EPA interprets the ''schedules prescribed in connection with such requirements'' as the statutory deadlines provided to meet Serious area requirements. For areas initially classified as Serious for the 2015 ozone NAAQS, the deadlines to prepare and submit SIP revisions were established relative to the effective date of designation. For those areas, the submission deadlines ranged from 24 to 48 months after the effective date of designation, depending on the SIP element required (*e.g.,* 2 years for the RACT SIP, 4 years for the attainment plan with RACM and attainment demonstration, and 4 years for an Enhanced I/M program SIP if required) (*see* 40 CFR 51.1308 and 51.1312). Areas initially classified as Moderate or higher were also required to implement RACT as expeditiously as practicable but no later than January 1 of the 5th year after the effective date of designations, *i.e.,* January 1, 2023 (*see* 40 CFR 51.1312).

The SIP submission deadlines for nonattainment areas initially classified by the EPA in 2018 as Serious have passed as of August 3, 2020, for the RACT SIP element and August 3, 2022, for the RACM and Serious area SIP elements (including Enhanced I/M). The EPA is therefore proposing to adjust applicable deadlines, as discussed in section III.A.1. of this document, for areas reclassified as Serious under the 2015 ozone NAAQS, per its authority under CAA section 301(a) ''to prescribe such regulations as are necessary to carry out [its] functions under [the CAA]'' and its authority under CAA section 182(i). We recognize that the time between the anticipated effective date of reclassification and the Serious area attainment date in 2027 (and, critically, the attainment year of 2026) [63] is far less than the 9 years that areas initially classified as Serious have between designation and the attainment date. The EPA is proposing that it is necessary and appropriate to set, given the elapsed deadlines and this compressed timeline, a uniform SIP submission deadline for all the various requirements for the newly reclassified Serious areas. Consistent with the framework of establishing proposed default deadlines discussed in section III.A. of this document, because the initially applicable Serious area deadlines have already passed, those deadlines as proposed would be the earlier of 18 months from the effective date of reclassification or January 1, 2026 (January 1 of the attainment year).[64] This deadline, consistent with the timing and structure of subpart 2 requirements relative to area attainment dates, will allow Serious area control measures to influence attainment by the Serious area attainment date while also balancing the need for a consistent submission deadline among the various Serious area SIP requirements. While not all of the ''schedules prescribed in connection with'' the various subpart 2

[56] *See* CAA section 182(c)(3)(A).

[57] An I/M performance standard is a collection of program design elements that defines a benchmark program to which a state's proposed program is compared in terms of its potential to reduce emissions of the ozone precursors, VOC, and NO_X.

[58] See *Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model* (October 2022, EPA–420–B–22–034) at *https://www.epa.gov/state-and-local-transportation/vehicle-emissions-inspection-and-maintenance-im-policy-and-technical#reporting.*

[59] See *Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements,* 83 FR 63001–63002. Performance standard modeling is required for Enhanced I/M programs for the 2015 ozone NAAQS in Serious and above ozone nonattainment areas for that NAAQS.

[60] *See Guidance for On-Road Testing Requirements for Enhanced Vehicle Inspection and Maintenance (I/M) Programs,* EPA–420–B–20–020, March 2020, available at *https://nepis.epa.gov/Exe/ZyPDF.cgi/P100YQX8.PDF?Dockey=P100YQX8.pdf.*

[61] *See Guidance on Biennial Performance Evaluation Requirements for Enhanced Vehicle Inspection and Maintenance (I/M) Programs,* EPA–420–B–22–042, December 2022, available at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P10168PU.pdf.*

[62] 40 CFR 51.360

[63] ''Attainment year'' refers to the last calendar year of data prior to the attainment date. Attainment for newly reclassified areas will be determined based on air quality monitoring data from the DV period of 2024–2026, making the attainment year 2026.

[64] Given the timing of this proposal, for these reclassified Serious areas for the 2015 ozone NAAQS, the proposed deadline will be January 1, 2026.

requirements are the same for initially designated Serious areas (*e.g.,* the statute provides 4 years to submit SIPs for some requirements and 2 years for others), coordinating the submissions with the same deadline is necessary and appropriate in this situation given the compressed timeline before the attainment date and the need for consistent implementation of required control measures for expeditious attainment of the NAAQS.

The EPA recognizes that because CAA section 181(b)(2) requires the EPA to determine whether areas have attained by the attainment date ''within six months of the attainment date'' and because CAA section 181(b)(3) allows a state to request voluntary reclassification at any time, the effective date of reclassification will not necessarily be uniform across all 2015 areas being reclassified to Serious. Therefore, the time between the effective date of an area's reclassification and the proposed SIP revision deadline of January 1, 2026, may not be uniform across areas. It is the Agency's view that the uniform deadline of January 1, 2026, nevertheless best serves the statutory aim of ensuring consistency across the required submissions. All of these areas will be subject to an August 3, 2027, attainment deadline, thus the attainment year will be 2026 for all of these areas. As previously discussed, the purpose of the part D nonattainment area requirements (*i.e.,* the submissions required by subparts 1 and 2) is the expeditious attainment of the NAAQS by the attainment date, and SIP revisions and implementation of controls occurring after the attainment year (in this case, 2026), by definition cannot contribute to expeditious attainment of the NAAQS by the attainment date (which will be determined based on 2024–2026 air quality monitoring data). The January 1, 2026, SIP revision deadline for reclassified Serious areas is equally applicable across areas, and perhaps more importantly, ensures that the newly applicable subpart 2 requirements will be addressed consistent with part D's purpose of achieving expeditious attainment by the attainment date.

We note that ozone seasons do not have a uniform start date across the country. In some states, the ozone season begins January 1 and in other states, it begins in March. (*See* 40 CFR part 58, appendix D, section 4.1, table D–3). While the EPA recognizes that nonattainment areas located in states with ozone seasons that begin in March could potentially benefit from an extra 2 months to develop and submit their SIP revisions (*e.g.,* attainment demonstration, RFP plan, and contingency measures), the EPA also recognizes the value in establishing a single due date for Serious area SIP submissions that does not extend beyond the deadline for implementing such controls. Requiring states to submit the required Serious area SIP revisions by no later than January 1, 2026, will ensure that SIPs requiring control measures needed for attainment will be submitted prior to when those controls are required to be implemented and will also treat states consistently per CAA section 182(i).

If the EPA does not finalize the proposed default deadlines discussed in section III.A. that would apply generally to reclassifications, the EPA proposes in the alternative to establish a SIP revision deadline of January 1, 2026, for all reclassified Serious area requirements for the 2015 ozone NAAQS nonattainment areas.

The SIP revisions triggered by a reclassification to Serious includes a revision to address RACT requirements. The EPA's existing implementing regulations for the 2015 ozone NAAQS established a RACT SIP submission deadline for reclassified areas of either 24 months from the reclassification effective date or a deadline established by the Administrator in the reclassification action using the discretion under CAA section 182(i) (*see* 40 CFR 51.1312(a)(2)(ii)). We are proposing to remove this provision, specific to the 2015 ozone NAAQS, from those implementing regulations and to instead have the new regulations addressing reclassified areas (discussed in section III.A. of this document) apply in this situation, or in the alternative, to articulate a January 1, 2026, SIP submission deadline for RACT revisions for areas reclassified as Serious for the 2015 ozone NAAQS.

The January 1, 2026, SIP submission deadline for reclassified Serious 2015 ozone NAAQS areas also applies to revisions to address Enhanced I/M. Aligning the submittal deadline for Enhanced I/M for reclassified areas with the SIP submission deadline for all other SIP elements is consistent with the I/M regulations, which provide that an I/M SIP shall be submitted no later than the deadline for submitting the area's attainment SIP.[65]

The EPA requests comment on a uniform SIP submission deadline of January 1, 2026, for RACT, and all other Serious area SIP elements (including Enhanced I/M) for nonattainment areas reclassified as Serious under the 2015 ozone NAAQS.

b. RACT Implementation Deadline

With respect to implementation deadlines, the EPA's implementing regulations for the 2015 ozone NAAQS require that, for areas initially classified as Moderate or higher, a state shall provide for implementation of RACT as expeditiously as practicable but no later than January 1 of the 5th year after the effective date of designation (*see* 40 CFR 51.1312(a)(3)(i)), which corresponds with the beginning of the attainment year for initially classified Moderate areas (January 1, 2023). The modeling and attainment demonstration requirements for 2015 ozone NAAQS areas classified Moderate or higher require that a state must provide for implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season, notwithstanding any alternative deadline established per 40 CFR 51.1312 (*see* 40 CFR 51.1308(d)). For areas that are reclassified (*e.g.,* from Serious to Severe), the EPA's existing implementing regulations for the 2015 ozone NAAQS require that the state shall provide for implementation of RACT as expeditiously as practicable, but no later than the beginning of the attainment year ozone season associated with the reclassified area's new attainment deadline, or January 1 of the third year after the associated SIP submission deadline, whichever is earlier; or the deadline established by the Administrator in the final action issuing the area reclassification (*see* 40 CFR 51.1312(a)(3)(ii)).

In the case of the potential reclassified Serious areas addressed by this proposal, the beginning of the ozone season varies among states, as stated earlier in this document. For some nonattainment areas that will potentially be reclassified as Serious in separate actions, the last ozone season that can impact air quality before the areas' attainment date begins in January of the attainment year and for other areas it begins in March of the attainment year (*see* 40 CFR part 58, appendix D, section 4.1, table D–3). Thus, in accordance with the default deadlines proposed in section III.A.1.b. of this document, the RACT implementation deadline for any nonattainment area reclassified as Serious under the 2015 ozone NAAQS would be as expeditiously as practicable, but no later than the earlier of 18 months from the RACT SIP submission deadline or the beginning of the 2026 ozone season associated with the area's new August 3, 2027,

[65] 40 CFR 51.372(b)(2).

attainment date. If the EPA does not finalize the proposed default deadlines discussed in section III.A. that would apply generally to reclassifications, the EPA proposes in the alternative to establish a RACT implementation deadline for nonattainment areas reclassified as Serious under the 2015 ozone NAAQS to be as expeditiously as practicable, but no later than the beginning of the 2026 ozone season.

c. I/M Implementation Deadline

With respect to the implementation deadline for Enhanced I/M programs, states wishing to use emission reductions from their newly required Enhanced I/M program for the 2015 ozone NAAQS would need to have such programs fully implemented as expeditiously as practicable but no later than the beginning of the ozone season for the applicable Serious area attainment year (*i.e.,* January 1 or March 1, 2026), whichever is applicable for a given area as described earlier in this document. This I/M implementation deadline for those states wishing to take credit for their I/M programs in their attainment or RFP SIPs would align with that of the RACT implementation deadline determined by the existing ozone NAAQS implementation rule at 40 CFR 51.1312(a)(3)(ii), as discussed in section III.A.1.b. of this document, and with the implementation deadline at 40 CFR 51.1308(d) for any other control measures necessary to attain by the Serious area attainment date. However, as noted previously, there are many challenges, tasks, and milestones that must be met in establishing and implementing an I/M program. The EPA realizes that implementing a new or revised I/M program on an accelerated timeline may be difficult to achieve in practice. Therefore, for the states that do not intend to rely upon emission reductions from their Enhanced I/M program in attainment or RFP SIPs, we are proposing to allow Enhanced I/M programs to be fully implemented no later than 4 years after the effective date of reclassification. The EPA's underlying rationale for the proposed 4-year maximum implementation deadline for I/M programs required to conduct Enhanced I/M programs as the result of a mandatory reclassification to Serious for the 2015 ozone NAAQS is the same as that for the default I/M implementation deadline for reclassifications as proposed in section III.A.1. of this document.

The EPA is not proposing any changes to the implementation of any new Basic I/M programs, which are still required by the prior rule that reclassified certain nonattainment areas as Moderate for the 2015 ozone NAAQS.[66]

The EPA requests comment on requiring that any Enhanced I/M programs, required as a result of reclassification, be fully implemented as expeditiously as practicable but no later than 4 years after the effective date of reclassification. If a state intends to rely upon emission reductions from its newly required Enhanced I/M programs for the 2015 ozone NAAQS, that state would need to have such Enhanced programs fully implemented as expeditiously as practicable but no later than the beginning of the ozone season of the applicable attainment year (*i.e.,* January 1 or March 1, 2026).

The proposed 4-year implementation deadline offers the states that will be required to implement Enhanced I/M due to reclassifications the flexibility to fully implement the I/M programs on a timeline that addresses the challenges, especially for states new to Enhanced I/M programs.

d. Transportation Control Demonstration

CAA section 182(c)(5) requires states with Serious ozone nonattainment areas to submit, 6 years after November 15, 1990, and every 3 years thereafter, a demonstration as to whether current aggregate vehicle mileage, aggregate vehicle emissions, congestion levels, and other relevant transportation parameters are consistent with those used for the area's demonstration of attainment. Six years after November 15, 1990, was 2 years after the statutory deadline established to submit attainment demonstrations for such areas. To be consistent with this CAA schedule, the EPA is proposing to require that the first transportation control demonstration be submitted 2 years after the attainment demonstrations for newly reclassified Serious areas are due, or January 1, 2028, and every 3 years thereafter. The EPA's rationale for the deadlines for submitting the initial and subsequent demonstration is discussed in section III.A.1.c. of this document.

IV. Environmental Justice Considerations

In this action, the EPA is proposing to establish default SIP deadlines for submission of SIP revisions and implementation of the related control requirements for nonattainment areas reclassified as Moderate, Serious, and Severe for current and future ozone NAAQS. In addition, the EPA is proposing to codify its existing interpretation that following reclassification, a state is no longer required to submit SIP revisions addressing certain requirements related to the prior classification level for an ozone nonattainment area. The EPA is also articulating how the proposed default deadlines and codification of applicable requirements following reclassification would apply to nonattainment areas reclassified as Serious under the 2015 ozone NAAQS. This action is intended to comply with the CAA program to ensure that affected air agencies comply with CAA obligations for the applicable nonattainment areas.

It is difficult to assess the environmental justice (EJ) implications of this proposed action because the EPA cannot geographically identify or quantify resulting source-specific emission reductions. However, due to the nature of this proposed action, the EPA believes that it will likely have no adverse impact on any existing disproportionate and adverse effects on communities with EJ concerns. At a minimum, the EPA believes that this action will not worsen any existing air quality and is expected to ensure that the areas affected by the rulemaking will meet applicable requirements to attain and/or maintain national air quality standards.

The EPA notes, however, that states have flexibility and discretion under the CAA in implementing their attainment strategies to focus resources on controlling those sources of emissions that directly and adversely affect communities with EJ concerns. The EPA strongly urges states to consider the EJ aspects of any control measures in order to provide health protection for communities with EJ concerns. In addition, the EPA strongly encourages states to work with communities experiencing EJ concerns to develop ozone-related control strategies that most effectively reduce emissions contributing to elevated ozone levels. One way to do this would be for states to increase opportunities for meaningful involvement of community groups during their SIP development processes. For example, air agencies could provide advance notification for communities with EJ concerns of upcoming opportunities for public comment on ozone SIPs and other related actions, such as permit actions.

The EPA has resources available to help air agencies consider aspects of EJ in their SIP development processes. The EPA released *EPA Legal Tools to Advance Environmental Justice (EJ Legal Tools)* in 2022 to highlight the various environmental and civil rights

[66] *See* 87 FR 60897, October 7, 2022, at 60900.

law authorities available to the EPA that authorize or address consideration of EJ in its decision-making process as it pertains to environmental laws, including the CAA.[67] *EJ Legal Tools* is also intended to promote meaningful engagement among the EPA and communities.[68] In addition, on September 5, 2024, the EPA announced the release of the final policy, ''*Achieving Health and Environmental Protection Through EPA's Meaningful Engagement Policy.*'' [69] This final policy updates the EPA's 2003 Public Involvement Policy that guides the EPA's staff to provide meaningful public involvement in all its programs and regions.[70]

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined by 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 proposed rule does not impose any new information collection burden under the PRA not already approved by the Office of Management and Budget. This action proposes to establish deadlines for submission of required SIP revisions and implementation of the related control requirements for newly reclassified Moderate, Serious, and Severe ozone nonattainment areas. This action also proposes to codify the EPA's existing interpretation that following reclassification, a state is no longer required to submit SIP revisions addressing certain requirements related to the prior classification level for an ozone nonattainment area. Thus, the proposed action does not impose any new information collection burden under the PRA. OMB has previously approved the EPA's information collection activities contained in the existing regulations and has assigned OMB control number 2060–0695.[71]

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. This action will not impose any requirements on small entities. The proposed SIP submittal and implementation deadlines, and the policy discussion outlining the EPA's interpretation of the status of certain requirements for prior nonattainment classifications following reclassification, do not in and of themselves create any new requirements beyond what is mandated by the CAA. Instead, this rulemaking is administrative in nature, and does not directly regulate any entities.

D. Unfunded Mandates Reform Act (UMRA)

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. The division of responsibility between the federal government and the states for purposes of implementing the NAAQS is established under the CAA.

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

This action does not have tribal implications, as specified in Executive Order 13175. This action will not impose substantial direct costs upon the tribes, nor will it preempt tribal law. The CAA requires SIP revisions for all nonattainment areas that are reclassified from a lower classification to a higher classification. For nonattainment areas that include portions of Indian reservation lands, the implementation plan deadlines that apply to states do not directly apply to tribes. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern 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 directly concern an environmental health risk or safety risk. Since this action does not directly 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 Advancement Act (NTTAA)

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 the human health or environmental conditions that exist prior to this action have the potential to result in disproportionate and adverse human health or environmental effects on communities with EJ concerns. The EPA believes that this action is not likely to change existing disproportionate and adverse effects on communities with EJ concerns. The areas impacted by this action are designated as nonattainment for one or more ozone NAAQS and this action is intended to comply with the CAA program to ensure attainment and maintenance of the NAAQS. From a programmatic perspective, this action is intended to ensure that affected air agencies comply with CAA obligations for the applicable nonattainment areas.

The EPA did not perform an EJ analysis and did not consider EJ as a basis for this action. While it is difficult to assess the EJ implications of this proposed action because the EPA cannot

[67] ''EPA Legal Tools to Advance Environmental Justice,'' (May 2022).

[68] *Id.*

[69] ''Achieving Health and Environmental Protection Through EPA's Meaningful Engagement Policy'' (August 2024).

[70] *See,* ''Public Involvement Policy of the U.S. Environmental Protection Agency,'' (May 2003).

[71] On April 30, 2018, the OMB approved the EPA's request for renewal of the previously approved information collection request (ICR). The renewed request expired on April 30, 2021, 3 years after the approval date (*see* OMB Control Number 2060–0695 and ICR Reference Number 201801–2060–003 for EPA ICR No. 2347.03). On April 30, 2021, the OMB published the final 30-day document (86 FR 22959) for the ICR renewal titled ''Implementation of the 8-Hour National Ambient Air Quality Standards for Ozone (Renewal)'' (*see* OMB Control Number 2060–0695 and ICR Reference No: 202104–2060–004 for EPA ICR Number 2347.04). The ICR renewal was approved on February 1, 2022, and the renewed request expires on January 31, 2025.

geographically identify or quantify resulting source-specific emission reductions that are ultimately determined by air agencies, the EPA believes that this proposed action is likely to have no impact on any existing disproportionate and adverse effects on communities with EJ concerns. Further, there is no information in the record inconsistent with the stated goals of E.O.s 12898 or 14096.

K. Judicial Review

Section 307(b)(1) of the CAA governs judicial review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) When the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' For locally or regionally applicable final actions, the CAA reserves to the EPA complete discretion whether to invoke the exception in (ii).[72]

The EPA is proposing to establish SIP submission and implementation deadlines for all newly reclassified areas nationwide using a common, nationwide method. The EPA is also proposing to codify its existing interpretation that, following reclassification, a state is no longer required to submit SIP revisions addressing certain requirements related to the prior classification level for an ozone nonattainment area. This action, if finalized, would impact jurisdictions with ozone nonattainment areas across the country, covering potentially every judicial circuit.

If the Administrator takes final action on this proposal, then, in consideration of the effects of the action across the country, the EPA views this action to be ''nationally applicable'' within the meaning of CAA section 307(b)(1). In the alternative, to the extent a court finds this proposal, if finalized, to be locally or regionally applicable, the Administrator intends to exercise the complete discretion afforded to him under the CAA to make and publish a finding that this action is based on a determination of ''nationwide scope or effect'' within the meaning of CAA section 307(b)(1).[73]

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, and Volatile organic compounds.

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, the EPA proposes to amend Title 40, Chapter I of the Code of Federal Regulations 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.

Subpart CC—Provisions for Implementation of the 2015 Ozone National Ambient Air Quality Standards

§ 51.1312 [Amended]

■ 2. Amend § 51.1312 by removing and reserving paragraphs (a)(2)(ii) and (a)(3)(ii).

■ 3. Add subpart DD consisting of §§ 51.1400 through 51.1403 to part 51 to read as follows:

Subpart DD—Requirements for Reclassified Ozone Nonattainment Areas

Sec.

§ 51.1400 Definitions.

The following definitions apply for purposes of this subpart. Any term not defined herein shall have the meaning as defined in § 51.100.

Attainment year means the calendar year in which the attainment year ozone season occurs.

Attainment year ozone season means the full ozone season immediately preceding a nonattainment area's maximum attainment date.

CAA means the Clean Air Act as codified at 42 U.S.C. 7401–7671q (2010).

Former attainment date means the attainment date associated with the classification under subpart 2 of part D of title I of the CAA immediately preceding reclassification from a lower classification to a higher classification.

Former classification means the classification under subpart 2 of part D of title I of the CAA immediately preceding reclassification from a lower classification to a higher classification.

Higher classification/lower classification means for purposes of determining which classifications are higher or lower, the classifications are ranked from lowest to highest as follows: Marginal; Moderate; Serious; Severe-15; Severe-17; and Extreme.

I/M refers to the inspection and maintenance programs for in-use vehicles required under the 1990 CAA Amendments and defined by subpart S of 40 CFR part 51.

Initially classified means the first nonattainment classification that becomes effective for an area for a specific ozone NAAQS and does not include reclassification to another classification for that specific NAAQS.

Initially designated means the first designation to nonattainment that becomes effective for an area for a specific ozone NAAQS.

Ozone season means for each state (or portion of a state), the ozone monitoring season as defined in 40 CFR part 58, appendix D, section 4.1(i) for that state (or portion of a state).

§ 51.1401 Applicability of part 51.

The provisions in subparts A through Y, AA, and CC of this part apply to reclassified nonattainment areas for purposes of the ozone NAAQS to the extent they are not inconsistent with the provisions of this subpart.

§ 51.1402 SIP submission and control measure implementation deadlines for reclassified ozone nonattainment areas.

(a) Deadlines for applicable requirements pursuant to a reclassification as Moderate, Serious, or Severe that are 18 months or more after the effective date of reclassification will apply to such reclassified area as though the area were initially designated at that classification.

[72] In deciding whether to invoke the exception by making and publishing a finding that this action, if finalized, is based on a determination of nationwide scope or effect, the Administrator intends to take into account a number of policy considerations, including his judgment balancing the benefit of obtaining the D.C. Circuit's authoritative centralized review versus allowing development of the issue in other contexts and the best use of agency resources.

[73] In the report on the 1977 Amendments that revised CAA section 307(b)(1), Congress noted that the Administrator's determination that the ''nationwide scope or effect'' exception applies would be appropriate for any action that has a scope or effect beyond a single judicial circuit. *See* H.R. Rep. No. 95–294 at 323–24, reprinted in 1977 U.S.C.C.A.N. 1402–03.

(b) Deadlines for applicable requirements pursuant to a reclassification as Moderate, Serious, or Severe, where the deadline that would have applied had the area been initially classified at the new classification level at the time of initial nonattainment area designations is less than 18 months after the effective date of reclassification;

(1) *SIP submission deadlines.*

(i) For all SIP revisions required pursuant to reclassification (except SIPs addressing CAA section 185 fee programs), the SIP revision deadline is 18 months after the effective date of the relevant reclassification or January 1 of the attainment year, whichever is earlier, unless the Administrator establishes a different deadline in a separate action.

(ii) For SIP revisions addressing CAA section 185 fee programs required pursuant to reclassification, the SIP revision deadline is 36 months after the effective date of the relevant reclassification or January 1 of the attainment year, whichever is earlier, unless the Administrator establishes a different deadline in a separate action.

(2) *Control measure implementation deadlines.*

(i) For RACT required pursuant to reclassification, the state shall provide for implementation of such RACT as expeditiously as practicable, but no later than 18 months after the RACT SIP submittal deadline or the beginning of the attainment year ozone season associated with the area's new attainment deadline, whichever is earlier, unless the Administrator establishes a different deadline in a separate action.

(ii) For the required I/M program pursuant to reclassification, the state shall provide for full implementation of such I/M program as expeditiously as practicable, but no later than 4 years after the effective date of the relevant reclassification, unless the I/M program is needed for attainment by the attainment date or RFP, in which case the state shall provide for full implementation of such I/M program no later than the beginning of the attainment year ozone season.

§ 51.1403 Applicability of ozone SIP requirements for former classification after reclassification.

(a) Upon the effective date of reclassification, the requirements of any subpart of this part with respect to ozone nonattainment planning applicable to the area for the former classification shall apply as follows:

(1) Unless specified in (2) or (3), the requirement is unaffected by reclassification and continues to be required for the former classification.

(2) The following requirements are no longer applicable with respect to the former attainment date:

(i) A SIP revision to demonstrate attainment by such date.

(ii) A SIP revision demonstrating adoption of all RACM necessary to demonstrate attainment with respect to such date.

(2) If the reclassification occurred prior to the former attainment date pursuant to CAA section 181(b)(3), the plan requirement for contingency measures for failure to attain by such date is no longer applicable with respect to the former attainment date.

(b) Nothing in this section shall affect the requirements applicable to the nonattainment area under its currently applicable classification and attainment date.

[FR Doc. 2024–22008 Filed 10–3–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R07–UST–2023–0534; FRL–11633–01–Region 7]

Iowa: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the State of Iowa's Underground Storage Tank (UST) program submitted by the Iowa Department of Natural Resources (DNR). This action is based on the EPA's determination that these revisions satisfy all requirements needed for program approval. This action also proposes to codify EPA's approval of Iowa's State program and incorporate by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions.

DATES: Comments on this proposed rule must be received on or before November 4, 2024.

ADDRESSES: Submit comments, identified by EPA–R07–UST–2023–0534, by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: pomes.michael@epa.gov.*

Instructions: Direct your comments to Docket ID No. EPA–R07–UST–2023–0534. 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, EPA recommends that you include your name and other contact information in the body of your comment and also with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, 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. EPA encourages electronic submittals, but if you are unable to submit electronically, please reach out to the EPA contact person listed in the document for assistance. You can view and copy the documents that form the basis for this codification and associated publicly available materials either through *www.regulations.gov* or by contacting Angela Sena at (913) 551–7989 or *sena.angela@epa.gov.* Please call or email the contact listed above if you need access to material indexed but not provided in the docket.

FOR FURTHER INFORMATION CONTACT: Michael L Pomes, Remediation Branch, Land, Chemical, and Redevelopment Division, U.S. Environmental Protection Agency, Region 5, 77 W Jackson

Boulevard, Chicago, Illinois 60604; (312) 886–2406; *pomes.michael@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has explained the reasons for this action in the preamble to the direct final rule. For additional information, see the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Authority: This proposed rule is issued under the authority of sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

Dated: September 18, 2024.

Cecilia Tapia,

Acting Deputy Regional Administrator, EPA Region 7.

[FR Doc. 2024–22911 Filed 10–3–24; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 89, No. 193
Friday, October 4, 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–24–0055]

Grain Inspection Advisory Committee Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, this notice announces an upcoming meeting of the Grain Inspection Advisory Committee (Committee). The Committee meets no less than once annually to advise the Secretary of Agriculture on the programs and services delivered by the Agricultural Marketing Service (AMS) under the U.S. Grain Standards Act. Recommendations by the Committee help AMS meet the needs of its customers, who operate in a dynamic and changing marketplace.

DATES: An in-person meeting will be held on October 29, 2024, from 8:30 a.m. to 5 p.m. central and on October 30, 2024, from 8:30 a.m. to 12 p.m. central. The meeting will be broadcast virtually.

Written Comments: Any member of the public may file written comments with the Committee before or within 15 days after the date on which the meeting concludes. Comments should be submitted via email to *Kendra.C.Kline@usda.gov.* The Committee will consider comments submitted on or before 11:59 p.m. ET on October 18, 2024, prior to the meeting. Comments submitted after this date will be provided to the Committee, but the Committee may not have adequate time to consider those comments prior to the meeting. Comments submitted after the conclusion of the meeting will be posted on the public website.

Oral Comments: The Committee is providing the public an opportunity to present oral comments and will accommodate as many individuals and organizations as time permits. Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. ET, October 18, 2024, and may only register for one speaking slot.

Instructions for registering and participating in the meeting can be obtained by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section by or before the deadline.

ADDRESSES: The Committee meeting will take place at the AMS National Grain Center, 10383 N Ambassador Drive, Kansas City, Missouri 64153. The meeting will also be virtually accessible. Meeting information can be found at: *https://www.ams.usda.gov/about-ams/facas-advisory-councils/giac.*

FOR FURTHER INFORMATION CONTACT: Kendra Kline by phone at (202) 690–2410 or by email at *Kendra.C.Kline@usda.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to provide advice to AMS with respect to the implementation of the U.S. Grain Standards Act (7 U.S.C. 71–87k). Information about the Committee is available on the AMS website at *https://www.ams.usda.gov/about-ams/facas-advisory-councils/giac.*

The agenda for the upcoming meeting will include general program updates, presentations on cyber security and discussions about equipment equivalency, the container handbook, handbook reviews and industry engagement, technology in grain inspection, lab scales, phytosanitary issuance policy, and emerging grain export issues.

The meeting will be open to the public. Public participation will be limited to written statements and interested parties who have registered to present comments orally to the Committee.

The United States Department of Agriculture prohibits discrimination in all its programs and activities based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Equal opportunity practices, in accordance with USDA policies, will be followed in all membership appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities. Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication of program information or related accommodations should contact Kendra Kline at the telephone number or email listed above.

Dated: September 30, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024–22904 Filed 10–3–24; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Urban Agriculture and Innovative Production Advisory Committee Meeting

AGENCY: Natural Resources Conservation Service (NRCS), United States Department of Agriculture (USDA).

ACTION: Notice of public meeting.

SUMMARY: The Natural Resources Conservation Service (NRCS) will hold a public meeting of the Urban Agriculture and Innovative Production Advisory Committee (UAIPAC). UAIPAC will convene to discuss proposed recommendations for the Secretary of Agriculture on the development of policies and outreach relating to urban, indoor, and other emerging agriculture production practices. UAIPAC is authorized under the Agriculture Improvement Act of 2018 (2018 Farm Bill) and operates in compliance with the Federal Advisory Committee Act, as amended.

DATES:

Meeting: The UAIPAC meeting will be held on Wednesday, October 23, 2024, from 2 p.m. to 5 p.m. eastern daylight time (EDT).

Written Comments: Written comments will be accepted until Wednesday, November 6, 2024 at 11:59 p.m. EDT.

ADDRESSES: *Meeting Location:* The meeting will be held virtually via Zoom webinar. Pre-registration is required to attend the UAIPAC meeting and access information will be provided to registered individuals via email. Registration details can be found at: *https://www.usda.gov/partnerships/federal-advisory-committee-urban-ag.* UAIPAC members will meet at the Dallas, TX USDA Urban Service Center.

Written Comments: We invite you to send comments in response to this notice via email to *UrbanAgriculture FederalAdvisoryCommittee@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Brian Guse; Designated Federal Officer; telephone: (202) 205–9723; email: *UrbanAgricultureFederalAdvisoryCommittee@usda.gov*.

Individuals who require alternative means for communication may contact the USDA TARGET Center at (202) 720–2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION:

UAIPAC Purpose

The Federal Advisory Committee for Urban Agriculture and Innovative Production is one of several ways that USDA is extending support and building frameworks to support urban agriculture, including issues of equity and food and nutrition access. Section 222 of the Department of Agriculture Reorganization Act of 1994, as amended by section 12302 of the 2018 Farm Bill (7 U.S.C. 6923; Pub. L. 115–334) directed the Secretary to establish an ''Urban Agriculture and Innovative Production Advisory Committee'' to advise the Secretary of Agriculture on any aspect of section 222, including the development of policies and outreach relating to urban, indoor, and other emerging agricultural production practices as well as identify any barriers to urban agriculture. UAIPAC will host public meetings to deliberate on recommendations for the Secretary of Agriculture. These recommendations provide advice to the Secretary on supporting urban agriculture and innovative production through USDA's programs and services.

Meeting Agenda

The agenda items may include, but are not limited to, welcome and introductions; administrative matters; presentations from the UAIPAC or USDA staff; and deliberations for proposed recommendations and plans. The USDA UAIPAC website (*https://www.usda.gov/partnerships/federal-advisory-committee-urban-ag*) will be updated with the final agenda at least 24 hours prior to the meeting.

Written Comments

Comments should address specific topics pertaining to urban agriculture and innovative production. Written comments will be accepted via email (*UrbanAgriculture FederalAdvisoryCommittee@usda.gov*) until 11:59 p.m. EDT on Wednesday, November 6, 2024.

Meeting Materials

All written comments received by the deadline specified above will be compiled for UAIPAC review. Duplicate comments from multiple individuals will appear as one comment, with a notation that multiple copies of the comment were received. Please visit *https://www.usda.gov/partnerships/federal-advisory-committee-urban-ag* to view the agenda and minutes from the meeting.

Meeting Accommodations

If you require reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation, to the person listed under the **FOR FURTHER INFORMATION CONTACT** section. Determinations for reasonable accommodation will be made on a case-by-case basis.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Individuals who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or the USDA TARGET Center at (202) 720–2600 (voice and text telephone (TTY)) or dial 711 for Telecommunicaions Relay Service (both voice and text telephone users can initiate this call from any phone). Additionally, program information may be made available in languages other than English.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the FACA Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

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

Dated: September 30, 2024.

Cikena Reid,

Committee Management Officer, USDA.

[FR Doc. 2024–22960 Filed 10–3–24; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–173–2024]

Foreign-Trade Zone 227; Application for Subzone; Canoo Inc.; Pryor, Oklahoma

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Rural Enterprises of Oklahoma, Inc.,

grantee of FTZ 227, requesting subzone status for the facility of Canoo Inc., located in Pryor, Oklahoma. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on October 1, 2024.

The proposed subzone (10 acres) is located at 4461 Zarrow Street, Building 625, Pryor, Oklahoma. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 227.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is November 13, 2024. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 29, 2024.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov.*

Dated: October 1, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–22970 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–172–2024]

Foreign-Trade Zone 40; Application for Subzone; Permco, Inc.; Montville and Streetsboro, Ohio

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Cleveland Cuyahoga County Port Authority, grantee of FTZ 40, requesting subzone status for the facilities of Permco, Inc., located in Montville and Streetsboro, Ohio. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on September 30, 2024.

The proposed subzone would consist of the following sites: *Site 1* (2.33 acres) 1500 Frost Road, Streetsboro; and *Site 2* (0.54 acres) 16445 Gar Highway, Montville. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 40.

In accordance with the FTZ Board's regulations, Juanita Chen of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is November 13, 2024. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 29, 2024.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Juanita Chen at *juanita.chen@trade.gov.*

Dated: September 30, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–22941 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket Number: 24–TDO–0001]

Final Decision and Order

In the Matter of:
SkyTechnic, Kiyevskoye Shosse 22–Y, Moskovsky Settlement, Moscow, Russia 108811;
Skywind International Limited, Room 2403A 24/F Lippo CTR Tower One, 89 Queensway, Admiralty, Hong Kong;
Hong Fan International, Shop 102, Level 1, One Exchange Square, Hong Kong, and
Room A 11/F Henfa Commercial Building, 348–350 Lockhart Road, Hong Kong, and
Vistra Corporate Services Centre, Wickhams Cay II, Road Town, Tortola, British Virgin Islands;
Lufeng Limited, Room A 11/F Henfa Commercial Building, 348–350 Lockhart Road, Hong Kong, and
Vistra Corporate Services Centre, Wickhams Cay II, Road Town, Tortola, British Virgin Islands;
Unical dis Ticaret Ve Lojistik JSC, 34140 Zeytinlik Mh. Halcki Sk, Iten Han Gue Carsi Blok No 28/58, Bakirkoy, Istanbul, Turkey, and
Room A 11/F Henfa Commercial Building, 348–350 Lockhart Road, Hong Kong;
Izzi Cup DOO, Koste Cukia 14, Zemun 200915, Serbia, and
Jl.Danau Tondano No. 55, 80228 Sanur—Bali, Indonesia;
Alexey Sumchenko, Hong Kong;
Anna Shumakova, Russia;
Branimir Salevic, Koste Cukia 14, Zemun 200915, Serbia, and
Jl.Danau Tondano No. 55, 80228 Sanur—Bali, Indonesia;
Danijela Salevic, Koste Cukia 14, Zemun 200915, Serbia, and
Jl.Danau Tondano No. 55, 80228 Sanur—Bali, Indonesia

AGENCY: Office of the Undersecretary for Industry and Security, Bureau of Industry and Security, Commerce.

Before me for my final decision is a Recommended Decision (''RD'') issued on September 4, 2024, by Administrative Law Judge (''ALJ'') Tommy Cantrell. The RD recommends that I dismiss the appeal filed by Alexey Sumchenko (''Sumchenko'') of the Temporary Denial Order (''TDO'') issued against him on June 12, 2024. As discussed further below, I accept the findings of fact and conclusions of law in the ALJ's RD. As a result, Sumchenko's appeal is dismissed and the TDO issued against him is affirmed.

I. Background

On June 12, 2024, the Assistant Secretary of Commerce for Export Enforcement (''Assistant Secretary'') of the Bureau of Industry and Security (''BIS'') issued a TDO against Sumchenko, Hong Fan International (''Hong Fan''), Lufeng Limited (''Lufeng''), and Skywind International Limited (''Skywind'')—three companies with which Sumchenko was affiliated—and several other companies and individuals, including SkyTechnic, a Russian aircraft parts supplier. 89 FR 51302. The TDO states that SkyTechnic ''developed and continues to utilize a network of Hong Kong-based shell companies, including Skywind, Hong Fan, and Lufeng, to obtain civil aircraft parts from the United States and obfuscate the ultimate end users of those parts in Russia, contrary to the requirements of the [Export Administration Regulations (the ''EAR'' or the ''Regulations'')].'' *Id.*

On July 25, 2024, Sumchenko, through counsel, filed an appeal with the U.S. Coast Guard ALJ Docketing Center pursuant to 15 CFR 766.24(e)(3) of the EAR. On July 29, 2024, the Chief ALJ assigned the appeal to ALJ Cantrell. On August 20, 2024, BIS filed a response to the appeal. ALJ Cantrell issued the RD on September 4, 2024,

which my office received on September 5, 2024. On September 6, 2024, the BIS Appeals Coordinator requested views from the parties on extending the time to issue my Final Decision in this appeal. Both parties consented to an extension of time, and, on September 11, 2024, I issued an Order extending the period of time to issue this Final Decision to September 30, 2024.

II. Standard

Section 766.24 of the EAR authorizes the Assistant Secretary to issue a TDO for a period of up to 180 days to prevent an ''imminent violation'' of the Regulations. 15 CFR 766.24(b)(l), (b)(4). The Regulations require that the TDO define the imminent violation and state why the TDO was issued without a hearing. *Id.* at § 766.24(b)(2). Because all TDOs are public, ''the description of the imminent violation and the reasons for proceeding on an *ex parte* basis . . . shall be stated in a manner that is consistent with national security, foreign policy, business confidentiality, and investigative concerns. *Id.*

A violation may be imminent ''either in time or in degree of likelihood.'' *Id.* at 766.24(b)(3). Accordingly, ''BIS may show a violation is about to occur, or that the general circumstances of the matter under investigation . . . demonstrate a likelihood of future violations.'' *Id.* To establish the likelihood of a future violation, ''BIS may show that the violation under investigation . . . is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent.'' *Id.*

The Regulations provide that a ''respondent may appeal [the issuance of a TDO] on the grounds that the finding that the order is necessary in the public interest to prevent an imminent violation is unsupported.'' *Id.* at § 766.24(e)(2).

III. Discussion

In his appeal, Sumchenko argues that there is no support for the finding that the TDO against him is necessary to prevent an imminent violation of the EAR. Sumchenko Appeal at 5. Specifically, Sumchenko argues that the alleged misconduct outlined in the TDO occurred after he relinquished ownership of Hong Fan, Lufeng, and Skywind, and that there is no evidence that he was aware of or involved in the conduct that occurred when he did own the companies. Sumchenko Appeal at 5–7.

The ALJ makes fourteen recommended findings of fact in the RD. RD at 4–5. I accept these recommended findings of fact. Based on these findings of fact, the ALJ concluded in the RD that BIS successfully demonstrated the TDO against Sumchenko was necessary to prevent an imminent violation of the EAR. RD at 8. For reasons discussed below, I agree with the ALJ's conclusion.

First, the record shows that Sumchenko was the owner and director of Hong Fan, Lufeng, and Skywind during 2022 and 2023. RD at 6. Specifically, with respect to Hong Fan and Lufeng, Sumchenko was the owner of these entities until he transferred his ownership interest in June 2022. Sumchenko Appeal at 7 and Exs. E and F. He was a director of Hong Fan and Lufeng until he resigned those positions in November 2022. Sumchenko Appeal at 6. As noted in BIS's response to Sumchenko's appeal, even though Sumchenko had transferred his ownership rights in Hong Fan and Lufeng in June 2022, Sumchenko was identified as the beneficial owner of bank accounts for Hong Fan and Lufeng until at least September 2023. BIS Response at 5–6; RD at 4. For Skywind, Sumchenko was a director and owner until he resigned his position and transferred his ownership rights in Skywind in November 2023. Sumchenko Appeal at 6; RD at 4.

Second, the record reflects that between June 2022 and March 2023, Hong Fan, Lufeng, and Skywind were involved in transactions or attempted transactions to deliberately obtain U.S.-origin aircraft parts on behalf of Russian entities, and to conceal the true identities of the Russian purchasers in those transactions, in violation of the Regulations. RD at 8.

Third, as discussed above, during the time that Hong Fan, Lufeng and Skywind were involved in violations of the EAR, Sumchenko was an owner or director of these companies, or the beneficial owner of bank accounts connected to these entities. Sumchenko argues in his appeal that because he was no longer the owner of Hong Fan and Lufeng at the time of some of the conduct at issue in the TDO, the ''sole connection'' between the conduct outlined in the TDO as it relates to those entities and Sumchenko ''has been broken.'' Sumchenko Appeal at 7. I find that the other connections established in the record, such as Sumchenko's position as director of Hong Fan and Lufeng until November 2022 and his role as beneficial owner of bank accounts for these companies until at least September 2023, are enough to connect Sumchenko to the conduct that involved Hong Fan and Lufeng through September 2023. As a result, I agree with the ALJ's conclusion that Sumchenko shares responsibility for the conduct of Hong Fan, Lufeng, and Skywind described in the TDO, which includes transactions deliberately designed to evade the prohibitions of the EAR. RD at 8.

As discussed above, the Regulations allow BIS to issue a denial order upon a showing that ''the order is necessary in the public interest to prevent an imminent violation of [the EAR.]'' 15 CFR 766.24(b)(1). A violation may be considered ''imminent'' either in time or ''or in degree of likelihood.'' *Id.* at § 766.24(b)(3). BIS may consider past participation in deliberate violations of the EAR as a factor when deciding whether a person is likely to participate in future violations of the EAR. *See* 15 CFR 766.24(b)(3). BIS has established that Hong Fan, Lufeng, and Skywind were involved in deliberate violations of the EAR, and that Sumchenko is responsible for that conduct based on his various roles with these companies at the time the conduct took place. As a result, I agree with the ALJ's conclusion in the RD that, BIS has established additional violations are ''imminent'' within the meaning of 15 CFR 766.24(b)(3), and that the TDO against Sumchenko is necessary to prevent an imminent violation of the EAR.

Sumchenko argued in his appeal that even if he was the owner and director of companies that violated the EAR, BIS has not established that he ''was involved in or even knew about those events.'' Sumchenko Appeal at 6. The ALJ found this argument unpersuasive, and I find it unpersuasive as well. As the ALJ notes, Sumchenko made no effort to refute the allegations against Hong Fan, Lufeng, or Skywind. RD at 9. Just as important, Sumchenko makes no effort to explain his role in these companies or how each of these companies could have been involved in a scheme to violate the EAR without his knowledge given his various roles, including as owner or director. In addition, Sumchenko concedes that in February 2023, he directed a third party to pay Lufeng approximately $450,000. Sumchenko Appeal at 4. Sumchenko argues, however, that ''it is not clear how directing 'a third party to pay Lufeng' indicates ownership or control over Lufeng.'' *Id.* Setting aside the fact that Sumchenko only offers vague assurances ''based on information and belief'' that the transaction was related to ''the process of divestment that Mr. Sumchenko was undertaking at the time,'' Sumchenko offers no specific explanation for why he would direct a third party to make payment to Lufeng if he no longer had an interest in the

company. *See* Sumchenko Appeal at 5. And since Sumchenko was the beneficial owner of a bank account for Lufeng at the time he instructed the third party to transfer payment, his potential access to the funds suggests his financial interest in Lufeng, including the receipt of any benefits of the scheme to provide U.S.-origin parts to entities in Russia without authorization, continued after he transferred his ownership and resigned as director. Indeed, Sumchenko's efforts to distance himself from Hong Fan and Lufeng via changes to corporate paperwork, while at the same time maintaining control of related bank accounts and directing payment to Lufeng, may have been part of an attempt to evade detection. For these reasons, I agree with the ALJ's conclusion that Sumchenko may be held responsible for the actions of Hong Fan, Lufeng, and Skywind described in the TDO. RD at 9. I further agree with the ALJ's conclusion that ''in the absence of the TDO, nothing would prevent [Sumchenko] from creating new companies to engage in the same violative conduct.'' RD at 10.

IV. Conclusion and Order

Based on my review of the record, I accept the findings of fact and conclusions of law made by the ALJ in his RD, and it is therefore *ordered:*

First, that this appeal is *dismissed*.

Second, that this Final Decision and Order shall be served on Appellants and on BIS and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision shall also be published in the **Federal Register**.

This Order, which constitutes the Department's final decision with regard to this appeal, is effective immediately.

Alan F. Estevez,

Under Secretary of Commerce for Industry and Security.

United States of America

Bureau of Industry and Security

Washington, D.C. 20230

In the Matter of:
SkyTechnic, Kiyevskoye Shosse 22–Y, Moskovsky Settlement, Moscow, Russia 108811
Skywind International Limited, Room 2403A 24/F Lippo CTR Tower One, 89 Queensway, Admiralty, Hong Kong
Hong Fan International, Shop 102, Level 1, One Exchange Square, Hong Kong, and
Room A 11/F Henfa Commercial Building, 348–350 Lockhart Road, Hong Kong, and
Vistra Corporate Services Centre, Wickhams Cay II, Road Town, Tortola, British Virgin Islands
Lufeng Limited, Room A 11/F Henfa Commercial Building, 348–350 Lockhart Road, Hong Kong, and
Vistra Corporate Services Centre, Wickhams Cay II, Road Town, Tortola, British Virgin Islands
Unical dis Ticaret Ve Lojistik JSC, 34140 Zeytinlik Mh. Halcki Sk, Iten Han Gue Carsi Blok No 28/58, Bakirkoy, Istanbul, Turkey, and
Room A 11/F Henfa Commercial Building, 348–350 Lockhart Road, Hong Kong
Izzi Cup DOO, Koste Cukia 14, Zemun 200915, Serbia, and
Jl.Danau Tondano No. 55, 80228 Sanur—Bali, Indonesia
Alexey Sumchenko, Hong Kong
Anna Shumakova, Russia
Branimir Salevic, Koste Cukia 14, Zemun 200915, Serbia, and
Jl.Danau Tondano No. 55, 80228 Sanur—Bali, Indonesia
Danijela Salevic, Koste Cukia 14, Zemun 200915, Serbia, and
Jl.Danau Tondano No. 55, 80228 Sanur—Bali, Indonesia
Respondents
Docket Number: 24–TDO–0001
The Hon. Tommy Cantrell Administrative Law Judge

Recommended Decision and Order

This matter comes before me on Alexey Sumchenko's (Respondent) appeal of the Order Temporarily Denying Export Privileges (TDO) issued by the U.S. Department of Commerce Bureau of Industry and Security (BIS), through its Office of Export Enforcement (OEE) on June 12, 2024. OEE issued the TDO pursuant to the Export Administration Regulations (EAR), specifically 15 CFR 766.24.[1] After considering the evidence and arguments presented by the parties, and in accordance with the applicable law and regulations, I find BIS demonstrated the TDO is necessary in the public interest to prevent an imminent violation of the EAR, and I recommend the TDO be *affirmed*.

I. Procedural Background

On June 12, 2024, OEE issued a TDO against Respondent, preventing him from participating in transactions subject to the EAR for 180 days. On July 25, 2024, Respondent filed an appeal of the TDO. Thereafter, the Chief Administrative Law Judge assigned this matter to me on July 29, 2024, for adjudication.[2] On August 5, 2024, the parties filed a stipulation extending BIS' deadline to submit a reply to the appeal. BIS filed a reply to the appeal on August 20, 2024.

Respondent's appeal included seven documentary exhibits (Exhibits A–G), and a copy of the June 12, 2024, TDO (Ex. A). OEE's reply included two exhibits (Exhibits 1–2).[3] The record is now closed, and the appeal is ripe for a recommended decision.

II. Recommended Findings of Fact

1. Skywind International Limited (Skywind), Hong Fan Global Limited (Hong Fan), and Lufeng Limited (Lufeng), are companies registered to do business in Hong Kong. (Exs. B–D, respectively).

2. Respondent was an owner and director of Skywind, Hong Fan, and Lufeng during 2022–2023. (Exs. A–G; Exs. 1–2).

3. Respondent transferred his ownership interest in and resigned his position as director of Skywind on November 23, 2023. (Ex. G).

4. Respondent resigned his position as director of Hong Fan on November 14, 2022, but remained a beneficial owner of Hong Fan until at least September 6, 2023. (Exs. E, and 1).

5. Respondent resigned his position as director of Lufeng on November 14, 2022, but remained a beneficial owner of Lufeng until at least September 6, 2023. (Exs. F and 2).

6. SkyTechnic is an aircraft parts supplier based in Moscow, Russia. (Ex. A at 3, 7).

7. During May and June 2022, Anna Shumakova, on behalf of SkyTechnic, discussed with Izzi Cup (a company registered in Serbia) methods of purchasing aircraft parts from the United States (U.S.) in contravention of export controls, including by using Skywind as a straw purchaser of the items. (Ex. A at 7).

8. In May 2022, Shumakova, on behalf of Skywind, informed a freight forwarder Skywind would complete purchases of aircraft parts on behalf of Pobeda Airlines, a Russian airline company that itself became the subject of a TDO on June 24, 2022. (Ex. A at 7).

9. In June 2022, SkyTechnic began using Hong Fan to facilitate the purchase of aircraft parts from the U.S. (Ex. A at 7).

[1] Title 15 CFR parts 730–774 (EAR), were promulgated under the Export Administration Act of 1979 (EAA), formerly codified at 50 U.S.C. 4601–4623. Although the EAA expired on August 21, 2001, the President, through Executive Order 13222 of August 17, 2001, and through successive Presidential Notices, continued the EAR in full force and effect under the International Emergency Economic Powers Act (IEEPA), codified at 50 U.S.C. 1701, *et seq.* The EAA was repealed in 2018, with the enactment of the Export Control Reform Act (ECRA). *See* 50 U.S.C. § 4826. The ECRA provides BIS with permanent statutory authority to administer the EAR. The ECRA specifically states that all administrative or judicial proceedings commenced prior to its enactment are not disturbed by the new legislation. *See Id.*

[2] Pursuant to an interagency agreement, United States Coast Guard (USCG) Administrative Law Judges are permitted to adjudicate BIS cases.

[3] *See* Attachment A for a listing of exhibits.

10. Also in June 2022, Lufeng engaged in a transaction with Izzi Cup and served as the straw purchaser on an invoice for aircraft parts meant for SkyTechnic. (Ex. A at 8).

11. In October 2022, Hong Fan attempted to ship aircraft parts to the Maldives for Euro Asia. Euro Asia had a sales relationship with Aeroflot-Russian Airlines (Aeroflot), a company that itself became the subject of a TDO on April 7, 2022. (Ex. A at 7–8; *see* PJSC Aeroflot, 1 Arbat St., 119019, Moscow, Russia; Order Temporarily Denying Export Privileges, 87 FR 21611 (Apr. 12, 2022)).

12. In November 2022, Hong Fan worked with a freight forwarder to facilitate the purchase of aircraft parts for Pobeda Airlines, and the associated invoice was issued to SkyTechnic. (Ex. A at 8).

13. In February 2023, Respondent directed a third party to pay Lufeng approximately $450,000.00 for services rendered to Skywind. (Ex. A at 5).

14. During February and March 2023, Hong Fan served as a straw purchaser for SkyTechnic, for the export of aircraft parts from the U.S., which were ultimately delivered to Aeroflot in Russia. (Ex. A at 8).

III. Opinion and Recommended Conclusions of Law

BIS issues and enforces the EAR ''under laws relating to the control of certain exports, reexports, and activities.'' 15 CFR 730.1. The EAR is ''intended to serve the national security, foreign policy, nonproliferation of weapons of mass destruction, and other interests of the United States.'' 15 CFR 730.6. To prevent an imminent violation of the EAR, BIS may request the EEO issue a TDO on an *ex parte* basis. 15 CFR 766.24(a). A TDO is valid for a maximum of 180 days and the Assistant Secretary may renew a TDO in additional 180-day increments as deemed necessary. 15 CFR 766.24(b)(4), (d)(4).

A violation may be imminent ''either in time or in degree of likelihood.'' 15 CFR 766.24(b)(3). Accordingly, BIS may attempt to show ''a violation is about to occur, or that the general circumstances of the matter under investigation . . . demonstrate a likelihood of future violations.'' *Id.* With respect to demonstrating the likelihood of future violations, BIS ''may show that the violation under investigation . . . is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent . . .'' *Id.* Ultimately, to obtain a TDO against a respondent, BIS must show ''the order is necessary in the public interest to prevent an imminent violation'' of the EAR. 15 CFR 766.24(b)(1). Conversely, to prevail on appeal, a respondent must show ''the finding that the order is necessary in the public interest to prevent an imminent violation is unsupported.'' 15 CFR 766.24(e)(2).

A. BIS Demonstrated Likelihood of Imminent Violation

The June 12, 2024, TDO set forth facts showing a likelihood Respondent would imminently violate the EAR unless his export privileges were revoked. It established that BIS implemented a license requirement for the export to Russia of any aircraft or aircraft parts listed in Export Control Classification Number (ECCN) 9A991 on February 24, 2022. (Ex. A at 4). *See* Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR), 87 FR 12226 (Mar. 3, 2022) (to be codified at 15 CFR parts 734, 738, 740, 742, 744, 746, and 772). On March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia, or a national of Russia, from being eligible for license exception Aircraft, Vessels, and Spacecraft (AVS). (Ex. A at 5). *See* Imposition of Sanctions Against Belarus Under the Export Administration Regulations (EAR), 87 FR 13048 (Mar. 8, 2022) (to be codified at 15 CFR parts 734, 738, 740, 742, 744, and 746). The TDO then established that after those dates, companies owned and controlled by Respondent acted to subvert these export controls to obtain prohibited aircraft parts for Russian companies.

Specifically, the record shows Respondent was an owner and director of Skywind International Limited (Skywind), Hong Fan Global Limited (Hong Fan), and Lufeng Limited (Lufeng), during 2022–2023. (Exs. A–G; Exs. 1–2). Skywind, Hong Fan, and Lufeng are, and at all times relevant were, companies registered to do business in Hong Kong. (Exs. A–D). During May and June 2022, Anna Shumakova, on behalf of a Russian aircraft parts company called SkyTechnic, discussed with Izzi Cup, a company registered in Serbia, methods of purchasing aircraft parts from the U.S. in contravention of export controls, including using Skywind as a straw purchaser of the items. (Ex. A at 7). In May 2022, Shumakova, on behalf of Skywind, informed a freight forwarder that Skywind would purchase aircraft parts on behalf of Pobeda Airlines, a Russian airline company that itself became the subject of a TDO on June 24, 2022. (Ex. A at 7). *See* Pobeda Airlines, 108811, Russian Federation, Moscow, p. Moskovskiy Kievskoe shosse 22nd km, 4/1. Moscow, Russia; Order Temporarily Denying Export Privileges, 87 FR 38707 (Jun. 29, 2022). Then in June 2022, SkyTechnic began using Hong Fan to facilitate the purchase of aircraft parts from the U.S. (Ex. A at 7). And in June 2022, Lufeng served as the straw purchaser on an invoice for aircraft parts meant for SkyTechnic. (Ex. A at 8).

In October 2022, Hong Fan attempted to facilitate the purchase of aircraft parts for Euro Asia, a company with a sales relationship with Aeroflot-Russian Airlines (Aeroflot), a company that itself became the subject of a TDO on April 7, 2022. (Ex. A at 7–8). S*ee* PJSC Aeroflot, 1 Arbat St., 119019, Moscow, Russia; Order Temporarily Denying Export Privileges, 87 FR 21611 (Apr. 12, 2022). In November 2022, Hong Fan worked with a freight forwarder to facilitate the purchase of aircraft parts for Pobeda Airlines, and the associated invoice was issued by SkyTechnic. (Ex. A at 8). During February and March 2023, Hong Fan served as a straw purchaser for SkyTechnic, for the export of aircraft parts from the U.S. which were ultimately delivered to Aeroflot in Russia. (Ex. A at 8).

Pursuant to the regulations governing these proceedings, a TDO is appropriate to prevent an imminent violation of the EAR. 15 CFR 766.24(b)(1). To show a violation is ''imminent,'' BIS may demonstrate a temporal proximity to a future violation or may show ''that the general circumstances of the matter . . . demonstrate a likelihood of future violations.'' 15 CFR 766.24(b)(3). In this regard, ''BIS may show that the violation under investigation or charges is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent . . .'' 15 CFR 766.24(b)(3). Here, the TDO clearly set out numerous instances of violations of the export controls imposed on February 24 and March 2, 2022, wherein the violations were not technical, but deliberate. For example, the TDO set forth in May and June of 2022, SkyTechnic discussed with Izzi Cup a strategy for obtaining U.S.-origin aircraft parts by placing Skywind on the invoice as the purchaser. (Ex. A at 7). The TDO then set forth numerous instances between June and November 2022 in which Skywind, Hong Fan, and Lufeng engaged in transactions to deliberately obtain U.S.-origin aircraft parts and conceal the actual purchasers (Russian companies). (Ex. A at 7–8).

Respondent led the companies that engaged in these violations, and thus Respondent shares responsibility for those violations. Having shown Respondent already violated the EAR in a deliberate manner, BIS successfully

demonstrated that further violations were ''imminent'' within the meaning of 15 CFR 766.24, and an order temporarily denying Respondent's export privileges would be necessary to prevent them.

B. Respondent's Argument and Evidence Did Not Diminish BIS' Case

As stated above, Respondent must show there is no support for the finding the TDO is necessary to prevent an imminent violation of the EAR. 15 CFR 766.24(e)(2). In his appeal, Respondent presented seven exhibits, one of which was a copy of the June 12, 2024, TDO (Ex. A); the remaining six exhibits were business records showing Respondent's transfer of ownership in and resignation as director of Skywind, Hong Fan, and Lufeng. (Exs. B–G). With these exhibits as support, Respondent makes two arguments. He first argues a TDO is not necessary to prevent him from imminently violating the EAR because he is no longer an owner or director of Skywind, Hong Fan, and Lufeng. Specifically, Respondent argues the TDO ''addresses alleged violations that occurred after February 2022,'' and that Respondent ''was divesting his ownership and resigning'' from the companies during 2022 and 2023. (Appeal at Para. 14). Respondent asserts his ''ownership of the companies is the only allegation that purportedly ties him to the alleged violations described in the TDO.'' (Appeal at Para. 14). I am not persuaded.

First, I note Respondent never challenged the truth of the allegations of the TDO, he merely distances himself from the conduct by stating he gave up *ownership* of two of the companies (Hong Fan and Lufeng) by June 2022. (Appeal at Paras. 15, 16). Respondent conveniently ignores his own exhibits, which show he was still director of the companies until November 14, 2022. (Exs. E, F).

Respondent's exhibits also show he remained in control, as owner and director, of Skywind until November 23, 2023. (Ex. G). Despite Respondent's claim that he relinquished control of Hong Fan and Lufeng by November 14, 2022, BIS presented exhibits in its reply showing Respondent was listed as a beneficial owner of Hong Fan and Lufeng until at least September 6, 2023. (Exs. E, F; Exs. 1, 2). The TDO set forth numerous violations of the EAR committed by Skywind, Hong Fan, and Lufeng that occurred from May through November 2022, while Respondent was, by both his and BIS' claims, owner and director of the companies. (Ex. A at 7–8). As the director and owner of these companies, it is reasonable to conclude an order proscribing Respondent's export privileges is necessary to prevent future violations.

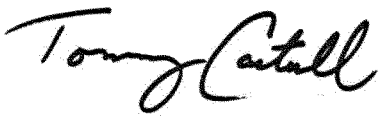
Respondent alternatively argues even if he was in control of the companies while they were engaged in the illicit conduct, the TDO does not prove he ''was involved in or even knew about those events.'' (Appeal at Para. 14). I find this argument unpersuasive. As owner and director of the companies, Respondent's role imparts responsibility on him for the actions of the company. *See Faour* v. *U.S. Dept. of Agriculture,* 985 F.2d 217 (5th Cir. 1993) (petitioner was responsibly connected to actions of company because he was an officer, director, and owner of stock during time that company committed repeated violations of the law). Respondent did not refute any allegations of violative conduct in the TDO, but instead only demonstrated he has executed paperwork to divest from the companies. In the absence of the TDO, nothing would prevent Respondent from creating new companies to engage in the same violative conduct.

Wherefore,

ORDER

It is hereby recommended the Temporary Denial Order be *affirmed.*

Done and dated September 4, 2024, at Houston, Texas



The Hon. Tommy Cantrell,
Administrative Law Judge, United States Coast Guard.

Attachment A: Exhibit List

Attachment A

Respondent's Exhibits

Exhibit A: Temporary Denial Order issued Jun. 12, 2024
Exhibit B: Company Particulars—Skywind International Limited
Exhibit C: Company Particulars—Hong Fan Global Limited
Exhibit D: Company Particulars—Lufeng Limited
Exhibit E: Resignation and transfer instruments—Hong Fan
Exhibit F: Resignation and transfer instruments—Lufeng
Exhibit G: Resignation and transfer instruments—Skywind

BIS Exhibits

Exhibit 1: Sep. 6, 2023, email re: Hong Fan
Exhibit 2: Sep. 6, 2023, email re: Lufeng

Certificate of Service

I hereby certify that I have transmitted the above document to the following persons, as indicated below:
ALJ Docketing Center, U.S Custom House, Email: *aljdocketcenter@uscg.mil,* Phone: (410) 962–5100, Sent by email
Gregory Michelsen, Esq., Tristan de Vega, Esq., Office of Chief Counsel for BIS, U.S. Dept. of Commerce, Sent by email
George Benaur, Esq., Benaur Law LLC, Sent by email

Done and dated September 4, 2024, at Houston, Texas

Ericka J. Pollard,
Paralegal Specialist to The Hon. Tommy Cantrell Administrative Law Judge United States Coast Guard

[FR Doc. 2024–22549 Filed 10–3–24; 8:45 am]
BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–557–831]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Malaysia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from Malaysia. The period of investigation is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable October 4, 2024.

FOR FURTHER INFORMATION CONTACT: Preston Cox or Scarlet Jaldin, 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) 482–5041 or (202) 482–4275, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 20, 2024.[1] On July 3, 2024, Commerce postponed the preliminary determination of this investigation until September 23, 2024.[2] On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.[3]

The deadline for the preliminary determination is now September 30, 2024.

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is solar cells from Malaysia. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.,* scope).[6]

We received several comments concerning the scope of this investigation, as well as in the companion less-than-fair-value (LTFV) and countervailing duty (CVD) investigations of solar cells, as it appeared in the *Initiation Notice.* We are currently evaluating the scope comments filed by interested parties. We intend to issue our preliminary decision regarding the scope of the LTFV and CVD investigations in the preliminary determinations of the companion LTFV investigations, the deadline for which is November 27, 2024.[7] We will incorporate the scope decisions from the LTFV investigations into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in scope case and rebuttal briefs.[8]

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[9] For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

In making these findings, Commerce relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.[10] For further information, *see* the ''Use of Facts Otherwise Available and Adverse Inferences'' section in the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final determination in this investigation with the final determination in the companion LTFV investigation of solar cells from Malaysia based on a request made by the petitioner.[11] Consequently, the final CVD determination will be issued on the same date as the final LTFV determination, which is currently scheduled to be issued no later than February 10, 2025.[12]

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Hanwha Q CELLS Malaysia Sdn. Bhd. (Hanwha Q CELLS) and Jinko Solar Technology Sdn Bhd (Jinko Solar) that are not zero, *de minimis,* or based entirely on facts otherwise available. However, because publicly ranged sales values for all mandatory respondents are not on the record of this investigation, for the preliminary determination, we are unable to weight average the subsidy rates of Hanwha Q CELLS and Jinko Solar derive an estimated all-others rate for companies not individually examined. Therefore, we calculated a simple average of the subsidy rates calculated for Hanwha Q CELLS and Jinko Solar for application to the all-others rate.

Rate for Non-Responsive Companies

Three exporters and/or producers of solar cells from Malaysia (Baojia New Energy, Pax Union Resources SDN BHD, and SunMax Energy SDN BHD, collectively, the non-responsive companies) did not respond to Commerce's quantity and value (Q&V) questionnaire. We find that, by not responding to the Q&V questionnaire, these companies withheld requested information and significantly impeded

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations,* 89 FR 43816 (May 20, 2024) (*Initiation Notice*).

[2] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations,* 89 FR 55231 (July 3, 2024).

[3] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Countervailing Duty Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[6] *See Initiation Notice.*

[7] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than Fair-Value Investigations,* 89 FR 77473 (September 23, 2024) (*LTFV Preliminary Postponement*).

[8] The deadline for interested parties to submit scope case and rebuttal briefs will be established in the preliminary scope decision memorandum.

[9] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[10] *See* sections 776(a) and (b) of the Act.

[11] *See* Petitioner's Letter, ''Request to Align Countervailing Duty Investigation Final Determinations with Antidumping Duty Investigation Final Determinations,'' dated September 23, 2024.

[12] *See LTFV Preliminary Postponement.*

this proceeding. Thus, in reaching our preliminary determination, pursuant sections 776(a)(2)(A) and (C) of the Act, we are basing the CVD subsidy rate for the non-responsive companies on facts otherwise available.

In addition, we preliminary determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit responses to Commerce's Q&V questionnaire, these companies did not cooperate to the best of their ability in this investigation. Accordingly, we preliminarily find that an adverse inference is warranted to ensure that the non-responsive companies will not obtain a more favorable result than had they fully complied with our request for information. For more information on the application of adverse facts available, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Hanwha Q CELLS Malaysia Sdn. Bhd	14.72
Jinko Solar Technology Sdn Bhd and its cross-owned companies: Jinko Solar (Malaysia) Sdn. Bhd. and Omega Solar Sdn. Bhd	3.47
Baojia New Energy	* 123.94
Pax Union Resources SDN BHD	* 123.94
SunMax Energy SDN BHD	* 123.94
All Others	9.13

* Rate based on facts available with adverse inferences.

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in Appendix I of this notice entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed in this preliminary determination to interested parties within five days of its public announcement of the preliminary determination, or if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g), following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

All interested parties will have the opportunity to submit scope case and rebuttal briefs on the preliminary decision regarding the scope of the CVD and LTFV investigations. The deadlines to submit scope case and rebuttal briefs will be provided in the preliminary scope decision memorandum. For all scope case and rebuttal briefs, parties must file identical documents simultaneously on the records of the ongoing CVD and LTFV investigations. No new factual information or business proprietary information may be included in either scope case or rebuttal briefs.

Case briefs or other written comments not related to the scope of this investigation may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[13] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[14]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[15] Further, we request that interested parties limit their public, executive summary of each issue to no more than 450 words, not including citations. We intend to use the public, executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the public, executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[16]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice in the **Federal Register**. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of solar

[13] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[14] *See* 19 351.309(c)(2) and (d)(2).

[15] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[16] *See APO and Service Final Rule.*

cells from Malaysia are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: September 30, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This investigation covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the investigation.

Excluded from the scope of the investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the investigation are crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Additionally, excluded from the scope of the investigation are panels with surface area from 3,450 mm^2 to 33,782 mm^2 with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Also excluded from the scope of the investigation are:

(1) Off grid CSPV panels in rigid form with a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm^2 per panel; (C) do not include a built-in inverter; (D) must include a permanently connected wire that terminates in either an 8 mm male barrel connector, or a two-port rectangular connector with two pins in square housings of different colors; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm^2 per panel; (C) do not include a built-in inverter; (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (E) each panel is (1) permanently integrated into a consumer good; (2) encased in a laminated material without stitching, or (3) has all of the following characteristics: (i) the panel is encased in sewn fabric with visible stitching, (ii) includes a mesh zippered storage pocket, and (iii) includes a permanently attached wire that terminates in a female USB–A connector.

In addition, the following CSPV panels are excluded from the scope of the investigation: off-grid CSPV panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 80 watts per panel; (B) a surface area of less than 5,000 square centimeters (cm^2) per panel; (C) do not include a built-in inverter; (D) do not have a frame around the edges of the panel; (E) include a clear glass back panel; and (F) must include a permanently connected wire that terminates in a twoport rectangular connector.

Additionally excluded from the scope of this investigation are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per panel; (2) a maximum surface area of 16,000 cm^2 per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8 mm diameter male barrel connector.

Also excluded from the scope of this investigation are off-grid crystalline silicon photovoltaic panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 180 watts per panel at 155 degrees Celsius; (B) a surface area of less than 16,000 square centimeters (cm^2) per panel; (C) include a keep-out area of approximately 1,200 cm^2 around the edges of the panel that does not contain solar cells; (D) do not include a built-in inverter; (E) do not have a frame around the edges of the panel; (F) include a clear glass back panel; (G) must include a permanently connected wire that terminates in a two-port rounded rectangular, sealed connector; (H) include a thermistor installed into the permanently connected wire before the twoport connector; and (I) include exposed positive and negative terminals at opposite ends of the panel, not enclosed in a junction box.

Modules, laminates, and panels produced in a third-country from cells produced in a subject country are covered by the investigation; however, modules, laminates, and panels produced in a subject country from cells produced in a third-country are not covered by the investigation.

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (December 7, 2012); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (December 7, 2012).

Merchandise covered by the investigation is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8541.42.0010 and 8541.43.0010. Imports of the subject merchandise may enter under HTSUS subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, and 8507.20.8091. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2024–22997 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–931]

Certain High Chrome Cast Iron Grinding Media From India: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain high chrome cast iron grinding media (grinding media) from India. The period of investigation is April 1, 2023, through March 31, 2024. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable October 4, 2024.

FOR FURTHER INFORMATION CONTACT: David Crespo or Gorden Struck, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3693 or (202) 482–8151, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 23, 2024.[1] On July 10, 2024, Commerce postponed the preliminary determination of this investigation.[2] On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.[3] The deadline for the preliminary determination is now September 30, 2024.

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II in this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is grinding media from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[5] in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage, (*i.e.,* scope).[6] Certain interested parties commented on the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations as it appeared in the *Initiation Notice.* Commerce intends to issue its preliminary decision regarding the scope of the AD and CVD investigations on or before the preliminary determination of the companion AD investigation.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7] For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the concurrent less than fair value (LTFV) investigation of grinding media from India, based on a request made by the petitioner.[8] Consequently, the final CVD determination will be issued on the same date as the final LTFV determination, which is currently scheduled to be issued no later than February 12, 2025, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated an individual estimated countervailable subsidy rate for AIA Engineering Limited (AIA) and its affiliates Vega Industries (Middle East) F.Z.C (Vega) and Welcast Steels Ltd. (Welcast), the only individually examined exporter/producer in this investigation, which is not zero, *de minimis,* or based entirely on facts otherwise available. The countervailable subsidy rate calculated for AIA, Vega, and Welcast is the rate assigned to all-other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:[9]

Company	Subsidy rate (percent *ad valorem*)
AIA Engineering Limited; Vega Industries (Middle East) F.Z.C; Welcast Steels Ltd	3.36
All Others	3.36

Disclosure

Commerce intends to disclose its calculations and analysis performed to

[1] *See Certain High Chrome Cast Iron Grinding Media from India: Initiation of Countervailing Duty Investigation,* 89 FR 45640 (May 23, 2024) (*Initiation Notice*).

[2] *See Certain High Chrome Cast Iron Grinding Media from India: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 89 FR 56731 (July 10, 2024).

[3] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of Certain High Chrome Cast Iron Grinding Media from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[6] *See Initiation Notice,* 89 FR 45641.

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* Petitioner's Letter, ''Request to Align the Final Determinations,'' dated September 19, 2024.

[9] As discussed in the Preliminary Decision Memorandum, Commerce preliminarily finds AIA to be cross owned with the following companies: (1) Vega; and (2) Welcast.

interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[10] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[11]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[12] Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[13]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed using ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination, whether imports of grinding media from India are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: September 30, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers 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.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2024–22996 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–552–842]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily

[10] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[11] *See* 19 351.309(c)(2) and (d)(2).

[12] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[13] *See APO and Service Final Rule.*

determines that countervailable subsidies are being provided to producers and exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the Socialist Republic of Vietnam (Vietnam). The period of investigation is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable October 4, 2024.

FOR FURTHER INFORMATION CONTACT: Frank Schmitt or Amber Hodak, 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) 482–4880 or (202) 482–8034, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 20, 2024.[1] On July 3, 2024, Commerce postponed the preliminary determination of this investigation until September 23, 2024.[2] On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.[3] The deadline for the preliminary determination is now September 30, 2024.

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is solar cells from Vietnam. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.,* scope).[6] We received several comments concerning the scope of this investigation, as well as in the companion less-than-fair-value (LTFV) and countervailing duty (CVD) investigations of solar cells, as it appeared in the *Initiation Notice.* We are currently evaluating the scope comments filed by interested parties. We intend to issue our preliminary decision regarding the scope of the LTFV and CVD investigations in the preliminary determinations of the companion LTFV investigations, the deadline for which is November 27, 2024.[7] We will incorporate the scope decisions from the LTFV investigations into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in scope case and rebuttal briefs.[8]

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[9] For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

In making these findings, Commerce relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[10] For further information, *see* the ''Use of Facts Otherwise Available and Adverse Inferences'' section in the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 703(e)(1) of the Act, Commerce preliminarily determines that critical circumstances do not exist with respect to imports of solar cells from Vietnam for Boviet Solar Technology Co., Ltd. (Boviet Solar) and JA Solar Vietnam Company Limited (JAVN). However, Commerce preliminarily determines that critical circumstances exist with respect to imports of solar cells from Vietnam from: (1) GEP New Energy Viet Nam Company Limited; (2) Vietnam Green Energy Commercial Services Company Ltd.; (3) Shengtian New Energy Vina Co., Ltd; and (4) HT Solar Vietnam Limited Company. Commerce also preliminarily determines that critical circumstances exist with respect to imports from all other producers and exporters that enter subject merchandise under the All Others subsidy rate. For a full description of the methodology and results of Commerce's analysis, *see* the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final determination in this investigation with the final determination in the companion LTFV investigation of solar cells from Vietnam based on a request made by the petitioner.[11] Consequently, the final CVD determination will be issued on the same date as the final LTFV determination, which is currently scheduled to be issued no later than February 10, 2025.[12]

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[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam,* 89 FR 43816 (May 20, 2024) (*Initiation Notice*).

[2] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations,* 89 FR 55231 (July 3, 2024).

[3] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the Socialist Republic of Vietnam'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[6] *See Initiation Notice.*

[7] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than Fair-Value Investigations,* 89 FR 77473 (September 23, 2024) (*LTFV Preliminary Postponement*).

[8] The deadline for interested parties to submit scope case and rebuttal briefs will be established in the preliminary scope decision memorandum.

[9] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[10] *See* sections 776(a) and (b) of the Act.

[11] *See* Petitioner's Letter, ''Request to Align Countervailing Duty Investigation Final Determinations with Antidumping Duty Investigation Final Determinations,'' dated September 23, 2024.

[12] *See LTFV Preliminary Postponement.*

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily found a *de minimis* rate for Boviet Solar. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for JAVN. Consequently, the rate calculated for JAVN is also assigned as the rate for all other producers and exporters.

Rate for Non-Responsive Companies

Four exporters and/or producers of solar cells from Vietnam did not respond to Commerce's quantity and value (Q&V) questionnaires (*i.e.,* non-responsive companies). We find that, by not responding to the Q&V questionnaire, these companies withheld requested information and significantly impeded this proceeding. Thus, in reaching our preliminary determination, pursuant sections 776(a)(2)(A) and (C) of the Act, we are basing the CVD subsidy rate for these four non-responsive companies on facts otherwise available.

Further, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit responses to Commerce's Q&V questionnaire, the non-responsive companies did not cooperate to the best of their ability in this investigation. Accordingly, we preliminarily find that an adverse inference is warranted to ensure that the non-responsive companies will not obtain a more favorable result than if they had fully complied with our request for information. For more information on the application of adverse facts available to the non-responsive companies, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist: [13]

Company	Subsidy rate (percent *ad valorem*)
Boviet Solar Technology Co., Ltd	** 0.81
JA Solar Vietnam Company Limited; JA Solar PV Vietnam Company Limited; JA Solar NE Vietnam Company Limited	2.85
GEP New Energy Viet Nam Company Limited	* 292.61
Vietnam Green Energy Commercial Services Company Ltd	* 292.61
Shengtian New Energy Vina Co., Ltd	* 292.61
HT Solar Vietnam Limited Company	* 292.61
All Others	2.85

* Rate based on facts available with adverse inferences.

** *De minimis.*

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above. Because the subsidy rate for the Boviet Solar is *de minimis,* Commerce is directing CBP not to suspend liquidation of entries of the merchandise from this company.

Section 703(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise produced and/or exported by: (1) GEP New Energy Viet Nam Company Limited; (2) Vietnam Green Energy Commercial Services Company Ltd.; (3) Shengtian New Energy Vina Co., Ltd; (4) HT Solar Vietnam Limited Company; and, from all other producers and exporters whose imports enter under the all others subsidy rate. In accordance with section 703(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise from the exporters/producers identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

All interested parties will have the opportunity to submit scope case and rebuttal briefs on the preliminary decision regarding the scope of the CVD and LTFV investigations. The deadlines to submit scope case and rebuttal briefs will be provided in the preliminary scope decision memorandum. For all scope case and rebuttal briefs, parties must file identical documents simultaneously on the records of the ongoing CVD and LTFV investigations. No new factual information or business proprietary information may be included in either scope case or rebuttal briefs.

Case briefs or other written comments not related to the scope of the investigation may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be

[13] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with JA Solar Vietnam Company Limited: JA Solar PV Vietnam Company Limited; JA Solar NE Vietnam Company Limited.

filed not later than five days after the date for filing case briefs.[14] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[15]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[16] Further, we request that interested parties limit their public, executive summary of each issue to no more than 450 words, not including citations. We intend to use the public, executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the public, executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[17]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

[14] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[15] *See* 19 351.309(c)(2) and (d)(2).

[16] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[17] *See APO and Service Final Rule.*

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of solar cells from Vietnam are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: September 30, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This investigation covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the investigation.

Excluded from the scope of the investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the investigation are crystalline silicon photovoltaic cells, not exceeding 10,000 mm2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Additionally, excluded from the scope of the investigation are panels with surface area from 3,450 mm2 to 33,782 mm2 with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Also excluded from the scope of the investigation are:

(1) Off grid CSPV panels in rigid form with a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm2 per panel; (C) do not include a built-in inverter; (D) must include a permanently connected wire that terminates in either an 8 mm male barrel connector, or a two-port rectangular connector with two pins in square housings of different colors; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm2 per panel; (C) do not include a built-in inverter; (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (E) each panel is (1) permanently integrated into a consumer good; (2) encased in a laminated material without stitching, or (3) has all of the following characteristics: (i) the panel is encased in sewn fabric with visible stitching, (ii) includes a mesh zippered storage pocket, and (iii) includes a permanently attached wire that terminates in a female USB–A connector.

In addition, the following CSPV panels are excluded from the scope of the investigation: off-grid CSPV panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 80 watts per panel; (B) a surface area of less than 5,000 square centimeters (cm2) per panel; (C) do not include a built-in inverter; (D) do not have a frame around the edges of the panel; (E) include a clear glass back panel; and (F) must include a permanently connected wire that terminates in a twoport rectangular connector.

Additionally excluded from the scope of this investigation are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per panel; (2) a maximum

surface area of 16,000 cm2 per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8 mm diameter male barrel connector.

Also excluded from the scope of this investigation are off-grid crystalline silicon photovoltaic panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 180 watts per panel at 155 degrees Celsius; (B) a surface area of less than 16,000 square centimeters (cm2) per panel; (C) include a keep-out area of approximately 1,200 cm2 around the edges of the panel that does not contain solar cells; (D) do not include a built-in inverter; (E) do not have a frame around the edges of the panel; (F) include a clear glass back panel; (G) must include a permanently connected wire that terminates in a two-port rounded rectangular, sealed connector; (H) include a thermistor installed into the permanently connected wire before the twoport connector; and (I) include exposed positive and negative terminals at opposite ends of the panel, not enclosed in a junction box.

Modules, laminates, and panels produced in a third-country from cells produced in a subject country are covered by the investigation; however, modules, laminates, and panels produced in a subject country from cells produced in a third-country are not covered by the investigation.

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (December 7, 2012); and Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order, 77 FR 73017 (December 7, 2012).

Merchandise covered by the investigation is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8541.42.0010 and 8541.43.0010. Imports of the subject merchandise may enter under HTSUS subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, and 8507.20.8091. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2024–22994 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–169]

Certain Alkyl Phosphate Esters From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain alkyl phosphate esters (alkyl phosphate esters) from the People's Republic of China (China). The period of investigation is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable October 4, 2024.

FOR FURTHER INFORMATION CONTACT: Benjamin Nathan or Gregory Taushani, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3834 or (202) 482–1012, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 13, 2024.[1] On July 5, 2024, Commerce postponed the preliminary determination of this investigation until September 20, 2024.[2] On July 22, 2024, Commerce tolled certain deadlines in this proceeding by seven days.[3] The deadline for the preliminary determination is now September 27, 2024.

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx*.

Scope of the Investigation

The products covered by this investigation are alkyl phosphate esters from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[5] in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[6] Certain interested parties commented on the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations as it appeared in the *Initiation Notice.* Commerce intends to issue its preliminary decision regarding comments concerning the scope of the AD and CVD investigation on or before the preliminary determination of the companion AD investigation.

[1] *See Certain Alkyl Phosphate Esters from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 89 FR 43821 (May 20, 2024) (*Initiation Notice*).

[2] *See Alkyl Phosphate Esters from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 89 FR 55585 (July 5, 2024).

[3] *See* Memorandum, ''Tolling of Deadlines,'' dated July 22, 2024.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of Alkyl Phosphate Esters from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[6] *See Initiation Notice.*

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7] For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

Commerce notes that, in making these findings, it relied, in part, on facts available, and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[8] For further information, *see* the ''Use of Facts Otherwise Available and Adverse Inferences'' section in the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the concurrent less than fair value (LTFV) investigation of alkyl phosphate esters from China based on a request made by ICL–IP America, Inc., the petitioner.[9] Consequently, the final CVD determination will be issued on the same date as the final LTFV determination, which is currently scheduled to be issued no later than February 9, 2025, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated individual estimated countervailable subsidy rates for Anhui RunYue Technology Co., Ltd. (Anhui) and Zhejiang Wansheng Co., Ltd. (Zhejiang Wansheng) that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted-average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly ranged values for the merchandise under consideration.[10]

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Anhui RunYue Technology Co., Ltd.[11]	96.83
Zhejiang Wansheng Co., Ltd.[12]	35.47
Zhejiang Wanda Tools Group Corp	*564.13
All Others	50.15

*Rate is based on facts available with adverse inferences.

Disclosure

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

[9] *See* Petitioners' Letter, ''Request for Alignment of the Countervailing Duty Investigation with the Concurrent Antidumping Duty Investigation,'' dated September 13, 2024.

[10] With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. As complete publicly ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, ''Calculation of Subsidy Rate for All Others,'' dated concurrently with this notice.

[11] As discussed in the Preliminary Decision Memorandum, Commerce preliminarily finds Anhui to be cross owned with the following company: Yixing RunYue Enterprise Management Co., Ltd.

[12] As discussed in the Preliminary Decision Memorandum, Commerce preliminarily finds Zhejiang Wansheng to be cross-owned with two companies. Because all information pertaining to these cross-owned companies is business proprietary information, the calculated subsidy rate is only applicable to Zhejiang Wansheng.

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

date for filing case briefs.[13] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[14]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.[15] Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[16]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date, time, and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed using ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of alkyl phosphate esters from China are materially injuring, or threaten material injury, to the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: September 27, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products covered by this investigation are alkyl phosphate esters, which are halogenated and non-halogenated phosphorus-based esters with a phosphorus content of at least 6.5 percent (per weight) and a viscosity between 1 and 2000 mPa.s (at 20–25 °C).

Merchandise subject to this investigation primarily includes Tris (2-chloroisopropyl) phosphate (TCPP), Tris (1,3-dichloroisopropyl) phosphate (TDCP), and Triethyl Phosphate (TEP)).

TCPP is also known as Tris (1-chloro-2-propyl) phosphate, Tris (1-chloropropan-2-yl) phosphate, Tris (monochloroisopropyl) phosphate (TMCP), and Tris (2-chloroisopropyl) phosphate (TCIP). TCPP has the chemical formula $C_9H_{18}Cl_3O_4P$ and the Chemical Abstracts Service (CAS) Nos. 1244733–77–4 and 13674–84–5. It may also be identified as CAS No. 6145–73–9.

TDCP is also known as Tris (1,3-dichloroisopropyl) phosphate, Tris (1,3-dichloro-2-propyl) phosphate, Chlorinated tris, tris {2- chloro-1-(chloromethyl ethyl)} phosphate, TDCPP, and TDCIPP. TDCP has the chemical formula $C_9H_{15}Cl_6O_4P$ and the CAS No. 13674–87–8.

TEP is also known as Phosphoric acid triethyl ester, phosphoric ester, flame retardant TEP, Tris(ethyl) phosphate, Triethoxyphosphine oxide, and Ethyl phosphate (neutral). TEP has the chemical formula $(C_2H_5O)_3PO$ and the CAS No. 78–40–0.

Imported alkyl phosphate esters are not excluded from the scope of this investigation even if the imported alkyl phosphate ester consists of a single isomer or combination of isomers in proportions different from the isomers ordinarily provided in the market.

Also included in this investigation are blends including one or more alkyl phosphate esters, with or without other substances, where the alkyl phosphate esters account for 20 percent or more of the blend by weight.

Alkyl phosphate esters are classified under subheading 2919.90.5050, Harmonized Tariff Schedule of the United States (HTSUS). Imports may also be classified under subheadings 2919.90.5010 and 3824.99.5000, HTSUS. The HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes. The written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2024–22940 Filed 10–3–24; 8:45 am]

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[13] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[14] *See* 19 351.309(c)(2) and (d)(2).

[15] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[16] *See APO and Service Final Rule.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Antidumping Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On September 18, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *Fusong Jinlong Wooden Group Co., Ltd., et al* v. *United States,* Consol. Court no. 19–00144, sustaining the U.S. Department of Commerce (Commerce)'s remand results pertaining to the administrative review of the antidumping duty (AD) order on Multilayered Wood Flooring (MLWF) from the People's Republic of China (China) covering the period December 1, 2016 through November 30, 2017. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping

margin assigned to exporters that were eligible for a separate rate but not selected for individual examination.

DATES: Applicable September 28, 2024.

FOR FURTHER INFORMATION CONTACT: Matthew Lipka, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7976.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2019, Commerce published its *Final Results* in the 2016–2017 AD administrative review of MLWF from China.[1] In that review, Commerce calculated the dumping margin assigned to the non-individually examined companies found to be eligible for a separate rate as the simple-average of the two individually examined mandatory respondents' rates, a zero percent rate and an 85.13 percent rate based on facts available with an adverse inference (AFA), resulting in a margin of 42.57 percent.[2]

Mandatory respondent Sino-Maple (Jiangsu) Co., Ltd. (Sino Maple), certain separate rate companies,[3] and certain companies subject to the China-wide entity [4] rate appealed Commerce's *Final Results.* On December 22, 2022, the CIT remanded the *Final Results* to Commerce, sustaining Commerce's use of AFA to calculate Sino-Maple's rate and the separate rate eligibility determinations while remanding the *Final Results* on the issue of whether Commerce's use of Jiangsu Senmao Bamboo and Wood Industry Co., Ltd.'s (Senmao) highest transaction-specific dumping margin as Sino-Maple's AFA rate was authorized by section 776(d) of the Tariff Act of 1930, as amended (the Act).[5] The Court reserved decision on certain other challenges to Commerce's calculation of the separate rate assigned to the respondents not selected for individual examination. Commerce filed a motion for reconsideration of *Fusong I,* which was granted by the CIT on October 4, 2023, and found that Commerce's method for selecting AFA for Sino-Maple was lawful and relieved Commerce of a remand redetermination on that issue.[6]

In addressing the issue on reserve, on March 11, 2024, the CIT again remanded the *Final Results* for Commerce to reconsider or further explain its decision to calculate the separate rate as the simple-average of the mandatory respondents' zero percent and AFA rates, which the CIT viewed as a departure from its normal practice of using the expected method.[7] Specifically, citing section 735(c)(5)(B) of the Act and the Statement of Administrative Action (SAA),[8] the Court found that the statutory exception permits Commerce to use any reasonable method to establish the separate rate, but that in such cases the expected method Commerce would follow is to weight average a zero or *de minimis* margin with the AFA margin and that by choosing to use a simple average, Commerce was required to provide a reasonable explanation for its departure.[9]

In compliance with the CIT's order, Commerce calculated a weighted-average dumping margin of 31.63 percent for non-individually examined companies eligible for a separate rate.[10] The CIT sustained Commerce's final redetermination.[11]

Timken Notice

In its decision in *Timken,*[12] as clarified by *Diamond Sawblades,*[13] the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's September 18, 2024, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to the non-individually-examined companies as follows:

Exporter	Weighted-average dumping margin (percent)
Non-Individually-Examined Respondents Eligible for a Separate Rate [14]	31.63

Cash Deposit Requirements

Because all separate rate respondents subject to injunction have a superseding cash deposit rate, *i.e.,* there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate for those companies.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined from liquidating entries that were exported by the non-individually-examined companies, and were entered, or withdrawn from warehouse, for

[1] *See Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016–2017,* 84 FR 38002, 38003 (August 5, 2019) (*Final Results*).

[2] *Id.*

[3] *See* Appendix for a list of the separate rate companies under injunction.

[4] The enjoined companies subject to the China-wide rate are: Baishan Huafeng Wooden Product Co., Ltd., Dalian Penghong Floor Products Co., Ltd., Jilin Forest Industry Jinqiao Flooring Group Co., Ltd., Kingman Floors Co., Ltd., and Scholar Home (Shanghai) New Material Co., Ltd. *See Multilayered Wood Flooring From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2016–2017,* 83 FR 65630 (December 21, 2018) and accompanying Preliminary Decision Memorandum at 6, 7, and 12 (unchanged in the final results).

[5] *See Fusong Jinlong Wooden Grp. Co., Ltd.* v. *United States,* 617 F.Supp.3d 1221 (CIT 2022) (*Fusong I*).

[6] *See Fusong Jinlong Wooden Grp. Co.* v. *United States,* Slip Op. 23–145 (CIT October 4, 2023) at 2.

[7] *See Fusong Jinlong Wooden Grp. Co., Ltd.* v. *United States,* 693 F.Supp.3d 1302 (CIT 2024) (*Fusong II*).

[8] *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, Vol. 1 (1994), at 873.

[9] *See Fusong II* at 1307–10.

[10] *See Final Results of Redetermination Pursuant to Court Remand, Fusong Jinlong Wooden Group Co., Ltd. et al* v. *United States,* Court No. 19–144, Slip Op. 24–29 (CIT September 18, 2024), dated June 7, 2024, available at *http://access.trade.gov/public/FinalRemandRedetermination.aspx.*

[11] *See Fusong Jinlong Wooden Grp. Co.* v. *United States,* Slip Op. 24–103 (CIT September 18, 2024).

[12] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[13] *See Diamond Sawblades Manufacturers Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond* Sawblades).

consumption during the period December, 1, 2016 through November 30, 2017.[15] These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, is upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise exported by the non-individually examined separate rate respondents in accordance with 19 CFR 351.212(b), where appropriate. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review at the AD rate noted in the table above.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: September 27, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Non-Individually Examined Respondents Eligible To Receive a Separate Rate Under Injunction

A&W (Shanghai) Woods Co., Ltd.
Benxi Wood Company
Dalian Dajen Wood Co., Ltd.
Dalian Jiahong Wood Industry Co., Ltd.
Dalian Kemian Wood Industry Co., Ltd.
Dalian Qianqiu Wooden Product Co., Ltd.
Dongtai Fuan Universal Dynamics, LLC
Dun Hua Sen Tai Wood Co., Ltd.
Dunhua Shengda Wood Industry Co., Ltd.
Fusong Jinlong Wooden Group Co., Ltd.
Fusong Qianqiu Wooden Product Co., Ltd.
Hailin Linjing Wooden Products Co., Ltd.
Hangzhou Hanje Tec Co., Ltd.
Hunchun Xingjia Wooden Flooring Inc.
Huzhou Chenghang Wood Co., Ltd.
Jiangsu Guyu International Trading Co., Ltd
Jiangsu Mingle Flooring Co., Ltd.
Jiangsu Simba Flooring Co., Ltd.
Jiashan Huijiale Decoration Material Co., Ltd.
Kemian Wood Industry (Kunshan) Co., Ltd.
Linyi Anying Wood Co., Ltd.
Linyi Youyou Wood Co., Ltd.
Metropolitan Hardwood Floors, Inc.
Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd.
Pinghe Timber Manufacturing (Zhejiang) Co., Ltd.
Shenyang Haobainian Wooden Co. Ltd.
Shenzhenshi Huanwei Woods Co., Ltd.
Suzhou Dongda Wood Co., Ltd.
Tongxiang Jisheng Import and Export Co., Ltd
Yihua Lifestyle Technology Co., Ltd.
Zhejiang Biyork Wood Co., Ltd.
Zhejiang Dadongwu GreenHome Wood Co., Ltd.
Zhejiang Fuerjia Wooden Co., Ltd.

[FR Doc. 2024–22971 Filed 10–3–24; 8:45 am]

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[14] *See* Appendix.

[15] *See* Appendix for a list of the non-examined respondents eligible for a separate rate.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–549–852]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Thailand: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from Thailand. The period of investigation (POI) is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable October 4, 2024.

FOR FURTHER INFORMATION CONTACT: Shane Subler or Henry Wolfe, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6241, and (202) 482–0574, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 20, 2024.[1] On July 3, 2024, Commerce postponed the preliminary determination of this investigation.[2] On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.[3] The deadline for the preliminary determination is now September 30, 2024.

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are solar cells. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.,* scope).[6] We received several comments concerning the scope of this investigation, as well as in the companion less-than-fair-value (LTFV) and other countervailing duty (CVD) investigations of solar cells, as it appeared in the *Initiation Notice.* We intend to issue our preliminary decision regarding the scope of the LTFV and CVD investigations in the preliminary determinations of the companion LTFV investigations, the deadline of which is November 27, 2024.[7] We will

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations,* 89 FR 43816 (May 20, 2024) (*Initiation Notice*).

[2] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 88 FR 43295 (July 3, 2024).

[3] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination and Preliminary Affirmative Critical Circumstances Determination, in Part, in the Countervailing Duty Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Thailand,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[6] *See Initiation Notice.*

[7] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Cambodia, Malaysia, Thailand, and the Socialist*

incorporate the scope decisions from the LTFV investigations into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in scope case and rebuttal briefs.[8]

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[9] In making its determination, Commerce relied, in part, on facts otherwise available. Further, because Commerce found that certain parties did not act to the best of their abilities to respond to Commerce's requests for information, Commerce has drawn an adverse inference where appropriate in selecting from among the facts otherwise available.[10] For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 703(e)(1) of the Act, Commerce preliminarily determines that critical circumstances do not exist with respect to mandatory respondent Trina Solar Science & Technology (Thailand) Ltd. (TTL), which received a *de minimis* preliminary net countervailable subsidy rate. However, Commerce preliminarily determines that critical circumstances exist with respect to imports of subject merchandise from (1) Sunshine Electrical Energy (Sunshine Electrical); and (2) Taihua New Energy (Thailand) Co. Ltd. (Taihua New Energy). Commerce also preliminary determines that critical circumstances exist with respect to imports from all other producers and exporters that enter subject merchandise under the All Others subsidy rate. For a full description of the methodology and results of Commerce's analysis, *see* the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination with the final determination in the companion LTFV investigation of solar cells from Thailand based on a request made by the petitioner.[11] Consequently, the final CVD determination will be issued on the same date as the final LTFV determination, which is currently scheduled to be issued no later than February 10, 2025, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act state that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. Section 705(c)(5)(A)(i) of the Act states that for companies not individually investigated, Commerce will determine an ''all-others'' rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. If the rates established for all exporters and producers individually investigated are zero, *de minimis,* or determined entirely under facts available, Commerce may use any reasonable method to establish an all-others rate.[12] For this preliminary determination, Commerce has determined Sunshine Electrical's and Taihua New Energy's rates entirely under facts available with an adverse inference. Additionally, TTL's preliminary subsidy rate is *de minimis.* Therefore, in accordance with section 705(c)(5)(A)(ii) of the Act, we are preliminarily applying a simple average of the subsidy rates calculated for Sunshine Electrical, Taihua New Energy, and TTL as the all-others rate.[13]

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Trina Solar Science & Technology (Thailand) Ltd	** 0.14
Sunshine Electrical Energy	* 34.52
Taihua New Energy (Thailand) Co. Ltd	* 34.52
All Others	23.06

* Rate based on facts available with adverse inferences.

** *De minimis.*

Suspension of Liquidation

With the exception of entries from TTL, in accordance with sections 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in Appendix I to this notice entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above. Because we preliminarily determine that the CVD rate in this investigation for TTL is *de minimis,* we will not direct CBP to suspend liquidation of TTL's entries of the subject merchandise from Thailand.

Section 703(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published in the **Federal Register**. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise produced and/or exported by: (1) Sunshine Electrical; (2) Taihua New Energy, and, from all other producers and exporters whose imports enter under the all others subsidy rate. In accordance with section 703(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise from the exporters/producers identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice in the **Federal Register**.

Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations 89 FR 77473 (September 23, 2024) (*LTFV Prelim Postponement*).

[8] The deadline for interested parties to submit scope case and rebuttal briefs will be established in the preliminary scope decision memorandum.

[9] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[10] *See* sections 776(a) and (b) of the Act.

[11] *See* Petitioner's Letter, ''Request to Align Countervailing Duty Investigation Final Determinations with Antidumping Duty Investigation Final Determinations,'' dated September 23, 2024.

[12] *See* sections 705(c)(5)(A)(i) and (ii) of the Act.

[13] *See, e.g., Non-Oriented Electrical Steel From Taiwan: Final Affirmative Countervailing Duty Determination,* 79 FR 71602 (October 14, 2014), and accompanying IDM at Comment 11.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

All interested parties will have the opportunity to submit scope case and rebuttal briefs on the preliminary decision regarding the scope of the LTFV and CVD investigations. The deadlines to submit scope case and rebuttal briefs will be provided in the preliminary scope decision memorandum. For all scope case and rebuttal briefs, parties must file identical documents simultaneously on the records of the ongoing LTFV and CVD solar cell investigations. No new factual information or business proprietary information may be included in either scope case or rebuttal briefs.

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation.[14] A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[15] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[16]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[17] Further, we request that interested parties limit their public, executive summary of each issue to no more than 450 words, not including citations. We intend to use the public, executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the public, executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[18]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of solar cells from Thailand are materially injuring, or threaten material injury to, the U.S. industry.[19]

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: September 30, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This investigation covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the investigation.

Excluded from the scope of the investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the investigation are crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Additionally, excluded from the scope of the investigation are panels with surface area

[14] *See* 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

[15] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[16] *See* 19 351.309(c)(2) and (d)(2).

[17] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[18] *See APO and Service Final Rule.*

[19] *See* section 705(b)(2) of the Act.

from 3,450 mm² to 33,782 mm² with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Also excluded from the scope of the investigation are:

(1) Off grid CSPV panels in rigid form with a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm² per panel; (C) do not include a built-in inverter; (D) must include a permanently connected wire that terminates in either an 8 mm male barrel connector, or a two-port rectangular connector with two pins in square housings of different colors; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport); and

(2) Off grid CSPV panels without a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm² per panel; (C) do not include a built-in inverter; (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (E) each panel is (1) permanently integrated into a consumer good; (2) encased in a laminated material without stitching, or (3) has all of the following characteristics: (i) the panel is encased in sewn fabric with visible stitching, (ii) includes a mesh zippered storage pocket, and (iii) includes a permanently attached wire that terminates in a female USB–A connector.

In addition, the following CSPV panels are excluded from the scope of the investigation: off-grid CSPV panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 80 watts per panel; (B) a surface area of less than 5,000 square centimeters (cm²) per panel; (C) do not include a built-in inverter; (D) do not have a frame around the edges of the panel; (E) include a clear glass back panel; and (F) must include a permanently connected wire that terminates in a twoport rectangular connector.

Additionally excluded from the scope of this investigation are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per panel; (2) a maximum surface area of 16,000 cm² per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8 mm diameter male barrel connector.

Also excluded from the scope of this investigation are off-grid crystalline silicon photovoltaic panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 180 watts per panel at 155 degrees Celsius; (B) a surface area of less than 16,000 square centimeters (cm²) per panel; (C) include a keep-out area of approximately 1,200 cm² around the edges of the panel that does not contain solar cells; (D) do not include a built-in inverter; (E) do not have a frame around the edges of the panel; (F) include a clear glass back panel; (G) must include a permanently connected wire that terminates in a two-port rounded rectangular, sealed connector; (H) include a thermistor installed into the permanently connected wire before the twoport connector; and (I) include exposed positive and negative terminals at opposite ends of the panel, not enclosed in a junction box.

Modules, laminates, and panels produced in a third-country from cells produced in a subject country are covered by the investigation; however, modules, laminates, and panels produced in a subject country from cells produced in a third-country are not covered by the investigation.

Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (December 7, 2012); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (December 7, 2012).

Merchandise covered by the investigation is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8541.42.0010 and 8541.43.0010. Imports of the subject merchandise may enter under HTSUS subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, and 8507.20.8091. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2024–22993 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–555–004]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules From the Kingdom of Cambodia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells) from the Kingdom of Cambodia (Cambodia). The period of investigation is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable October 4, 2024.

FOR FURTHER INFORMATION CONTACT: Dusten Hom or Garry Kasparov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5075 or (202) 482–1357, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 20, 2024.[1] On July 3, 2024, Commerce postponed the preliminary determination of this investigation.[2] On

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations,* 89 FR 43816 (May 20, 2024) (*Initiation Notice*).

[2] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary*

Continued

July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.[3] The deadline for this preliminary determination is now September 30, 2024.[4]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[5] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are solar cells from Cambodia. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[6] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.,* scope).[7] We received several comments concerning the scope of this investigation, as well as in the companion less-than-fair-value (LTFV) and countervailing duty (CVD) investigations of solar cells, as it appeared in the *Initiation Notice.* We are currently evaluating scope comments filed by interested parties. We intend to issue our preliminary decision regarding the scope of the LTFV and CVD investigations in the preliminary determinations of the companion LTFV investigations, the deadline for which is November 27, 2024.[8] We will incorporate the scope decisions from the LTFV investigation into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in scope case and rebuttal briefs.[9]

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[10] For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

In making these findings, Commerce relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[11] For further information, *see* the ''Use of Facts Otherwise Available and Adverse Inferences'' section in the Preliminary Decision Memorandum.

Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion LTFV investigation of solar cells from Cambodia based on a request made by the petitioner.[12] Consequently, the final CVD determination will be issued on the same date as the final LTFV determination, which is currently scheduled to be issued no later than February 10, 2025.[13]

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned a rate based entirely on facts available with an adverse inference to Jintek Photovoltaic Technology Co., Ltd (Jintek). Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Solarspace New Energy (Cambodia) Co., Ltd. (Solarspace). Consequently, the rate calculated for Solarspace is also assigned as the rate for all other producers and exporters.

Rate for Non-Responsive Company

One exporter and/or producer of solar cells from Cambodia, ISC Cambodia, did not respond to Commerce's quantity and value (Q&V) questionnaire. We find that, by not responding to the Q&V questionnaire, this company withheld requested information and significantly impeded this proceeding. Thus, in reaching our preliminary determination, pursuant sections 776(a)(2)(A) and (C) of the Act, we are basing the CVD subsidy rate for ISC Cambodia on facts otherwise available.

Further, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit responses to Commerce's Q&V questionnaire, ISC Cambodia did not cooperate to the best of their ability in this investigation. Accordingly, we preliminarily find that an adverse inference is warranted to ensure that ISC Cambodia will not obtain a more favorable result than had they fully complied with our request for information. For more information on the application of adverse facts available, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Determinations in the Countervailing Duty Investigations, 89 FR 55231 (July 3, 2024).

[3] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[4] Tolling the deadline for the preliminary determination by seven days would place it on Saturday, September 28, 2024. It is Commerce's practice that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the Kingdom of Cambodia,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[7] *See Initiation Notice.*

[8] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from Cambodia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than Fair-Value Investigations,* 89 FR 77473 (September 23, 2024) (*LTFV Preliminary Postponement*).

[9] The deadline for interested parties to submit scope case and rebuttal briefs will be established in the preliminary scope decision memorandum.

[10] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[11] *See* sections 776(a) and (b) of the Act.

[12] *See* Petitioner's Letter, ''Request to Align Countervailing Duty Investigation Final Determinations with Antidumping Duty Investigation Final Determinations,'' dated September 23, 2024.

[13] *See LTFV Preliminary Postponement.*

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Solarspace New Energy (Cambodia) Co., Ltd	8.25
Jintek Photovoltaic Technology Co., Ltd	*68.45
ISC Cambodia	*68.45
All Others	8.25

*Rate based on facts available with adverse inferences.

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

All interested parties will have the opportunity to submit scope case and rebuttal briefs on the preliminary decision regarding the scope of the CVD and LTFV investigations. The deadlines to submit scope case and rebuttal briefs will be provided in the preliminary scope decision memorandum. For all scope case and rebuttal briefs, parties must file identical documents simultaneously on the records of the ongoing CVD and LTFV investigations. No new factual information or business proprietary information may be included in either scope case or rebuttal briefs.

Case briefs or other written comments not related to the scope of the investigation may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[14] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[15]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[16] Further, we request that interested parties limit their public, executive summary of each issue to no more than 450 words, not including citations. We intend to use the public, executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the public, executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[17]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of solar cells from Cambodia are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: September 30, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

This investigation covers crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled

[14] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[15] *See* 19 351.309(c)(2) and (d)(2)

[16] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[17] *See APO and Service Final Rule.*

after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the investigations.

Excluded from the scope of the investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the investigation are crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Additionally, excluded from the scope of the investigation are panels with surface area from 3,450 mm^2 to 33,782 mm^2 with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. For the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Also excluded from the scope of the investigation are:

(1) Off grid CSPV panels in rigid form with a glass cover, with the following characteristics: (A) a total power output of 100 watts or less per panel; (B) a maximum surface area of 8,000 cm^2 per panel; (C) do not include a built-in inverter; (D) must include a permanently connected wire that terminates in either an 8 mm male barrel connector, or a two-port rectangular connector with two pins in square housings of different colors; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell; and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features, and foam for transport); and

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Additionally excluded from the scope of this investigation are off-grid small portable crystalline silicon photovoltaic panels, with or without a glass cover, with the following characteristics: (1) a total power output of 200 watts or less per panel; (2) a maximum surface area of 16,000 cm^2 per panel; (3) no built-in inverter; (4) an integrated handle or a handle attached to the package for ease of carry; (5) one or more integrated kickstands for easy installation or angle adjustment; and (6) a wire of not less than 3 meters either permanently connected or attached to the package that terminates in an 8 mm diameter male barrel connector.

Also excluded from the scope of this investigation are off-grid crystalline silicon photovoltaic panels in rigid form with a glass cover, with each of the following physical characteristics, whether or not assembled into a fully completed off-grid hydropanel whose function is conversion of water vapor into liquid water: (A) a total power output of no more than 180 watts per panel at 155 degrees Celsius; (B) a surface area of less than 16,000 square centimeters (cm^2) per panel; (C) include a keep-out area of approximately 1,200 cm^2 around the edges of the panel that does not contain solar cells; (D) do not include a built-in inverter; (E) do not have a frame around the edges of the panel; (F) include a clear glass back panel; (G) must include a permanently connected wire that terminates in a two-port rounded rectangular, sealed connector; (H) include a thermistor installed into the permanently connected wire before the twoport connector; and (I) include exposed positive and negative terminals at opposite ends of the panel, not enclosed in a junction box.

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Also excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (December 7, 2012); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (December 7, 2012).

Merchandise covered by the investigation is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8541.42.0010 and 8541.43.0010. Imports of the subject merchandise may enter under HTSUS subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, and 8507.20.8091. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the investigations is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2024–22999 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–877]

Stainless Steel Flanges From India: Notice of Amended Final Results of Antidumping Duty Administrative Review Pursuant to Settlement

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is issuing these amended final results pursuant to a settlement agreement with certain companies covered by the final results of the administrative review of stainless steel flanges from India for the period of review (POR) March 28, 2018, through September 30, 2019.

DATES: Applicable October 4, 2024.

FOR FURTHER INFORMATION CONTACT: Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0413.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2021, Commerce published the final results of its administrative review of the antidumping duty order on stainless

steel flanges from India.[1] The administrative review covered 46 companies.[2] The following companies were among the 45 companies which were not selected for individual examination: Balkrishna Steel Forge Pvt. Ltd.; Bebitz Flanges Works Private Limited; [3] Echjay Forgings Private Ltd; Goodluck India Ltd; Hilton Metal Forging Limited; Jai Auto Pvt. Ltd.; Jay Jagdamba Forgings Private Limited; Jay Jagdamba Limited; Jay Jagdamba Profile Private Limited; Kisaan Die Tech; [4] Pradeep Metals Limited; and Shree Jay Jagdamba Flanges Pvt. Ltd. (collectively, the non-selected companies). The non-selected companies are all producers/exporters of stainless steel flanges from India. In the *Final Results,* Commerce assigned a margin of 145.25 percent to these companies for the POR because that was the margin assigned to the sole company which Commerce individually examined.[5]

Following the publication of the *Final Results,* the non-selected companies filed a lawsuit with the U.S. Court of International Trade (CIT) challenging Commerce's decision to assign a dumping margin which was determined using facts available with adverse inferences for the sole mandatory respondent to all non-selected companies.[6]

On September 30, 2024, the United States and the non-selected companies entered into an agreement to settle this dispute. Pursuant to the terms of the settlement and the stipulation for entry of judgment, the amended dumping margins for the non-selected companies are set forth below in the ''Amended Final Results of Administrative Review'' section of this notice. The CIT issued its order of judgment by stipulation on September 30, 2024.[7]

Amended Final Results of Administrative Review

The non-selected companies' final estimated weighted-average dumping margins are listed below for POR, March 28, 2018, through September 30, 2019.

Exporter/producer	Weighted average dumping margin (percent)
Balkrishna Steel Forge Pvt. Ltd	5.20
Bebitz Flanges Works Private Limited/Viraj Impoexpo, Ltd./Flanschen werk Bebitz GmbH/Viraj Alloys, Ltd./Viraj Forgings, Ltd./Viraj Profiles Limited *	74.30
Echjay Forgings Private Ltd	1.70
Goodluck India Ltd	5.20
Hilton Metal Forging Limited	5.20
Jai Auto Pvt. Ltd	5.20
Jay Jagdamba Forgings Private Limited	5.20
Jay Jagdamba Limited	5.20
Jay Jagdamba Profile Private Limited	5.20
Kisaan Die Tech **	4.13
Pradeep Metals Limited	5.20
Shree Jay Jagdamba Flanges Pvt. Ltd	5.20

* AKA BFN Forgings Private Limited.
** AKA Kisaan Die Tech Private Limited.

Assessment Rates

Consistent with the settlement agreement and September 30, 2024, order of judgment by stipulation, Commerce will instruct U.S. Customs and Border Protection (CBP) within 15 days following publication of these amended final results to liquidate all unliquidated entries of stainless steel flanges from India produced and/or exported by the non-selected companies and entered, or withdrawn from consumption in the United States during the POR, at the assessment rates noted above. Pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these amended final results of review.

Cash Deposit Requirements

Because all of the non-selected companies have a superseding cash deposit rate, *i.e.,* there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to CBP. This notice will not affect the current cash deposit rates for the non-selected companies.

Notification to Interested Parties

We are issuing this determination and publishing these amended final results and notice in accordance with section 516a(e) of the Act.

Dated: September 30, 2024.

Steven Presing,

Acting Deputy Assistant Secretary for Policy and Negotiations.

[FR Doc. 2024–22972 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Stainless Steel Flanges from India: Final Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 47619 (August 26, 2021) (*Final Results*).

[2] *Id.,* 86 FR at 47619–21.

[3] Bebitz Flange Works Private Limited is part of a collapsed entity with the following companies: Viraj Impoexpo, Ltd.; Flanschen werk Bebitz GmbH (AKA Flanschenwerk Bebitz GmbH); Viraj Alloys, Ltd.; Viraj Forgings, Ltd.; and Viraj Profiles Limited. *See Stainless Steel Flanges from India: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstance Determination,* 83 FR 40745 (August 16, 2018). In a subsequent administrative review, Commerce found BFN Forgings Private Limited to be a successor-in-interest to Bebitz Flange Works Private Limited. *See Stainless Steel Flanges from India: Final Results of Antidumping Duty Administrative Review; 2019–2020,* 87 FR 27568, 27569 n.13 (May 9, 2022) (*2019–2020 Final Results*).

[4] Commerce considers Kisaan Die Tech to be the same company as Kisaan Die Tech Private Limited. *See Stainless Steel Flanges from India: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Successor-in-Interest Determination, and Partial Rescission; 2019–2020,* 86 FR 60792, n.3 (November 4, 2021), unchanged in *2019–2020 Final Results.*

[5] *See Final Results,* 86 FR at 47620–21.

[6] *See Kisaan Die Tech Private Limited* v. *United States,* Consol. Court No. 21–000512, Slip Op. No. 23–172 (Dec. 8, 2023) at 5.

[7] *See Kisaan Die Tech Private Limited* v. *United States,* Consol. Court No. 21–000512, ECF No. 85 (September 30, 2024).

DEPARTMENT OF COMMERCE

International Trade Administration

Announcement of Approved International Trade Administration Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

The United States Department of Commerce, International Trade Administration (ITA), is announcing one upcoming trade mission that will be recruited, organized, and implemented by ITA. This mission is: Global Diversity Export Initiative (GDEI) Trade Mission to India, Singapore, and Hong Kong March 2–8, 2025.

A summary of the mission is found below. Application information and more detailed mission information, including the commercial setting and sector information, can be found at the trade mission website: *https://www.trade.gov/trade-missions.*

For this mission, recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*https://www.trade.gov/trade-missions-schedule*) and other internet websites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

FOR FURTHER INFORMATION CONTACT: Shirreef Loza, Trade Events Task Force, International Trade Administration, U.S. Department of Commerce,

telephone (919) 695–6365 or email *Shirreef.Loza@trade.gov.*

SUPPLEMENTARY INFORMATION:

The Following Conditions for Participation Will Be Used for the Mission

Applicants must submit a completed and signed mission application and supplemental application materials, including adequate information on their products and/or services, primary market objectives, and goals for participation that is adequate to allow the Department of Commerce to evaluate their application. If the Department of Commerce receives an incomplete application, the Department of Commerce may either: reject the application, request additional information/clarification, or take the lack of information into account when evaluating the application. If the requisite minimum number of participants is not selected for a particular mission by the recruitment deadline, the mission may be cancelled.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content by value. In the case of a trade association or organization, the applicant must certify that, for each firm or service provider to be represented by the association/organization, the products and/or services the represented firm or service provider seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content by value.

A trade association/organization applicant must certify to the above for every company it seeks to represent on the mission. In addition, each applicant must:

- Certify that the products and services that it wishes to market through the mission would be in compliance with U.S. export controls and regulations;
- Certify that it has identified any matter pending before any bureau or office in the Department of Commerce;
- Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and
- Sign and submit an agreement that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

In the case of a trade association/organization, the applicant must certify that each firm or service provider to be represented by the association/organization can make the above certifications.

The Following Selection Criteria Will Be Used for the Mission

Targeted mission participants are U.S. firms, services providers and trade associations/organizations providing or promoting U.S. products and services that have an interest in entering or expanding their business in the mission's destination markets. The following criteria will be evaluated in selecting participants:

- Suitability of the applicant's (or in the case of a trade association/organization, represented firm's or service provider's) products or services to these markets;
- The applicant's (or in the case of a trade association/organization, represented firm's or service provider's) potential for business in the markets, including likelihood of exports resulting from the mission; and
- Consistency of the applicant's (or in the case of a trade association/organization, represented firm's or service provider's) goals and objectives with the stated scope of the mission.

Balance of company size and location may also be considered during the review process.

Referrals from a political party or partisan political group or any information, including on the application, containing references to political contributions or other partisan political activities will be excluded from the application and will not be considered during the selection process. The applicant will be notified of these exclusions. The Department of Commerce will evaluate applications and inform applicants of selection decisions on a rolling basis until the maximum number of participants has been selected.

Definition of Small- and Medium-Sized Enterprise

For purposes of assessing participation fees, an applicant is a small or medium-sized enterprise (SME) if it qualifies as a ''small business'' under the Small Business Administration's (SBA) size standards (*https://www.sba.gov/document/support--table-size-standards*), which vary by North American Industry Classification System (NAICS) Code. The SBA Size Standards Tool (*https://www.sba.gov/size-standards*) can help you determine the qualifications that apply to your company.

Mission List: (additional information about trade missions can be found at *https://www.trade.gov/trade-missions*).

Global Diversity Export Initiative (GDEI) Trade Mission to India, Singapore, and Hong Kong—March 2–8, 2025

Summary

The United States Department of Commerce, International Trade Administration (ITA), U.S. and Foreign Commercial Service (USFCS) is organizing a Global Diversity Export Initiative (GDEI) Trade Mission to India, Singapore, and Hong Kong that will include the Export Markets Providing Opportunities for Women's Economic Rise (EMPOWER) Asia Business Conference in Bengaluru, India, Monday, March 3–Tuesday, March 4, 2025. The mission is focused on expanding export opportunities for U.S. businesses that are founded, led, operated, or owned by members of underserved communities from industries with growing potential in India, Singapore, and Hong Kong, but is open to all export-ready U.S. companies.

All trade mission members will participate in the EMPOWER Asia Business Conference, which will also be open to U.S. companies not participating in the trade mission. On Monday, March 3, the EMPOWER Asia Business Conference will include country briefings, a networking lunch, afternoon workshops and one-on-one meetings with key service providers and U.S. diplomats and/or industry specialists, information and material on trade-related resources, and an evening networking reception. On Tuesday, March 4, the second day of business conference, participants will take apart in plenary session, break-out sessions, meeting with U.S. diplomats from the region, and workshops. On Tuesday afternoon, participants who elect India as one of their trade mission stops will engage in business-to-business (B2B) meetings in Bengaluru, India. Wednesday, March 5, will be a travel day for trade mission participants who elect trade mission stop(s) in Singapore (Thursday, March 6) and/or Hong Kong (Friday, March 7).

Trade mission participants may apply to participate one, two, or three trade mission stops. Each trade mission stop will include one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint-venture partners, and networking events.

Recruitment and consideration will be extended to all export-ready U.S. companies, including small businesses, trade associations, and other exporting organizations that meet the established criteria for participation in the mission. This mission is focused on expanding export opportunities to U.S. small and medium-sized businesses that are founded, led, operated, or owned by leaders from underserved communities with growing potential in India, Singapore, and Hong Kong. The mission is horizontal, with various sectors represented, based on best prospects for U.S. companies in the region.

Best prospect sectors *:

- Information and Communication Technology (ICT) sector and subsectors:
  - cybersecurity
  - smart city infrastructure and technology solutions
  - artificial intelligence markets and cloud computing
- Finance and FinTech
- Healthcare & Biotechnology
- Clean Energy
- Environmental Technology
- Critical and Emerging Technologies
- Aerospace and Defense, and Space

* Other sectors will not be excluded.

Recruitment and consideration will be extended to all export-ready U.S. companies, including small businesses, trade associations and other exporting organizations that meet the established criteria for participation in the mission. In keeping with the U.S. Department of Commerce's Equity Action Plan, ITA seeks to improve outreach to and representation of businesses with owners and/or leaders from underserved communities, including through the Global Diversity Export Initiative of the U.S. Commercial Service. This mission will expand access to export opportunities to U.S. small and medium-sized businesses, including those founded, led, operated, or owned by members of underserved communities from industries with growing potential in India, Singapore, and Hong Kong.

This mission is designed to be responsive to the priorities stated by Secretary of Commerce Gina Raimondo and outlined in the Equity Action Plan released in April 2022 which aspires to ''harness the talents and strengths of all parts of the country, including women, people of color, and others who are too often left behind'' including by ''[s]trengthen[ing] small businesses in underserved communities by helping them be successful exporters.''

In line with the Biden-Harris Administration Executive Orders [1] and the National Export Strategy chapter on bolstering export assistance for small businesses and underserved communities, the GDEI has increased awareness and participation of diverse companies in the export ecosystem. With almost 272,000 U.S. small and medium-sized businesses exporting, the limited number of companies from underserved communities participating in international trade is in stark contrast with the total universe of exporters. According to the most recent Census data (2021), from a sample of approximately 146,000 firms that export, 15 percent are women-owned; 6 percent are Hispanic-owned; 6 percent are Veteran-owned; and 1 percent are Black or African American-owned firms. The Department of Commerce, through events such as this mission seeks to continue to scale the next generation of innovation, maintain global competitiveness, and ensure that more diverse businesses benefit from harnessing the potential of exports. Additionally, based on the 2020–2021 Census Bureau Profile of U.S. Importing and Exporting Companies and the 2022 Annual Business Survey, India, Singapore, and Hong Kong were not in the top 10 export markets ranked for women-owned, Hispanic American-owned, and Native American-owned small and medium sized-businesses, while India ranked as the 8th top export market for veteran-owned small and medium-sized businesses and the 10th top export market for Black or African American-owned small and medium-sized businesses and Singapore ranked as the 8th top market for Native Hawaiian and other Pacific Islander-owned small and medium-sized businesses, indicating room for growth in the region. The EMPOWER Asia initiative surveying women-owned businesses also ranks India as a top 4 ''Desirable'' market. Survey participants also emphasized the need for specific knowledge while entering the Asian market, including e-commerce, financing, regulatory compliance, and supply chain resilience. This trade mission in conjunction with the EMPOWER Asia Business conference will help address an urgent demand to have region-specific training combined with networking, consultations, and exposure to new opportunities to unlock these key portals to the South Asia region.

The Minority Business Development Agency finds that ''[ex]xporting creates a competitive advantage for all Minority Business Enterprises (MBEs), regardless of home country'' and ''significant engagement in international sales and trade, leads to stronger businesses, creates new jobs, and in the long-term, contributes to the sustainability of the commercial ecosystems necessary to create thriving communities.''

Website: Please visit our official mission website for more information: *https://events.trade.gov/TradeGov/GDEITradeMissiontoIndiaSingaporeandHongKong/.*

Proposed Timetable

This timetable allows for clients to take part in business matchmaking across the diverse Asian marketplace by offering scheduled business-to-business meetings in India, Singapore, and Hong Kong. This structure ensures that each post has set days for meetings that allow the clients to explore at least three of their best prospects for business. The final schedule will depend on the availability of host government and business officials, specific goals of mission participants, and ground transportation.

[1] This mission is in alignment with Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 25, 2021) (E.O. 13985), Executive Order 14091 on Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (February 22, 2022) (E.O. 14091), Executive Order 14020 on the Establishment of the White House Gender Policy Council (March 11, 2021) (E.O. 14020), and the Global Diversity Export Initiative of the U.S. Commercial Service.

For the purposes of the trade mission, ITA adopts the definition of ''underserved communities'' in E.O. 14020, incorporated into E.O. 14091: ''populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of ''equity.'' ''Equity'' is defined as ''the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as women and girls; Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.''

Sunday, March 2, 2025	Trade mission participants arrive in Bengaluru, India.
Monday, March 3, 2025	Bengaluru: EMPOWER Asia Business Conference. *Morning:* Opening plenary, country briefings, and networking lunch with key service providers and U.S. diplomats and/or industry specialists. *Afternoon:* Asia region Commercial Officer one-on-ones and workshops and panel discussions. *Evening:* Networking Reception.
Tuesday, March 4, 2025	Bengaluru: EMPOWER Asia Business Conference (con't): *Morning:* Plenary Session. Asia region Commercial Officer one-on-ones, workshops and panel discussions. *Mid-day:* Closing Session and Lunch. India Trade Mission Stop: *Afternoon:* Selected participants will participate in B2B meetings with pre-screened potential buyers, agents, distributors, or joint-venture partners in India. *Evening:* Social/Cultural Activity.
Wednesday, March 5, 2025	Travel to Singapore and/or Hong Kong.
Thursday, March 6, 2025	Singapore Trade Mission Stop: • Country Briefings Singapore. • B2B Meetings. • Travel to Hong Kong, if elected as Trade Mission Stop. Hong Kong Trade Mission Stop: • Rest Day.
Friday, March 7, 2025	Hong Kong Trade Mission Stop: • Country Briefings Hong Kong. • B2B Meetings. • Reception.
Saturday, March 8, 2025	Optional Cultural Program in Hong Kong for Hong Kong Participants.

Participation Requirements

All parties interested in participating in the GDEI Trade Mission to India, Singapore, and Hong Kong must complete and submit an application package for consideration by the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined above. A minimum of 10 and a maximum of 25 firms and/or trade associations will be selected to participate in the mission on a rolling basis. Mission stop participation will be limited as follows:

India: 15.

Singapore: 10.

Hong Kong: 10.

Additional delegates may be accepted based on available space. U.S. firms and/or trade associations already doing business in India, Singapore, and/or Hong Kong or seeking business in these markets for the first time may apply.

Fees and Expenses

After a firm or trade association has been selected to participate on the trade mission, a payment to the Department of Commerce in the form of a participation fee is required. The fees are as follows:

• The participation fee will be $3,500 for small or medium-sized enterprises (SME) and $6,225 for large firms, which includes the EMPOWER Asia Business Conference in Bengaluru and one mission stop. Additional participants will be $1,000 per participant.

• If a second stop/market is selected for B2B meetings, the total participation fee will be $5,000 for small and medium-sized enterprises (SME) and $8,750 for large firms. Additional participants will be $1,750 total per participant.

• If all three stops/markets are selected for B2B meetings, the total participation fee will be $6,500 for small and medium-sized enterprises (SME) and $11,275 for large firms. Additional participants will be $2,500 total per participant.

If and when an applicant is selected to participate on a particular mission, a payment to the Department of Commerce in the amount of the designated participation fee is required. Upon notification of acceptance to participate, those selected have 5 business days to submit payment or the acceptance may be revoked.

Participants selected for a trade mission will be expected to pay for the cost of personal expenses, including, but not limited to, international travel, lodging, meals, transportation, communication, and incidentals, unless otherwise noted. Participants will, however, be able to take advantage of U.S. Government rates for hotel rooms. In the event that a mission is cancelled, no personal expenses paid in anticipation of a mission will be reimbursed. However, participation fees for a cancelled mission will be reimbursed to the extent they have not already been expended in anticipation of the mission.

If a visa is required to travel on a particular mission, applying for and obtaining such a visa will be the responsibility of the mission participant. Government fees and processing expenses to obtain such a visa are not included in the participation fee. However, the Department of Commerce will provide instructions to each participant on the procedures required to obtain business visas.

Trade mission members participate in trade missions and undertake mission-related travel at their own risk. The nature of the security situation in a given foreign market at a given time cannot be guaranteed. The U.S. Government does not make any representations or guarantees as to the safety or security of participants. The U.S. Department of State issues U.S. Government international travel alerts and warnings for U.S. citizens available at *https://travel.state.gov/content/passports/en/alertswarnings.html.* Any question regarding insurance coverage must be resolved by the participant and its insurer of choice.

Travel and in-person activities are contingent upon the safety and health conditions in the United States and the mission countries. Should safety or health conditions not be appropriate for travel and/or in-person activities, the Department will consider postponing the event or offering a virtual program in lieu of an in-person agenda. In the event of a postponement, the Department will notify the public and applicants previously selected to participate in this mission will need to confirm their availability but need not reapply. Should the decision be made to

organize a virtual program, the Department will adjust fees accordingly, prepare an agenda for virtual activities, and notify the previously selected applicants with the option to opt-in to the new virtual program.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Department of Commerce trade mission calendar (*https://www.trade.gov/trade-missions*) and other internet websites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than December 4, 2024. The Department of Commerce will review applications and inform applicants of selection decisions on a rolling basis until the maximum number of participants has been selected. Applications received after December 4, 2024, will be considered only if space and scheduling constraints permit.

Contacts

U.S. Contact Information

Nicolas Cervantes, Director, U.S. Commercial Service Harrisburg, PA, *Nicolas.Cervantes@trade.gov*, Tel: 717–678–5275

India Contact Information

Carey Arun, Principal Commercial Officer, U.S. Commercial Service India—Bengaluru *Carey.Arun@trade.gov,* Tel: +91–44–2857–4477, Anastasia Mukherjee, Commercial Officer, U.S. Commercial Service India—New Delhi, *Anastasia.Mukherjee@trade.gov,* Tel: +91–11–2347–2000

Gemal Brangman,

Director, ITA Events Management Task Force.

[FR Doc. 2024–22969 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–084]

Certain Quartz Surface Products From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this sunset review, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on certain quartz surface products (quartz surface products) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping. The magnitude of the dumping margin likely to prevail is indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable October 4, 2024.

FOR FURTHER INFORMATION CONTACT: Nathan Araya, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3401.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2019, Commerce published the AD order on quartz surface products from China.[1] On June 3, 2024, Commerce published the notice of initiation of the first five-year sunset review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On June 18, 2024, Commerce received notices of intent to participate from Cambria Company LLC, Dal-Tile LLC, and Guidoni USA (collectively, the domestic interested parties) within the 15-day deadline specified in 19 CFR 351.218(d)(1)(i).[3] The domestic interested parties claimed interested party status under section 771(9)(c) of the Act as domestic producers engaged in the production of quartz surface products in the United States.

On July 3, 2024, the domestic interested parties submitted a timely substantive response within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] Commerce did not receive a substantive response from any other interested party in these proceedings, and no party requested a hearing. On July 22, 2024, Commerce tolled the deadline in this administrative proceeding by seven days.[5] The deadline for the final results is now October 8, 2024.

On July 23, 2024, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.[6] As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order.*

Scope of the Order

The products covered by the *Order* are quartz surface products. For a complete description of the scope of these *Order, see* the Issues and Decision Memorandum.[7]

Analysis of Comments Received

All issues raised in this sunset review are addressed in the Issues and Decision Memorandum.[8] A list of topics discussed in the Issues and Decision Memorandum is included as the appendix to this notice. The Issues and Decision memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* A complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNotices ListLayout.aspx.*

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* on quartz surface products from China

[1] *See Certain Quartz Surface Products from the People's Republic of China: Antidumping and Countervailing Duty Orders,* 84 FR 33053 (July 11, 2019) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 89 FR 47525 (June 3, 2024).

[3] *See* Letter, ''Notice of Intent to Participate,'' dated June 18, 2024.

[4] *See* Domestic Interested Parties' Letter, ''Domestic Interested Parties' Substantive Response,'' dated July 3, 2024.

[5] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[6] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review,* 89 FR 35074 (May 1, 2024).

[7] *See* Memorandum, ''Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Antidumping Duty Order on Quartz Surface Products from the People's Republic of China (China),'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[8] *Id.*

would likely lead to the continuation or recurrence of dumping, and that the magnitude of the margin of dumping likely to prevail if the *Order* is revoked for quartz surface products from China are weighted-average margins up to 326.15 percent.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the 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 that is subject to sanction.

Notification to Interested Parties

We are issuing and publishing the final results of this expedited sunset review in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: September 27, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2024–22939 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 240920–0247]

Safety Considerations for Chemical and/or Biological AI Models

AGENCY: U.S. Artificial Intelligence Safety Institute (AISI), National Institute of Standards and Technology (NIST), U.S. Department of Commerce.

ACTION: Notice; Request for Information (RFI).

SUMMARY: The U.S. Artificial Intelligence Safety Institute (AISI), housed within the National Institute of Standards and Technology (NIST) at the Department of Commerce, is seeking information and insights from stakeholders on current and future practices and methodologies for the responsible development and use of chemical and biological (chem-bio) AI models. Chem-bio AI models are AI models that can aid in the analysis, prediction, or generation of novel chemical or biological sequences, structures, or functions. We encourage respondents to provide concrete examples, best practices, case studies, and actionable recommendations where possible. Responses may inform AISI's overall approach to biosecurity evaluations and mitigations.

DATES: Comments containing information in response to this notice must be received on or December 3, 2024, at 11:59 p.m. Eastern time. Submissions received after that date may not be considered.

ADDRESSES: Comments must be submitted electronically via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov* and enter 240920–0247 in the search field,

2. Click the ''Comment Now!'' icon, complete the required field, including the relevant document number and title in the subject field, and

3. Enter or attach your comments.

Additional information on the use of *regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket is available at: *www.regulations.gov/faq.* If you require an accommodation or cannot otherwise submit your comments via *regulations.gov,* please contact NIST using the information in the **FOR FURTHER INFORMATION CONTACT** section below.

NIST will not accept comments for this notice by postal mail, fax, or email. To ensure that NIST does not receive duplicate copies, please submit your comments only once. Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials.

All relevant comments received by the deadline will be posted at: *https://www.regulations.gov* under docket number 240920–0247 and at: *https://www.nist.gov/aisi* without change or redaction, so commenters should not include information they do not wish to be posted publicly (*e.g.,* personal or confidential business information).

FOR FURTHER INFORMATION CONTACT: For questions about this RFI contact *aisibio@nist.gov* or Stephanie Guerra, U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC. Direct media inquiries to NIST's Office of Public Affairs at (301) 975–2762. Users of telecommunication devices for the deaf or a text telephone may call the Federal Relay Service toll free at 1–800–877–8339.

Accessible Format: NIST will make the RFI available in alternate formats, such as Braille or large print, upon request by persons with disabilities.

SUPPLEMENTARY INFORMATION: The rapid advancement of the use of AI in the chemical and biological sciences has led to the development of increasingly powerful chemical and biological (chem-bio) AI models. By reducing the time and resources required for experimental testing and validation, chem-bio AI models can accelerate progress in areas such as drug discovery, medical countermeasure development, and precision medicine. However, as with other AI models, there is a need to understand and mitigate potential risks associated with misuse of chem-bio AI models. Examples of chem-bio AI models include but are not limited to foundation models trained using chemical and/or biological data, protein design tools, small biomolecule design tools, viral vector design tools, genome assembly tools, experimental simulation tools, and autonomous experimental platforms. The dual use nature of these tools presents unique challenges—while they can significantly advance beneficial research and development, they could also potentially be misused to cause harm, such as through the design of more virulent or toxic pathogens and toxins or biological agents that can evade existing biosecurity measures. The concept of dual use biological research is defined in the 2024 United States Government Policy for Oversight of Dual Use Research of Concern and Pathogens with Enhanced Pandemic Potential (USG DURC/PEPP Policy, *https://www.whitehouse.gov/wp-content/uploads/2024/05/USG-Policy-for-Oversight-of-DURC-and-PEPP.pdf*).

As chem-bio AI models become more capable and accessible, it is important to proactively address safety and security considerations. The scientific community has taken steps to address these issues, as demonstrated by a recent community statement outlining values and guiding principles for the responsible development of AI

technologies for protein design. This statement articulated several voluntary commitments in support of such values and principles that were adopted by agreement by more than one hundred individual signatories (see *https://responsiblebiodesign.ai/*).

The following questions are not intended to limit the topics that may be addressed. Responses may include any topic believed to have implications for the responsible development and use of chem-bio AI models. Respondents need not address all statements in this RFI. All relevant responses that comply with the requirements listed in the **DATES** and **ADDRESSES** sections of this RFI and set forth below will be considered.

For your organization, or those you assist, represent, or are familiar with, please provide information on the topics below as specifically as possible. NIST has provided this non-exhaustive list of topics and accompanying questions to guide commenters, and the submission of any relevant information germane to the responsible development and use of chem-bio AI models, but that is not included in the list of topics below, is also encouraged.

1. Current and/or Possible Future Approaches for Assessing Dual-Use Capabilities and Risks of Chem-Bio AI Models

a. What current and possible future evaluation methodologies, evaluation tools, and benchmarks exist for assessing the dual-use capabilities and risks of chem-bio AI models?

b. How might existing AI safety evaluation methodologies (*e.g.,* benchmarking, automated evaluations, and red teaming) be applied to chem-bio AI models? How can these approaches be adapted to potentially specialized architectures of chem-bio AI models? What are the strengths and limitations of these approaches in this specific area?

c. What new or emerging evaluation methodologies could be developed for evaluating chem-bio AI models that are intended for legitimate purposes but may output potentially harmful designs?

d. To what extent is it possible to have generalizable evaluation methodologies that apply across different types of chem-bio AI models? To what extent do evaluations have to be tailored to specific types of chem-bio AI models?

e. What are the most significant challenges in developing better evaluations for chem-bio AI models? How might these challenges be addressed?

f. How would you include stakeholders or experts in the risk assessment process? What feedback mechanisms would you employ for stakeholders to contribute to the assessment and ensure transparency in the assessment process?

2. Current and/or Possible Future Approaches To Mitigate Risk of Misuse of Chem-Bio AI Models

a. What are current and possible future approaches to mitigating the risk of misuse of chem-bio AI models? How do these strategies address both intentional and unintentional misuse?

b. What mitigations related to the risk of misuse of chem-bio AI models are currently used or could be applied throughout the AI lifecycle (*e.g.,* managing training data, securing model weights, setting distribution channels such as APIs, applying context window and output filters, *etc.*)?

c. How might safety mitigation approaches for other categories of AI models, or for other capabilities and risks, be applied to chem-bio AI models? What are the strengths and limitations of these approaches?

d. What new or emerging safety mitigations are being developed that could be used to mitigate the risk of misuse of chem-bio AI models? To what extent do mitigations have to be tailored to specific types of chem-bio AI models?

e. How might the research community approach the development and use of public and/or proprietary chem-bio datasets that could enhance the potential harms of chem-bio AI models through fine tuning or other post-deployment adaptations? What types of datasets might pose the greatest dual use risks? What mechanisms exist to ensure the safe and responsible use of these kinds of datasets?

3. Safety and Security Considerations When Chem-Bio AI Models Interact With One Another or Other AI Models

a. What areas of research are needed to better understand the risks associated with the interaction of multiple chem-bio AI models or a chem-bio AI model and other AI model into an end-to-end workflow or automated laboratory environments for synthesizing chem-bio materials independent of human intervention? (*e.g.,* research involving a large language model's use of a specialized chem-bio AI model or tool, research into the use of multiple chem-bio AI models or tools acting in concert, *etc.*)?

b. What benefits are associated with such interactions among AI models?

c. What strategies exist to identify, assess, and mitigate risks associated with such interactions among AI models while maintaining the beneficial uses?

4. Impact of Chem-Bio AI Models on Existing Biodefense and Biosecurity Measures

a. How might chem-bio AI models strengthen and/or weaken existing biodefense and biosecurity measures, such as nucleic acid synthesis screening?

b. What work has your organization done or is your organization currently conducting in this area to strengthen these existing measures? How can chem-bio AI models be used to strengthen these measures?

c. What future research efforts toward enhancing, strengthening, refining, and/or developing new biodefense and biosecurity measures seem most important in the context of chem-bio AI models?

5. Future Safety and Security of Chem-Bio AI Models

a. What are the specific areas where further research to enhance the safety and security of chem-bio AI models is most urgent?

b. How should academia, industry, civil society, and government cooperate on the topic of safety and security of chem-bio AI models?

c. What are the primary ways in which the chem-bio AI model community currently cooperates on capabilities evaluation of chem-bio AI models and/or mitigation of safety and security risks of chem-bio AI models? How can these organizational structures play a role in ongoing efforts to further the responsible development and use of chem-bio AI models?

d. What makes it challenging to develop and deploy chem-bio AI models safely and what collaborative approaches could make it easier?

e. What opportunities exist for national AI safety institutes to advance safety and security of chem-bio AI models?

f. What opportunities exist for national AI safety institutes to create and diffuse best practices and ''norms'' related to AI safety in chemical and biological research and discovery?

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2024–22974 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; National Cybersecurity Center of Excellence (NCCoE) Participant Letter(s) of Interest (LoI)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before December 3, 2024.

ADDRESSES: Interested persons are invited to submit written comments by mail to Maureen O'Reilly, Management Analyst, NIST, by email to *PRANIST@nist.gov.* Please reference OMB Control Number 0693–0075 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Keri Bray, NIST NCCoE, 9700 Great Seneca Highway, Rockville, MD 20850, 301–975–0220, *keri.bray@nist.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

In order to fulfill its core mission, the National Cybersecurity Center of Excellence (NCCoE) publishes announcements in the **Federal Register** of new collaborative projects to address cybersecurity challenges. In response to these announcements, technology vendors are invited to submit Letters of Interest (LoI) for technologies relevant to the challenge. These letters specify the product(s) that the potential collaborator is submitting for consideration, how the product(s) address(es) one or more of the requirements of the project, and contact information for the company's representative. Subsequent to the submission of LoIs, NIST invites companies with relevant technology to enter into a Collaborative Research and Development Agreement (CRADA) with NIST.

II. Method of Collection

Upon request, submitters are provided with questions in an electronic document that can be filled in, signed, and submitted via mail or electronic mail.

III. Data

OMB Control Number: 0693–0075.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 120.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 240.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Departmental PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–23014 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Baldrige Executive Fellow Program

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before December 3, 2024.

ADDRESSES: Interested persons are invited to submit written comments by mail to Maureen O'Reilly, Management Analyst, NIST by email to *PRANIST@nist.gov.* Please reference OMB Control Number 0693–0076 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Dawn Bailey, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Stop 1020, Gaithersburg, MD, 20899, 301–975–3074, *dawn.bailey@nist.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Baldrige Performance Excellence Program seeks applicants for the Baldrige Executive Fellows Program, a

one-year, leadership development experience for direct reports to the most senior leader in an organization or business unit leaders. Using the Baldrige Excellence Framework as a foundation, the program discusses impactful leadership through visits to Baldrige Award recipient sites and senior leaders, virtual discussions, and face-to-face peer training using an adult learning model. Fellows will discuss how to achieve performance excellence for their own organizations, stimulate innovation, and build the knowledge and capabilities necessary for organizational sustainability. Fellows will create a capstone project that tackles an issue of strategic importance in their own organizations; capstones have included innovating supply chains and customer relationship management systems, improving health systems and their communication with physicians, and creating balanced scorecards. The program is aligned with the Baldrige Program mission to improve the competitiveness and performance of U.S. organizations for the benefit of all U.S. residents. The Baldrige Program and its Malcolm Baldrige National Quality Award were created by Public Law 100–107 (The Malcolm Baldrige National Quality Improvement Act of 1987) and signed into law on August 20, 1987.

II. Method of Collection

Senior leaders interested in applying for selection as a Baldrige Fellow must provide the following package of material directly to the Baldrige Program:

1. A resumé, including email, postal address, and telephone contact information; and the name and email address of an assistant or alternate contact person
2. An organizational chart that includes names and titles showing the applicant's position within the organization
3. A recommendation letter from the applicant's highest-ranking official showing the organization's support of his/her participation in the program
4. A list of key competitors (in order that the Baldrige Program may avoid creating a cohort that would be unable to share effectively due to competitive situations)

The secure way to provide materials is through the Department of Commerce's Secure File Collaboration (''Kite Works''). Information is collected one time per year (typically in September–December) for each cohort of Fellows. Information is needed to make selection decisions that are based on (1) sector mix, (2) appropriate level within the organization, (3) likelihood to follow through, (4) diversity, and (5) no direct competitors with participating award recipients or other Fellows.

III. Data

OMB Control Number: 0693–0076.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Any senior or mid-level leader from business or other for-profit organizations; not-for-profit institutions; state, local, or tribal government; Federal government.

Estimated Number of Respondents: 24 per year.

Estimated Time per Response: 1 hour to gather materials.

Estimated Total Annual Burden Hours: 24 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Departmental PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–23012 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE342]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Scientific and Statistical Committee (SSC) on October 22–24, 2024.

DATES: The SSC meeting will be held from 8:30 a.m. until 5 p.m. EDT on October 22, 2024, from 8:30 a.m. until 5 p.m. on October 23, 2024, and from 8:30 a.m. until 12 p.m. on October 24, 2024.

ADDRESSES:

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

Meeting address: The meeting will be held at the Hotel Indigo Mount Pleasant, 250 Jonnie Dodds Blvd., Mount Pleasant, SC 29464; phone: (843) 884–6000.

The meeting will also be available via webinar. Registration is required. Webinar registration, an online public comment form, and briefing book materials will be available two weeks prior to the meetings at: *https://safmc.net/scientific-and-statistical-committee-meeting/.*

FOR FURTHER INFORMATION CONTACT: Dr. Judd Curtis, Quantitative Fishery Scientist, SAFMC; phone: (843) 302–8441 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *judd.curtis@safmc.net.*

SUPPLEMENTARY INFORMATION: The SSC meeting agenda includes a review of the revised Acceptable Biological Catch (ABC) Control Rule and development of stock risk ratings for several species; black sea bass projection scenarios, spawning potential ratio determinations, and ABC recommendations; final model for the Snapper Grouper Management Strategy Evaluation; and the Southeast Data, Assessment, and Review (SEDAR) 92 Tilefish stock assessment. The Committee will receive an update on the proposed SEDAR procedural changes and discussion of key stocks, Southeast For-Hire Integrated Electronic Reporting Amendment, and Precision Threshold

and Unassessed Stocks Working Group. The Committee will also receive an update on the Stock Assessment and Fishery Evaluation (SAFE) Reports, report from the 8th annual meeting of the Scientific Coordination Subcommittee, process for conducting the mutton snapper and yellowtail snapper stock assessment reviews, SSC workgroups, and discuss other business as necessary.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 30, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–22926 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE354]

Council Coordination Committee Meeting

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

ACTION: Notice of a public meeting; information regarding the agenda.

SUMMARY: The National Marine Fisheries Service, Office of Sustainable Fisheries will host a hybrid meeting of the Council Coordination Committee, also known as the CCC, consisting of the Regional Fishery Management Council chairs, vice chairs, and executive directors from October 16 to October 17, 2024. This meeting will be chaired by the Caribbean Fishery Management Council. The intent of this meeting is to discuss issues of relevance to the Councils and NMFS, including issues related to the implementation of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

DATES: The meeting will begin at 1 p.m., on Wednesday, October 16, 2024, and recess at 5 p.m., or when business is complete. The meeting will reconvene at 8:30 a.m., on Thursday, October 17, 2024, and adjourn at 5 p.m., or when business is complete.

ADDRESSES: *Meeting address:* The meeting will be held at the Doubletree—Crystal City hotel, 300 Army Navy Drive Arlington, VA 22202; telephone: (703)–418–6800. The meeting will also be broadcast via webinar. Connection details and public comment instructions will be available at *https://www.fisheries.noaa.gov/event/2024-october-council-coordination-committee-meeting.*

FOR FURTHER INFORMATION CONTACT: Diana Perry by email at *Diana.Perry@noaa.gov* or at (301) 427–7863.

SUPPLEMENTARY INFORMATION: The 2007 reauthorization of the MSA established the CCC. The CCC consists of the chairs, vice chairs, and executive directors of each of the eight Regional Fishery Management Councils, or their respective proxies. All sessions are open to the public and time will be set aside for public comments at the end of each day and after specific sessions at the discretion of the meeting Chair. The meeting Chair will announce public comment times and instructions to provide comment at the start of each meeting day. There will be opportunities for public comments to be provided in-person and remotely via webinar. Updates to this meeting, agenda materials, public comment instructions, and additional information will be posted on *https://www.fisheries.noaa.gov/event/2024-october-council-coordination-committee-meeting.*

Proposed Agenda

Wednesday, October 16, 2024—1 p.m.–5 p.m. EDT

1. Opening of Meeting
2. Approval of Agenda and Minutes
3. NMFS Update and Upcoming Priorities
4. NMFS Budget Update and 2025 Outlook
5. NMFS Science Update
6. Report of 8th Scientific Coordination Subcommittee Meeting and Update on Planning for 9th Scientific Coordination Subcommittee Meeting
7. Public Comment

Adjourn Day 1

Thursday, October 17, 2024—8:30 a.m.–5 p.m. EDT

1. Closed Session
2. Inflation Reduction Act Climate-Ready Fisheries Update
3. National Seafood Strategy Update
4. Legislative Outlook
5. Effects of Fishing Gear on Marine Habitats Database
6. Agency update on Equity and Environmental Justice (EEJ) Implementation plans and CCC EEJ Workgroup update
7. CCC Workgroups/Subcommittee Updates
8. Update: Anti-Harassment Policies, Addressing Unprofessional Behavior, Harassment Training
9. Agency National Environmental Policy Act (NEPA) update and CCC NEPA Working Group
10 International Fishing and Seafood Trade Issues
11. Public Comment
12. Wrap-up and Other Business

Adjourn Day 2

The order in which the agenda items are addressed may be adjusted by the meeting Chair to stay on time. The CCC will meet as late as necessary to complete scheduled business.

Special Accommodations

If you have particular access needs please contact Diana Perry (see **FOR FURTHER INFORMATION CONTACT**) prior to the meeting for accommodation.

Dated: October 1, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–23009 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE293]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Maintenance and Rehabilitation of the Bellingham Shipping Terminal

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

ACTION: Notice; request for comments on proposed renewal incidental harassment authorization.

SUMMARY: NMFS received a request from the Port of Bellingham for the renewal of their currently active incidental harassment authorization (IHA) (hereinafter, the initial IHA) to take marine mammals incidental to the Maintenance and Rehabilitation of the Bellingham Shipping Terminal Project in Bellingham, WA. The Port of Bellingham activities are nearly identical to those covered in the current authorization and will not be completed prior to the IHA's expiration. Pursuant to the Marine Mammal Protection Act,

prior to issuing the currently active IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed renewal not previously provided during the initial 30-day comment period.

DATES: Comments and information must be received no later than October 21, 2024.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should be submitted via email to *ITP.cockrell@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. Attachments to comments will be accepted in Microsoft Word, Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

Electronic copies of the original application, renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-port-bellinghams-bellingham-shipping-terminal-bellingham.* In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

The Marine Mammal Protection Act (MMPA) prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are promulgated or, if the taking is limited to harassment, an incidental harassment authorization is issued.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as ''mitigation measures''). NMFS must also prescribe requirements pertaining to monitoring and reporting of such takings. The definition of key terms such as ''take,'' ''harassment,'' and ''negligible impact'' can be found in the MMPA and the NMFS's implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103).

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed 1-year for each reauthorization. In the notice of proposed IHA for the initial IHA, NMFS described the circumstances under which we would consider issuing a renewal for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time 1-year renewal of an IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

1. A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

2. The request for renewal must include the following:

- An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take); and
- A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

3. Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at: *http://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.* Any comments received on the potential renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested renewal, and agency responses will be summarized in the final notice of our decision.

National Environmental Policy Act (NEPA)

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations with no anticipated

serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS determined that the issuance of the initial IHA qualified to be categorically excluded from further NEPA review. NMFS has preliminarily determined that the application of this categorical exclusion remains appropriate for this renewal IHA.

History of Request

On November 6, 2023, NMFS issued an IHA to the Port of Bellingham to take marine mammals incidental to the Maintenance and Rehabilitation of the Bellingham Shipping Terminal Project in Bellingham, WA (88 FR 77972, November 11, 2023), effective from November 6, 2023 through November 6, 2024. On September 20, 2024, NMFS received an application for the renewal of that initial IHA. As described in the application for renewal IHA, the activities for which incidental take is requested are nearly identical to those covered in the initial authorization and will not be completed prior to its expiration. Under the initial IHA a number of piles have been removed but no pile installations have occurred. As required, the Port of Bellingham also provided preliminary monitoring data, which confirms that the Port of Bellingham had implemented the required mitigation and monitoring, and also showed that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

Description of the Specified Activities and Anticipated Impacts

The purpose of the project at the Bellingham Shipping Terminal is to repair some of the failing wharf and pier structures of the terminal. As described in detail in the notice for the initial IHA (88 FR 77972, November 11, 2023), in-water construction would include both pile removal and installation of a multiple types of piles with vibratory and impact hammers. A minor change to the activities conducted by the Port of Bellingham was requested in the renewal letter. The initial IHA noted that the Port of Bellingham would limit vibratory pile driving time to 90 minutes per day. The Port of Bellingham would increase the vibratory pile driving time to 360 minutes per day for this renewal period. This change would increase the size of the Level A harassment zones and shutdown zones associated with vibratory pile driving and removal analyzed in the initial IHA (see Description of Proposed Mitigation, Monitoring and Reporting Measures). The increase to proposed shutdown zones follows the same goals for mitigation articulated in the notice of the initial proposed IHA, *i.e.,* the shutdown zones are equal to the estimated Level A harassment zones, and there is no increase to the estimated take numbers. Therefore, NMFS has determined that this change is minor and that the action remains eligible for renewal. The construction is still expected to occur for 87 non-consecutive days. Sounds produced by these activities may result in take, by Level A harassment and Level B harassment, of marine mammals located in Bellingham Bay.

Incidental takes to the in-water pile driving and removal in this renewal would be at the same level as authorized in the initial IHA. Four marine mammal species are expected to experience Level B harassment and one species has the potential for Level A harassment (see Estimated Take).

All documents related to the initial IHA are available on our website: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-port-bellinghams-bellingham-shipping-terminal-bellingham.*

Detailed Description of the Activity

A detailed description of the construction activities for which take is proposed here may be found in the notices of the proposed (88 FR 65953, September 26, 2023) and final (88 FR 77972, November 11, 2023) IHAs for the initial authorization. The location of the activities and the types of equipment planned for use are identical to those described in the previous notices. The only minor change is the increase of vibratory installation from 90 minutes per day to 360 minutes per day. The longer duration of vibratory hammer use will create larger harassment and, therefore, shutdown zones than those analyzed in the initial IHA. NMFS has preliminarily determined that the amount of take authorized through the initial IHA remains sufficient to cover the likely effects of the planned activity, and no changes to authorized take numbers are proposed.

The proposed renewal would be effective for a period not exceeding 1 year from the date of expiration of the initial IHA.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the notices of the proposed and final IHAs for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined there is no new information that affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

It should be noted that the Draft 2023 NMFS' Marine Mammal Stock Assessment Reports (SARs) updated stock abundances for the Eastern Distinct Population Segment for Steller sea lions (*Eumetopias jubatus*) and harbor seals (*Phoca vitulina*) (Carretta *et al.* 2023). For Steller sea lions, the abundance decreased slightly from the initial IHA stock abundance estimate of 43,201 individuals to 36,308 individuals. During the development of the initial IHA the Washington Northern Inland Waters stock of harbor seals had an unknown abundance. Since then, the abundance estimate in the Draft 2023 SARs has been updated to 16,451 individuals. None of these population changes impact the findings made in support of the initial IHA. Additional information on all stocks affected by this action is available in the NMFS' U.S. Pacific SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports*).

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which an authorization of incidental take is proposed here may be found in the notices of the proposed and final IHAs for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft SARs, information on relevant Unusual Mortality Events, and other scientific literature, and determined that there is no new information that affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the notices of the proposed and final IHAs for the initial authorization. Specifically, the source levels, days of operation, and marine mammal occurrence data applicable to this authorization remain unchanged from the previously issued IHA. Similarly, the stocks taken, methods of take, and types of take remain unchanged from the previously issued IHA, as do the number of takes, which are indicated below in table 1.

TABLE 1—ESTIMATED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK

Common name	Stock	Stock abundance [a]	Level A	Level B	Total take	Take as percentage of stock
Harbor porpoise	Washington Inland Waters	11,233	0	261	261	2.3
Steller sea lion	Eastern U.S	36,308	0	87	87	0.2
California sea lion	U.S	257,606	0	87	87	<0.1
Harbor seal	Washington Northern Inland Waters	16,451	264	2,029	3,050	18.5

[a] Stock or DPS size is Nbest according to NMFS 2023 Draft Stock Assessment Reports.

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are nearly identical to those included in the **Federal Register** notice announcing the issuance of the initial IHA, and the discussion of the least practicable adverse impact included in that document and the notice of the proposed IHA remains accurate.

As noted above, the increase vibratory pile installation time from 90 minutes per day to 360 minutes per day has increased the size of the shutdown zones as noted in table 2 of this section. The applicant and NMFS analyzed the Level A harassment and associated shutdown zones using vibratory pile installation duration of 90 minutes a day, for inputs in the optional User Spreadsheet tool as reported in table 5 of the final IHA **Federal Register** notice (88 FR 77972, November 14, 2023). In the request for renewal of the initial IHA the applicant has requested that NMFS analyze and revise the shutdown zones associated with an increase in vibratory pile driving time to 360 minutes per day. Using the optional User Spreadsheet tool the applicants and NMFS analyzed and revised the shutdown zones based on this expected increase in vibratory pile installation duration. The following standard mitigation measures are proposed for this renewal:

- Shutdown zones for Level A harassment as specified in the initial IHA with the exception of vibratory pile installation where the Port of Bellingham expects to drive piles for 360 minutes a day. The updated shutdown zones are shown in table 2.

TABLE 2—UPDATED SHUTDOWN ZONES DURING VIBRATORY PILE INSTALLATION

Activity	Shutdown zones (m) [1]		
	HF cetaceans	Phocids	Otariids
Vibratory installation (360 minutes)	75 (30)	30 (20)	10 (10)

[1] Shutdown zones shown in parentheticals are what was included in the initial IHA.

- Protected species observers (PSO) observing the monitoring zones established in the initial IHA during all pile installation and removal activities.
- Soft start procedures for impact pile driving consisting of an initial set of strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period.
- The use of a marine pile-driving energy attenuator (*i.e.,* air bubble curtain system) will be implemented by the Port of Bellingham during impact pile driving of all steel pipe piles.
- Prior to the start of daily in-water construction activity, or whenever a break in pile driving/removal of 30 minutes or longer occurs, PSOs will observe the shutdown and monitoring zones for a period of 30 minutes. If a marine mammal is observed within the shutdown zone, a soft start cannot proceed until the animal has left the zone or has not been observed for 15 minutes.

Monitoring and reporting requirements associated with this renewal are as follows.

- A minimum of one PSO will be on duty during impact pile driving activities and a minimum of two PSOs during vibratory installation/removal.
- Observers would be required to use approved data forms.
- A draft report would be submitted to NMFS within 90 days of the completion of marine mammal monitoring. The report would include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days (and associated PSO data sheets).

Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA (88 FR 65953, September 26, 2023) and solicited public comments on both our proposal to issue the initial IHA for the Maintenance and Rehabilitation of the Bellingham Shipping Terminal and on the potential for a renewal IHA, should certain requirements be met.

All public comments were addressed in the notice announcing the issuance of the initial IHA (88 FR 77972, November 11, 2023) and none of the comments specifically pertained to the renewal of the 2023 IHA.

Preliminary Determinations

The construction activities are nearly identical to those analyzed for the initial IHA, as are the method of taking and the effects of the action. The higher vibratory drive time does increase the size of the Level A harassment zones and shutdown zones slightly. This increase in zone sizes, however, does not change the anticipated take numbers analyzed in the initial IHA. In analyzing

the effects of the activities for the initial IHA, NMFS determined that the Port of Bellingham's activities would have a negligible impact on the affected species or stocks and that the authorized take numbers of each species or stock were small relative to the relevant stocks (*e.g.,* less than one-third of the abundance of all stocks). Although some marine mammal abundances have changed since the initial IHA, none of this new information affects NMFS' determinations supporting issuance of the initial IHAs. The mitigation measures and monitoring and reporting requirements as described above are nearly identical to the initial IHA.

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. This includes consideration of the estimated abundance of Steller sea lions and harbor seals decreasing slightly and being defined respectively. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) the Port of Bellingham's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

Endangered Species Act (ESA)

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a renewal IHA to the Port of Bellingham for conducting Maintenance and Rehabilitation of the Bellingham Shipping Terminal project in Bellingham, WA, from November 8, 2024 to November 8, 2025, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and final initial IHA can be found at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-port-bellinghams-bellingham-shipping-terminal-bellingham.* We request comment on our analyses, the proposed renewal IHA, and any other aspect of this notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: October 1, 2024.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–22987 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE345]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Highly Migratory Species Management Team (HMSMT) will hold a webinar, which is open to the public.

DATES: The online meeting will be held Monday, October 21, 2024, from 10 a.m. to 4 p.m. or until business for the day is completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements, will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kit Dahl, Staff Officer, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The purpose of this HMSMT webinar is to discuss relevant topics on the Pacific Council's November 2024 meeting agenda to assist in the preparation of reports for these items.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*; (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: September 30, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–22925 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE327]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is holding a hybrid meeting of its Scientific and Statistical Committee (SSC) to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, October 21, 2024, beginning at 9 a.m.

ADDRESSES:

Meeting address: This meeting will be held at the Hilton Garden Inn Logan Airport, 100 Boardman St., Boston, MA 02128; telephone: (617) 567–5678.

Webinar Registration information: https://nefmc-org.zoom.us/webinar/register/WN_uJ7eG1cYSNyCs7_QnZNsdQ.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scientific and Statistical Committee (SSC) will meet to review information provided by the Council's Groundfish Plan Development Team and recent stock assessment; recommend the Fishing Year 2025–2027 overfishing limits (OFL) and acceptable biological catches (ABC) for: American Plaice, Gulf of Maine haddock, Georges Bank haddock, Pollock and Atlantic halibut. Other business will be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: September 30, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–22924 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) and service(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* November 3, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 8/30/2024, the Committee for Purchase From People Who Are Blind or Severely Disabled (operating as the U.S. AbilityOne Commission) published an initial notice of proposed additions to the Procurement List. (89 FR 70603). The Committee determined that the service(s) listed below is suitable for procurement by the Federal Government and has added this service to the Procurement List as a mandatory purchase for the contracting activity listed. In accordance with 41 CFR 51–5.3(b), the mandatory purchase requirement is limited to the contracting activity at the location listed, and in accordance with 41 CFR 51–5.2, the Committee has authorized the nonprofit agency listed as the authorized source of supply.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service(s) to the Government.

2. The action will result in authorizing small entities to furnish the service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service(s) are added to the Procurement List:

Service(s)

Service Type: Landscaping Service
Mandatory for: Missile Defense Agency, Missile Defense Agency Headquarters, Fort Belvoir, VA
Authorized Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: MISSILE DEFENSE AGENCY (MDA),

Deletions

On 8/30/2024 (89 FR 70603), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

4240–01–534–3386—Hearing Protection, Over-the-Head Earmuff, NRR 30dB, PR
Authorized Source of Supply: Access: Supports for Living Inc., Middletown, NY
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN(s)—Product Name(s):
6515–01–576–8796—Skull Screws Ear Plug, Yellow, Single Ended, Universal Size
Authorized Source of Supply: Access: Supports for Living Inc., Middletown, NY
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN(s)—Product Name(s):
6515–00–NSH–0012—Skull Screws Ear Plug, Single Ended, Universal Size
Authorized Source of Supply: Access: Supports for Living Inc., Middletown, NY
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN(s)—Product Name(s):
7510–01–660–4955—Toner Cartridge, LaserJet, Remanufactured, HP 645A Series, Black, Page Yield 13000
7510–01–660–4957—Toner Cartridge, LaserJet, Remanufactured, HP 645A Series, Cyan, Page Yield 12000
7510–01–660–4960—Toner Cartridge, LaserJet, Remanufactured, HP 645A Series, Yellow, Page Yield 12000
7510–01–660–4963—Toner Cartridge, LaserJet, Remanufactured, HP 645A Series. Magenta, Page Yield 12000
Authorized Source of Supply: Alabama Industries for the Blind, Talladega, AL
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Service(s)

Service Type: Mail and Messenger Service
Mandatory for: US Army Corps of Engineers, 4820 University Square, Huntsville, AL
Authorized Source of Supply: Huntsville Rehabilitation Foundation, Inc., Huntsville, AL
Contracting Activity: DEPT OF THE ARMY, W2V6 USA ENG SPT CTR HUNTSVIL

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2024–22967 Filed 10–3–24; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add product(s) and service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* November 3, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
7520–01–463–1991—Pen, Chain with Holder and Adhesive Base, Blue, Medium Point
Authorized Source of Supply: Alphapointe, Kansas City, MO
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY
NSN(s)—Product Name(s):
8470–01–530–0868—Strap Assembly, Chin, Advanced Combat Helmet, 4 point, Foliage Green
Authorized Source of Supply: VisionCorps, Lancaster, PA
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN(s)—Product Name(s):
8470–01–530–0868—Strap Assembly, Chin, Advanced Combat Helmet, 4 point, Foliage Green
Authorized Source of Supply: South Texas Lighthouse for the Blind, Corpus Christi, TX
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN(s)—Product Name(s):
8470–01–530–0868—Strap Assembly, Chin, Advanced Combat Helmet, 4 point, Foliage Green
Authorized Source of Supply: Dallas Lighthouse for the Blind, Inc., Dallas, TX
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN(s)—Product Name(s):
8470–01–530–0868—Strap Assembly, Chin, Advanced Combat Helmet, 4 point, Foliage Green
Authorized Source of Supply: Lions Services, Inc., Charlotte, NC
Contracting Activity: W6QK ACC–APG NATICK, NATICK, MA
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN(s)—Product Name(s):
8470–01–530–0868—Strap Assembly, Chin, Advanced Combat Helmet, 4 point, Foliage Green
Authorized Source of Supply: Travis Association for the Blind, Austin, TX
Authorized Source of Supply: San Antonio Lighthouse for the Blind, San Antonio, TX
Contracting Activity: W6QK ACC–APG NATICK, NATICK, MA
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN(s)—Product Name(s):
7510–00–782–6275—Envelope, Transparent, 8–3/4'' x 11–3/4''
Authorized Source of Supply: NEWVIEW Oklahoma, Inc, Oklahoma City, OK
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Service(s)

Service Type: Janitorial/Custodial
Mandatory for: GSA Center: Buildings 811 and 812, Auburn, WA
Authorized Source of Supply: Northwest Center, Seattle, WA
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2024–22968 Filed 10–3–24; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection, Rules Relating to Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration, and Member Responsibility Actions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comments on the proposed extension of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on rules relating to review of National Futures Association decisions in disciplinary, membership denial, registration, and member responsibility actions.

DATES: Comments must be submitted on or before December 3, 2024.

ADDRESSES: You may submit comments, identified by ''OMB Control No. 3038–0043'' by any of the following methods:

- The Agency's website, at *https://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Melissa Chiang, Senior Assistant General Counsel, Office of General Counsel, Commodity Futures Trading Commission, (202) 418–5578; email: *mchiang@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. 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.[1]

Title: Rules Relating to Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration, and Member Responsibility Actions (OMB Control No. 3038–0043). This is a request for extension of a currently approved information collection.

Abstract: 17 CFR part 171 rules require a registered futures association to provide fair and orderly procedures for membership and disciplinary actions. The Commission's review of decisions of registered futures associations in disciplinary, membership denial, registration, and member responsibility actions is governed by section 17(h)(2) of the Commodity Exchange Act, 7 U.S.C. 21(h)(2). The rules establish procedures and standards for Commission review of such actions, and the reporting requirements included in the procedural rules are either directly required by section 17 of the Commodity Exchange Act or are necessary to the type of appellate review role Congress intended the Commission to undertake when it adopted that provision.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[2]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden statement: The estimated annual respondent burden for this collection is set forth below.

Respondents/affected entities: Individuals or entities filing appeals from disciplinary and membership decisions by National Futures Association.

Estimated number of respondents per year: 1.

Estimated average burden hour(s) per response: 1 hour.[3]

Estimated number of annual responses per respondent: 3.

Estimated total annual burden on respondent(s): 3 hours.

Frequency of collection: On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: September 30, 2024.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2024–22909 Filed 10–3–24; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0086: Swap Data Repositories; Registration and Regulatory Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on requirements relating to Swap Data Repositories (''SDRs''), including initial registration as an SDR, maintaining registration as an SDR, swap data reporting, and swap data recordkeeping.

DATES: Comments must be submitted on or before December 3, 2024.

[1] 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8(b)(3)(vi). *See also* 46 FR 63035 (Dec. 30, 1981).

[2] 17 CFR 145.9.

[3] This estimate includes the time needed to transmit decisions of disciplinary, membership denial, registration, and member responsibility actions to the Commission for review.

ADDRESSES: You may submit comments, identified by ''Renewal of Collection Pertaining to Swap Data Repositories; Registration and Reporting Requirements'' by any of the following methods:

- The CFTC website, at *https://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method and identify that it is for the extension/renewal of Collection Number 3038–0086.

FOR FURTHER INFORMATION CONTACT: Jason H. Smith, Assistant Chief Counsel, Division of Market Oversight Commodity Futures Trading Commission, (202) 329–3794; email: *jsmith@cftc.gov,* and refer to OMB Control No. 3038–0086.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. 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.

Title: Swap Data Repositories; Registration and Regulatory Requirements (OMB Control No. 3038–0086). This is a request for extension of a currently approved information collection.

Abstract: Section 728 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010), specifically requires the CFTC to establish certain standards for the governance, registration, and statutory duties applicable to SDRs. The CFTC established these standards in part 49 of the CFTC's regulations.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission is revising its estimate of the burden for this collection for Swap Data Repositories (SDRs). The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 4.

Estimated Average Burden Hours per Respondent: 19,679.5.

Estimated Total Annual Burden Hours: 78,718.

Frequency of Collection: Annual and occasional.

There are no start-up costs associated with this collection and an average of $2 million in ongoing operating costs per respondent.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: September 30, 2024.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2024–22910 Filed 10–3–24; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

DEPARTMENT OF ENERGY

Notice of Availability of the 45V Emissions Value Request Process

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

ACTION: Notice of availability.

SUMMARY: The U.S. Department of Energy (DOE) hereby provides notice of availability of the Emissions Value Request Process in support of the U.S. Department of the Treasury's (Treasury) and Internal Revenue Service's (IRS) administration of the section 45V Credit for Production of Clean Hydrogen.

ADDRESSES: The Department of Energy's Emissions Value Request Process for use in obtaining an emissions value in support of a petition for a provisional emissions rate (PER) is located at: *https://www.energy.gov/eere/45VEmissionsValueRequest.*

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to Karen Dandridge at *45VEmissionsRequest@ee.doe.gov* or (202) 586–3388. Communication via email is preferred.

SUPPLEMENTARY INFORMATION: As part of the Inflation Reduction Act of 2022 (Pub. L. 117–169), Congress created a tax credit for clean hydrogen production (Internal Revenue Code section 45V). The amount of the credit is determined, in part, by the lifecycle greenhouse gas emissions rate of the hydrogen production process. On December 26, 2023, Treasury issued a notice of proposed rulemaking (NPRM) on how to claim the credit. (88 FR 89220). As provided in the proposed rule, hydrogen producers intending to claim the tax credit must determine the emissions rate of their hydrogen production process under the 45VH2–GREET model or by petitioning the IRS for a PER. Hydrogen producers whose lifecycle greenhouse gas emissions rate cannot be

determined under the 45VH2–GREET model may request an emissions value from DOE, and may then use this emissions value to file a petition with the IRS for determination of a PER. On April 11, 2024, Treasury issued a supplemental notice of proposed rulemaking to invite comment on the information collection proposed for DOE's Emissions Value Request Process. (89 FR 25551). DOE and Treasury have considered the comments received, and DOE is now announcing the opening of the Emissions Value Request Process.

Signing Authority: This document of the Department of Energy was signed on September 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 October 1, 2024.

Treena V. Garrett,

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

[FR Doc. 2024–22961 Filed 10–3–24; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–146]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed September 23, 2024 10 a.m. EST Through September 30, 2024 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20240175, Draft, NRC, NAT, Generic Environmental Impact Statement for Licensing of New Nuclear Reactors, Comment Period Ends: 12/18/2024, Contact: Stacey Imboden 301–415–2462.

EIS No. 20240176, Final, NOAA, WA, Expenditure of Funds to Increase Prey Availability for Southern Resident Killer Whales, Review Period Ends: 11/04/2024, Contact: Lance Kruzic 541–802–3728.

EIS No. 20240177, Final, NMFS, AK, Issuance of an Incidental Take Statement under the Endangered Species Act for Salmon Fisheries in Southeast Alaska Subject to the Pacific Salmon Treaty and Funding to the State of Alaska to Implement the Pacific Salmon Treaty, Review Period Ends: 11/04/2024, Contact: Gretchen Harrington 907–586–7228.

EIS No. 20240178, Final, BLM, NV, Robertson Mine Project, Review Period Ends: 11/04/2024, Contact: Jeffrey Kirkwood 775–635–4164.

EIS No. 20240179, Final, BLM, USFS, UT, Bears Ears National Monument Proposed Resource Management Plan, Review Period Ends: 11/04/2024, Contact: Jill Stephenson 435–259–2141.

EIS No. 20240180, Final, FTA, NY, Port Authority Bus Terminal Replacement Project, Review Period Ends: 11/04/2024, Contact: Ky Woltering 212–668–2558.

Dated: September 30, 2024.

Timothy Witman,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2024–22955 Filed 10–3–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064–ZA42

Request for Information on Deposits; Extension of Comment Period

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Request for information and comment; extension of comment period.

SUMMARY: On August 6, 2024, the FDIC published in the **Federal Register** a request for information (RFI) and comment soliciting comments on deposit data that is not currently reported in the Federal Financial Institutions Examination Council's (FFIEC) Consolidated Reports of Condition and Income (Call Report) or other regulatory reports, including for uninsured deposits. The RFI provided for a 60-day comment period, which closes on October 7, 2024. The FDIC has determined that an extension of the comment period until December 6, 2024, is appropriate. This action will allow interested parties additional time to prepare information and comments.

DATES: The comment period for the notice published on August 6, 2024 (89 FR 63946), regarding the RFI on Deposits, is extended. Comments must be received on or before December 6, 2024.

ADDRESSES: Interested parties are invited to submit written comments identified by RIN 3064–ZA42 by any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.* Follow the instructions for submitting comments on the agency website.
- *Email: comments@fdic.gov.* Include RIN 3064–ZA42 in the subject line of the message.
- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments-RIN 3064–ZA42, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7 a.m. and 5 p.m.
- *Public Inspection:* Comments received, including any personal information provided, may be posted without change to *https://www.fdic.gov/resources/regulations/federal-register-publications/.* Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this document will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Division of Insurance and Research: Ashley Mihalik, Associate Director, Financial Risk Management, 202–898–3793, *amihalik@fdic.gov;* Kayla

Shoemaker, Chief, Banking and Regulatory Policy, 202–898–6962, *kashoemaker@fdic.gov;* Legal Division: Sheikha Kapoor, Assistant General Counsel, 202–898–3960, *skapoor@fdic.gov;* Vivek Khare, Senior Counsel, 202–898–6847; or Ryan McCarthy, Counsel, 202–898–7301, *rymccarthy@fdic.gov.*

SUPPLEMENTARY INFORMATION: On August 6, 2024, the FDIC published in the **Federal Register** an RFI and comment soliciting comments on deposit data that is not currently reported in the FFIEC Call Report or other regulatory reports, including for uninsured deposits. The FDIC issued the RFI to seek information on the characteristics that affect the stability and franchise value of different types of deposits and whether more detailed or more frequent reporting on these characteristics or types of deposits could enhance offsite risk and liquidity monitoring, inform analysis of the benefits and costs associated with additional deposit insurance coverage for certain types of deposits, improve risk sensitivity in deposit insurance pricing, and provide analysts and the general public with accurate and transparent data. The RFI stated that the comment period would close on October 7, 2024. The FDIC has received requests to extend the comment period. An extension of the comment period will allow interested parties additional time to prepare information and comments. Therefore, the FDIC is extending the end of the comment period for the RFI from October 7, 2024, to December 6, 2024.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on October 1, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024–23010 Filed 10–3–24; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination of Receiverships

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for each of the following insured depository institutions, was charged with the duty of winding up the affairs of the former institutions and liquidating all related assets. The Receiver has fulfilled its obligations and made all dividend distributions required by law.

NOTICE OF TERMINATION OF RECEIVERSHIPS

Fund	Receivership name	City	State	Termination date
10221	Lincoln Park Savings Bank	Chicago	IL	10/01/2024
10486	Community South Bank	Parsons	TN	10/01/2024
10524	Seaway Bank and Trust Company	Chicago	IL	10/01/2024

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective on the termination dates listed above, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities.

(Authority: 12 U.S.C. 1819)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on October 1, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024–22964 Filed 10–3–24; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–24–1310]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Public Health Laboratory Testing for Emerging Antibiotic Resistance and Fungal Threats'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on June 17, 2024 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding

the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Public Health Laboratory Testing for Emerging Antibiotic Resistance and Fungal Threats (0920–1310, Exp. 5/31/2026)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Antimicrobial resistance has the potential to impact all Americans at every stage of life and the Centers for Disease Control and Prevention (CDC) is working to drive aggressive action and empower the nation to comprehensively respond to these threats. The National Action Plan Sub-Objective 2.1.1 describes creation of ''a regional public health laboratory network that uses standardized testing platforms to expand the availability of reference testing services'', and facilitation of ''rapid data analysis and dissemination of information.'' The CDC has created this public health laboratory network and named it the Antimicrobial Resistance Laboratory Network (AR Lab Network). The mission of the AR Lab Network is to offer validated high-quality laboratory testing through funding support of state and regional labs so these labs can build the capacity and the capability to locally improve detection and laboratory diagnostics. Building strength nationally through public health laboratories thereby increases the capacity of state and local health departments for rapid detection and faster response to outbreaks and emerging antimicrobial resistance among bacterial and fungal pathogens (*https://www.cdc.gov/antimicrobial-resistance/media/pdfs/2019-ar-threats-report-508.pdf*). This state and local public health laboratory testing capacity is being implemented by the Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC) in response to the Executive Order 13676 of September 18, 2014, the National Strategy of September 2014 and to implement the National Action Plan of October 2020 for Combating Antibiotic-Resistant Bacteria. Data collected throughout this network is also authorized by Section 301 of the Public Health Service Act (42 U.S.C. 241).

The CDC's AR Lab Network supports nationwide lab capacity to rapidly detect antimicrobial resistance and inform local public health responses to prevent spread and protect people. It closes the gap between local laboratory capabilities and the data needed to combat antimicrobial resistance by providing comprehensive lab capacity and infrastructure for detecting antimicrobial-resistant pathogens (germs), advanced technology, like DNA sequencing, and rapid sharing of actionable data to drive infection control responses and help treat infections. This infrastructure allows the public health community to rapidly detect emerging antimicrobial-resistant threats in healthcare, food, and the community, mount a comprehensive local response, and better understand these deadly threats to quickly contain them.

The AR Lab Network is a network of jurisdictional public health laboratories currently including those of all 50 states, District of Columbia, Los Angeles County, Houston, New York City, Philadelphia, Guam, and Puerto Rico. Laboratories are financially supported through the Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC) Cooperative agreement (CDC–RFA–CK–24–0002) to perform testing, support workforce, and laboratory infrastructure. Laboratory capacity supported through the AR Lab Network fall into the following categories: (1) core testing, support for important antimicrobial resistant pathogens that are traditionally healthcare-associated, including carbapenem-resistant Enterobacteriaceae (CRE), carbapenem-resistant Pseudomonas aeruginosa (CRPA), carbapenem-resistant Acinetobacter baumannii (CRAB), and Candida species, including C. auris; (2) jurisdictional testing capacity that supports Neisseria gonorrhoeae surveillance; (3) testing of colonization screening samples to support local public health response; and (4) enhanced testing capacity at the regional laboratories (currently seven).

CDC is requesting a three-year approval for revisions made to OMB Control No. 0920–1310 for the Public Health Laboratory Testing for Emerging Antibiotic Resistance and Fungal Threats which supports the data collected through the Antimicrobial Resistance Laboratory Network (AR Lab Network). A Revision is being submitted to: (1) add new data elements to the data collection forms: (2) ensure that the burden of generating electronic messages for data transmission are accounted for; and (3) accommodate changes to the Performance Measures (PMs) used to monitor the performance of the AR Lab Network. For this Revision, the total estimated annual burden is 57,872 hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Average number of responses per respondent	Average burden per response (in hours)
Public Health Laboratories	I.1—ROUTINE TESTING BY GENERAL IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	57	1	10/60
	1.2—EXPANDED DRUG SUSCEPTIBILITY TESTING (ExAST) IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	7	1	10/60
	1.3—CANDIDA SPECIES IDENTIFICATION IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	57	1	10/60
	1.4—HAIAR WHOLE GENOME SEQUENCING (WGS) OF GRAM–NEGATIVE AR THREATS IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	Up to 57	1	10/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Average number of responses per respondent	Average burden per response (in hours)
	1.5—C. AURIS COLONIZATION SCREENING IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	Up to 57	1	10/60
	1.6—CARBAPENEMASE–PRODUCING ORGANISM (CPO) SCREENING IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	Up to 57	1	10/60
	1.7—AZOLE RESISTANCE IN CLINICAL ASPERGILLUS FUMIGATUS ISOLATES—Annual Evaluation and Performance Measurement Report.	2	1	20/60
	1.8—N. GONORRHOEAE WHOLE GENOME SEQUENCING (WGS)—Annual Evaluation and Performance Measurement Report.	4	1	10/60
	1.9—GONOCOCCAL (GC) ANTIMICROBIAL SUSCEPTIBILITY TESTING (AST) IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	4	1	20/60
	1.10—WHOLE GENOME SEQUENCING (WGS) OF S. PNEUMONAIE—Annual Evaluation and Performance Measurement Report.	2	1	20/60
	1.11—CLOSTRIDIOIDES DIFFICILE (C. DIFFICLE) TESTING IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	2	1	20/60
	1.12—ANTIFUNGAL RESISTANT TINEA DERMATOPHYTES—Annual Evaluation and Performance Measurement Report.	3	1	20/60
	1.13—ANTIMICROBIAL SUSCEPTIBILITY TESTING (AST) OF INVASIVE HAEMOPHILUS INFLUENZAE (H. INFLUENZAE) IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	2	1	20/60
	1.14—MYCOPLASMA GENTALIUM (MG)—Annual Evaluation and Performance Measurement Report.	4	1	20/60
	1.15—MOLECULAR Mtb TESTING—Annual Evaluation and Performance Measurement Report.	Up to 20	1	10/60
	1.16—C. AURIS WHOLE GENOME SEQUENCING (WGS) IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	Up to 57	1	10/60
	1.17—MONITORING CRE CRPA IN COMPANION ANIMALS TO FROM HUMANS—Annual Evaluation and Performance Measurement Report.	Up to 2	1	20/60
	1.18—HEALTHCARE WASTEWATER–BASED SURVEILLANCE—Annual Evaluation and Performance Measurement Report.	Up to 2	1	20/60
	1.19—COMMUNICATION AND COORDINATION OF ACTIONABLE EPI LAB DATA IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	57	1	10/60
	1.20—CHARACTERIZATION OF THE CLINICAL LABORATORY NETWORK IN JURISDICTION—Annual Evaluation and Performance Measurement Report.	57	1	10/60
	1.21 NEISSERIA GONORRHOEAE ETEST FOR SHARP.	17	1	20/60
	AR Lab Network Annual Report of Testing Methods for Carbapenemase-producing Organisms.	57	1	2
	AR Lab Network Monthly Data Report Form for Carbapenemase-producing Organisms.	57	1302	20/60
	AR Lab Network Alert Report Form for Carbapenemase-producing Organisms.	57	214	3/60
	AR Lab Network Alert and Monthly Data Report Form for *Candida*.	Up to 57	1671	20/60
	AR Lab Network Form for Phylogenetic Tree-level Mycotics Reporting.	Up to 57	30	6/60
	AR Lab Network Alert and Monthly Data Report Form for *Neisseria gonorrhoeae*.	17	93	6/60
	AR Lab Network DAART data elements for *Neisseria gonorrhoeae*.	4	50	10/60
	HL7 Messages updates—IT Maintenance	32	4	20/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Average number of responses per respondent	Average burden per response (in hours)
	Implementation of new HL7 messages—IT Initial Set up.	11	4	3
	CSV files updates for Carbapenemase-producing organisms—IT Maintenance.	24	1	1

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–22958 Filed 10–3–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–R–65]

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 December 3, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–R–65 Final Peer Review Organizations Sanction and Supporting Regulations

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:* Extension of a currently approved collection; *Title of Information Collection:* Final Peer Review Organizations Sanction and Supporting Regulations; *Use:* The Peer Review Improvement Act of 1982 amended Title XI of the Social Security Act (the Act), creating the Utilization and Quality Control Peer Review Organization Program. Section 1156 of the Act imposes obligations on health care practitioners and others who furnish or order services or items under Medicare. This section also provides for sanction actions, if the Secretary determines that the obligations as stated by this section are not met. Quality Improvement Organizations (QIOs) are responsible for identifying violations. The QIOs may allow practitioners or other entities, opportunities to submit relevant information before determining that a violation has occurred. The information collection requirements contained in this information collection request are used by the QIOs to collect the information necessary to make their decision. *Form Number:* CMS–R–65 (OMB control number: 0938–0444); *Frequency:* Occasionally; *Affected Public:* Private sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 34; *Total Annual Responses:* 34; *Total Annual Hours:* 8,144. (For policy questions

regarding this collection contact Cheryl Lehane at 617–461–4888.)

William N. Parham, III

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–23008 Filed 10–3–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Healthy Marriage and Responsible Fatherhood Local Evaluation Final Report (New Collection)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Planning, Research, and Evaluation (OPRE) in the Administration for Children and Families (ACF), U.S. Department of Health and Human Services is requesting approval of the Healthy Marriage and Responsible Fatherhood (HMRF) Final Report Templates. HMRF grant programs are required to submit a final report describing their local evaluation analyses and findings. This request includes guidance for grant recipients in the form of templates. Information will inform technical assistance to support grantees in developing and submitting the final reports to ACF to fulfill a grant requirement.

DATES: *Comments due* December 3, 2024. In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *OPREinfocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: Since 2005, Congress has authorized dedicated funding for discretionary awards from ACF's Office of Family Assistance to support HMRF programs. Per the 2020 HMRF Notice of Funding Opportunities issued by ACF, HMRF grant recipients that are carrying out local evaluations are required to submit a final evaluation report to ACF at the end of their grant. The final reports must document the research questions, measures, study design, planned and actual implementation of the program, analytic methods for their evaluation, and evaluation findings.

OPRE is conducting the HMRF Local Evaluation Technical Assistance (LETA) projects, jointly referred to as the HMRF–LETA projects, to support federally funded programs in evaluating their healthy relationship and family stability services to adult couples, adult individuals, fathers, and youth. As part of the HMRF–LETA project, grant recipients receive technical assistance to support planning and executing a local evaluation and analyzing and reporting local evaluation findings.

The purpose of the current information collection request is to provide standardized report templates and table shells to grant recipients to document their evaluation's analysis and findings. A structured final report template will facilitate grant recipients' efficient and consistent reporting of evaluation findings in their final reports. The completed draft reports will be reviewed by the HMRF–LETA teams to determine whether the analysis and reports meet standards set by ACF, and to develop recommendations for grant recipients to improve the analysis and reports before final submission to ACF. Grant recipients will finalize and submit their final reports to ACF, as required. This request includes the time to develop and submit the reports.

Respondents: The respondents are HMRF grant recipients conducting a local evaluation. There are currently 79 grant recipients conducting local evaluations: 50 evaluations using descriptive designs (''descriptive evaluations'') and 29 evaluations using impact designs (''impact evaluations'').

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Avg. burden per response (in hours)	Total/annual burden (in hours)
Descriptive Evaluation Final Report Template	50	1	40	2,000
Impact Evaluation Final Report Template	29	1	30	870
Impact Evaluation Final Report Table Shells	29	1	10	290

Estimated Total Annual Burden Hours: 3,160.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 42 U.S.C. 603(a)(2).

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2024–22959 Filed 10–3–24; 8:45 am]

BILLING CODE 4184–73–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; Centers for Research in Emerging Infectious Diseases (CREID) Network Coordination Center (U01—Clinical Trial Not Allowed).

Date: November 4, 2024.

Time: 9:00 a.m. to 2:00 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 3G13A, Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Mairi Noverr, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G13A, Rockville, MD 20892, (240) 747–7530, *mairi.noverr@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 1, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22980 Filed 10–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Integrative Myocardial Physiology/Pathophysiology A Study Section.

Date: October 30–31, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering, Biodata, and Biomodelling Technologies.

Date: November 1, 2024.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David R. Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Clinical Care and Health Interventions (CCHI).

Date: November 1, 2024.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shivakumar V. Chittari, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–408–9098, *chittari.shivakumar@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: October 1, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22984 Filed 10–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Aging Special Emphasis Panel, October 21, 2024, 10:00 a.m. to October 22, 2024, 06:00 p.m., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 which was published in the **Federal Register** on September 16, 2024, 89 FR 75549.

The FRN was amended due to a location change from 5601 Fishers Lane in Rockville to the National Institute on Aging in Bethesda. The meeting is closed to the public.

Dated: September 30, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22883 Filed 10–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, NIDDK, September 26, 2024, 10:00 a.m. to September 27, 2024, 05:00 p.m., National Institutes of Health, building 10, 10 Center Drive, Bethesda, MD 20892 which was published in the **Federal Register** on November 2, 2023, 88 FR 75300.

The following FRN is being amended to change meeting format from virtual to in person. The meeting is partially Closed to the public.

Dated: September 30, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22880 Filed 10–3–24; 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 cooperative agreement 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; Clinical Trial Planning Grant (R34); Investigator Initiated Extended Clinical Trial (R01); Clinical Trial Implementation Cooperative Agreement (U01); SBIR Phase II Clinical Trial Implementation Cooperative Agreement (U44).

Date: October 29, 2024.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40A, Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Robert C. Unfer, 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 3F40A, Rockville, MD 20892, (240) 669–5035, *robert.unfer@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: October 1, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22981 Filed 10–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cardiovascular and Respiratory Sciences Integrated Review Group, Therapeutic Development and Preclinical Studies Study Section, October 23, 2024, 08:00 a.m. to October 24, 2024, 07:00 p.m., Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015, which was published in the **Federal Register** on September 25, 2024, FR Doc. No. 2024–21898, 89 FR 78319.

This meeting is being amended to change the meeting format from a hybrid meeting (in-person and virtual) to in-person only. The meeting is closed to the public.

Dated: October 1, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22979 Filed 10–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, NIDDK, October 12, 2023, 10:00 a.m. to October 13, 2023, 05:00 p.m., National Institutes of Health, 10 Center Drive, Bethesda, MD 20892 which was published in the **Federal Register** on August 21, 2023, 88 FR 56846.

The following FRN is being amended to change the meeting format from virtual to in person. The meeting is partially Closed to the public.

Dated: September 30, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22890 Filed 10–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, November 08, 2024, 10:00 a.m. to November 08, 2024, 05:00 p.m., National Institutes of Health, NIDDK, Democracy II, 6707 Democracy Boulevard, Bethesda, MD 20892 which was published in the **Federal Register** on September 24, 2024, 89 FR 77875.

The following FRN is being amended to change the meeting date from November 8, 2024, to November 20, 2024. The meeting is closed to the public.

Dated: September 30, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22881 Filed 10–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, NIDDK, April 19, 2024, 10:00 a.m. to April 20, 2024, 05:00 p.m., National Institutes of Health, building 10, 10 Center Drive, Bethesda, MD 20892 which was published in the **Federal Register** on November 2, 2023, 88 FR 75294.

The following FRN is being amended to change the meeting format from virtual to in person. The meeting is partially Closed to the public.

Dated: September 30, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22892 Filed 10–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of 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 Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: January 28–29, 2025.

Closed: January 28, 2025, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate to review and evaluate grant applications.

Place: Building 45, Natcher Building, Center Drive, Bethesda, MD 20892 (In-Person and Virtual Meeting).

Open: January 29, 2025, 10:00 a.m. to 2:00 p.m.

Agenda: Call to order and report from the Director; Discussion of future meeting dates; Consideration of minutes of last meeting; Reports from Task Force on Minority Aging Research, Working Group on Program; Council Speaker; Program Highlights.

Place: Building 45, Natcher Building, Center Drive, Bethesda, MD 20892 (In-Person and Virtual Meeting).

Closed: January 29, 2025, 2:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate to review and evaluate review of Intramural Research Program.

Place: Building 45, Natcher Building, Center Drive, Bethesda, MD 20892 (In-Person and Virtual Meeting).

Contact Person: Kenneth Santora, Ph.D., Director, Office of Extramural Activities, National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 496–9322, *ksantora@nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/about/naca,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 30, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22882 Filed 10–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Transition to Independence Study Section.

Date: November 7–8, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Bethesdan Hotel, Tapestry Collection by Hilton, 8120 Wisconsin Avenue, Bethesda, MD 20814 (Hybrid Meeting).

Contact Person: Kazuyo Kegan, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–T, Bethesda, MD 20892, (301) 402–1334, email: *kazuyo.kegan@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 1, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22983 Filed 10–3–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0514]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0061

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0061, Commercial Fishing Industry Vessel Safety Regulations; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before November 4, 2024.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2024–0514]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–6P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, fax 202–372–8405, or email *hqs-dg-m-cg-61-pii@uscg.mil* for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, USCG–2024–0514, and must be received by November 4, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. We review all comments received, but we may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0061.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (89 FR 52073, June 21, 2024) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Commercial Fishing Industry Vessel Safety Regulations.

OMB Control Number: 1625–0061.

Summary: This information collection is intended to improve safety on board vessels in the commercial fishing industry. The requirements apply to those vessels and to mariners on them.

Need: Under the authority of 46 U.S.C. 6104, the Coast Guard promulgated regulations in 46 CFR part 28 to reduce fatalities and accidents in the commercial fishing industry. The rules allowing the collection also provide means of verifying compliance and enhancing safe operation of fishing vessels.

Forms: CG–5587, USCG Commercial Fishing Vessel Safety Examination.

Respondents: Owners, agents, individuals-in-charge of commercial fishing vessels, and insurance underwriters.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden decreased from 4,832 hours to 3,316 hours a year, primarily due to a decrease in the estimated annual number of citizenship waiver requests.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.,* chapter 35, as amended.

Dated: September 12, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–22978 Filed 10–3–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0386]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0008

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0008, Regattas and Marine Parades; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before November 4, 2024.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2024–0386]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–6P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, fax 202–372–8405, or email *hqs-dg-m-cg-61-pii@uscg.mil* for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, USCG–2024–0386, and must be received by November 4, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. We review all comments received, but we may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0008.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (89 FR 56398, July 9, 2024) required by 44 U.S.C. 3506(c)(2). That notice received one unrelated comment. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Regattas and Marine Parades.

OMB Control Number: 1625–0008.

Summary: 46 U.S.C. 70041 authorizes the Coast Guard to issue regulations to promote the safety of life on navigable waters during regattas or marine parades. Title 33 CFR 100.15 promulgates the rules for providing notice of, and additional information for permitting regattas and marine parades (marine events) to the Coast Guard.

Need: The Coast Guard needs to determine whether a marine event may present a substantial threat to the safety of human life on navigable waters and determine which measures are necessary to ensure the safety of life during the events. Sponsors must notify the Coast Guard of the efficient means for the Coast Guard to learn of the events and address environmental impacts.

Forms: CG–4423, Application for Marine Event.

Respondents: Sponsors of marine events.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden is 3,349 hours per year. The estimated burden hours are reduced from 3,750 to 3,349 due to the decrease in marine event permit requests in 2020, the increase of respondents submitting applications online as well as increased accuracy in tracking Marine Event Permit activities in the Marine Information for Safety and Law Enforcement (MISLE) database.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.,* chapter 35, as amended.

Dated: September 12, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–22977 Filed 10–3–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0515]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0082

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0082, Navigation Safety Information and Emergency Instructions for Certain Towing Vessels; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before November 4, 2024.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2024–0515]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–6P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, fax 202–372–8405, or email *hqs-dg-m-cg-61-pii@uscg.mil* for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of

information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, USCG–2024–0515, and must be received by November 4, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. We review all comments received, but we may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0082.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (89 FR 52072, June 21, 2024) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Navigation Safety Information and Emergency Instructions for Certain Towing Vessels.

OMB Control Number: 1625–0082.

Summary: Navigation safety regulations in 33 CFR part 164 help assure that the mariner piloting a towing vessel has adequate equipment, charts, maps, and other publications. For certain inspected towing vessels, under 46 CFR 199.80 a muster list and emergency instructions provide effective plans and references for crew to follow in an emergency situation.

Need: The purpose of the regulations is to improve the safety of towing vessels and the crews that operate them.

Forms: None.

Respondents: Owners, operators, and masters of vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 387,509 hours to 319,419 hours a year, due to a decrease in the estimated annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.,* chapter 35, as amended.

Dated: September 12, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–22976 Filed 10–3–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2024–0028; OMB No. 1660–0105]

Agency Information Collection Activities: Proposed Collection, Comment Request; National Household Survey on Disaster Preparedness

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of extension and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on an extension of a currently approved information collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice seeks comments concerning the National Household Survey on Disaster Preparedness, which identifies progress and gaps in individual and community preparedness and to better understand the motivational factors and barriers to preparedness that people face.

DATES: Comments must be submitted on or before December 3, 2024.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at *http://www.regulations.gov* under Docket ID FEMA–2024–0028. Follow the instructions for submitting comments.

All submissions received must include the Agency name and Docket ID. Regardless of the method used to submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew Burrows, Preparedness Behavior Branch Chief, Individual and Community Preparedness Division, Partnership and Engagement Branch at (202) 716–0527 or *andrew.burrows@fema.dhs.gov.* You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (Pub. L. 93–288, as amended) (42 U.S.C. 5195–5195(a)) identifies the purpose of emergency preparedness ''for the protection of life and property in the United States from hazards.'' It directs that the Federal Government ''provide necessary direction, coordination, and guidance'' as authorized for a comprehensive emergency preparedness system for all hazards. Emergency preparedness is defined as all ''activities and measures designed or undertaken to prepare or minimize the effects of a hazard upon the civilian population . . .'' The ''conduct of research'' is among the measures to be undertaken in preparation for hazards.

The Department of Homeland Security (DHS) Strategic Plan 2020–2024 includes Goal 5 to ''strengthen preparedness and resiliency.'' The first objective (5.1) of this goal is to ''build a national culture of preparedness'' with a sub-objective to ''improve awareness

initiatives to encourage public action to increase preparedness.'' Similarly, in FEMA's 2022–2026 Strategic Plan, Goal 3 is to ''promote and sustain a ready FEMA and prepared nation.''

Presidential Policy Directive-8 (PPD–8) directs the Secretary of Homeland Security to ''coordinate a comprehensive campaign to build and sustain national preparedness, including public outreach and community-based and private sector programs to enhance national resilience, the provision of Federal financial assistance, preparedness efforts by the Federal Government, and national research and development efforts.''

The Post Katrina Emergency Management Reform Act (PKEMRA) (Pub. L. 109–295) (6 U.S.C. 749(a)) requires the FEMA Administrator, in coordination with the National Council on Disability and the National Advisory Council, to establish a comprehensive system to assess, on an ongoing basis, the Nation's prevention capabilities and overall preparedness, including operational readiness.

In response to the charge to FEMA, and to the DHS and FEMA strategic priorities, FEMA manages programs to improve the public's knowledge and actions for preparedness and resilience. Information from this collection will be used to track changes in knowledge, attitudes, and behaviors related to preparedness in the general public. This information collection will be in the form of a public opinion survey administered to a sample of American adults across the nation. The nature of the information collected will focus on people's attitudes, behaviors, and motivations related to disaster preparedness and disaster risk.

Collection of Information

Title: National Household Survey on Disaster Preparedness.

Type of Information Collection: Extension of a currently approved information collection.

OMB Number: 1660–0105.

FEMA Forms: FEMA Form FF–008–FY–21–103 (formerly 008–0–15), National Household Survey on Disaster Preparedness (Telephone); FEMA Form FF–008–FY–21–104, National Household Survey on Disaster Preparedness (Web).

Abstract: The Individual and Community Preparedness Division (ICPD) analyzes and uses data collected in the two versions of the National Household Survey on Disaster Preparedness to identify progress and gaps in individual and community preparedness and to better understand the motivational factors and barriers to preparedness that people face. The survey measures the public's knowledge, attitudes, and behaviors relative to preparing for disasters. This information is used by ICPD and FEMA components to tailor messaging and public information efforts, community outreach, and strategic planning initiatives to more effectively improve the state of individual preparedness and participation across the country. The findings are compiled in a report that is circulated internally to DHS and FEMA officials as well as made available to the public on the FEMA website, OpenFEMA (*https://www.fema.gov/about/openfema/data-sets/national-household-survey*).

Affected Public: Individuals or Households.

Estimated Number of Respondents: 3,751.

Estimated Number of Responses: 3,751.

Estimated Total Annual Burden Hours: 1,282.

Estimated Total Annual Respondent Cost: $58,524.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $323,932.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2024–22897 Filed 10–3–24; 8:45 am]

BILLING CODE 9111–27–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Extension From OMB of One Current Public Collection of Information: Airport Security

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0002, abstracted below that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR will describe the nature of the information collection and its expected burden. TSA airport security programs require airport operators to submit certain information to TSA, as well as to maintain and update records to ensure compliance with security provisions.

DATES: Send your comments by December 3, 2024.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be made available at *https://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0002; Airport Security Part 1542. The information collection is used to determine compliance with 49 CFR part 1542 [1] and to ensure passenger safety and security by monitoring airport operator security procedures. The information collection and other recordkeeping requirements that currently fall under this OMB control number are associated with an airport operator's compliance with TSA's regulatory requirements, including the following: (1) development of an Airport Security Program (ASP), submission to TSA for review and approval, and implementation; (2) as applicable, development of airport operator requested or TSA-required ASP amendments and temporary changed conditions, submission to TSA for review and approval, and implementation; (3) collection of data necessary to complete a criminal history records check (CHRC) for those individuals with unescorted access to a Security Identification Display Area (SIDA); (4) submission to TSA of identifying information about individuals to whom the airport operator has issued identification media, such as name, address, and country of birth, in order for TSA to conduct a Security Threat Assessment (STA); and (5) information collection and recordkeeping requirements associated with compliance with the regulation, employees who have access privileges to secured areas of the airport, and compliance with Security Directives (SDs) issued pursuant to the regulation.

TSA will continue to collect information to determine airport operator compliance with other requirements of 49 CFR part 1542. TSA estimates that there will be approximately 435 airport operator respondents to the information collection requirements described above, with a total annual burden estimate of approximately 2,147,899 hours.

Dated: September 30, 2024.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2024–22943 Filed 10–3–24; 8:45 am]

BILLING CODE 9110–05–P

[1] In July 2016, OMB approved TSA's request to revise OMB Control Number 1652–0002, by including in it the recordkeeping requirements under OMB Control Number 1652–0006, Employment Standards, which also applies to 49 CFR part 1542. This action combined two previously-approved ICRs into this single request to simplify TSA collections, increase transparency, and reduce duplication.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7082–N–08]

60-Day Notice of Proposed Information Collection: Protection and Enhancement of Environmental Quality; OMB Control No.: 2506–0177

AGENCY: Office of Community Planning and Development, 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:* December 3, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to *www.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: Glenn Schroeder, Program Analyst, OEE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email at *glenn.a.schroeder@hud.gov* or telephone (202) 402–5849. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: 24 CFR part 50—Protection and Enhancement of Environmental Quality.

OMB Approval Number: 2506–0177.

Type of Request: Extension of currently approved collection.

Description of the need for the information and proposed use: HUD requests its applicants to supply environmental information that is not otherwise available to HUD staff for the environmental review on an applicant's proposal for HUD financial assistance to develop or improve housing or community facilities. HUD itself must perform an environmental review for the purpose of compliance with its environmental regulations found at 24 CFR part 50, Protection and Enhancement of Environmental Quality. Part 50 implements the National Environmental Policy Act and implementing procedures of the Council on Environmental Quality, as well as the related federal environmental laws and executive orders. HUD's agency-wide provisions—24 CFR 50.3(h)(1) and 50.32—regulate how individual HUD program staffs are to utilize such collected data when HUD itself prepares the environmental review and compliance. Separately, individual HUD programs each have their own regulations and guidance implementing environmental and related collection responsibilities. For the next three years, this approved collection will continue unchanged under this OMB control number to assure adequate coverage for all HUD programs subject to part 50.

Respondents: Businesses, not-for-profit institutions, and local governments receiving HUD funding.

Information Collection/Form Number: N/A.

Estimated Number of Respondents: 1,159.

Frequency of Response: 1.

Responses per Annum: 1,159.

Average Burden Hours per Response: 3.

Total Estimated Burdens: $176,944.53.

Information collection/ Form No.	Estimated number of respondents	Frequency of response	Responses per annum	Average burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
N/A	1,159	1	1,159	3	3,477	50.89	$176,944.53

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 comments in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Marion M. McFadden,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2024–22896 Filed 10–3–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2024–N048; FXES11130500000–245–FF05E00000]

Endangered Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct scientific research to promote conservation or other activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive any written comments on or before November 4, 2024.

ADDRESSES: Use one of the following methods to request documents or submit comments. Requests and comments should specify the applicant's name and application number (*e.g.,* PER0001234):

- *Email: permitsR5ES@fws.gov*.
- *U.S. Mail:* Abby Goldstein, Ecological Services, U.S. Fish and Wildlife Service, 300 Westgate Center Dr. Hadley, MA 01035.

FOR FURTHER INFORMATION CONTACT: Abby Goldstein, 413–253–8212 (phone), or *permitsR5ES@fws.gov* (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of species that are listed as endangered under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species, unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes such activities as pursuing, harassing, trapping, capturing, or collecting, in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

We invite local, State, and Federal agencies; Tribes; and the public to comment on the applications in table 1.

TABLE 1—PERMIT APPLICATIONS RECEIVED

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
01086D–4	Virginia Department of Wildlife Resources, Marion, VA; Timothy Lane.	Appalachian monkeyface (*Quadrula sparsa*), birdwing pearlymussel (*Lemiox rimosus*), cracking pearlymussel (*Hemistena lata*), Cumberland monkeyface (*Quadrula intermedia*), Cumberlandian combshell (*Epioblasma brevidens*), dromedary pearlymussel (*Dromus dromas*), fanshell (*Cyprogenia stegaria*), finerayed pigtoe (*Fusconaia cuneolus*), fluted kidneyshell (*Ptychobranchus subtentus*), littlewing pearlymussel (*Pegias fabula*), oyster mussel (*Epioblasma capsaeformis*), pink mucket (*Lampsilis abrupta*), purple bean (*Villosa perpurpurea*), rough pigtoe (*Pleurobema plenum*), rough rabbitsfoot (*Quadrula cylindrica strigillata*), sheepnose (*Plethobasus cyphyus*), shiny pigtoe (*Fusconaia cor*), slabside pearlymussel (*Pleuronaia dolabelloides*), snuffbox (*Epioblasma triquetra*), spectaclecase (*Cumberlandia monodonta*), tan riffleshell (*Epioblasma florentina walkeri*).	Virginia, Tennessee.	Collect, transport, hold in captivity for longer than 45 days, propagate, release, research, and translocate.	Capture, collect.	Renew.
PER12175217	Jacob Miller, Hurricane, WV.	Clubshell (*Pleurobema clava*), dwarf wedgemussel (*Alasmidonta heterodon*), fanshell (*Cyprogenia stegaria*), fat pocketbook (*Potamilus capax*), Higgins' eye Pearlymussel (*Lampsilis higginsii*), James spinymussel (Parvaspina collina), longsolid (*Fusconaia subrotunda*), northern riffleshell (*Epioblasma rangiana*), orangefoot pimpleback (*Plethobasus cooperianus*), pink mucket (*Lampsilis abrupta*), purple catspaw (*Epioblasma obliquata*), rabbitsfoot (*Quadrula cylindrica cylindrica*), rayed bean (*Villosa fabalis*), ring pink (*Obovaria retusa*), rough pigtoe (*Pleurobema plenum*), round hickorynut (*Obovaria subrotunda*), sheepnose (*Plethobasus cyphyus*), snuffbox (*Epioblasma triquetra*), spectaclecase (*Cumberlandia monodonta*), white catspaw (*Epioblasma perobliqua*), white wartyback (*Plethobasus cicatricosus*).	Alabama, Arkansas, Connecticut, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Vermont, Virginia, West Virginia, Wisconsin.	Presence/absence survey.	Capture	New.
PER12201376	Monongahela National Forest, Parsons, WV; Andrew Moore.	Rusty patched bumble bee (*Bombus affinis*)	West Virginia	Presence/absence survey.	Capture	New.
PER1541732–1.	Emily Pody, New Braunfels, TX.	Add: Ouachita rock pocketbook (*Arcidens wheeleri*), Guadalupe orb (*Cyclonaias necki*), Balcones spike (*Fusconaia iheringi*), false spike (*Fusconaia mitchelli*), Guadalupe fatmucket (*Lampsilis bergmanni*), Texas fatmucket (*Lampsilis bracteata*), Texas hornshell (*Popenaias popeii*), Texas pimpleback (*Cyclonaias petrina*), Texas fawnsfoot (*Truncilla macrodon*).	Add: Texas	Survey, collect samples, tag, salvage shells.	Capture, collect.	Amend.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martin Miller,

Manager, Division of Endangered Species, Ecological Services, Northeast Region.

[FR Doc. 2024–22950 Filed 10–3–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_MO# 4500180403]

Notice of Intent To Prepare an Environmental Assessment and Amend the Resource Management Plan for the Proposed Dodge Flat Solar II Project in Washoe County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Nevada State Office intends to prepare a Resource Management Plan (RMP) amendment with an associated

Environmental Assessment (EA) for the proposed Dodge Flat Solar II Project and by this notice is announcing the beginning of the scoping period to solicit public comments and identify issues, and is providing the planning criteria for public review.

DATES: The BLM requests the public submit comments concerning the scope of the analysis, potential alternatives, and identification of relevant information and studies by November 4, 2024. To afford the BLM the opportunity to consider issues raised by commenters in the Draft RMP amendment and associated EA, please ensure your comments are received prior to the close of the 30-day scoping period or 15-days after the last public meeting, whichever is later.

ADDRESSES: You may submit comments on issues and planning criteria related to the Dodge Flat Solar II Project by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2027081/510.*
- *Email: BLM_NV_CCDO_Dodge_Flat_Solar@blm.gov.*
- *Mail:* BLM, Carson City District Office, Attn: Dodge Flat Solar II Project, 5665 Morgan Mill Rd., Carson City, NV 89701.

Documents pertinent to this proposal may be examined online at *https://eplanning.blm.gov/eplanning-ui/project/2027081/510* and at the Carson City District Office.

FOR FURTHER INFORMATION CONTACT: Jonathan Kalb, Realty Specialist, telephone (775) 885–6033; address 5665 Morgan Mill Rd., Carson City, NV 89701; email *Jkalb@blm.gov.* Contact Jonathan Kalb to have your name added to our mailing list. 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 for contacting Jonathan Kalb. 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: This document provides notice that the BLM intends to prepare an RMP amendment with an associated EA for the proposed Dodge Flat Solar II Project and announces the beginning of the scoping process that seeks public input on issues and planning criteria. The RMP amendment is being considered to allow the BLM to evaluate modifying a portion of an energy corridor designated by BLM under section 368 of the Energy Policy Act of 2005 (Section 368 energy corridors) around the proposed Dodge Flat Solar II Project. This would require removal of approximately 608 acres of the section 368 energy corridor, as currently identified, and designating approximately 92 acres of new section 368 energy corridor to the southeast of the proposed Dodge Flat Solar II Project. Section 368 energy corridors are managed as the preferred locations for development of energy transportation projects on lands managed by the BLM. Each corridor has a defined centerline, width, and compatible uses (underground-only, electric-only, or multi-modal). The rerouting of the section 368 energy corridor would require amending the Carson City Field Office Consolidated RMP, as amended by the 2009 West Wide Energy Corridor Programmatic Environmental Impact Statement Record of Decision. The planning area is located in Washoe County, NV, and encompasses approximately 990 acres of public land.

Purpose and Need

The BLM's purpose for this Federal action is to respond to the ROW application submitted under Title V of FLPMA and to amend the section 368 energy corridor (15–17) direction in the Carson City Field Office Consolidated RMP in compliance with the BLM ROW regulations (43 CFR part 2800) and other applicable Federal and State laws and policies. In accordance with FLPMA, there is a need to consider the long-term needs of future generations for renewable and non-renewable resources in the context of the multiple resource objectives in the Carson City Field Office Consolidated RMP planning area.

A Notice of Intent for an amendment to the Carson City Field Office Consolidated RMP for use of exclusion areas within the proposed Dodge Flat Solar II Project was published on January 19, 2024. Since then, it was determined that an amendment to the Carson City Field Office Consolidated RMP is needed for the Section 368 energy corridor rerouting as well.

Preliminary Alternatives

Under the No Action alternative, the BLM would not approve the proposed Dodge Flat Solar II Project on public lands and would not amend the corridor alignment in the Carson City Field Office Consolidated RMP. Under the proposed action alternative, the BLM would change the corridor alignment in the Carson City Field Office Consolidated RMP to allow the Dodge Flat Solar II Project to be developed as currently proposed. The BLM welcomes comments and suggestions for additional alternatives.

Planning Criteria

The planning criteria guide the planning effort and lay the groundwork for effects analysis by identifying the preliminary issues and their analytical frameworks. Preliminary issues for the planning area have been identified by BLM personnel and from early engagement conducted for this planning effort with Federal, State, and local agencies; Tribes; and stakeholders. The BLM has identified several preliminary issues for this planning effort's analysis. The planning criteria are available for public review and comment at the ePlanning website (see **ADDRESSES**).

Public Scoping Process

This notice of intent initiates the scoping period and public review of the planning criteria, which guide the development and analysis of the RMP amendment and associated EA. The BLM will hold one virtual scoping meeting. The specific date and time of the scoping meeting will be announced at least 15 days in advance through the project ePlanning web page (See **ADDRESSES**).

Interdisciplinary Team

The BLM will use an interdisciplinary approach to develop the plan amendment in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in this planning effort: air quality, archaeology, botany, climate change (greenhouse gases), environmental justice, fire and fuels, geology/mineral resources and soils, hazardous materials, hydrology, groundwater, invasive/non-native species, jurisdictional delineations, lands and realty, paleontology, public health and safety, rangelands, transportation, socioeconomics, soils, visual resources, and wildlife.

Additional Information

The BLM will identify, analyze, and consider mitigation to address the reasonably foreseeable impacts to resources from the proposed plan amendment and all analyzed reasonable alternatives and, in accordance with 40 CFR 1502.14(e), include appropriate mitigation measures not already included in the proposed plan amendment or alternatives. Mitigation may include avoidance, minimization, rectification, reduction or elimination over time, and compensation; and may be considered at multiple scales, including the landscape scale.

The BLM will utilize and coordinate the NEPA and land use planning processes for this planning effort to help

support compliance with applicable procedural requirements under the Endangered Species Act (16 U.S.C. 1536) and section 106 of the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3), including public involvement requirements of section 106. The information about historic and cultural resources and threatened and endangered species within the area potentially affected by the proposed plan amendment will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Indian Tribes on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with Indian Tribes and other stakeholders that may be interested in or affected by the proposed Dodge Flat Solar II Project that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the EA as a cooperating agency.

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.

(Authority: 40 CFR 1501.7, 43 CFR 1610.2, and 43 CFR 2800)

Jon K. Raby,

State Director.

[FR Doc. 2024–22982 Filed 10–3–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[BLM_UT_FRN_MO 4500181748]

Notice of Availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for Bears Ears National Monument in Utah

AGENCY: Bureau of Land Management, Interior; Forest Service, Agriculture (USDA).

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) and U.S. Department of Agriculture, Forest Service (USDA Forest Service), collectively ''the Agencies,'' have prepared a Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) for the Bears Ears National Monument (BENM or monument) and by this notice are announcing the start of a 30-day protest period of the Proposed RMP.

DATES: This notice announces a 30-day protest period to the BLM on the Proposed RMP beginning on the date of the Environmental Protection Agency's (EPA) publication of its Notice of Availability (NOA) of the Proposed RMP/Final EIS in the **Federal Register**. The EPA usually publishes its NOAs on Fridays. Protests must be postmarked or electronically submitted on the BLM's ePlanning site during the 30-day protest period.

ADDRESSES: The Proposed RMP, Final EIS and associated documents are available on the BLM ePlanning project website at *https://eplanning.blm.gov/eplanning-ui/project/2020347/510.* Pertinent documents may also be examined at the BLM Monticello Field Office, 365 North Main, Monticello, Utah 84535.

Instructions for filing a protest with the BLM for the BENM Proposed RMP/Final EIS can be found at: *https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest* and at 43 CFR 1610.5–2.

FOR FURTHER INFORMATION CONTACT: Jill Stephenson, Project Manager, telephone: 435–259–2100; address: Bureau of Land Management Canyon Country District, 82 E Dogwood, Moab, Utah 84532; email: *jstephenson@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 for contacting Ms. Stephenson. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The planning area is located in San Juan County, Utah, and encompasses approximately 1.36 million acres of federal land administered by the BLM and USDA Forest Service.

The USDA Forest Service will adopt the BLM's administrative review protest procedures, as provided by the Forest Service Planning Rule at 36 CFR 219.59(a).

Purpose and Need for the Planning Effort

Presidential Proclamation 10285 directs the Agencies to ''prepare and maintain a new management plan for the entire monument'' for the specific purposes of ''protecting and restoring the objects identified [in Proclamation 10285] and in Proclamation 9558.''

The RMP's underlying purpose (40 CFR 1502.13) is to provide a management framework, including goals, objectives, and management direction, to guide BENM management consistent with the protection of BENM objects and the management direction provided in Proclamation 10285.

The purpose and need for the BENM RMP is aligned with the purpose and need to amend the plan direction and management allocation for BENM in the Manti-La Sal National Forest Land and Resource Management Plan (LRMP). The proposed programmatic amendment incorporates the proposed BENM RMP and updated land management allocation of the BENM boundary area into the Manti-La Sal LRMP. The scope of the USDA Forest Service amendment is based on the objects identified in Proclamation 10285, and the scale applies to National Forest System (NFS) lands within the BENM boundary area.

Alternatives Considered

The Final EIS evaluates six alternatives in detail, including the no action alternative. Alternative A (the no action alternative) represents current management from the 2020 BENM Approved Monument Management Plans, which apply to lands that remained in BENM under Proclamation 9681, and the 2008 Monticello Approved RMP, 2008 Moab Approved

RMP, and 1986 Manti-La Sal National Forest LRMP, as amended, which apply to the lands that were excluded from BENM under Proclamation 9681, to the extent that those management actions are consistent with Proclamation 10285. In some cases, decisions in the 2008 Monticello Approved RMP, 2008 Moab Approved RMP, and 1986 Manti-La Sal National Forest LRMP are inconsistent with Proclamation 10285; in those instances, Alternative A has been modified to be consistent with Proclamation 10285. Alternative B would provide the most permissive management for discretionary actions that are compatible with the protection of BENM objects. This alternative would focus on on-site education and interpretation and allow for the development of facilities to protect BENM objects. Alternative C would allow discretionary actions if they are necessary to protect BENM objects. This alternative would focus on off-site education and interpretation and allow for limited development of facilities to protect BENM objects. Alternative D would allow for the continuation of natural processes by limiting or discontinuing discretionary uses. This alternative would minimize human-created facilities and management and would emphasize natural conditions. Alternative E would emphasize resource protection and maximize the consideration and use of Tribal perspectives on managing the BENM landscape. This alternative includes consideration of natural processes and seasonal cycles in the management of BENM, and extensive collaboration with Tribal Nations to incorporate those considerations into the day-to-day management of the monument. The BLM and USDA Forest Service have also developed the Proposed RMP as presented in the Final EIS. The Proposed RMP is based on Alternative E, with a combination of components from the various action alternatives. Like Alternative E, the Proposed RMP emphasizes resource protection and maximizing the consideration and use of Tribal perspectives.

Public Comment Period and Development of the Proposed RMP and Final EIS

The BLM received a total of 18,975 letter submissions during the public comment period on the Draft RMP/EIS, including 15,624 letters that contained non-unique, preformulated language that appeared elsewhere in letter submissions. There were 3,351 unique submissions, from which the agencies identified substantive comments. Most submissions were focused on suggestions for specific alternatives or alternative elements; statements of support for or lack thereof for an alternative; and detailed input pertaining to various resource topics analyzed in the draft EIS, such as travel and transportation, livestock grazing, and recreation and visitor services.

The agencies were informed in the development of the Proposed RMP by public comments; input from the Bears Ears Commission, cooperating agencies, and the Utah Division of Wildlife Resources; government-to-government consultation with Tribal Nations; consultation under section 106 of the National Historic Preservation Act; and updates to the best available science.

The primary changes from the Draft RMP/EIS to the Proposed RMP/Final EIS include: the analysis of the Proposed RMP; the use of updated assessment, inventory, and monitoring data; modifications to management actions concerning recreation, travel and transportation, livestock grazing, visual resources, lands and realty, and lands with wilderness characteristics; the designation of Areas of Critical Environmental Concern (ACECs); the inclusion of the public comment process summary and responses; the development of a monitoring plan; the addition of an appendix to address scenery management on the NFS lands; and the review of applicable State and local land use plans for plan consistency. The agencies also made revisions in the Final EIS for consistency, clarity, and accuracy. In Appendix U of the Final EIS, the agencies provide responses to substantive comments on the Draft RMP/EIS, including proposed target shooting closures and ACECs.

Protest of the Proposed RMP

The BLM planning regulations state that any person who participated in the preparation of the RMP and has an interest that will or might be adversely affected by approval of the Proposed RMP may protest its approval to the BLM Director. Protest on the Proposed RMP constitutes the final opportunity for administrative review of the proposed land use planning decisions prior to the BLM adopting an approved RMP and the USDA Forest Service approving amendment of the 1986 Manti-La Sal National Forest LRMP. Instructions for filing a protest regarding the Proposed RMP with the BLM Director may be found online at *https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest* and at 43 CFR 1610.5–2. All protests must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section earlier or submitted electronically through the BLM ePlanning project website as described previously. Protests submitted electronically by any means other than the ePlanning project website will be invalid unless a protest is also submitted as a hard copy. The BLM Director will render a written decision on each protest. The BLM Reviewing Official is the BLM Assistant Director for Resources and Planning, and the USDA Forest Service Reviewing Official is the Regional Forester. The BLM and USDA Forest Service will jointly sign a memorandum documenting the decisions on the resolutions of all protests for both agencies. This shall be the final decision of the Department of the Interior and Department of Agriculture. Responses to valid protest issues will be compiled and documented in a Protest Resolution Report made available following the protest resolution online at: *https://www.blm.gov/programs/planning-and-nepa/public-participation/protest-resolution-reports.* Upon resolution of protests, the BLM will issue a Record of Decision (ROD) and Approved RMP, and the USDA Forest Service will issue a ROD amending the 1986 Manti-La Sal National Forest LRMP to incorporate the Approved RMP for BENM. The responsible official for the BLM is the Utah State Director; the responsible official for the USDA Forest Service is the Manti-La Sal Forest Supervisor.

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10 (2023), 43 CFR 1610.2, 43 CFR 1610.5, 36 CFR 219.16, 36 CFR 219.59)

Gregory Sheehan,

BLM Utah State Director.

Barbara Van Alstine,

Manti-La Sal Forest Supervisor.

[FR Doc. 2024–22760 Filed 10–3–24; 8:45 am]

BILLING CODE 4331–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_MO4500181594]

Notice of Availability of the Final Environmental Impact Statement for Nevada Gold Mines LLC Robertson Mine Project, Lander County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) announces the availability of the Final Environmental Impact Statement (EIS) for Nevada Gold Mines LLC (NGM) Robertson Mine Project.

DATES: The BLM will not issue a decision on the proposal for a minimum of 30 days after the date that the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

ADDRESSES: The Final EIS and documents pertinent to this proposal are available for review on the BLM National NEPA Register website at *https://eplanning.blm.gov/eplanning-ui/project/2023088/510.*

FOR FURTHER INFORMATION CONTACT: Jeff Kirkwood, Project Manager, telephone: (775) 635–4164; address: 50 Bastian Road, Battle Mountain, Nevada 89820; email: *BLM_NV_BMDO_Robertson@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 telecommunication relay services for contacting Mr. Kirkwood. 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:

Purpose and Need for the Proposed Action

The BLM's purpose for the action is to respond to NGM's proposal, as described in its proposed plan of operations, and to analyze the potential environmental effects associated with the proposed action, which is the operator's proposed plan of operations, and alternatives to the proposed action. NEPA mandates that the BLM evaluate the potential effects of the proposed action and develop alternatives. The BLM's need for the action is established by the BLM's responsibilities under Section 302 of FLPMA and the BLM Surface Management Regulations at 43 CFR subpart 3809 to respond to a proposed plan of operations and ensure that operations prevent unnecessary or undue degradation of the public lands.

Proposed Action and Alternatives

Under the proposed plan of operations, NGM would construct, operate, close, and reclaim a new surface mine within the Shoshone Range approximately 58 miles southeast of Battle Mountain, Nevada, and 70 miles southwest of Elko, Nevada. The proposed action would result in changes to the authorized Robertson Exploration Plan boundary (NVN–067688), the Cortez Mine Plan boundary (NVN–67575), and the Pipeline-South Pipeline-Gold Acres Exploration Plan boundary (NVN–067261). If the Robertson Mine Project Plan is approved, these authorized plans would be modified subsequent to that approval.

The boundary of the proposed plan of operations would encompass 5,990 acres. The total disturbance associated with the proposed action, including existing, reclassified, and exploration, would be 4,356 acres, with 4,177 acres on land administered by the BLM and 179 acres on private land. The proposed surface mining activities for the Robertson Mine would include: three open pits (Gold Pan, Porphyry, and Altenburg Hill); haul roads; a waste rock facility; a heap leach facility, including a lined pad, process solution ponds and vaults, and carbon-in-column plant; and ancillary facilities, including three-stage crushing with associated conveyors; ore stockpiles; growth media stockpiles; a gravel borrow source; secondary roads; stormwater controls and diversions; a truck scale; power lines and electrical substations; water production, dewatering, and monitoring wells; water pipelines and loadouts; ready lines; fuel and reagent storage; fueling facilities; laydown yards; an assay laboratory; trailers; buildings; and communications sites. Shared facilities with the nearby Cortez Mine would include but not be limited to the haul road, a potable water well, water pipelines, warehouse and maintenance shops, hazardous waste storage, a petroleum-contaminated soils facility, ore stockpiles, the Pipeline Mill, carbon handling, a refinery, a laboratory, and the Pipeline Area 28 tailings storage facility.

The Partial Backfill Alternative would be the same as described for the proposed action, with the requirement that the Gold Pan Pit would be backfilled to prevent the establishment of a post-mining pit lake.

Under the No Action Alternative, the development of the Robertson Mine Project would not be authorized and NGM would not construct, operate, close, and reclaim a new surface mine. Modifications to the Exploration Plan boundary, the Cortez Mine Plan boundary, and the Pipeline-South Pipeline-Gold Acres Exploration Plan boundary would not occur.

Based on the analyses contained in the EIS for the proposed Robertson Mine Project, and after carefully considering input received from the public and cooperating agencies, the BLM has selected the Partial Backfill Alternative as the BLM's preferred alternative.

Comments on the Draft EIS received from the public and internal BLM review were considered and incorporated as appropriate into the Final EIS. Public comments resulted in the addition of clarifying text but did not significantly change the impact analyses.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10)

Jon D. Sherve,

District Manager, Battle Mountain District.

[FR Doc. 2024–22867 Filed 10–3–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038781; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Western Washington University, Department of Anthropology, Bellingham, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Western Washington University, Department of Anthropology (WWU) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after November 4, 2024.

ADDRESSES: Dr. Judith Pine, Western Washington University, Department of Anthropology, Arntzen Hall 340, 516 High Street, Bellingham, WA 98225,

telephone (360) 650–4783, email *pinej@wwu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the WWU, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. The eight associated funerary objects are stone, bone and antler tools and red ochre.

Between July 5 and August 6, 1982, the WWU Anthropology Department conducted an archaeological survey of the Lummi River flood plain and adjacent areas within the Lummi Indian Reservation, Whatcom County, WA. The survey was conducted at the request of the Bureau of Indian Affairs and was restricted to tribal trust and allotment lands. The project was designed to provide a basic cultural resource inventory that would supplement previous archaeological investigations of other portions of the Lummi Reservation. During this survey, six previously unrecorded sites were located, and test excavations were conducted at one of these sites (Patterson 1983, An Archaeological Investigation of the Lummi River and Adjacent Portions of the Lummi Reservation, Whatcom County, Washington. Reports in Archaeology No.19, Department of Anthropology, Western Washington University, Bellingham, Washington).

During the WWU 2018–2020 Repatriation and Rehousing Project, ancestral remains and associated funerary objects were newly identified from three sites (45–WH–171, 45–WH–172, and 45–WH–176), and they are listed below. No known individuals were identified. No hazardous chemicals are known to have been used to treat the human remains while in the custody of WWU.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The WWU has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The eight objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Lummi Tribe of the Lummi Reservation and the Nooksack Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after November 4, 2024. If competing requests for repatriation are received, the WWU must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The WWU is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 25, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–22887 Filed 10–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038785; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Georgia, Laboratory of Archaeology, Athens, GA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Georgia, Laboratory of Archaeology has completed an inventory of human remains has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after November 4, 2024.

ADDRESSES: Dr. Amanda Roberts Thompson, The University of Georgia Laboratory of Archaeology, 1125 E Whitehall Road, Athens, GA 30605, telephone (706) 542–8373, email *arobthom@uga.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Georgia, Laboratory of Archaeology and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Ancestor remains representing one individual was found at the Department of Anthropology at the University of Georgia. It is unclear when this individual came to be housed at the Department of Anthropology but likely was brought to the university after 1948 when the Anthropology program was founded. This individual may be associated with work by former faculty Harold Huscher who worked in the Southwest but no clear documentation exists. There is no record of any potentially hazardous substances used to treat the ancestor, although there does appear to be some glue on some of the elements.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the

information available about the ancestors and associated funerary objects described in this notice.

Determinations

The University of Georgia, Laboratory of Archaeology has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a connection between the human remains described in this notice and the Navajo Nation, Arizona, New Mexico, & Utah; Pueblo of Acoma, New Mexico; Ohkay Owingeh, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo de San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Santo Domingo Pueblo; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe; Ysleta del Sur Pueblo; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after November 4, 2024. If competing requests for repatriation are received, the University of Georgia, Laboratory of Archaeology must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The University of Georgia, Laboratory of Archaeology is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 25, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–22893 Filed 10–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038787; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: San Francisco State University NAGPRA Program, San Francisco, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the San Francisco State University (SF State) NAGPRA Program intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after November 4, 2024.

ADDRESSES: Elise Green, San Francisco State University NAGPRA Program, 1600 Holloway Avenue, San Francisco, CA 94132, telephone (415) 338–1381, email *egreen@sfsu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SF State NAGPRA Program and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of four cultural items are requested for repatriation. The four objects of cultural patrimony include a round basket, one round gift basket (Korbel), one twine round basket (Korbel), and one plain twine basket. These baskets were donated to the Treganza Anthropology Museum (TAM) at San Francisco State University in the 1960s and 1970s. When the TAM closed in 2012, all the Native American items were transferred to the SF State NAGPRA Program. The basket cap is from the Northwest California Basket Collection. Two baskets were donated by Elsa Korbel in 1968. There no records of the donors of the other two baskets at SF State.

It was once common practice by museums to use chemicals on cultural items to prevent deterioration by mold, insects, and moisture. To date, the SF State NAGPRA Program has no records documenting use of chemicals at our facilities, and we currently do not use chemicals on any cultural items. A former SF State professor, Dr. Michael Moratto, stated that staff used glues, polyvinyl acetate, and a solution called Glyptol to mend and stabilize cultural objects in the past. Prior non-invasive and non-destructive hazardous chemical tests conducted at the SF State NAGPRA Program repositories show arsenic, mercury, and/or lead in some storage containers, surfaces, and certain cultural items.

Determinations

The SF State NAGPRA Program has determined that:

- The four objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and the Grindstone Indian Rancheria of Wintun-Wailaki Indians of California and the Paskenta Band of Nomlaki Indians of California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after November 4, 2024. If competing requests for repatriation are received,

the SF State NAGPRA Program must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The SF State NAGPRA Program is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: September 25, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–22886 Filed 10–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038782; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Autry Museum of the American West and California, Los Angeles, CA, and California Department of Parks and Recreation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Autry Museum of the American West (Southwest Museum) jointly with California Department of Parks and Recreation have completed an inventory of human remains and associated funerary objects, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after November 4, 2024.

ADDRESSES: Karimah Richardson, M.Phil., RPA, Associate Curator of Anthropology and Repatriation Supervisor, Autry Museum of the American West, 4700 Western Heritage Way, Los Angeles, CA 90027, telephone (323) 495–4203, email *krichardson@theautry.org* and Leslie Hartzell, NAGPRA Coordinator, at California State Parks, 715 P Street, Suite 13, Sacramento, CA 95814, telephone (415) 831–2700, email *leslie.hartzell@parks.ca.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Autry Museum of the American West jointly with California Department of Parks and Recreation, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing at least 14 individuals have been reasonably identified. The 30 associated funerary objects are one olivella shell, 19 faunal bone fragments, three charcoal pieces, one clam shell fragment, three oyster shell fragments, one mussel fragment, one crab shell fragment, and one unmodified stone. In 1982, human remains were found ''in collection'', wrapped in a Los Angeles Examiner newspaper dated September 4th, 1933, and a paper bag with ''Carpinteria'' written across it with no associated object number. Mishopshnow (CA–SBa–7) is a Chumash village and cemetery site that dates to the Late Period (A.D. 1100 to contact) that is located in the city of Carpinteria. It is unknown how or when the human remains (17.C.71) came to the Southwest Museum (now part of the Autry Museum).

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Autry Museum of the American West jointly with California Department of Parks and Recreation has determined that:

- The human remains described in this notice represent the physical remains of 14 individuals of Native American ancestry.
- The 30 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a reasonable connection between the human remains and associated funerary objects described in this notice and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after November 4, 2024. If competing requests for repatriation are received, the Autry Museum of the American West jointly with California Department of Parks and Recreation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Autry Museum of the American West jointly with California Department of Parks and Recreation is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 25, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–22889 Filed 10–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038780; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Alabama Museums, Tuscaloosa, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Alabama Museums has completed an inventory of human

remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after November 4, 2024.

ADDRESSES: Dr. William Bomar, Executive Director, University of Alabama Museums, Box 870340, Tuscaloosa, AL 35487, telephone (205) 348–7551, email *bbomar@ua.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Alabama Museums, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, 23 individuals have been identified. The 152 lots of associated funerary objects are ceramic vessels, ceramic sherds, lithics, ground stone, discoidal, shell, faunal bone, copper, stone disk, sandstone, charcoal, burial fill, and botanical remains.

The human remains and associated funerary objects from sites in Hale and Tuscaloosa Counties, Alabama, and Moundville that are in the possession of the University of Alabama Museums derive from various investigations and private collection donations primarily dating to the period 1933–1996. These sites in Hale and Tuscaloosa Counties are associated with the larger site of Moundville. During its Native American occupation, the Moundville site and the surrounding area were inhabited by several thousand people in a relatively dense occupancy, and over a prolonged period of time. Excavations at various sites in Hale and Tuscaloosa Counties, AL and Moundville contributed to the human remains and associated funerary objects in the University of Alabama Museums' collection.

At an unknown date, human remains representing, at minimum, one individual was removed from an unknown location in Tuscaloosa County, AL. Provenience from the bag where these human remains were found is as follows: ''Material from dog Nancy Miss Marsh for Anth 13 76 Brookhaven, Tuscaloosa'' (Box 1502, Bag 21). The collection contains no additional information as to the origin of the human remains and is simply designated as ''Brookhaven.'' Based on morphological characteristics identified through osteological analysis, the human remains are Native American. No known individuals are identified. No associated funerary objects are present.

In 1933, human remains representing, at minimum, three individuals were excavated and removed from Site 1Ha14/1Ha15, the Taylor Site. Site 1Ha14/1Ha15 was recorded by Walter B. Jones of the Alabama Museum of Natural History. The site consists of the mound originally called 1Ha14 and the associated village originally called 1Ha15. Site 1Ha14 is now considered to include both the mound and village and 1Ha15 is considered a synonym. The mound is a small eroded earthen mound, situated approximately 50 yards from the bank of the Touson Lake, a small ox box lake about two miles west of the town of Moundville. After a 1970 flood, the University of Alabama removed two burials, which had been exposed and disturbed at that time. Neither of the burials contained chronologically diagnostic grave goods. No known individuals are identified. No associated funerary objects are present.

From the 1930s to 2000, human remains representing, at minimum, 14 individuals were excavated and removed from site 1Tu66, the Grady Bobo site. Site 1Tu66 was originally recorded in 1933 by Walter B. Jones and John Dodd of the Alabama Museum of Natural History. The site was revisited by a survey party from the University of Michigan in 1978–1979. In 1999 the University of North Carolina archaeological field school returned to the Grady Bobo (1Tu66) site. Burial 1 was encountered while excavating Feature 10 during the field school in 1999. Dr. Keith Jacobi of the University of Alabama came to the Bobo site to document the remains in Burial 1 in situ. It is stated the bones were left in situ and covered with soil immediately after documentation was complete. All feature soil, including burial fill, was bagged. The site was revisited during the 2000 field season by the University of North Carolina. During this time two burials were uncovered and documented by Dr. Keith Jacobi of the University of Alabama in situ. No known individuals are identified. The 54 lots of associated funerary objects include ceramic sherds, lithics, ground stone, shell, faunal bone, charcoal, and botanical remains.

Between 1905 and 1979, human remains representing, at minimum, one individual was excavated and removed from site 1Ha107/1Tu41. Site 1Tu41 was originally recorded by C.B. Moore in 1905 and later in 1933 by Walter B. Jones of the Alabama Museum of Natural History. The site is a mound and was one of a dozen habitation sites in a large field. Each site was initially given a separate number, but later, during excavation, were all combined under site 1Ha107. The site complex, however, is centered in Tuscaloosa County, and included the previously recorded mound, 1Tu41. C.B. Moore reported a mound at this position. Despite its eroded state Moore dug into the mound but found no burials. In July 1933, Jones was able to relocate the mound, and he notes that the mound was largely obliterated by cultivation. The UMMA survey team in 1979 was unable to find the mound. No known individuals are identified. No associated funerary objects are present.

In 1937, human remains representing, at minimum, one individual was excavated and removed from site 1Tu115. Site 1Tu115 was originally recorded by Walter B. Jones of the Alabama Museum of Natural History. Human bone, pottery sherds, and a few flints were recorded as being seen. The collection contains no additional information as to the origin of the human remains and there is no map location for this site. No known individuals are identified. No associated funerary objects are present.

In 1970, human remains representing, at minimum, one individual was excavated and removed from site 1Tu240. Site 1Tu240 was recorded by Jerry Nielsen and Craig Sheldon of the University of Alabama. The original investigation was by boat as material was eroding out of the upper part of the riverbank, adjacent to a pasture. A pit was observed eroding out of the riverbank and a small midden zone was observed. Clay Wiggins of Fosters excavated a burial urn eroding out of the riverbank. No known individuals are identified. No associated funerary objects are present.

In 1973, human remains representing, at minimum, one individual was excavated and removed from site 1Tu242/1Tu303. Site 1Tu242 was recorded by Charles Hubbert of the University of Alabama. The site is located on a high, flat plateau just south of where a small stream enters the Sipsey River flood plain and just north of the railroad in the area. Caleb Curren, of the University of Alabama also used this number for a site near Moundville, but that site has been renumbered 1Tu303. No human remains were recorded as being excavated. No known

individuals are identified. No associated funerary objects are present.

In 1996, human remains representing, at minimum, one individual was excavated and removed from site 1Tu768, the Gerald Wiggins Site. Site 1Tu768 was originally recorded by Margaret Scarry, John Scarry, and Mintcy Maxham of the University of North Carolina, Chapel Hill. The Gerald Wiggins site is a Late Moundville I farmstead in the Black Warrior floodplain. The site was identified by the landowner, Gerald Wiggins, on the basis of a feature eroding from a road cut on his property. Surface collection yielded artifacts only in the immediate vicinity of the darker soil of the feature. No human remains were recorded as being excavated. The individual identified was housed with faunal remains and so it is likely it was misidentified as faunal at the time of excavation. No known individuals are identified. No associated funerary objects are present.

During a period from the 1930s to the late 1980s, 29 lots of associated funerary objects were excavated and removed from Site 1Tu500, the Moundville site, during various excavations, including field schools conducted by the University of Alabama. Moundville, a large mound complex on the banks of the Black Warrior River whose occupation spans the Late Woodland and the West Jefferson phase through the Moundville I, II, and III phases, and terminates in the Late Mississippian/Protohistoric Moundville IV phase, has been the subject of two centuries of archaeological inquiry. The 29 lots of associated funerary objects include ceramic vessels, ceramic sherds, discoidals, shell, copper, and a stone disk.

In the 1930s and again in 1997, 69 lots of associated funerary objects were excavated and removed from Site 1Tu1, the Pride Place site. The site dates from Late Woodland, West Jefferson phase to the Moundville III phase. The lots of associated funerary objects include ceramic vessels, ceramic sherds, lithics, charcoal, ground stone, burial fill, discoidal, sandstone, faunal bone, and shell.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The University of Alabama Museums has determined that:

- The human remains described in this notice represent the physical remains of 23 individuals of Native American ancestry.
- The 152 lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Seminole Tribe of Florida (previously listed as Seminole Tribe of Florida; The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; and The Seminole Nation of Oklahoma with letters of support from the Alabama-Coushatta Tribe of Texas and the Jena Band of Choctaw Indians.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after November 4, 2024. If competing requests for repatriation are received, the University of Alabama must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of Alabama is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 25, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–22885 Filed 10–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038783; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Autry Museum of the American West and California, Los Angeles, CA, and California Department of Parks and Recreation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Autry Museum of the American West jointly with California Department of Parks and Recreation intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after November 4, 2024.

ADDRESSES: Karimah Richardson, M.Phil., RPA, Associate Curator of Anthropology and Repatriation Supervisor, Autry Museum of the American West, 4700 Western Heritage Way, Los Angeles, CA 90027, telephone (323) 495–4203, email *krichardson@theautry.org* and Leslie Hartzell, NAGPRA Coordinator, at California State Parks, 715 P Street, Suite 13, Sacramento, CA 95814, telephone (415) 831–2700, email *leslie.hartzell@parks.ca.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Autry Museum of the American West jointly with California Department of Parks and Recreation, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one

unassociated funerary object is one lot of cordage. In an unknown year, Mr. Willy Stahl (830.G) collected material from Mishopshnow (CA–SBa–7), Carpinteria, Carpinteria State Beach, in Santa Barbara County, CA. Mr. Stahl gifted the cultural item to the Southwest Museum (now part of the Autry Museum of the American West) in 1942. Mishopshnow (CA–SBa–7) is a Chumash village and cemetery site that dates to the Late Period (1100 AD to contact).

A total of one cultural item has been requested for repatriation. The one unassociated funerary object is one fishhook. In 1930, Mr. Bruce Bryan (1864.G) collected the cultural item from a burial at Mishopshnow (CA–SBA–7) Carpinteria, Carpinteria State Beach, in Santa Barbara County, CA. Mr. Bryan gifted the cultural item in 1966 to the Southwest Museum.

A total of eight cultural items have been requested for repatriation. The eight unassociated funerary objects are eight trade beads. The trade beads were found in the museum collection (5.C.98) with no object number in a box with cultural material from Misphopshnow/Carpinteria from the Mr. Willy Stahla (830.G) collection. Thus, it is likely they came from that collection, exact collection number could not be found.

A total of 186 cultural items have been requested for repatriation. The 186 unassociated funerary objects are one lot of shell beads (missing), 137 shell beads, 45 shell beads, and three ochre fragments. At an unknown date, Mr. Harry Clayton Davis (1052.G), and members of the Archaeological Society of Southern California (ASSC), a non-professional group, collected cultural items from a sandbank at Mishopshnow Village (CA–SBa–7) in Carpinteria, Carpinteria State Beach, Santa Barbara County, CA. Mr. Davis's wife gifted the cultural items to the Southwest Museum in 1946.

A total of five cultural items have been requested for repatriation. The five unassociated funerary objects are one bone bead and four shell beads. At an unknown date, Mr. Francis H. Elmore collected cultural items from near the tar pits at Mishopshnow (CA–SBa–7), in Carpinteria, Carpinteria State Beach, Santa Barbara County, CA. Mr. Elmore gifted the cultural items to the Southwest Museum in 1959.

Determinations

The Autry Museum of the American West jointly with California Department of Parks and Recreation has determined that:

- The 201 unassociated funerary objects described above are reasonably believed to have been placed intentionally with or near individual human remains, and are connected, either at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after November 4, 2024. If competing requests for repatriation are received, the Autry Museum of the American West jointly with California Department of Parks and Recreation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Autry Museum of the American West jointly with California Department of Parks and Recreation is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: September 24, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–22884 Filed 10–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038786; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: San Francisco State University NAGPRA Program, San Francisco, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the San Francisco State University (SF State) NAGPRA Program intends to repatriate a certain cultural item that meets the definition of an object of cultural patrimony and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after November 4, 2024.

ADDRESSES: Elise Green, San Francisco State University NAGPRA Program, 1600 Holloway Avenue, San Francisco, CA 94132, telephone (415) 338–1381, email *egreen@sfsu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SF State NAGPRA Program and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item is requested for repatriation. The one object of cultural patrimony is a fern and conifer basket cap. This basket cap was donated to the Treganza Anthropology Museum (TAM) at San Francisco State University in the 1960s and 1970s. When the TAM closed in 2012, all the Native American items were transferred to the SF State NAGPRA Program. The basket cap is from the Northwest California Basket Collection and there are no records of the donor at SF State.

It was once common practice by museums to use chemicals on cultural items to prevent deterioration by mold, insects, and moisture. To date, the SF State NAGPRA Program has no records documenting use of chemicals at our facilities, and we currently do not use

chemicals on any cultural items. A former SF State professor, Dr. Michael Moratto, stated that staff used glues, polyvinyl acetate, and a solution called Glyptol to mend and stabilize cultural objects in the past. Prior non-invasive and non-destructive hazardous chemical tests conducted at the SF State NAGPRA Program repositories show arsenic, mercury, and/or lead in some storage containers, surfaces, and certain cultural items.

Determinations

The SF State NAGPRA Program has determined that:

- The one object of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural item described in this notice and the Wiyot Tribe, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after November 4, 2024. If competing requests for repatriation are received, the SF State NAGPRA Program must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The SF State NAGPRA Program is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: September 25, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–22895 Filed 10–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038779; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Army Garrison, Fort Leonard Wood, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Army Garrison, Fort Leonard Wood (Fort Leonard Wood) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after November 4, 2024.

ADDRESSES: Stephanie Nutt, Archaeologist/Cultural Resources Manager, 8112 Nebraska Avenue, Building 11400, Fort Leonard Wood, MO 65473, telephone (573) 596–7607, email *Stephanie.L.Nutt.civ@army.mil.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Fort Leonard Wood and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, three individuals have been reasonably identified. No associated funerary objects are present. The individuals were removed from Miller Cave, site 23PU2, in Pulaski County, MO. The individuals were found by Markman and Associates, Inc. in a back dirt pile of an earlier 1922 excavation of the site. The individuals were later identified during an analysis of faunal remains. The site dates from the Early Archaic (7800–5000 BC) to the Mississippian (A.D. 950–1600).

One associated funerary object has been identified. The one associated funerary object is one faunal (deer) tooth. In 1982, human remains representing, at minimum, one adult individual and associated funerary object was removed from Wilson Cave, site 23PU152 in Pulaski County, MO. The individual and associated funerary object was removed by Environmental Consultants, Inc. during an archaeological excavation of the cave in 1982. The site dates from the Middle Archaic (5000–2500 BC) to the Mississippian (A.D. 950–1600). The individual associated with this object has been listed in a Notice of Inventory Completion published in the **Federal Register** on March 7, 2017 (82 FR12835–12836).

Human remains representing, at least, one individual has been identified. The one associated funerary object is one faunal tooth. The individual and associated funerary object were removed from Joy Cave, site 23PU210 in Pulaski County, MO. The individual and associated funerary object were removed by Environmental Consultants, Inc., during archaeological survey in 1982. The site dates from the Archaic (7800–700 BC) to the Mississippian (A.D. 950–1600).

Human remains representing, at least, one individual has been identified. No associated funerary objects are present. The individual was removed from Martin Cave B, site 23PU217 in Pulaski County, MO. The individual was removed by Environmental Consultants, Inc., during an archaeological survey of the cave in 1982. The site dates from the Middle Woodland (200 BC–A.D. 450) to the Late Woodland (A.D. 450–950).

Human remains representing, at least, two individuals have been identified. The two associated funerary objects are one lot of ceramics and one lot of faunal fragments. The individuals and associated funerary objects were removed from site 23PU234 in Pulaski County, MO. The individuals and associated funerary objects were removed by Cultural Resource Analysts, Inc. during an archaeological excavation at a disturbed cairn site in 1983. The site dates to the Late Woodland period (A.D. 450–950).

Human remains representing, at least, one individual has been identified. The 13 associated funerary objects are 13 faunal fragments. The individual and associated funerary objects were removed from site 23PU311 in Pulaski County, MO. The individuals and associated funerary objects were removed by Cultural Resource Analysts,

Inc. during archaeological testing at a disturbed cairn site in 1983. The site dates to the Late Woodland period (A.D. 450–950).

Human remains representing, at least, two individuals have been identified. The seven associated funerary objects are one Columnella bead, one Anculosa bead, one bone awl, one lot unsorted matrix, one faunal fragment, one wood fragment, and one snail shell. The individuals and associated funerary objects were removed from site 23PU313 in Pulaski County MO. The individuals and associated funerary objects were removed by Cultural Resource Analysts, Inc., during archaeological testing of a disturbed cairn site. The site dates to the Late Woodland period (A.D. 450–950).

Human remains representing, at least, one individual has been identified. There are no associated funerary objects. The individual was removed from site 23PU321 in Pulaski County, MO. The individual was removed by Cultural Resource Analysts, Inc. during archaeological excavation in 1983. The site dates to the Late Woodland (A.D. 450–950).

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

Fort Leonard Wood has determined that:

- The human remains described in this notice represent the physical remains of 11 individuals of Native American ancestry.
- The 24 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and The Osage Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after November 4, 2024. If competing requests for repatriation are received, Fort Leonard Wood must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. Fort Leonard Wood is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 25, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–22894 Filed 10–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038784; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: California State University, Sacramento, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California State University, Sacramento intends to repatriate a certain cultural item that meets the definition of an unassociated funerary object and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after November 4, 2024.

ADDRESSES: Dr. Mark R. Wheeler, Senior Advisor to President Luke Wood, California State University, Sacramento, 6000 J Street, Sacramento, CA 95819, telephone (916) 460–0490, email *mark.wheeler@csus.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the California State University, Sacramento, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one unassociated funerary object is a shell bead. The item was removed from CA–SAC–60 in Sacramento County, CA. No acquisition records have been located and it is not known how the item came into the University's possession. It was assigned accession 81–466 after its discovery in 2024.

Determinations

The California State University, Sacramento has determined that:

- The one unassociated funerary object described in this notice is reasonably believed to have been placed intentionally with or near human remains, and is connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary object has been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and the Wilton Rancheria, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after November 4, 2024. If competing requests for repatriation are received, the California State University,

Sacramento must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The California State University, Sacramento is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: September 25, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–22891 Filed 10–3–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038788; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: California Department of Parks and Recreation, Sacramento, CA, and California Department of Water Resources, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California Department of Parks and Recreation and the California Department of Water Resources has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after November 4, 2024.

ADDRESSES: Dr. Leslie L. Hartzell, NAGPRA Coordinator, California Department of Parks and Recreation, P.O. Box 942896, Sacramento, CA 94296–0001, telephone (916) 425–8016, email *Leslie.Hartzell@parks.ca.gov* and Anecita Agustinez, Tribal Policy Advisor, California Department of Water Resources, P.O. Box 942836, Sacramento, CA 94236–0001, telephone (916) 216–8637, email *Anecita.Agustinez@water.ca.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the California Department of Parks and Recreation and the California Department of Water Resources, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Murphy Site (CA–BUT–53)

In February and April of 1963, student volunteers from American River College California State University—Chico, and Sacramento State University excavated the Murphy Site, under the direction of California Department of Parks and Recreation. These were salvage excavations prior to site destruction, related to researching the cultural chronology of the Lake Oroville vicinity during the construction of the Oroville Dam.

The 302 lots of associated funerary objects are one lot of bolts, one lot of buttons, one lot of cobbles, one lot of drills, one lot of flakers, one lot of gravers, one lot of knife/scrapers, one lot of net sinkers, one lot of quartz crystals, one lot of scraper planes, one lot of seeds, one lot of utilized flakes, two lots of acorns, two lots of antler tines, two lots of anvils, two lots of choppers, two lots of tubes, two lots of unidentified items, three lots of nails, four lots of rocks, six lots of hammerstones, seven lots of ornaments, seven lots of scrapers, eight lots of bowls, eight lots of pestles, nine lots of blades, 11 lots of flakes, 19 lots of pins, 23 lots of awls, 27 lots of bone tools, 30 lots of beads, 40 lots of projectile points, and 76 lots of food remains. No human remains were identified.

Tie-Wiah Site (CA–BUT–84)

In 1964, students and faculty from American River College excavated the Tie-Wiah site. In 1966, the California Department of Parks and Recreation sponsored and oversaw additional excavations. In 1967, the California Department of Water resources sponsored California State University—Sacramento for the site's third excavation prior to the completion of Oroville Dam.

The 11,828 lots of associated funerary objects are one lot of abraders, one lot of atlatl spurs, one lot of baked clay/mud dob, one lot of bolts and nuts, one lot of burins, one lot of chisels, one lot of cord impressions, one lot of crescents, one lot of harpoons, one lot of hooks, one lot of insect nests, one lot of ladles, one lot of mixed bone/rock, one lot of nests, one lot of ochre, one lot of pine cones, one lot of sherds, one lot of washers, one lot of whetstones, two lots of cooking stones, two lots of crystals, two lots of nails, two lots of plant samples, two lots of spoons, three lots of charmstones, three lots of whistles, four lots of bark, four lots of gaming pieces, five lots of ornaments, five lots of spatulas, five lots of wood, six lots of debitage, six lots of gravers, eight lots of rods, nine lots of fire fractured stones, nine lots of gorges, nine lots of griddles, nine lots of net sinkers, 10 lots of ammo, 10 lots of baked clay, 10 lots of glass, 11 lots of wooden posts, 14 lots of shaft straighteners, 14 lots of soil samples, 15 lots of anvils, 17 lots of rocks, 19 lots of pendants, 19 lots of pins, 21 lots of charcoal samples, 22 lots of pipes, 23 lots of acorns, 23 lots of mortars, 23 lots of seeds, 26 lots of incised bones, 31 lots of antler tines, 36 lots of tubes, 40 lots of slag, 41 lots of metates, 44 lots of awls, 70 lots of cobbles, 77 lots of bifaces, 116 lots of pestles, 120 lots of drills, 127 lots of blades, 149 lots of cores, 155 lots of manos, 169 lots of unidentified items, 194 lots of beads, 207 lots of choppers, 222 lots of pigments, 281 lots of hammerstones, 372 lots of bowls, 583 lots of bone tools, 604 lots of knives, 614 lots of utilized flakes, 720 lots of quartz crystals, 1,001 lots of scrapers, 1,228 lots of flakes, 1,646 lots of food remains, and 2,590 lots of projectile points. No human remains were identified.

Chapman Site (CA–BUT–90)

In 1960 and 1961, the California Department of Parks and Recreation oversaw mitigation excavations at the Chapman Site. While geographically affiliated with the Oroville Dam excavations, the Chapman Site is not otherwise affiliated with the construction of the dam.

The 865 lots of associated funerary objects are one lot of antler tines, one lot of balls, one lot of bones, one lot of buttons, one lot of charmstones, one lot of gorge hooks, one lot of grooved stones, one lot of pencils, one lot of sherds, one lot of utilized flakes, one lot of whistles, one lot of wood, two lots of bottles, two lots of mortars, two lots of spatulas, two lots of whetstones, three lots of baked clays, three lots of core/hammerstones, four lots of drills, four lots of knives, four lots of pigments, five lots of cobbles, five lots of pins, five lots of rocks, six lots of cores, six lots of incised bones, six lots of metates, seven lots of choppers, nine lots of blades, nine lots of manos, 11 lots of bone tools, 12 lots of awls, 16 lots of hammerstones,

22 lots of bowls, 26 lots of pestles, 29 lots of scrapers, 35 lots of ornaments, 46 lots of quartz crystals, 77 lots of food remains, 83 lots of flakes, 143 lots of projectile points, and 269 lots of beads. No human remains were identified.

CA–BUT–98

During the 1960s, the California Department of Parks and Recreation excavated an unknown site along the Western Pacific Railroad, possibly as part of the Oroville Dam project.

The 562 lots of associated funerary objects are one lot of abrading stones, one lot of atlatl spurs, one lot of bone tools, one lots of charcoals, one lot of crystals, one lot of mortars, one lot of spatulas, two lots of food remains, two lots of pendants, two lots of rocks, three lots of bowls, three lots of unidentified items, four lots of milling slabs, four lots of sinkers, six lots of choppers, six lots of soil samples, 11 lots of hammerstones, 11 lots of pestles, 13 lots of cobbles, 13 lots of utilized flakes, 19 lots of quartz crystals, 23 lots of manos, 32 lots of cores, 33 lots of blades, 40 lots of knives, 48 lots of scrapers, 74 lots of projectile points, and 206 lots of flakes. No human remains were identified.

CA–BUT–131

In 1961 and 1962, the California Department of Recreation oversaw the Central California Archaeological Foundation's excavations during the Western Pacific Railroad Relocation Project. As part of the Oroville Dam project, the California Department of Water Resources sponsored the excavations. Later in 1962, the California Department of Parks and Recreation oversaw secondary excavations with a California State University—Chico field school.

The 1,051 lots of associated funerary objects are one lot of anvils, one lot of baked clays, one lot of bifaces, one lot of fire fractured rocks, one lot of grooved stones, one lot of modified steatite, one lot of ornaments, one lot of pencils, one lot of rods, one lot of slag, one lot of teeth, one lot of unidentified items, two lots of antlers, two lots of debitage, two lots of mortars, two lots of pendants, two lots of sinkers, two lots of tubes, three lots of gravers, three lots of pipes, three lots of utilized flakes, four lots of cobbles, six lots of spatulas, seven lots of hammerstones, seven lots of pigments, eight lots of bone tools, eight lots of charcoal, eight lots of choppers, nine lots of drills, 10 lots of awls, 12 lots of metates, 12 lots of rocks, 15 lots of pestles, 17 lots of bowls, 18 lots of cores, 20 lots of quartz crystals, 24 lots of manos, 45 lots of blades, 51 lots of scrapers, 52 lots of knives, 80 lots of food remains, 188 lots of projectile points, and 417 lots of flakes.

CA–BUT–157

In 1964, the California Department of Water Resources sponsored the California Department of Parks and Recreation's excavation of an unknown site as part of the Western Pacific Railroad Relocation project.

The 8,090 lots of associated funerary objects are one lot of atlatl weights, one lot of bark, one lot of bolts, one lot of bone daggers, one lot of buckles, one lot of cans, one lot of ceramic, one lot of ear spools, one lot of griddles, one lot of grinding slabs, one lot of leather, one lot of needles, one lots of obsidian hydration samples, one lot of pebbles, one lot of pine bark, one lot of plates, one lot of polished stones, one lot of powder flasks, one lot of rings, one lot of rubbers, one lot of shot pellets, one lot of teeth, one lot of toothbrushes, one lot of twigs, one lot of walls, one lot of whetstones, one lot of wire, two lots of ash, two lots of balls, two lots of bifaces, two lots of botanical material, two lots of chalk, two lots of pinecones, two lots of pine nuts, two lots of pottery, two lots of rifle balls, two lots of rods, two lots of shaft straighteners, two lots of spikes, two lots of whistles, three lots of bones, three lots of ceramic dishes, three lots of clay, three lots of fruit pits, three lots of gorge hooks, three lots of porcelain, four lots of bullets, four lots of mortars, five lots of ornaments, five lots of wood, six lots of net weights, seven lots of fire fractured stones, eight lots of glass, eight lots of sherds, nine lots of acorns, nine lots of graphite, nine lots of incised bones, 10 lots of buttons, 11 lots of anvils, 12 lots of tubes, 13 lots of bottles, 16 lots of drills, 17 lots of antlers, 19 lots of pipes, 21 lots of soil samples, 25 lots of slag, 27 lots of metates, 28 lots of pendants, 31 lots of pins, 34 lots of beads, 40 lots of blades, 41 lots of awls, 41 lots of spatulas, 42 lots of seeds, 45 lots of metals, 54 lots of unidentified items, 62 lots of baked clays, 67 lots of pigments, 72 lots of charcoal samples, 72 lots of rocks, 81 lots of quartz crystals, 107 lots of pestles, 112 lots of choppers, 144 lots of nails, 162 lots of utilized flakes, 173 lots of manos, 181 lots of knives, 200 lots of bowls, 239 lots of hammerstones, 304 lots of cobbles, 306 lots of scrapers, 341 lots of bone tools, 345 lots of cores, 574 lots of projectile points, 1,125 lots of food remains, and 2,751 lots of flakes.

CA–BUT–2216

In 2002, the California Department of Parks and Recreation oversaw site surveys with Sacramento State University and Sonoma State University for a federal relicensing project of the Oroville Dam. CA–BUT–2216 was identified during these surveys.

The 69 lots of associated funerary objects are one lot of cores, one lot of flake tools, one lot of milling slabs, one lot of miscellaneous stones, one lot of shell, two lots of cobble tools, two lots of handstones, two lots of soil samples, seven lots of bifaces, and 51 lots of debitage. Human remains from CA–BUT–53, CA–BUT–84, CA–BUT–90, CA–BUT–98, CA–BUT–131, and CA–BUT–157 were included in 73 FR 20937, April 17, 2008; however, additional collections were identified from the same excavations and subsequent consultations identified the new collections in this Notice as associated funerary objects.

All the sites identified in this notice were dated near the time of excavation by the lead archaeologist; these dates are attributed to sequences linked to Maidu people. The geographical location of these sites is consistent with both the aboriginal lands of historically documented Maidu and KonKow. KonKow people are represented in part today by the KonKow Valley Band of Maidu Indians, a California Tribe identified by the Native American Heritage Commission as culturally and historically affiliated to the geographical location identified in this notice.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the tribal traditional knowledge, geographical location, and acquisition history of the associated funerary objects described in this notice.

Determinations

The California Department of Parks and Recreation and the California Department of Water Resources has determined that:

- The 22,767 lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a reasonable connection between the associated funerary objects described in this notice and the Berry Creek Rancheria of Maidu Indians of California; Enterprise Rancheria of Maidu Indians of California; and the Mooretown Rancheria of Maidu Indians of California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the

authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after November 4, 2024. If competing requests for repatriation are received, the California Department of Parks and Recreation and the California Department of Water Resources must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The California Department of Parks and Recreation and the California Department of Water Resources are responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 25, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–22888 Filed 10–3–24; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–737–738 and 731–TA–1712–1715 (Preliminary)]

Hexamine (Hexamethylenetetramine) From China, Germany, India, and Saudi Arabia; Notice of Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–737–738 and 731–TA–1712–1715 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of hexamine (hexamethylenetetramine) from China, Germany, India, and Saudi Arabia, provided for in subheading 2933.69.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the governments of China and India. Unless the Department of Commerce (''Commerce'') extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by November 14, 2024. The Commission's views must be transmitted to Commerce within five business days thereafter, or by November 21, 2024.

DATES: September 30, 2024.

FOR FURTHER INFORMATION CONTACT: Charles Cummings (708–1666), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to petitions filed on September 30, 2024, by Bakelite Synthetics, Atlanta, Georgia.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Office of Investigations will hold a staff conference in connection with the preliminary phase of these investigations beginning at 9:30 a.m. on October 21, 2024. Requests to appear at the conference should be emailed to *preliminaryconferences@usitc.gov* (DO NOT FILE ON EDIS) on or before 5:15 p.m. on October 17, 2024. Please provide an email address for each conference participant in the email. Information on conference procedures, format, and participation, including guidance for requests to appear as a witness via videoconference, will be available on the Commission's Public Calendar (Calendar (USITC) | United States International Trade Commission). A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may

submit to the Commission on or before 5:15 p.m. on October 24, 2024, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than noon on October 18, 2024. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: September 30, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–22956 Filed 10–3–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1364]

Certain Blood Flow Restriction Devices With Rotatable Windlasses and Components Thereof; Notice of Issuance of a General Exclusion Order, a Limited Exclusion Order, and Cease and Desist Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined to issue a general exclusion order (''GEO'') prohibiting the importation of blood flow restriction devices with rotatable windlasses and components thereof that infringe one or more of claims 1, 4, 15, or 16 of U.S. Patent No. 7,842,067 (''the '067 patent''); a limited exclusion order (''LEO'') prohibiting the unlicensed entry of blood flow restriction devices with rotatable windlasses and components thereof that infringe the asserted trademarks and trade dress that are manufactured by or on behalf of, or imported by or on behalf of defaulting respondents; and cease and desist orders (''CDOs'') directed against certain defaulting respondents. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Joelle P. Justus, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2593. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 31, 2023, based on a complaint, as supplemented, filed by Composite Resources, Inc. of Rock Hill, South Carolina, and North American Rescue, LLC of Greer, South Carolina (collectively, ''Complainants''). 88 FR 34893–95 (May 31, 2023). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, sale for importation, or sale in the United States after importation of certain blood flow restriction devices with rotatable windlasses and components thereof that infringe one or more of: claims 1–17 of the '067 patent, claims 1–30 of the U.S. Patent No. 8,888,807 (''the '807 patent''), and claims 1–13 of the U.S. Patent No. 10,016,203 (''the '203 patent''); United States Trademark Registration Nos. 3,863,064 and 5,064,378; and trade dress infringement in violation of Section 43(a) of the Lanham Act (15 U.S.C. 1125) the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* at 34893–94; *see* Complaint, ¶¶ 9–15. The complaint also requested the issuance of a GEO with respect to all of these allegations.

The Commission's notice of investigation named the following respondents: (1) Anping Longji Medical Equipment Factory of Hengshui City, China; Dongguanwin Si Hai Precision Mold Co., Ltd. of Dongguan, China; Eiffel Medical Supplies Co., Ltd. of Shenzhen, China; Empire State Distributors Inc. of Brooklyn, New York; EMRN Medical Equipment of LaSalle, Canada; GD Tianwu New Material Tech Co., Ltd. of Shawan Town, China; Hengshui Runde Medical Instruments Co., Ltd. of Hengshui City, China; Putian Dima Trading Co., Ltd. of Putian City, China; Rhino Inc. of Lewes, Delaware; Shanghai Sixu International Freight Agent Co., Ltd. of Shanghai, China; Shenzhen Anben E-Commerce Co., Ltd. of Shenzhen, China; Shenzhen TMI Medical Supplies Co., Ltd. of Shenzhen, China; Shenzhen Yujie Commercial and Trading Co., Ltd. of Shenzhen, China; Wuxi Emsrun Technology Co., Ltd. of Wuxi City, China; Wuxi Golden Hour Medical Technology Co., Ltd. of Wuxi City, China; and Wuxi Puneda Technology Co., Ltd. of Wuxi City, China (collectively, ''the Defaulting Respondents''); (2) Chaozhou Jiduo Trading Co., Ltd. of Chaozhou City, China; Dongguan Hongsui Electronic Commerce, Co., Ltd. of Dongguan City, China; Fuzhou Meirun Medical Equipment Technology Co., Ltd. of Fuzhou, China; Henan Eyocean E-

Commerce Co., Ltd. of Zhengzhou, China; Huang Xia of Sangzi Town, China; Jingcai Jiang of Shenzhen, China; Shen Yi of Shenzhen, China; Shenzhen Janxle E E Commerce Co., Ltd. of Shenzhen, China; Shenzhen Smart Medical Co. Ltd. of Shenzhen, China; Sun Minghui of Shenzhen, China; Xia Guo Long of Dongguan City, China; and Yinping Yin of Shenzhen, China (collectively, ''the Unserved Respondents''); and (3) Express Companies, Inc. of Oceanside, California, and SZY Holdings LLC of Brooklyn, New York (collectively, ''the Participating Respondents''). *Id.* The Office of Unfair Import Investigations (''OUII'') is also a party to this investigation.

The Commission terminated the Participating Respondents based on the entry of consent orders. *See* Order No. 7 (Aug. 9, 2023), *unreviewed by* Comm'n Notice (Sept. 5, 2023); Order No. 13 (Oct. 3, 2023), *unreviewed by* Comm'n Notice (Nov. 2, 2023). The Commission also terminated the Unserved Respondents based on the withdrawal of the complaint as to those respondents. *See* Order No. 10 (Aug. 22, 2023), *unreviewed by* Comm'n Notice (Sept. 20, 2023). The Commission also found the Defaulting Respondents in default. *See* Order No. 11 (Aug. 29, 2023), *unreviewed by* Comm'n Notice (Sept. 22, 2023).

On November 1, 2023, Complainants filed a motion to partially terminate the investigation with respect to the '807 and '203 patents. On November 2, 2023, the ALJ issued Order No. 14 granting the motion. Order No. 14 (Nov. 2, 2023), *unreviewed by* Comm'n Notice (Dec. 4, 2023). On January 23, 2024, Complainants filed a motion to terminate claims 2, 3, 5–14, and 17 of the '067 patent. On January 25, 2024, the ALJ issued Order No. 19 granting the motion. Order No. 19 (Jan. 25, 2024), *unreviewed by Comm'n Notice* (Feb. 15, 2024). Therefore, only claims 1, 4, 15, and 16 of the '067 patent remained asserted.

On December 22, 2023, Complainants filed a motion for summary determination on violation of section 337 with regard to the '067 patent, asserted trademarks, and asserted trade dress by the Defaulting Respondents. On February 7, 2024, the ALJ issued Order No. 20, granting the motion in part with respect to the claims 1, 4, 15, and 16 of the '067 patent. Order No. 20 (Feb. 7, 2024), *unreviewed by* Comm'n Notice (Mar. 6, 2024). Order No. 20 found that (1) the importation requirement was satisfied with respect to the Defaulting Respondents with the exception of Empire State Distributors Inc.; (2) the accused products infringe claims 1, 4, 15, and 16 of the '067 patent; (3) the domestic industry products practice claim 1 of the '067 patent; and (4) the economic prong of the domestic industry was satisfied. *Id.* The Commission determined not to review the affirmative findings in Order No. 20. *See* Comm'n Notice (Mar. 6, 2024).

On March 1, 2024, Complainants filed a motion to terminate the investigation in part based on a withdrawal of its request for a GEO as to the trademark and trade dress claims and to cancel the evidentiary hearing. On March 19, 2024, the ALJ granted the motion and issued Order No. 23, which was styled as an initial determination. The Commission determined that the request to withdraw a requested remedy is not properly the subject of a motion for termination nor an issue that must be decided in the form of an initial determination. Comm'n Notice at 3 (April 18, 2024). Accordingly, the Commission treated Order No. 23 as an order and not an initial determination. *Id.*

Order No. 23 also included the ALJ's Recommended Determination (''RD'') on remedy and bonding. Specifically, the RD recommended that the Commission issue a GEO as to claims 1, 4, 15, and 16 of the '067 patent. RD at 9–12. The RD further recommended issuing an LEO as well as CDOs against each of the Defaulting Respondents in connection with the patent, trademark, and trade dress claims. *Id.* at 13–15. Finally, the RD recommended that the Commission set the bond during the Presidential review period at one hundred percent (100%). *Id.* at 15–16.

The Commission issued a notice soliciting comments regarding any public interest concerns raised by the recommend relief appeared in the **Federal Register** on April 2, 2024. *See* 89 FR 22741 (Apr. 2, 2024). Complainants filed a statement on public interest pursuant to Commission Rule 210.50(a)(4), 19 CFR 210.50(a)(4), but no other comments were received in response to the notice.

The Commission requested briefing on remedy, bonding, and the public interest. Comm'n Notice (Apr. 18, 2024); 89 FR 31214–6 (Apr. 24, 2024). On May 2, 2024, Complainants and OUII filed opening submissions. On May 16, 2024, Complainants and OUII filed responsive submissions. No other party filed a submission before the Commission.

Having reviewed the record of the investigation, including the RD and the parties' submissions, the Commission has determined that the appropriate remedy is: (1) a GEO prohibiting the unlicensed entry of blood flow restriction devices with rotatable windlasses and components thereof that infringe one or more of claims 1, 4, 15, and/or 16 of the '067 patent; (2) an LEO prohibiting the unlicensed entry of blood flow restriction devices with rotatable windlasses and components thereof that infringe the asserted trademarks and/or the asserted trade dress manufactured by or on behalf of, or imported by or on behalf of any of the Defaulting Respondents; and (3) CDOs directed against Anping Longji Medical Equipment Factory; Empire State Distributors Inc.; Hengshui Runde Medical Instruments Co., Ltd.; Putian Dima Trading Co., Ltd.; Rhino Inc.; Shenzhen Anben E-Commerce Co., Ltd.; Shenzhen Yujie Commercial and Trading Co., Ltd.; Wuxi Emsrun Technology Co., Ltd.; and Wuxi Puneda Technology Co., Ltd.

The Commission has further determined that the public interest factors enumerated in subsections (d)(l), (f)(1), and (g)(1) (19 U.S.C. 1337(d)(l), (f)(1), (g)(1)) do not preclude issuance of the above referenced remedial orders. Additionally, the Commission has determined to impose a bond of 100% of entered value of the covered products during the period of Presidential review (19 U.S.C. 1337(j)).

This investigation is terminated.

The Commission vote for this determination took place on September 30, 2024.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 30, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–22937 Filed 10–3–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB 1140–0031]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Records of Acquisition and Disposition by Registered Importers of Arms, Ammunition, and Defense Articles on the U.S. Munitions Import List

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until December 3, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, contact: Victoria Kenney, FESD/FEIB, either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *Victoria.Kenney@atf.gov,* or telephone at 304–616–3376.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether, and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Summary of changes: Information Collection (IC) OMB 1140–0031 is being revised to change the title from 'Records of Acquisition and Disposition, Registered Importers of Arms, Ammunition & Implements of War on the U.S. Munitions Import List' to 'Records of Acquisition and Disposition by Registered Importers of Arms, Ammunition, and Defense Articles on the U.S. Munitions Import List' to reflect a change in terminology. It is also being slightly revised in the section describing the purpose, to clarify the record-keeping requirements, although those requirements are not changing. In addition, it is being revised to update the time burdens to the public, to keep up with changes to the number of respondents, and to apply a monetized value to the time burden.

Abstract: The records associated with this collection are defense articles other than firearms and ammunition enumerated on the U.S. Munitions Import List. This collection requires importers of such items to maintain records of their importing activities, including the ATF Forms 6 and 6A they submit.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Records of Acquisition and Disposition by Registered Importers of Arms, Ammunition, and Defense Articles on the U.S. Munitions Import List.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: None.

Component: Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Private Sector for- or not-for-profit institutions.

The obligation to respond is mandatory under law at 22 U.S.C. 2778 and regulations at 27 CFR 447.54.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 12,699 respondents will respond to this collection 29,733 times total annually (not per respondent), and it will take each respondent approximately 30 minutes to complete one type of response and 35 minutes to complete another type of response.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 16,286 total hours, which is equal to (12,699 responses * 0.5 hours (30 minutes) + 17,034 responses * 0.5834 hours (35 minutes).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* The total monetized value of the time burden associated with this collection is $472,294 (29,733 total responses * $15.88 cost per response (wage rate for 30–35 minutes)).

TABLE—ESTIMATED ANNUALIZED RESPONDENT HOUR BURDEN AND MONETIZED VALUE

Activity	Total annual responses	Time per response	Total annual burden (hours)	Hourly rate *	Monetized value of respondent time
Records of acquisition and disposition—U.S. Munitions Import List (Form 6)	12,699	30	6,350	$29.00	$184,136
Records of acquisition and disposition—U.S. Munitions Import List (Form 6A)	17,034	35	9,936.50	29.00	288,159
Unduplicated totals	29,733	.....	16,286	.....	472,294

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: October 1, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–23023 Filed 10–3–24; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[1140–0062]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Identification of Imported Explosives Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until December 3, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, contact: Michael O'Lena, Explosives Industry Programs Branch, either by mail at 99 New York Avenue NE, Room 6.N.518, Washington, DC 20226, by email at *eipb-informationcollection@atf.gov,* or telephone at (202) 648–7120.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: The information is necessary to ensure that explosive materials can be effectively traced. All licensed importers are required to identify by marking all explosive materials they import for sale or distribution.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* Identification of Imported Explosives Materials.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Private Sector-for or not for profit institutions.

The obligation to respond is mandatory per 27 CFR part 555.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 17 respondents will respond to this collection, and it will take each respondent approximately 1 hour to complete their responses.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 51 total hours, which is equal to 17 (total respondents) * 3 (# of response per respondent) * 1.0 (1 hour).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hour)	Total annual burden (hours)
OMB 1140–0062	17	3	51	1	51
Unduplicated Totals	17	3	51	1	51

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: October 1, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–23022 Filed 10–3–24; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On September 27, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States* v. *Lima Refining Company,* Civil Action No. 3:24-cv-01659.

The Complaint alleges that Defendant violated the National Air Emission Standards for Hazardous Air Pollutants for benzene waste operations, the New Source Performance Standards for VOC emissions from refinery wastewater systems, the general requirement to use good air pollution control practices, and its Title V permit, at its refinery in Lima, Ohio. The proposed Consent Decree resolves these claims and requires the Defendant to perform injunctive relief, including the installation of a flash column. Defendant will also conduct enhanced monitoring and repairs and install six air monitoring stations in the surrounding community and post the data publicly. Defendant will pay a civil penalty of $19 million.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Lima Refining Company,* D.J. Ref. No. 90–5–2–1–12782. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* If you require assistance accessing the Consent Decree you may request assistance by email or by mail to the addresses provided above for submitting comments.

Susan M. Akers,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024–22988 Filed 10–3–24; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–NEW]

Agency Information Collection Activities; Proposed eCollection; eComments Requested; Notice of Motion To Reconsider/Reopen a Decision by the Board of Immigration Appeals From an Initial Decision of a DHS Officer (EOIR–29A)

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Executive Office for Immigration Review (EOIR), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until November 4, 2024.

FOR FURTHER INFORMATION CONTACT: The proposed information collection was previously published in the **Federal Register** on, July 23, 2024, 89 FR 59773, allowing a 60 day-comment period. If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Zach Leciejewski, Attorney Advisor, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2500, Falls Church, VA 22041, *eoir.pra.comments@usdoj.gov, Zach.Leciejewski@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the 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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: A party may file a motion to reopen and/or reconsider a decision by the Board of Immigration Appeals (BIA or Board) in a case which was initially adjudicated by a Department of Homeland Security (DHS) Officer. *See* 8 CFR 1003.2(b), 1003.2(c)(1). The party must complete this new form and submit it to the DHS office having administrative control over the record of proceeding in order to file a motion to reopen and/or reconsider these Board decisions. EOIR developed the new Form EOIR–29A to elicit, in a uniform manner, all of the required information for the BIA to process a motion to reopen and/or reconsider upon receipt from DHS. The form collects the following information: name and mailing address of beneficiary, petitioner, applicant, carrier, and/or individual; alien registration number (A-number); receipt number; and fine number. The form also requires the respondent to identify the type of motion being filed (motion to reopen, motion to reconsider, or both) and date of the Board decision subject to reconsideration or reopening. Respondents must attach to the form any written motion and supporting documents. Finally, form respondents must sign and date the form.

Overview of This Information Collection

1. *Type of Information Collection:* New Information Collection.

2. *The Title of the Form/Collection:* Notice of Motion to Reconsider/Reopen a Decision by the Board of Immigration Appeals from an Initial Decision of a DHS Officer.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The agency form number will be Form EOIR–29A. The applicable component within the Department of Justice is the Executive Office for Immigration Review.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Individuals or Households. The obligation to respond is required to obtain/retain a benefit (motion to reopen and/or reconsider).

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated annual number of respondents for the Form EOIR–29A is 764. The estimated time per response is 30 minutes.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual burden hours for this collection is 382 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* There are no capital or start-up costs associated with this information collection. The estimated public cost is zero.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (minutes)	Total annual burden (hours)
Form EOIR–29A	764	1	764	30	382
Unduplicated Totals	764		764		382

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: October 1, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–23017 Filed 10–3–24; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

[OMB 1140–0101]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; National Firearms Act Division and Firearms and Explosives Services Division Customer Service Survey

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until December 3, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, contact: Paige Tisserand, National Firearms Division, either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *NFAOMBCOMMENTS@ATF.GOV,* or telephone at 304–616–4500.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: The National Firearms Act Division and Firearms and Explosives Services Division Customer Service Survey is used to gather information about customer service provided to the firearms and explosives industry and government agencies to improve service delivery. Information Collection (IC) OMB 1140–0101 is being revised to include the NFA Division's newest branch: Information Compliance Branch.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* National Firearms Act Division and Firearms and Explosives Services Division Customer Service Survey.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: State, local and tribal governments, individuals or households, Federal Government. The obligation to respond is voluntary.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 100 respondents will provide information to complete this form once annually, and it will take each respondent approximately 10 minutes to complete their responses.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 17 total hours, which is equal to 100 (total respondents) * 1 (# of response per respondent) * .17 (10 minutes).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hour)	Total annual burden (hours)
Customer satisfaction survey—paper form	100	1	100	0.17	17
Customer satisfaction survey—electronic form	12,000	1	12,000	0.08	960

TOTAL BURDEN HOURS—Continued

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hour)	Total annual burden (hours)
Unduplicated Totals	100	1	100	0.17	17

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: October 1, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–23020 Filed 10–3–24; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On September 30, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Utah in the lawsuit entitled *United States* v. *EIDP, Inc., f/k/a E.I. Du Pont de Nemours and Company and Chemours Company FC, LLC,* Civil Action No.: 24–cv–722.

The United States filed a Complaint against EIDP, Inc., f/k/a E.I. Du Pont de Nemours and Company, and the Chemours Company FC, LLC (''Defendants''). The Complaint alleges that the Defendants are liable under the Comprehensive Environmental Response, Compensation, and Liability Act for the United States' response costs incurred in connection with a response action taken because of the release or threatened release of hazardous substances at Operable Unit 1 of the Uintah Mining District Superfund Site, in Park City, Summit County, Utah (''Site''). The proposed Consent Decree requires the Defendants to pay $209,846 to resolve the United States' response cost claim. The Defendants are required to make the settlement payment within 15 days of the Effective Date of the Consent Decree. The proposed Consent Decree defines the ''Effective Date'' as the date that the Court approves the Consent Decree. In exchange for the settlement payment, the United States covenants not to sue the Defendants for any response costs incurred at the Site prior to the Effective Date.

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 *United States* v. *EIDP, Inc., f/k/a E.I. Du Pont de Nemours and Company and Chemours Company FC, LLC,* D.J. Ref. No. 90–11–3–12464. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed 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.

Jason A. Dunn,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024–22899 Filed 10–3–24; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Hamilton County Coal, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0042 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0042.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part

44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–020–C.

Petitioner: Hamilton County Coal, LLC, 18033 County Road 500 E, Dahlgren, IL 62828.

Mine: Mine No. 1 Mine, MSHA ID No. 11–03203, located in Hamilton County, Illinois.

Regulation Affected: 30 CFR 75.1002(a), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.1002(a) to allow the use of unapproved Powered Air Purifying Respirators (PAPRs) within 150 feet of pillar workings or longwall faces. Specifically, the Petitioner is requesting to utilize the CleanSpace EX PAPR and sealed motor/blower/battery power pack assembly, and the 3M Versaflo TR–800 Intrinsically Safe PAPR motor/blower and battery with battery pack.

The petitioner states that:

(a) The 3M Versaflo TR–800 PAPR with motor/blower and battery qualifies as intrinsically safe.

(b) The CleanSpace EX PAPR also qualifies as intrinsically safe.

(c) Both the CleanSpace EX and the 3M Versaflo TR–800 PAPRs provide a constant flow of air inside the mask or helmet. This airflow provides respiratory protection and comfort in hot working conditions.

(d) Neither the 3M Versaflo TR–800 nor the CleanSpace EX PAPR is MSHA-approved as permissible.

(e) Neither the 3M nor the CleanSpace is pursuing MSHA approval.

(f) Hamilton County currently makes available to all miners NIOSH-approved high efficiency l00 series respirators to protect the miners against potential exposure to respirable coal mine dust, including crystalline silica, during normal mining conditions. Hamilton County desires to expand the miners' option in choosing a respirator that provides the greatest degree of protection as well as comfort while being worn. Powered PAPRs provide a constant flow of filtered air and serve that purpose.

(g) On June 17, 2024, MSHA finalized the rule *Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection.* The rule requires the mine operator to have a written respiratory protection program in place when miners are required to use respirators. Adding the CleanSpace EX and the 3M TR–800 Versaflo PAPRs to the respiratory protection program as additional options will provide the miners with alternatives to the series 100 high efficiency respirators already in use at the mine. The PAPRs will also serve as a respirator option to protect the miners with facial hair who may not be able to pass the ''fit test'' requirement of the program. In addition, the positive flow of filtered air provided by the PAPRs will provide a solution for the miners who are unable to wear a tight-fitting respirator.

(h) Since the 3M Airstream Headgear-Mounted PAPR System has been discontinued by the manufacturer, there are no other MSHA-approved units available that can be used within 150 feet of pillar workings or longwall faces.

(i) The alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

The petitioner proposes the following alternative method:

(a) All miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs shall receive training in accordance with 30 CFR 48.7 on the requirements of the Proposed Decision and Order (PDO) granted by MSHA and manufacturer guidelines. Such training shall be completed before any 3M Versaflo TR–800 or CleanSpace EX PAPR can be used within 150 feet of pillar workings or longwall faces. The operator shall keep a record of such training and provide such record to MSHA upon request.

(b) The PAPRs, battery packs, all associated wiring and connections shall be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR shall be removed from service.

(c) A separate logbook shall be maintained for the 3M Versaflo TR–800 and CleanSpace EX PAPRs that will be kept with the equipment, or in a location with other mine record books and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–1 and the examination results recorded in the logbook. Examination records shall be maintained for one year.

(d) All 3M Versaflo TR–800 and CleanSpace EX PAPRs to be used within 150 feet of pillar workings or longwall faces shall be physically examined prior to initial use and each unit shall be assigned a unique identification number. Each unit shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition. The examinations for the 3M Versaflo TR–800 PAPRs shall include:

(1) Check the equipment for any physical damage and the integrity of the case.

(2) Remove the battery and inspect for corrosion.

(3) Inspect the contact points to ensure a secure connection to the battery.

(4) Reinsert the battery and power up and shut down to ensure proper connections.

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size.

The CleanSpace EX PAPR does not have an accessible/removable battery. The internal battery and motor/blower assembly are both contained within the ''power unit'' assembly and the battery cannot be removed, reinserted or fastened. Therefore, examination of the CleanSpace EX PAPR shall include any indications of physical damage.

(e) All 3M Versaflo TR–800 and CleanSpace EX PAPR units shall be serviced according to the manufacturer's recommendations.

(f) Prior to energizing and during use of the 3M Versaflo TR–800 or the CleanSpace EX PAPR within 150 feet of pillar workings or longwall faces, procedures in accordance with 30 CFR 75.323 shall be followed.

(g) Only the 3M TR–830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133, in the 3M Versaflo TR–800 PAPR shall be used. Only the CleanSpace EX Power Unit, which meets lithium battery safety

standard UL 1642 or IEC 62133, in the CleanSpace EX shall be used.

(h) If battery packs for the 3M Versaflo TR–800 PAPR are provided, all battery ''change outs'' shall occur in intake air outby the last open crosscut.

(i) The following maintenance and use conditions shall apply to equipment containing lithium type batteries:

(1) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX Power Unit shall be disassembled nor modified by anyone other than permitted by the manufacturer of the equipment.

(2) The 3M TR–830 Battery Pack shall be charged only in an area free of combustible material and in intake air outby the last open crosscut. The 3M TR–830 Battery Pack shall be charged only by a manufacturer's recommended battery charger, such as the:

(i) 3M Battery Charger Kit TR–641N, which includes one 3M Charger Cradle TR–640 and one 3M Power Supply TR–941N, or,

(ii) 3M 4-Station Battery Charger Kit TR–644N, which includes four 3M Charger Cradles TR–640 and one 3M 4-Station Battery Charger Base/Power Supply TR–944N.

(3) The CleanSpace EX internal battery, which is contained within the power unit assembly, shall be charged in areas located outby the last open crosscut in intake air and only the manufacturer's recommended battery chargers shall be used, such as the CleanSpace EX Battery Charger, Product Code PAF–0066.

(4) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX power unit which contains the internal battery, shall be exposed to water, allowed to get wet or immersed in liquid. This does not preclude incidental exposure of the 3M TR–830 Battery Pack or the CleanSpace EX power unit assembly.

(5) Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR, including the internal battery, shall be used, charged or stored in locations where the manufacturer's recommended temperature limits are exceeded. Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR shall be placed in direct sunlight nor stored near a source of heat.

(j) Annual retraining shall be given to all miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs in accordance with 30 CFR 48.8. Training of new miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.5, and training of experienced miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.6 shall be given. The operator shall keep a record of such training and provide such record to MSHA upon request.

(k) The miners at Hamilton County Coal, LLC, Mine No. 1 Mine, are not represented by a labor organization and there are no representatives of miners at the mine. A copy of this petition has been posted on the bulletin board at Hamilton County Coal, LLC, Mine No. 1 Mine, on August 29, 2024.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22923 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0146]

Proposed Extension of Information Collection; Refuge Alternatives for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), 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 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 Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection entitled Refuge Alternatives for Underground Coal Mines.

DATES: All comments must be received on or before December 3, 2024.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late comments received after the deadline will not be considered.

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the on-line instructions for submitting comments for docket number MSHA–2024–0021.
- *Mail/Hand Delivery:* DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, 4th Floor West, Arlington, VA 22202–5452. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.
- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act) as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal and nonmetal mines.

B. Information Collection

In order to fulfill the statutory mandates to promote miners' health and safety, MSHA requires the collection of information under the information collection request entitled Refuge Alternatives for Underground Coal Mines. The information collection is intended to ensure that underground coal mine operators have an up-to-date emergency response plan for refuge alternatives in case of an emergency and maintain proper records for personnel training certifications and examination, maintenance and repair of refuge alternatives.

1. Relocations of Refuge Alternatives

Refuge alternatives (RAs) are self-contained units within underground mines that have an isolated atmosphere and provided provisions in some emergency situations. Under 30 CFR

75.1506, the underground coal mine operator is required to provide RAs and their components to protect miners by providing secure spaces with isolated atmospheres that create life-sustaining environments when escape from a mine during a mine emergency is not possible.

The location of RAs is vital to the safety of miners. Typically, RAs are required in certain locations, such as within 1,000 feet from the nearest working face or within one-hour travel in outby areas (75 CFR 75.1506(c)). However, the mine operator may request approval to have the RA at a different location, if needed. Documentation of the RA, any documents associated with alternative locations, and approval of an Emergency Response Plan (ERP) are all required by MSHA.

Under 30 CFR 75.1506(c)(2), the mine operator may request and the District Manager may approve a different location for the RA in the ERP required by 30 CFR 75.1507, based on an assessment of the risk to miners in outby areas.

Under 30 CFR 75.1507(a)(11)(ii), a mine operator may request the District Manager's approval to update the existing ERP to locate an RA in an alternative location if mining involves two-entry systems or yield pillars in a longwall that would prohibit locating the RA out of direct line of sight of the working face.

2. Emergency Response Plans (ERP)

For RAs, the ERP specifies that the breathable air components are MSHA-approved, and the unit can withstand exposure to a flash fire of 300° Fahrenheit for three seconds. The ERP must also specify that the RA is stocked with the following: A minimum of 2,000 calories of food and 2.25 quarts of potable water per person per day in approved containers sufficient to sustain the number of persons reasonably expected to use the RA for at least 96 hours, or for 48 hours if advance arrangements are made. For RAs that sustain persons for only 48 hours, the ERP must describe how persons who cannot be rescued within 48 hours will receive additional supplies to sustain them until rescued. The ERP also must specify that the RA is stocked with RA and component manuals, materials and tools sufficient to make repairs on the unit, and first aid supplies.

Under 30 CFR 75.1507, underground coal mine operators must develop and implement ERPs that provide detailed information about the RAs used in the mine. An ERP must include the following information for each RA as listed in 30 CFR 75.1507(a): the type of RA used in the mine, procedures to maintain the RA and components, the capacity of the RA, the duration of breathable air in each RA, the method for providing breathable air, sanitation, removing harmful gas, methods for monitoring gas, and lighting.

3. Training Certification To Maintain and Repair RAs

The RAs are vital to miner safety. Any maintenance, examination, or repair must be completed by someone who is qualified to do so.

Under 30 CFR 75.1508(a), the mine operator must certify that persons assigned to examine, maintain, and repair RAs and components are trained for those tasks. This information collection concerns training certification requirements for persons assigned to maintain and repair RAs. Under 30 CFR 75.1508(c), training certifications must be kept at the mine for one year. (The training certification related to the examination of RAs and components is integrated into a currently approved information collection under OMB Control Number 1219–0009, Training Plans and Records of Training, for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines, which governs training for certified persons to conduct preshift examinations of the mine under 30 CFR 75.360.)

4. Records of Repair and Corrective Actions

Any maintenance or repair performed for RAs and their components must be documented. Under 30 CFR 75.1508(b), a record must be made regarding any maintenance and repair performed and all corrective action taken on RAs and components. Under 30 CFR 75.1508(c), repair records shall be kept at the mine for one year.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Refuge Alternatives for Underground Coal Mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *https://www.regulations.gov*. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *https://www.regulations.gov* and *https://www.reginfo.gov*.

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations and Variances, 201 12th Street South, 4th Floor West, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th Floor via the West elevator. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This information collection request concerns provisions for Refuge Alternatives for Underground Coal Mines. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0146.

Affected Public: Business or other for-profit.

Number of Annual Respondents: 21.

Frequency: On occasion.

Number of Annual Responses: 27.

Annual Time Burden: 73 hours.

Annual Other Burden Costs: $17.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of

public record and be available at *https://www.reginfo.gov*.

Song-ae Aromie Noe,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2024–22915 Filed 10–3–24; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Warrior Coal, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0038 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0038.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–016–C.

Petitioner: Warrior Coal, LLC, 57 J. E. Ellis Road, Madisonville, KY 42431.

Mine: Cardinal Mine, MSHA ID No. 15–17216, located in Hopkins County, Kentucky.

Regulation Affected: 30 CFR 75.500(d), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.500(d) to allow the use of unapproved Powered Air Purifying Respirators (PAPRs) taken into or used inby the last open crosscut. Specifically, the Petitioner is requesting to utilize the CleanSpace EX PAPR and sealed motor/blower/battery power pack assembly, and the 3M Versaflo TR–800 Intrinsically Safe PAPR motor/blower and battery with battery pack.

The petitioner states that:

(a) The 3M Versaflo TR–800 PAPR with motor/blower and battery qualifies as intrinsically safe.

(b) The CleanSpace EX PAPR also qualifies as intrinsically safe.

(c) Both the CleanSpace EX and the 3M Versaflo TR–800 PAPRs provide a constant flow of air inside the mask or helmet. This airflow provides respiratory protection and comfort in hot working conditions.

(d) Neither the 3M Versaflo TR–800 nor the CleanSpace EX PAPR is MSHA-approved as permissible.

(e) Neither the 3M nor the CleanSpace is pursuing MSHA approval.

(f) Warrior currently makes available to all miners NIOSH-approved high efficiency l00 series respirators to protect the miners against potential exposure to respirable coal mine dust, including crystalline silica, during normal mining conditions. Warror desires to expand the miners' option in choosing a respirator that provides the greatest degree of protection as well as comfort while being worn. Powered PAPRs provide a constant flow of filtered air and serve that purpose.

(g) On June 17, 2024, MSHA finalized the rule *Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection.* The rule requires the mine operator to have a written respiratory protection program in place when miners are required to use respirators. Adding the CleanSpace EX and the 3M TR–800 Versaflo PAPRs to the respiratory protection program as additional options will provide the miners with alternatives to the series 100 high efficiency respirators already in use at the mine. The PAPRs will also serve as a respirator option to protect the miners with facial hair who may not be able to pass the ''fit test'' requirement of the program. In addition, the positive flow of filtered air provided by the PAPRs will provide a solution for the miners who are unable to wear a tight-fitting respirator.

(h) Since the 3M Airstream Headgear-Mounted PAPR System has been discontinued by the manufacturer, there are no other MSHA-approved units available that can be taken into or used inby the last open crosscut.

(i) The alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

The petitioner proposes the following alternative method:

(a) All miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs shall receive training in accordance with 30 CFR 48.7 on the requirements of the Proposed Decision and Order (PDO) granted by MSHA and manufacturer guidelines. Such training shall be completed before any 3M Versaflo TR–800 or CleanSpace EX PAPR can be used inby the last open crosscut. The operator shall keep a record of such training and provide such record to MSHA upon request.

(b) The PAPRs, battery packs, all associated wiring and connections shall be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR shall be removed from service.

(c) A separate logbook shall be maintained for the 3M Versaflo TR–800 and CleanSpace EX PAPRs that will be kept with the equipment, or in a location with other mine record books

and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–1 and the examination results recorded in the logbook. Examination records shall be maintained for one year.

(d) All 3M Versaflo TR–800 and CleanSpace EX PAPRs to be used inby the last open crosscut shall be physically examined prior to initial use and each unit shall be assigned a unique identification number. Each unit shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition. The examinations for the 3M Versaflo TR–800 PAPRs shall include:

(1) Check the equipment for any physical damage and the integrity of the case.

(2) Remove the battery and inspect for corrosion.

(3) Inspect the contact points to ensure a secure connection to the battery.

(4) Reinsert the battery and power up and shut down to ensure proper connections.

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size.

The CleanSpace EX PAPR does not have an accessible/removable battery. The internal battery and motor/blower assembly are both contained within the ''power unit'' assembly and the battery cannot be removed, reinserted or fastened. Therefore, examination of the CleanSpace EX PAPR shall include any indications of physical damage.

(e) All 3M Versaflo TR–800 and CleanSpace EX PAPR units shall be serviced according to the manufacturer's recommendations.

(f) Prior to energizing and during use of the 3M Versaflo TR–800 or the CleanSpace EX PAPR inby the last open crosscut, procedures in accordance with 30 CFR 75.323 shall be followed.

(g) Only the 3M TR–830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133, in the 3M Versaflo TR–800 PAPR shall be used. Only the CleanSpace EX Power Unit, which meets lithium battery safety standard UL 1642 or IEC 62133, in the CleanSpace EX shall be used.

(h) If battery packs for the 3M Versaflo TR–800 PAPR are provided, all battery ''change outs'' shall occur in intake air outby the last open crosscut.

(i) The following maintenance and use conditions shall apply to equipment containing lithium type batteries:

(1) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX Power Unit shall be disassembled nor modified by anyone other than permitted by the manufacturer of the equipment.

(2) The 3M TR–830 Battery Pack shall be charged only in an area free of combustible material and in intake air outby the last open crosscut. The 3M TR–830 Battery Pack shall be charged only by a manufacturer's recommended battery charger, such as the:

(i) 3M Battery Charger Kit TR–641N, which includes one 3M Charger Cradle TR–640 and one 3M Power Supply TR–941N, or,

(ii) 3M 4-Station Battery Charger Kit TR–644N, which includes four 3M Charger Cradles TR–640 and one 3M 4-Station Battery Charger Base/Power Supply TR–944N.

(3) The CleanSpace EX internal battery, which is contained within the power unit assembly, shall be charged in areas located outby the last open crosscut in intake air and only the manufacturer's recommended battery chargers shall be used, such as the CleanSpace EX Battery Charger, Product Code PAF–0066.

(4) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX power unit which contains the internal battery, shall be exposed to water, allowed to get wet or immersed in liquid. This does not preclude incidental exposure of the 3M TR–830 Battery Pack or the CleanSpace EX power unit assembly.

(5) Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR, including the internal battery, shall be used, charged or stored in locations where the manufacturer's recommended temperature limits are exceeded. Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR shall be placed in direct sunlight nor stored near a source of heat.

(j) Annual retraining shall be given to all miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs in accordance with 30 CFR 48.8. Training of new miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.5, and training of experienced miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.6 shall be given. The operator shall keep a record of such training and provide such record to MSHA upon request.

(k) The miners at Warrior Coal, LLC, Cardinal Mine, are not represented by a labor organization and there are no representatives of miners at the mine. A copy of this petition has been posted on the bulletin board at Warrior Coal, LLC, Cardinal Mine, on August 28, 2024.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22932 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Gibson County Coal, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0036 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0036.

2. *Fax:* 202–693–9441.

3. *Email: petitioncomments@dol.gov.*

4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards,

Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–014–C.

Petitioner: Gibson County Coal, LLC, 3455 S 700 W, Owensville, IN 47665.

Mine: Gibson South Mine, MSHA ID No. 12–02388, located in Gibson County, Indiana.

Regulation Affected: 30 CFR 75.500(d), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.500(d) to allow the use of unapproved Powered Air Purifying Respirators (PAPRs) taken into or used inby the last open crosscut. Specifically, the Petitioner is requesting to utilize the CleanSpace EX PAPR and sealed motor/blower/battery power pack assembly, and the 3M Versaflo TR–800 Intrinsically Safe PAPR motor/blower and battery with battery pack.

The petitioner states that:

(a) The 3M Versaflo TR–800 PAPR with motor/blower and battery qualifies as intrinsically safe.

(b) The CleanSpace EX PAPR also qualifies as intrinsically safe.

(c) Both the CleanSpace EX and the 3M Versaflo TR–800 PAPRs provide a constant flow of air inside the mask or helmet. This airflow provides respiratory protection and comfort in hot working conditions.

(d) Neither the 3M Versaflo TR–800 nor the CleanSpace EX PAPR are MSHA-approved as permissible.

(e) Neither the 3M nor the CleanSpace are pursuing MSHA approval.

(f) Gibson County Coal, LLC, Gibson South Mine, currently makes available to all miners NIOSH-approved high efficiency l00 series respirators to protect the miners against potential exposure to respirable coal mine dust, including crystalline silica, during normal mining conditions. Gibson County Coal, LLC, Gibson South Mine, desires to expand the miners' option in choosing a respirator that provides the greatest degree of protection as well as comfort while being worn. Powered PAPRs provide a constant flow of filtered air and serve that purpose.

(g) On June 17, 2024, MSHA finalized the rule *Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection.* The rule requires the mine operator to have a written respiratory protection program in place when miners are required to use respirators. Adding the CleanSpace EX and the 3M TR–800 Versaflo PAPRs to the respiratory protection program as additional options will provide the miners with alternatives to the series 100 high efficiency respirators already in use at the mine. The PAPRs will also serve as a respirator option to protect the miners with facial hair who may not be able to pass the ''fit test'' requirement of the program. In addition, the positive flow of filtered air provided by the PAPRs will provide a solution for the miners who are unable to wear a tight-fitting respirator.

(h) Since the 3M Airstream Headgear-Mounted PAPR System has been discontinued by the manufacturer, there are no other MSHA-approved units available that can be taken into or used inby the last open crosscut.

(i) The alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

The petitioner proposes the following alternative method:

(a) All miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs shall receive training in accordance with 30 CFR 48.7 on the requirements of the Proposed Decision and Order (PDO) granted by MSHA and manufacturer guidelines. Such training shall be completed before any 3M Versaflo TR–800 or CleanSpace EX PAPR can be used inby the last open crosscut. The operator shall keep a record of such training and provide such record to MSHA upon request.

(b) The PAPRs, battery packs, all associated wiring and connections shall be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR shall be removed from service.

(c) A separate logbook shall be maintained for the 3M Versaflo TR–800 and CleanSpace EX PAPRs that will be kept with the equipment, or in a location with other mine record books and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–1 and the examination results recorded in the logbook. Examination records shall be maintained for one year.

(d) All 3M Versaflo TR–800 and CleanSpace EX PAPRs to be used inby the last open crosscut shall be physically examined prior to initial use and each unit shall be assigned a unique identification number. Each unit shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition. The examinations for the 3M Versaflo TR–800 PAPRs shall include:

(1) Check the equipment for any physical damage and the integrity of the case.

(2) Remove the battery and inspect for corrosion.

(3) Inspect the contact points to ensure a secure connection to the battery.

(4) Reinsert the battery and power up and shut down to ensure proper connections.

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size.

The CleanSpace EX PAPR does not have an accessible/removable battery. The internal battery and motor/blower assembly are both contained within the ''power unit'' assembly and the battery cannot be removed, reinserted or fastened. Therefore, examination of the CleanSpace EX PAPR shall include any indications of physical damage.

(e) All 3M Versaflo TR–800 and CleanSpace EX PAPR units shall be serviced according to the manufacturer's recommendations.

(f) Prior to energizing and during use of the 3M Versaflo TR–800 or the CleanSpace EX PAPR inby the last open

crosscut, procedures in accordance with 30 CFR 75.323 shall be followed.

(g) Only the 3M TR–830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133, in the 3M Versaflo TR–800 PAPR shall be used. Only the CleanSpace EX Power Unit, which meets lithium battery safety standard UL 1642 or IEC 62133, in the CleanSpace EX shall be used.

(h) If battery packs for the 3M Versaflo TR–800 PAPR are provided, all battery ''change outs'' shall occur in intake air outby the last open crosscut.

(i) The following maintenance and use conditions shall apply to equipment containing lithium type batteries:

(1) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX Power Unit shall be disassembled nor modified by anyone other than permitted by the manufacturer of the equipment.

(2) The 3M TR–830 Battery Pack shall be charged only in an area free of combustible material and in intake air outby the last open crosscut. The 3M TR–830 Battery Pack shall be charged only by a manufacturer's recommended battery charger, such as the:

(i) 3M Battery Charger Kit TR–641N, which includes one 3M Charger Cradle TR–640 and one 3M Power Supply TR–941N, or,

(ii) 3M 4-Station Battery Charger Kit TR–644N, which includes four 3M Charger Cradles TR–640 and one 3M 4-Station Battery Charger Base/Power Supply TR–944N.

(3) The CleanSpace EX internal battery, which is contained within the power unit assembly, shall be charged in areas located outby the last open crosscut in intake air and only the manufacturer's recommended battery chargers shall be used, such as the CleanSpace EX Battery Charger, Product Code PAF–0066.

(4) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX power unit which contains the internal battery, shall be exposed to water, allowed to get wet or immersed in liquid. This does not preclude incidental exposure of the 3M TR–830 Battery Pack or the CleanSpace EX power unit assembly.

(5) Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR, including the internal battery, shall be used, charged or stored in locations where the manufacturer's recommended temperature limits are exceeded. Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR shall be placed in direct sunlight nor stored near a source of heat.

(j) Annual retraining shall be given to all miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs in accordance with 30 CFR 48.8. Training of new miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.5, and training of experienced miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.6 shall be given. The operator shall keep a record of such training and provide such record to MSHA upon request.

(k) The miners at Gibson County Coal, LLC, Gibson South Mine, are not represented by a labor organization and there are no representatives of miners at the mine. A copy of this petition has been posted on the bulletin board at Gibson County Coal, LLC, Gibson South Mine, on August 30, 2024.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22922 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Peabody Gateway North Mining LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0048 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0048.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–025–C.

Petitioner: Peabody Gateway North LLC, 12968 State 13, Coulterville, Illinois 62237.

Mine: Gateway North Mine, MSHA ID No. 11–03235, located in Randolph County, Illinois.

Regulation Affected: 30 CFR 75.500(d), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.500(d) to permit an alternative method of compliance to permit the use of battery-powered non-permissible radios used in or inby the last open crosscut.

The petitioner states that:

(a) Peabody previously filed a petition for modification of 30 CFR 75.500(d) on July 12, 2023 (Docket Number M–2023–

021–C), but the Proposed Decision and Order (PDO) was denied by MSHA on June 4, 2024.

(b) Peabody currently uses Motorola and Kenwood permissible radios in its underground mine to communicate between miners. Such communication facilitates movement of equipment, assignment of necessary work as well as communication with the surface control room.

(c) The mines also use wired communication systems and the communication and tracking systems required in the mine's Emergency Response Plan. Such communication facilitates efficiency and safety. It occurs along the face areas and in other areas covered by this standard. It facilitates communication in case of emergencies such as injuries both on the section and to the surface.

(d) Motorola and Kenwood have discontinued the manufacture and sale of MSHA-approved permissible radios. Such radios were the only permissible radios available for the underground coal mine industry. The notices indicated that for a period of time the radios were sold out of stock but that ceased as indicated in the notes. Peabody is not aware of any other radio which is economically feasible.

(e) Peabody seeks modification of 30 CFR 75.500(d) as it applies to use of low voltage battery-powered non-permissible radios. It intends to use the following equipment:

(1) Motorola R–7 Portable Two-Way Radio. Other safe portable radios may subsequently be used if approved in advance by the MSHA District Manager.

(f) Peabody mines utilize the continuous miner method of mining. Some sections utilize two continuous miners and use of the radios permits coordination of the coal haulers and between the two continuous miners as well as communication near pillar and sealed area workings.

(g) Effective communication is critical to the safety of the miners at the mine. It reduces the potential for collisions and pedestrian accidents and facilitates communication in an emergency.

(h) The alternative method proposed in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

The petitioner proposes the following alternative method:

(a) Non-permissible intrinsically safe radios to be used include the Motorola R7 Portable Two-Way Radio.

(b) All such radios shall be rated IP 66 or higher.

(c) All non-permissible radios used in or inby the last open crosscut will be examined by a qualified person as defined in 30 CFR part 75.153 prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations results shall be recorded in the weekly examination book and will be made available to MSHA and the miners at the mine.

(d) A qualified person as defined in 30 CFR part 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible radios used in or inby the last open crosscut.

(e) Non-permissible radios shall not be used if methane is detected in concentrations at or above one percent. When one percent or more methane is detected while the non-permissible radios are being used, the radios shall be de-energized immediately by turning them off and withdrawn outby the last open crosscut.

(f) All hand-held methane detectors shall be MSHA approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320. Each miner using a radio shall be trained in the use of handheld methane details.

(g) All radios shall be used in accordance with the safe use procedures recommended by the manufacturer.

(h) Personnel who use non-permissible radios shall be properly trained to recognize the hazards and limitations associated with use of the equipment.

(i) The radio battery is designed to last more than the length of a shift. The radio shall not be charged underground and shall be charged on the surface in accordance with the procedure for other battery-operated devices such as methane detectors.

(j) The operator shall post the PDO granted by MSHA in unobstructed locations on the bulletin boards and/or in other conspicuous places where notices to miners are ordinarily posted, at all the mines for which the PDO granted by MSHA applies, for a period of not less than 60 consecutive days and a copy shall be made available to all miners' representatives.

(k) The proposed radios will be available for inspection and testing during MSHA's investigation. As other radios are acquired, if the petition is granted, such radios shall be made available for MSHA inspection. The radios shall be made available for MSHA testing during the investigation.

(l) The Motorola radio is rated IP 66 and IP 68. It is powered by a lithium cell. Two such radios have been purchased by Peabody and are available at Gateway North for examination and testing by MSHA. Peabody has not, itself, tested such radios because it is presumed that MSHA will intend to conduct tests at the mine and would be unlikely to accept Peabody's results.

(m) The miners at Gateway North Mine are not currently represented by a labor organization and this petition is posted at the mine.

In support of the proposed alternative method, the petitioner has also submitted manufacturer product specification sheets for MSHA-approved permissible radios indicating they are no longer available and manufacturer product specification sheets for the proposed Motorola R–7 Portable Two-Way Radio.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22918 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Iron Cumberland, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0030 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0030.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–013–C.

Petitioner: Iron Cumberland, LLC, 576 Maple Run Road, Waynesburg, PA 15370.

Mine: Cumberland Mine, MSHA ID No. 36–05018, located in Greene County, Pennsylvania.

Regulation Affected: 30 CFR 75.1700, Oil and gas wells.

Modification Request: The petitioner requests a modification of 30 CFR 75.1700 as it relates to unconventional gas wells at the mine. Specifically, the petitioner is petitioning to mine within the 300-feet barrier established by 30 CFR 75.1700.

The petitioner states that:

(a) Cumberland is a large coal mine that produces coal from the Pittsburgh seam. It utilizes continuous miners to develop panels for retreat mining by longwall mining equipment.

(b) The Cumberland Mine employs approximately 754 miners and produces approximately 32,000 tons of bituminous coal per day from the Pittsburgh #8 coal seam with an average height of 96 inches. At this time, there are no coal seams being mined stratigraphically down section from the Pittsburgh seam. The mine is accessed through one slope and five airshafts. The mine operates one longwall, two advancing gate sections, and a mains section utilizing continuous mining machines.

(c) The planning for the layout of a longwall mining panel and district is a complex one that necessarily must take into account various factors related to ventilation, roof control, coal quality and production.

(d) The petition is necessary to facilitate mining of the No. 83 South longwall panel. The longwall shearer will mine through and intersect the Alpha Unit 2 Marcellus gas wells. Altering mining projections to avoid the Alpha Unit 2 gas wells would require a ''longwall move'' in the middle of a panel. This would require driving an additional set up face and could potentially create adverse ventilation and roof control conditions. It would also require an additional longwall ''move,'' which has certain inherent hazards related to moving longwall equipment through the mine.

(e) The Cumberland Mine desires to plug eight unconventional gas wells in the Marcellus shale so that mining may occur within the 300-foot diameter or so that they may be mined through. These are:

(1) The Alpha Unit 2 Marcellus Gas Well American Petroleum Institute (API) #: 37–059–25679(1 H)
(2) The Alpha Unit 2 Marcellus Gas Well (API) #: 37–059–25763(1.1H)
(3) The Alpha Unit 2 Marcellus Gas Well (API) #: 37–059–25979(2H)
(4) The Alpha Unit 2 Marcellus Gas Well (API) #: 37–059–25764(3H)
(5) The Alpha Unit 2 Marcellus Gas Well (API) #: 37–059–26051(5H)
(6) The Alpha Unit 2 Marcellus Gas Well API #: 37–059–25980 (6H)
(7) The Alpha Unit 2 Marcellus Gas Well API #: 37–059–26052 (7H)
(8) The Alpha Unit 2 Marcellus Gas Well API #: 37–059–25981 (8H)

(f) The requested petition is necessary because the existing granted petitions do not specifically apply to unconventional wells, and, if a 300-foot barrier around the AU2 wells is required in accordance with the provisions of 75.1700, the roof control plan would be adversely affected and the mine ventilation plan would be unduly complicated. Mining an additional set-up face and bleeder entries would be required, additional conveyer belt drives would need to be installed, and an entire longwall mining unit in the middle a panel would need to be moved, unnecessarily exposing miners to transportation hazards as well as hazards associated with mine roof. Further, other safe methods and procedures are available to achieve the result intended by the standard. The wells would be ''killed'' and depleted of all gas and effectively plugged prior to intersection. Effective, safe methods of plugging wells are established and addressed in the proposed petition.

(g) The alternative method provides an equivalent level of protection as many previous petitions. It permits identification of wells and contains provisions that prevent the introduction of methane or natural gas within the mine by appropriate and extensive plugging of the wells. Additional precautions provide for the detection of gas and the prevention of accumulations of gas with oversight by MSHA.

The petitioner proposes the following alternative method:

(a) A safety barrier of 300 feet in diameter shall be maintained around the Alpha Unit 2 1H, 1.1H, 2H, 3H, 5H, 6H, 7H and 8H gas wells until the District Manager approves proceeding with mining.

(b) A sworn affidavit or declaration executed by the company official who is in charge of health and safety at the mine stating that all mandatory procedures in the Proposed Decision and Order (PDO) granted by MSHA for cleaning out, preparing, and plugging each gas well have been completed shall be provided to the District Manager prior to mining within the safety barrier around these wells. The affidavit or declaration shall be accompanied by all logs, electronic or otherwise, described in section (d)(7) and any other records the District Manager requires.

(c) The terms and conditions of the PDO granted by MSHA shall apply to all types of underground coal mining.

(d) The following procedures shall be followed for cleaning out and preparing the Alpha Unit 2 1H, 1.1H, 2H, 3H, 5H, 6H, 7H and 8H gas wells prior to plugging:

(1) Test for gas emissions inside the hole before cleaning out, preparing, and plugging gas wells. The District Manager shall be contacted if the well is actively producing gas.

(2) Since these wells are unconventional and greater than 4,000 feet in depth, a diligent effort shall be made to remove all the casing in the well and clean the well down to the

original arrowset packer installed just above the ''kick off point'' in the well. The well shall be completely cleaned from the surface to at least the same arrowset packer originally installed. The District Manager shall be provided with all information it possesses concerning the geological nature of the strata and the pressure of the well. A diligent effort shall be made to remove all material from the entire diameter of the well, wall to wall.

(3) Since these wells will no longer be producing and will be cleaned and prepared subject to the PDO granted by MSHA, a diligent effort shall be made to remove all of the casing and comply with all other applicable provisions of the PDO granted by MSHA.

(4) A diligent effort to remove the casing shall require a minimum of 150 percent of the casing string weight and/or at least three attempts to spear the casing for the required minimum pull effort. A record of these efforts, including casing length and weight shall be kept and made available for MSHA review.

(5) Perforations or rips shall be made at least every 50 feet from 400 feet below the base of the coal seam up to 100 feet above the uppermost mineable coal seam. Appropriate steps shall be taken to ensure that the annulus between the casing and the well walls are filled with expanding (minimum 0.5 percent expansion upon setting) cement and contain no voids.

(6) Jet/sand cutting is one method for cutting, ripping, or perforating the casing with three or more strings of casing in the coal seam in preparation for mining. This method uses compressed nitrogen gas and sand to cut the well casings. On active wells, cuts start at 200 feet above the bottom of the casing, at 200 feet intervals, to 200 feet below the bottom of the coal seam.

(7) The operator shall prepare down-hole logs for each well. Logs shall consist of a caliper survey, a bond log if appropriate, a deviation survey, and a gamma survey for determining the top, bottom, and thickness of all coal seams down to the coal seam to be mined or the lowest mineable coal seam, whichever is lower, potential hydrocarbon producing strata, and the location of any existing bridge plug. In addition, a log shall be maintained describing: the depth of each material encountered; the nature of each material encountered; bit size and type used to drill each portion of the hole; length and type of each material used to plug the well; length of casings removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well. Invoices, workorders, and other records relating to all work on the well shall be maintained as part of this journal and provided to MSHA upon request.

(8) A diligent effort shall be made to remove the casing down to the arrowset packer installed just above the ''kick off point'' (where the well transitions from vertical to horizontal). If the entire vertical casing above the existing packer can be removed, the well shall be prepared for plugging and sealed and using seals described in section (d)(10).

(9) If the District Manager concludes that the completely cleaned out well is emitting excessive amounts of gas, an additional mechanical bridge plug shall be placed in the well.

(10) The mechanical bridge plug shall be placed in a competent stratum at least 400 feet below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum, unless the District Manager requires a greater distance based on the geological strata or the pressure within the well. The District Manager shall be provided with all available information concerning the geological nature of the strata and the pressure of the well. If it is not possible to set a mechanical bridge plug, an appropriately sized packer may be used. The measures taken to ''kill the well'' and plug the hydrocarbon producing strata shall be documented.

(11) If the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the coal seam, mechanical bridge plugs shall be properly placed to isolate the hydrocarbon-producing stratum from the expanding cement plug.

(12) A minimum of 400 feet of expanding cement shall be placed below the coal seam, unless the District Manager requires a greater distance based the geological strata or to the pressure within the well.

(e) The following procedures shall be followed for plugging the Alpha Unit 2 1H, 1.1H, 2H, 3H, 5H, 6H, 7H and 8H gas wells to the surface after completely cleaning out the well:

(1) Cement shall be used as a plugging material.

(2) The mine operator shall pump cement slurry down the well to form a plug which runs from the original arrowset packer installed just above the ''kick off point'' in the well to 400 feet below the Pittsburgh #8 coal seam. The cement shall be placed in the well under a pressure of at least 200 pounds per square inch (psi). The mine operator shall pump expanding cement slurry down the well to form a plug which runs from 400 feet below the coal seam to the surface. The District Manager can modify the cementing plan based on the geological strata or the pressure within the well.

(3) The mine operator shall embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, a 4-inch or larger diameter casing, set in cement, shall extend at least 36 inches above the ground level with the API well number engraved or welded on the casing. When the hole cannot be marked with a physical monument (*e.g.,* prime farmland), high-resolution GPS coordinates (one-half meter resolution) are required.

(f) The following procedures shall be followed for preparing and plugging or re-plugging the Alpha Unit 2 1H, 1.1H, 2H, 3H, 5H, 6H, 7H and 8H gas wells:

(1) If it is not possible to remove all the casing, the District Manager shall be notified before any other work is performed.

(2) If the well cannot be cleaned out or the casing removed, the well shall be prepared from the surface to at least 400 feet below the base of the Pittsburgh #8 coal seam, unless the District Manager requires cleaning out and removal of casing to a greater depth based on the geological strata or the pressure within the well.

(3) If the casing cannot be removed from the total depth, the well shall be filled with cement from the lowest possible depth to 400 feet below the Pittsburgh #8 coal seam, and the other applicable provisions in the PDO granted by MSHA shall apply.

(4) If the casing cannot be removed, the casing shall be perforated from 400 feet below the Pittsburgh #8 coal seam, the annuli shall be cemented or otherwise filled, and the other applicable provisions in the PDO granted by MSHA shall apply.

(5) If the casing cannot be removed, the casing shall be cut, milled, perforated, or ripped at sufficient intervals to facilitate the removal of any remaining casing in the coal seam by the mining equipment. Any casing which remains shall be cut, perforated, or ripped to permit the injection of cement into voids within and around the well. All casing remaining at the Pittsburgh #8 coal seam shall be cut, perforated, or ripped at least every 5 feet from 10 feet below the coal seam to 10 feet above the coal seam.

(g) The following procedures shall be followed when mining within a 100-foot diameter barrier around the Alpha Unit 2 1H, 1.1H, 2H, 3H, 5H, 6H, 7H and 8H gas wells.

(1) A representative of the mine operator, a representative of the miners, the appropriate State agency, or the MSHA District Manager may request that a conference be conducted prior to intersecting any plugged well. The party requesting the conference shall notify all other parties listed above within a reasonable time prior to the conference to provide opportunity for participation. The purpose of the conference shall be to review, evaluate, and accommodate any abnormal or unusual circumstance related to the condition of the well or surrounding strata when such conditions are encountered.

(2) Each well shall be intersected on a shift approved by the District Manager. The District Manager and the miners' representative shall be notified in sufficient time prior to intersecting a well to provide an opportunity to have representatives present.

(3) Drivage sites shall be installed at the last open crosscut near the place to be mined to ensure intersection of the well when using continuous mining methods. The drivage sites shall not be more than 50 feet from the well. When using longwall-mining methods, distance markers shall be installed on 5-foot centers for a distance of 50 feet in advance of the well in the headgate entry and in the tailgate entry.

(4) When either the conventional or continuous mining method is used, firefighting equipment including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the well intersection shall be available and operable during all well intersections. The fire hose shall be located in the last open crosscut of the entry or room. A water line shall be maintained to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section. When the longwall mining method is used, a hose to the longwall water supply is sufficient.

(5) Sufficient supplies of roof support and ventilation materials shall be available and located at the last open crosscut. In addition, emergency plugs and suitable sealing materials shall be available in the immediate area of the well intersection.

(6) Testing and permissibility examinations of all equipment shall be made on the shift prior to intersecting the well. Water sprays, water pressures, and water flow rates used for dust and spark suppression shall be examined and any deficiencies corrected.

(7) The methane monitor(s) on the longwall, continuous mining machine, or cutting machine and loading machine shall be calibrated on the shift prior to intersecting the well.

(8) When mining is in progress, tests for methane shall be made with a handheld methane detector at least every 10 minutes from when mining with the continuous mining machine or longwall face is within 30 feet of the well until the well is intersected. During the actual cutting process, no individual shall be allowed on the return side until the well intersection has been completed and the area has been examined and declared safe. All workplace examinations on the return side of the shearer shall be conducted while the shearer is idle. The most current Approved Ventilation Plan shall be followed at all times unless the District Manager requires a greater air velocity for the intersect.

(9) When using continuous or conventional mining methods, the working place shall be free from accumulations of coal dust and coal spillages. Rock dust shall be placed on the roof, rib, and floor to within 20 feet of the face when intersecting the well. On longwall sections, rock dusting shall be conducted and placed on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) When the well is intersected, all equipment shall be de-energized and thoroughly examined and the area determined to be safe before permitting mining to resume.

(11) After a well has been intersected and the working place determined to be safe, mining shall continue inby the well a sufficient distance to permit adequate ventilation around the area of the well.

(12) If the casing is cut or milled at the coal seam level, the use of torches should not be necessary. When necessary, torches may be used for inadequately or inaccurately cut or milled casings. No open flame shall be permitted in the area until adequate ventilation has been established around the well bore and methane levels of less than 1.0 percent are present in all areas that will be exposed to flames and sparks from the torch. A thick layer of rock dust shall be applied to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to the use of torches.

(13) Non-sparking (brass) tools shall be available and used exclusively to expose and examine cased wells.

(14) No person shall be permitted in the area of the well intersection except those actually engaged in the operation, including company personnel, representatives of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(15) All personnel in the mine shall be alerted to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. This warning shall be repeated for all shifts until the well has been mined through.

(16) The well intersection shall be under the direct supervision of a certified individual. Instructions concerning the well intersection shall be issued only by the certified individual in charge.

(17) If the well in the longwall panel cannot be located or if a development section misses the anticipated intersection, mining shall cease, and an examination for hazardous conditions at the projected location of the well shall be conducted, the District Manager shall be notified, and reasonable measures shall be taken to locate the well, including visual observation/inspection or through survey data. Mining may resume if the well is located, and no hazardous conditions exist. If the well cannot be located, the mine operator shall work with District Manager to resolve any issues before mining resumes.

(18) The provisions of the requested petition do not impair the authority of representatives of MSHA to interrupt or halt the well intersection and to issue a withdrawal order when they deem it necessary for the safety of the miners. MSHA may order an interruption or cessation of the well intersection and/or a withdrawal of personnel by issuing either a verbal or written order to that effect to a representative of the mine operator. Operations in the affected area of the mine may not resume until a representative of MSHA permits resumption. The mine operator and miners shall comply with verbal or written MSHA orders immediately. All verbal orders shall be committed to writing within a reasonable time as conditions permit.

(19) A copy of the PDO granted by MSHA shall be maintained at the mine and available to the miners.

(20) If the well is not plugged to the total depth of all minable coal seams identified in the core hole logs, any coal seams beneath the lowest plug shall remain subject to the bander requirements of 30 CFR 75.1700, should those coal seams be developed in the future.

(21) All necessary safety precautions and safe practices according to industry standards and required by MSHA regulations and State regulatory agencies having jurisdiction over the plugging site shall be followed to provide the upmost protection to the miners involved in the process.

(22) All miners involved in the plugging or re-plugging operations shall be trained on the contents of the PDO granted by MSHA prior to starting the process. A copy of the PDO granted by MSHA shall be posted at the well site until the plugging or re-plugging has been completed.

(23) Mechanical bridge plugs shall incorporate the best available technologies that are either required or recognized by the State regulatory agency and/or oil and gas industry.

(24) Within 30 days after the PDO granted by MSHA becomes final, proposed revisions for the approved 30 CFR part 48 training plan shall be submitted to the District Manager. These proposed revisions shall include initial and refresher training on compliance with the terms and conditions stated in the PDO granted by MSHA. All miners involved in well intersection shall be provided with training on the requirements of the PDO granted by MSHA prior to mining within 150 feet of the well intended to be mined through.

(25) The responsible person required under 30 CFR 75.1501, shall be responsible for well intersection emergencies. The well intersection procedures shall be reviewed by the responsible person prior to any planned intersection.

(26) Within 30 days after the PDO granted by MSHA becomes final, proposed revisions shall be submitted for the approved mine emergency evacuation and firefighting program of instruction required under 30 CFR 75.1502. The program of instruction shall be revised to include the hazards and evacuation procedures to be used for well intersections. All underground miners shall be trained in this revised plan within 30 days of submittal.

(h) The following detailed cleaning and plugging procedures are additional specifics and guidelines for cleaning out and preparing the Alpha Unit 2 IH, 1.1H, 3H, 5H, 6H, 7H and 8H gas wells prior to plugging and for plugging the Alpha Unit 2 gas wells to the surface:

(1) Record the shut-in pressure and monitor the casing pressure.

(2) Move in equipment. Rig up the wireline rig and the pumping unit to the well head. Load fresh water (8.3 lbs/gallon) and weighted brine water (10.0 lbs/gallon) into their respective tanks.

(3) Pump sufficient amount of weighted brine water into the wellbore first. Switch to fresh water and finish loading the wellbore. Fresh and brine water shall be pumped until the well is officially ''killed,'' which means the well is dead and has no gas delivered to the surface.

(4) Rig up the wireline well head control. Run into the hole with a 5½″–10,000 psi rated Cast Iron Bridge Plug (CIBP) and set the CIBP within the 5½″ production tubing at the location where the existing arrowset packer is installed (located just above the ''kick off point'' in the well). Pull out of the hole and rig down the wireline rig.

(5) Pressure test the installed 5½″–10,000 psi CIBP up to 80 percent of its working pressure for a minimum of one hour (surface + hydrostatic). Record pressure test results.

(6) Rig up the drill rig and install a 10,000 psi Wellhead Blowout Preventer.

(7) Pressure test the Wellhead Blowout Preventer up to 90 percent of its working pressure for one hour. Record pressure test results.

(8) Rig up the wireline rig and perform a cement bond log to determine the ''top of cement'' within the annulus of the 5½″ casing. Pull out of the hole and rig down the wireline rig. Preliminarily, based on the existing bond logs, the ''top of cement'' is expected to be located below the 9⅝″ casing seat.

(9) Pick up the drill pipe and trip in the hole down to the installed 5½″ CIBP. Set a cement plug with a gas blocker additive from the existing 5½″ CIBP up to the ''top of cement'' of the 5½″ casing (determined by the new bond log results). Wait on cement to cure for a minimum of eight hours.

(10) Rig up the wireline rig, run into the hole to the top of the existing cement plug and cut the 5½″ casing. Run out of the hole and rig down the wireline rig.

(11) Using the drill rig, pull all of the free 5½″ casing out of the hole. Load the hole with fresh water as required.

(12) After removing the 5½″ casing, shut-in the well and monitor the gas pressure for a minimum of one hour. Record shut-in test results. If any gas pressure is encountered during the shut-in test, an additional CIBP or packers may be used to mitigate gas migration. (No gas pressure is acceptable.)

(13) Rig up the wireline rig and perform a cement bond log on the 9⅝″ casing. Pull out of the hole and rig down the wireline rig. Preliminarily, the 9⅝″ casing is expected to be fully cemented within the annulus. It was reported that cement was circulated to the surface upon install for the 9⅝″ casing, the 13⅜″ casing, and the 20″ casing. Any voids encountered within the 9⅝″ annulus shall be addressed appropriately.

(14) Pick up the drill pipe and trip in the hole down to the previous cement plug. Set an additional cement plug with a gas blocker additive from the existing cement plug up to 100′ above the 9⅝″ casing seat. Wait on cement to cure for a minimum of eight hours.

(15) Shut-in the well and monitor the gas pressure while the cement is curing. Record shut-in test results. If additional gas pressure is encountered during the shut-in test, an additional CIBP or packers may be used to mitigate gas migration.

(16) Pick up the drill pipe and trip in the hole down to the previous cement plug. Set an additional cement plug with a gas blocker additive from the existing cement plug up to 400' below the bottom of the Pittsburgh #8 coal seam. Wait on cement to cure for a minimum of eight hours.

(17) Shut-in the well and monitor the gas pressure while the cement is curing. Record shut-in test results. If any gas pressure is encountered during the shut-in test, an additional CIBP or packers may be used to mitigate gas migration. (No gas pressure is acceptable.)

(18) At this point, the well has been effectively plugged from the original arrowset packer which was installed just above the ''kick off point'' (vertical to horizontal) up to 400' below the Pittsburgh #8 coal seam. (Effectively plugged means no sign of any gas detected in the well bore.) The remaining procedures to complete the plugging process from 400' below the Pittsburgh #8 coal seam to the surface can be found above.

(i) The miners at Cumberland mine are currently represented by a labor organization and this petition is posted at the mine and has been served on the miners' representative on May 8, 2024, as indicated in the Certificate of Service.

In support of the proposed alternative method, the petitioner has also submitted: a schematic for cutting, milling, perforating or ripping well casing above and below the Pittsburgh #8 coal seam; a schematic for general proposed permanent plugging for an unconventional gas well; a copy of a previously granted PDO; a map of the proposed workings in Willow Grove District; a map showing the AU2 geologic summary (well location plats and well site); well record and completion data; and other relevant facts.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22975 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0040]

Proposed Extension of Information Collection; Independent Contractor Registration and Identification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), 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 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 Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection entitled Independent Contractor Registration and Identification.

DATES: All comments must be received on or before December 3, 2024.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late comments received after the deadline will not be considered.

- *Federal E-Rulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2024–0020.
- *Mail/Hand Delivery:* DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, 4th Floor West, Arlington, VA 22202–5452. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.
- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act) as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal, and nonmetal mines.

B. Information Collection

In order to fulfill the statutory mandates to promote miners' health and safety, MSHA requires the collection of information under the information collection request entitled Independent Contractor Registration and Identification. The information collection is intended to ensure that MSHA can identify independent contractors in metal and nonmetal (MNM) mines and have records where they have worked.

Independent contractors perform services or construction at a mine. They may be engaged in any type of work performed at a mine, including activities such as clearing land, excavating ore, processing minerals, maintaining or repairing equipment, or constructing new buildings or new facilities, such as shafts, hoists, conveyors, or kilns.

Independent contractors vary in the number of their employees, the type of work performed, and the time spent working at mine sites. Some independent contractors work only at mines while others may work one time at a mine and never return to MSHA jurisdiction. Independent contractors may also move from mine to mine or may be present at several mines at once.

The work performed at mines can pose serious dangers to independent contractors' employees. From January 1, 2018, through December 31, 2023, 192 mine workers were fatally injured in mining accidents; 40 of those were employed by independent contractors. Under 30 CFR 45.3, independent contractors may follow the specified requirements to obtain an MSHA identification number and procedures for service of documents upon independent contractors. The purpose of this rule is to facilitate implementation of MSHA's enforcement policy of holding independent contractors responsible for violations committed by them and their employees.

1. Obtaining Contractor Identification Numbers (MSHA Form 7000–52)

In order to ensure that independent contractors are responsible for any employee violations while working at mines, contractor identification numbers (INs) are given to employees, either voluntarily, or issues during the first citation of that employee.

Under 30 CFR 45.2, an independent contractor is defined as ''any person, partnership, corporation, subsidiary of a corporation, firm, association or other organization that contracts to perform services or construction at a mine.''

Under 30 CFR 45.3, independent contractors may voluntarily obtain a permanent identification number by submitting to MSHA District Manager in writing the following information:

(i) The trade name and business address;

(ii) An address of record for service of documents;

(iii) A telephone number where they can be contacted; and

(iv) The estimated annual hours worked by the independent contractor on mine property for the previous calendar year.

MSHA assigns an identification number (IN) to an independent contractor if the contractor requests one or, if not requested, the Agency issues an IN the first time the independent contractor is cited for a violation of either a mandatory standard or the Mine Act. An independent contractor applying for IN numbers must submit MSHA Form 7000–52.

2. Independent Contractor Register Disclosure

Information on all independent contractors working at a mine must be available to the production-operator at all times. Therefore, contractors must submit information to the production-operator.

Under 30 CFR 45.2, a production-operator is defined as ''any owner, lessee, or other person who operates, controls or supervises a coal or other mine.'' Under 30 CFR 45.4(a), each independent contractor must provide to the production-operator in writing the following information:

(i) The trade name, business address, and business telephone number;

(ii) A description of the nature of the work and a location at the mine where the work is to be performed;

(iii) MSHA independent contractor IN, if any; and

(iv) The independent contractor's business address of record for service of citations, or other documents involving the independent contractor.

3. Recordkeeping of Independent Contractors

Once independent contractors send the correct information to the production-operator, it is the production-operators' responsibility to keep the information, in writing at the mine, for each independent contractor at the mine.

Under 30 CFR 45.4(b), the production-operator must maintain certain information, provided by the independent contractor as required by 30 CFR 45.4(a), concerning each independent contractor at the mine. The information must be made available by the production-operator to any MSHA inspector upon request.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Independent Contractor Registration and Identification. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *https://www.regulations.gov*. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *https://www.regulations.gov* and *https://www.reginfo.gov*.

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations and Variances, 201 12th Street South, 4th Floor West, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th Floor via the West elevator. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This information collection request concerns provisions for Independent Contractor Registration and Identification. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0040.

Affected Public: Business or other for-profit.

Number of Annual Respondents: 22,792.

Frequency: On occasion.

Number of Annual Responses: 167,801.

Annual Time Burden: 18,220 hours.

Annual Other Burden Costs: $989.

MSHA Form: MSHA Form 7000–52, Contractor Identification (IN) Request.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and be available at *https://www.reginfo.gov*.

Song-ae Aromie Noe,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2024–22921 Filed 10–3–24; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Hamilton County Coal, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0040 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0040.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–018–C.

Petitioner: Hamilton County Coal, LLC, 18033 County Road 500 E, Dahlgren, IL 62828.

Mine: Mine No. 1 Mine, MSHA ID No. 11–03203, located in Hamilton County, Illinois.

Regulation Affected: 30 CFR 75.500(d), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.500(d) to allow the use of unapproved Powered Air Purifying Respirators (PAPRs) taken into or used inby the last open crosscut. Specifically, the Petitioner is requesting to utilize the CleanSpace EX PAPR and sealed motor/blower/battery power pack assembly, and the 3M Versaflo TR–800 Intrinsically Safe PAPR motor/blower and battery with battery pack.

The petitioner states that:

(a) The 3M Versaflo TR–800 PAPR with motor/blower and battery qualifies as intrinsically safe.

(b) The CleanSpace EX PAPR also qualifies as intrinsically safe.

(c) Both the CleanSpace EX and the 3M Versaflo TR–800 PAPRs provide a constant flow of air inside the mask or helmet. This airflow provides respiratory protection and comfort in hot working conditions.

(d) Neither the 3M Versaflo TR–800 nor the CleanSpace EX PAPR is MSHA-approved as permissible.

(e) Neither the 3M nor the CleanSpace is pursuing MSHA approval.

(f) Hamilton County currently makes available to all miners NIOSH-approved high efficiency l00 series respirators to protect the miners against potential exposure to respirable coal mine dust, including crystalline silica, during normal mining conditions. Hamilton County desires to expand the miners' option in choosing a respirator that provides the greatest degree of protection as well as comfort while being worn. PAPRs provide a constant flow of filtered air and serve that purpose.

(g) On June 17, 2024, MSHA finalized the rule *Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection*. The rule requires the mine operator to have a written respiratory protection program in place when miners are required to use respirators. Adding the CleanSpace EX and the 3M TR–800 Versaflo PAPRs to the respiratory protection program as additional options will provide the miners with alternatives to the series 100 high efficiency respirators already in use at the mine. The PAPRs will also serve as a respirator option to protect the miners with facial hair who may not be able to pass the ''fit test'' requirement of the program. In addition, the positive flow of filtered air provided by the PAPRs will provide a solution for the miners who are unable to wear a tight-fitting respirator.

(h) Since the 3M Airstream Headgear-Mounted PAPR System has been discontinued by the manufacturer, there are no other MSHA-approved units available that can be taken into or used inby the last open crosscut.

(i) The alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

The petitioner proposes the following alternative method:

(a) All miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs shall receive training in accordance with 30 CFR 48.7 on the requirements of the Proposed Decision and Order (PDO) granted by MSHA and manufacturer guidelines. Such training shall be completed before any 3M Versaflo TR–800 or CleanSpace EX PAPR can be used inby the last open crosscut. The operator shall keep a record of such training and provide such record to MSHA upon request.

(b) The PAPRs, battery packs, and all associated wiring and connections shall be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR shall be removed from service.

(c) A separate logbook shall be maintained for the 3M Versaflo TR–800 and CleanSpace EX PAPRs that will be kept with the equipment, or in a location with other mine record books and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–1 and the examination results recorded in the logbook. Examination records shall be maintained for one year.

(d) All 3M Versaflo TR–800 and CleanSpace EX PAPRs to be used inby the last open crosscut shall be physically examined prior to initial use and each unit shall be assigned a unique identification number. Each unit shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition. The examinations for the 3M Versaflo TR–800 PAPRs shall include:

(1) Check the equipment for any physical damage and the integrity of the case.

(2) Remove the battery and inspect for corrosion.

(3) Inspect the contact points to ensure a secure connection to the battery.

(4) Reinsert the battery and power up and shut down to ensure proper connections.

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size.

The CleanSpace EX PAPR does not have an accessible/removable battery. The internal battery and motor/blower assembly are both contained within the ''power unit'' assembly and the battery cannot be removed, reinserted or fastened. Therefore, examination of the CleanSpace EX PAPR shall include any indications of physical damage.

(e) All 3M Versaflo TR–800 and CleanSpace EX PAPR units shall be serviced according to the manufacturer's recommendations.

(f) Prior to energizing and during use of the 3M Versaflo TR–800 or the CleanSpace EX PAPR inby the last open crosscut, procedures in accordance with 30 CFR 75.323 shall be followed.

(g) Only the 3M TR–830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133, in the 3M Versaflo TR–800 PAPR shall be used. Only the CleanSpace EX Power Unit, which meets lithium battery safety standard UL 1642 or IEC 62133, in the CleanSpace EX shall be used.

(h) If battery packs for the 3M Versaflo TR–800 PAPR are provided, all battery ''change outs'' shall occur in intake air outby the last open crosscut.

(i) The following maintenance and use conditions shall apply to equipment containing lithium type batteries:

(1) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX Power Unit shall be disassembled nor modified by anyone other than permitted by the manufacturer of the equipment.

(2) The 3M TR–830 Battery Pack shall be charged only in an area free of combustible material and in intake air outby the last open crosscut. The 3M TR–830 Battery Pack shall be charged only by a manufacturer's recommended battery charger, such as the:

(i) 3M Battery Charger Kit TR–641N, which includes one 3M Charger Cradle TR–640 and one 3M Power Supply TR–941N, or,

(ii) 3M 4-Station Battery Charger Kit TR–644N, which includes four 3M Charger Cradles TR–640 and one 3M 4-Station Battery Charger Base/Power Supply TR–944N.

(3) The CleanSpace EX internal battery, which is contained within the power unit assembly, shall be charged in areas located outby the last open crosscut in intake air and only the manufacturer's recommended battery chargers shall be used, such as the CleanSpace EX Battery Charger, Product Code PAF–0066.

(4) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX power unit which contains the internal battery, shall be exposed to water, allowed to get wet or immersed in liquid. This does not preclude incidental exposure of the 3M TR–830 Battery Pack or the CleanSpace EX power unit assembly.

(5) Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR, including the internal battery, shall be used, charged or stored in locations where the manufacturer's recommended temperature limits are exceeded. Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR shall be placed in direct sunlight nor stored near a source of heat.

(j) Annual retraining shall be given to all miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs in accordance with 30 CFR 48.8. Training of new miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.5, and training of experienced miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.6 shall be given. The operator shall keep a record of such training and provide such record to MSHA upon request.

(k) The miners at Hamilton County Coal, LLC, Mine No. 1 Mine, are not represented by a labor organization and there are no representatives of miners at the mine. A copy of this petition has been posted on the bulletin board at Hamilton County Coal, LLC, Mine No. 1 Mine, on August 29, 2024.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22916 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Peabody Gateway North Mining LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0050 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments for MSHA–2024–0050.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov*.
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–027–C.

Petitioner: Peabody Gateway North LLC, 12968 State 13, Coulterville, Illinois 62237.

Mine: Gateway North Mine, MSHA ID No. 11–03235, located in Randolph County, Illinois.

Regulation Affected: 30 CFR 75.1002(a), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.1002(a) to permit an alternative method of compliance to permit the use of battery-powered non-permissible radios used within 150 feet of pillar workings or longwall faces.

The petitioner states that:

(a) Peabody previously filed a petition for modification of 30 CFR 75.1002(a) on July 12, 2023 (Docket Number M–2023–019–C), but the Proposed Decision and Order (PDO) was denied by MSHA on June 4, 2024.

(b) Peabody currently uses Motorola and Kenwood permissible radios in its underground mine to communicate between miners. Such communication facilitates movement of equipment, assignment of necessary work as well as communication with the surface control room.

(c) The mines also use wired communication systems and the communication and tracking systems required in the mine's Emergency Response Plan. Such communication facilitates efficiency and safety. It occurs along the face areas and in other areas covered by this standard. It facilitates communication in case of emergencies such as injuries both on the section and to the surface.

(d) Motorola and Kenwood have discontinued the manufacture and sale of MSHA-approved permissible radios. Such radios were the only permissible radios available for the underground coal mine industry. The notices indicated that for a period of time the radios were sold out of stock but that ceased as indicated in the notes.

Peabody is not aware of any other radio which is economically feasible.

(e) Peabody seeks modification of 30 CFR 75.1002(a) as it applies to use of low voltage battery-powered non-permissible radios. It intends to use the following equipment:

(1) Motorola R–7 Portable Two-Way Radio. Other safe portable radios may subsequently be used if approved in advance by the MSHA District Manager.

(f) Peabody mines utilize the continuous miner method of mining. Some sections utilize two continuous miners and use of the radios permits coordination of the coal haulers and between the two continuous miners as well as communication near pillar and sealed area workings.

(g) Effective communication is critical to the safety of the miners at the mine. It reduces the potential for collisions and pedestrian accidents and facilitates communication in an emergency.

(h) The alternative method proposed in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

The petitioner proposes the following alternative method:

(a) Non-permissible intrinsically safe radios to be used include the Motorola R7 Portable Two-Way Radio.

(b) All such radios shall be rated IP 66 or higher.

(c) All non-permissible radios used within 150 feet of pillar workings or longwall faces will be examined by a qualified person as defined in 30 CFR 75.153 prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations results shall be recorded in the weekly examination book and will be made available to MSHA and the miners at the mine.

(d) A qualified person as defined in 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible radios used within 150 feet of pillar workings or longwall faces.

(e) Non-permissible radios shall not be used if methane is detected in concentrations at or above one percent. When one percent or more methane is detected while the non-permissible radios are being used, the radios shall be de-energized immediately by turning them off and withdrawn from the area.

(f) All hand-held methane detectors shall be MSHA approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320. Each miner using a radio shall be trained in the use of handheld methane details.

(g) All radios shall be used in accordance with the safe use procedures recommended by the manufacturer.

(h) Personnel who use non-permissible radios shall be properly trained to recognize the hazards and limitations associated with use of the equipment.

(i) The radio battery is designed to last more than the length of a shift. The radio shall not be charged underground and shall be charged on the surface in accordance with the procedure for other battery-operated devices such as methane detectors.

(j) The operator shall post the PDO granted by MSHA in unobstructed locations on the bulletin boards and/or in other conspicuous places where notices to miners are ordinarily posted, at all the mines for which the PDO granted by MSHA applies, for a period of not less than 60 consecutive days and a copy shall be made available to all miners' representatives.

(k) The proposed radios will be available for inspection and testing during MSHA's investigation. As other radios are acquired, if the petition is granted, such radios shall be made available for MSHA inspection. The radios shall be made available for MSHA testing during the investigation.

(l) The Motorola radio is rated IP 66 and IP 68. It is powered by a lithium cell. Two such radios have been purchased by Peabody and are available at Gateway North for examination and testing by MSHA. Peabody has not, itself, tested such radios because it is presumed that MSHA will intend to conduct tests at the mine and would be unlikely to accept Peabody's results.

(m) The miners at Gateway North Mine are not currently represented by a labor organization and this petition is posted at the mine.

In support of the proposed alternative method, the petitioner has also submitted manufacturer product specification sheets for MSHA-approved permissible radios indicating they are no longer available and manufacturer product specification sheets for the proposed Motorola R–7 Portable Two-Way Radio.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22919 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Gibson County Coal, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0037 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0037.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any

mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–015–C.

Petitioner: Gibson County Coal, LLC, 3455 S 700 W, Owensville, IN 47665.

Mine: Gibson South Mine, MSHA ID No. 12–02388, located in Gibson County, Indiana.

Regulation Affected: 30 CFR 75.507–1(a), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.507–1(a) to allow the use of unapproved Powered Air Purifying Respirators (PAPRs) taken into or used inby the last open crosscut or used in the return air outby the last open crosscut. Specifically, the Petitioner is requesting to utilize the CleanSpace EX PAPR and sealed motor/blower/battery power pack assembly, and the 3M Versaflo TR–800 Intrinsically Safe PAPR motor/blower and battery with battery pack.

The petitioner states that:

(a) The 3M Versaflo TR–800 PAPR with motor/blower and battery qualifies as intrinsically safe.

(b) The CleanSpace EX PAPR also qualifies as intrinsically safe.

(c) Both the CleanSpace EX and the 3M Versaflo TR–800 PAPRs provide a constant flow of air inside the mask or helmet. This airflow provides respiratory protection and comfort in hot working conditions.

(d) Neither the 3M Versaflo TR–800 nor the CleanSpace EX PAPR is MSHA-approved as permissible.

(e) Neither the 3M nor the CleanSpace is pursuing MSHA approval.

(f) Gibson County Coal, LLC, Gibson South Mine, currently makes available to all miners NIOSH-approved high efficiency l00 series respirators to protect the miners against potential exposure to respirable coal mine dust, including crystalline silica, during normal mining conditions. Gibson County Coal, LLC, Gibson South Mine, desires to expand the miners' option in choosing a respirator that provides the greatest degree of protection as well as comfort while being worn. Powered PAPRs provide a constant flow of filtered air and serve that purpose.

(g) On June 17, 2024, MSHA finalized the rule *Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection.* The rule requires the mine operator to have a written respiratory protection program in place when miners are required to use respirators. Adding the CleanSpace EX and the 3M TR–800 Versaflo PAPRs to the respiratory protection program as additional options will provide the miners with alternatives to the series 100 high efficiency respirators already in use at the mine. The PAPRs will also serve as a respirator option to protect the miners with facial hair who may not be able to pass the ''fit test'' requirement of the program. In addition, the positive flow of filtered air provided by the PAPRs will provide a solution for the miners who are unable to wear a tight-fitting respirator.

(h) Since the 3M Airstream Headgear-Mounted PAPR System has been discontinued by the manufacturer, there are no other MSHA-approved units available that can be taken into or used inby the last open crosscut or used in the return air outby the last open crosscut.

(i) The alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

The petitioner proposes the following alternative method:

(a) All miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs shall receive training in accordance with 30 CFR 48.7 on the requirements of the Proposed Decision and Order (PDO) granted by MSHA and manufacturer guidelines. Such training shall be completed before any 3M Versaflo TR–800 or CleanSpace EX PAPR can be used inby the last open crosscut or in the return air outby the last open crosscut. The operator shall keep a record of such training and provide such record to MSHA upon request.

(b) The PAPRs, battery packs, all associated wiring and connections shall be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR shall be removed from service.

(c) A separate logbook shall be maintained for the 3M Versaflo TR–800 and CleanSpace EX PAPRs that will be kept with the equipment, or in a location with other mine record books and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–1 and the examination results recorded in the logbook. Examination records shall be maintained for one year.

(d) All 3M Versaflo TR–800 and CleanSpace EX PAPRs to be used inby the last open crosscut or in the return air outby the last open crosscut shall be physically examined prior to initial use and each unit shall be assigned a unique identification number. Each unit shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition. The examinations for the 3M Versaflo TR–800 PAPRs shall include:

(1) Check the equipment for any physical damage and the integrity of the case.

(2) Remove the battery and inspect for corrosion.

(3) Inspect the contact points to ensure a secure connection to the battery.

(4) Reinsert the battery and power up and shut down to ensure proper connections.

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size.

The CleanSpace EX PAPR does not have an accessible/removable battery. The internal battery and motor/blower assembly are both contained within the ''power unit'' assembly and the battery cannot be removed, reinserted or fastened. Therefore, examination of the CleanSpace EX PAPR shall include any indications of physical damage.

(e) All 3M Versaflo TR–800 and CleanSpace EX PAPR units shall be serviced according to the manufacturer's recommendations.

(f) Prior to energizing and during use of the 3M Versaflo TR–800 or the CleanSpace EX PAPR inby the last open crosscut or in the return air outby the last open crosscut, procedures in accordance with 30 CFR 75.323 shall be followed.

(g) Only the 3M TR–830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133, in the 3M Versaflo TR–800 PAPR shall be used. Only the CleanSpace EX Power Unit, which meets lithium battery safety standard UL 1642 or IEC 62133, in the CleanSpace EX shall be used.

(h) If battery packs for the 3M Versaflo TR–800 PAPR are provided, all battery

''change outs'' shall occur in intake air outby the last open crosscut.

(i) The following maintenance and use conditions shall apply to equipment containing lithium type batteries:

(1) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX Power Unit shall be disassembled nor modified by anyone other than permitted by the manufacturer of the equipment.

(2) The 3M TR–830 Battery Pack shall be charged only in an area free of combustible material and in intake air outby the last open crosscut. The 3M TR–830 Battery Pack shall be charged only by a manufacturer's recommended battery charger, such as the:

(i) 3M Battery Charger Kit TR–641N, which includes one 3M Charger Cradle TR–640 and one 3M Power Supply TR–941N, or,

(ii) 3M 4-Station Battery Charger Kit TR–644N, which includes four 3M Charger Cradles TR–640 and one 3M 4-Station Battery Charger Base/Power Supply TR–944N.

(3) The CleanSpace EX internal battery, which is contained within the power unit assembly, shall be charged in areas located outby the last open crosscut in intake air and only the manufacturer's recommended battery chargers shall be used, such as the CleanSpace EX Battery Charger, Product Code PAF–0066.

(4) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX power unit which contains the internal battery, shall be exposed to water, allowed to get wet or immersed in liquid. This does not preclude incidental exposure of the 3M TR–830 Battery Pack or the CleanSpace EX power unit assembly.

(5) Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR, including the internal battery, shall be used, charged or stored in locations where the manufacturer's recommended temperature limits are exceeded. Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR shall be placed in direct sunlight nor stored near a source of heat.

(j) Annual retraining shall be given to all miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs in accordance with 30 CFR 48.8. Training of new miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.5, and training of experienced miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.6 shall be given. The operator shall keep a record of such training and provide such record to MSHA upon request.

(k) The miners at Gibson County Coal, LLC, Gibson South Mine, are not represented by a labor organization and there are no representatives of miners at the mine. A copy of this petition has been posted on the bulletin board at Gibson County Coal, LLC, Gibson South Mine, on August 30, 2024.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22928 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Warrior Coal, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0039 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0039.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–017–C.

Petitioner: Warrior Coal, LLC, 57 J. E. Ellis Road, Madisonville, KY 42431.

Mine: Cardinal Mine, MSHA ID No. 15–17216, located in Hopkins County, Kentucky.

Regulation Affected: 30 CFR 75.507–1(a), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.507–1(a) to allow the use of unapproved Powered Air Purifying Respirators (PAPRs) taken into or used inby the last open crosscut or used in the return air outby the last open crosscut. Specifically, the Petitioner is requesting to utilize the CleanSpace EX PAPR and sealed motor/blower/battery power pack assembly, and the 3M Versaflo TR–800 Intrinsically Safe PAPR motor/blower and battery with battery pack.

The petitioner states that:

(a) The 3M Versaflo TR–800 PAPR with motor/blower and battery qualifies as intrinsically safe.

(b) The CleanSpace EX PAPR also qualifies as intrinsically safe.

(c) Both the CleanSpace EX and the 3M Versaflo TR–800 PAPRs provide a constant flow of air inside the mask or helmet. This airflow provides respiratory protection and comfort in hot working conditions.

(d) Neither the 3M Versaflo TR–800 nor the CleanSpace EX PAPR is MSHA-approved as permissible.

(e) Neither the 3M nor the CleanSpace is pursuing MSHA approval.

(f) Warrior currently makes available to all miners NIOSH-approved high efficiency l00 series respirators to protect the miners against potential exposure to respirable coal mine dust, including crystalline silica, during normal mining conditions. Warrior desires to expand the miners' option in choosing a respirator that provides the greatest degree of protection as well as comfort while being worn. Powered PAPRs provide a constant flow of filtered air and serve that purpose.

(g) On June 17, 2024, MSHA finalized the rule *Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection*. The rule requires the mine operator to have a written respiratory protection program in place when miners are required to use respirators. Adding the CleanSpace EX and the 3M TR–800 Versaflo PAPRs to the respiratory protection program as additional options will provide the miners with alternatives to the series 100 high efficiency respirators already in use at the mine. The PAPRs will also serve as a respirator option to protect the miners with facial hair who may not be able to pass the ''fit test'' requirement of the program. In addition, the positive flow of filtered air provided by the PAPRs will provide a solution for the miners who are unable to wear a tight-fitting respirator.

(h) Since the 3M Airstream Headgear-Mounted PAPR System has been discontinued by the manufacturer, there are no other MSHA-approved units available that can be taken into or used inby the last open crosscut or used in return air outby the last open crosscut.

(i) The alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

The petitioner proposes the following alternative method:

(a) All miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs shall receive training in accordance with 30 CFR 48.7 on the requirements of the Proposed Decision and Order (PDO) granted by MSHA and manufacturer guidelines. Such training shall be completed before any 3M Versaflo TR–800 or CleanSpace EX PAPR can be used inby the last open crosscut or in the return air outby the last open crosscut. The operator shall keep a record of such training and provide such record to MSHA upon request.

(b) The PAPRs, battery packs, all associated wiring and connections shall be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR shall be removed from service.

(c) A separate logbook shall be maintained for the 3M Versaflo TR–800 and CleanSpace EX PAPRs that will be kept with the equipment, or in a location with other mine record books and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–1 and the examination results recorded in the logbook. Examination records shall be maintained for one year.

(d) All 3M Versaflo TR–800 and CleanSpace EX PAPRs to be used inby the last open crosscut or in the return air outby the last open crosscut shall be physically examined prior to initial use and each unit shall be assigned a unique identification number. Each unit shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition. The examinations for the 3M Versaflo TR–800 PAPRs shall include:

(1) Check the equipment for any physical damage and the integrity of the case.

(2) Remove the battery and inspect for corrosion.

(3) Inspect the contact points to ensure a secure connection to the battery.

(4) Reinsert the battery and power up and shut down to ensure proper connections.

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size.

The CleanSpace EX PAPR does not have an accessible/removable battery. The internal battery and motor/blower assembly are both contained within the ''power unit'' assembly and the battery cannot be removed, reinserted or fastened. Therefore, examination of the CleanSpace EX PAPR shall include any indications of physical damage.

(e) All 3M Versaflo TR–800 and CleanSpace EX PAPR units shall be serviced according to the manufacturer's recommendations.

(f) Prior to energizing and during use of the 3M Versaflo TR–800 or the CleanSpace EX PAPR inby the last open crosscut or in the return air outby the last open crosscut, procedures in accordance with 30 CFR 75.323 shall be followed.

(g) Only the 3M TR–830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133, in the 3M Versaflo TR–800 PAPR shall be used. Only the CleanSpace EX Power Unit, which meets lithium battery safety standard UL 1642 or IEC 62133, in the CleanSpace EX shall be used.

(h) If battery packs for the 3M Versaflo TR–800 PAPR are provided, all battery ''change outs'' shall occur in intake air outby the last open crosscut.

(i) The following maintenance and use conditions shall apply to equipment containing lithium type batteries:

(1) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX Power Unit shall be disassembled nor modified by anyone other than permitted by the manufacturer of the equipment.

(2) The 3M TR–830 Battery Pack shall be charged only in an area free of combustible material and in intake air outby the last open crosscut. The 3M TR–830 Battery Pack shall be charged only by a manufacturer's recommended battery charger, such as the:

(i) 3M Battery Charger Kit TR–641N, which includes one 3M Charger Cradle TR–640 and one 3M Power Supply TR–941N, or,

(ii) 3M 4-Station Battery Charger Kit TR–644N, which includes four 3M Charger Cradles TR–640 and one 3M 4-Station Battery Charger Base/Power Supply TR–944N.

(3) The CleanSpace EX internal battery, which is contained within the power unit assembly, shall be charged in areas located outby the last open crosscut in intake air and only the manufacturer's recommended battery chargers shall be used, such as the CleanSpace EX Battery Charger, Product Code PAF–0066.

(4) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX power unit which contains the internal battery, shall be exposed to water, allowed to get wet or immersed in liquid. This does not preclude incidental exposure of the 3M TR–830 Battery Pack or the CleanSpace EX power unit assembly.

(5) Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR, including the internal battery, shall be used, charged or stored in locations where the manufacturer's recommended temperature limits are exceeded. Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR shall be placed in direct sunlight nor stored near a source of heat.

(j) Annual retraining shall be given to all miners who will be involved with or

affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs in accordance with 30 CFR 48.8. Training of new miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.5, and training of experienced miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.6 shall be given. The operator shall keep a record of such training and provide such record to MSHA upon request.

(k) The miners at Warrior Coal, LLC, Cardinal Mine, are not represented by a labor organization and there are no representatives of miners at the mine. A copy of this petition has been posted on the bulletin board at Warrior Coal, LLC, Cardinal Mine, on August 28, 2024.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22920 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Hamilto County Coal, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0041 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0041.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–019–C.

Petitioner: Hamilton County Coal, LLC, 18033 County Road 500 E, Dahlgren, IL 62828.

Mine: Mine No. 1 Mine, MSHA ID No. 11–03203, located in Hamilton County, Illinois.

Regulation Affected: 30 CFR 75.507–1(a), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.507–1(a) to allow the use of unapproved Powered Air Purifying Respirators (PAPRs) taken into or used inby the last open crosscut or used in the return air outby the last open crosscut. Specifically, the Petitioner is requesting to utilize the CleanSpace EX PAPR and sealed motor/blower/battery power pack assembly, and the 3M Versaflo TR–800 Intrinsically Safe PAPR motor/blower and battery with battery pack.

The petitioner states that:

(a) The 3M Versaflo TR–800 PAPR with motor/blower and battery qualifies as intrinsically safe.

(b) The CleanSpace EX PAPR also qualifies as intrinsically safe.

(c) Both the CleanSpace EX and the 3M Versaflo TR–800 PAPRs provide a constant flow of air inside the mask or helmet. This airflow provides respiratory protection and comfort in hot working conditions.

(d) Neither the 3M Versaflo TR–800 nor the CleanSpace EX PAPR is MSHA-approved as permissible.

(e) Neither the 3M nor the CleanSpace is pursuing MSHA approval.

(f) Hamilton County currently makes available to all miners NIOSH-approved high efficiency l00 series respirators to protect the miners against potential exposure to respirable coal mine dust, including crystalline silica, during normal mining conditions. Hamilton County desires to expand the miners' option in choosing a respirator that provides the greatest degree of protection as well as comfort while being worn. Powered PAPRs provide a constant flow of filtered air and serve that purpose.

(g) On June 17, 2024, MSHA finalized the rule *Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection.* The rule requires the mine operator to have a written respiratory protection program in place when miners are required to use respirators. Adding the CleanSpace EX and the 3M TR–800 Versaflo PAPRs to the respiratory protection program as additional options will provide the miners with alternatives to the series 100 high efficiency respirators already in use at the mine. The PAPRs will also serve as a respirator option to protect the miners with facial hair who may not be able to pass the ''fit test'' requirement of the program. In addition, the positive flow of filtered air provided by the PAPRs will provide a solution for the miners who are unable to wear a tight-fitting respirator.

(h) Since the 3M Airstream Headgear-Mounted PAPR System has been discontinued by the manufacturer, there are no other MSHA-approved units available that can be taken into or used inby the last open crosscut or used in return air outby the last open crosscut.

(i) The alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

The petitioner proposes the following alternative method:

(a) All miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs shall receive training in accordance with 30 CFR 48.7 on the requirements of the Proposed Decision and Order (PDO) granted by MSHA and manufacturer guidelines. Such training shall be completed before any 3M Versaflo TR–800 or CleanSpace EX PAPR can be used inby the last open crosscut or in the return air outby the last open crosscut. The operator shall keep a record of such training and provide such record to MSHA upon request.

(b) The PAPRs, battery packs, all associated wiring and connections shall be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR shall be removed from service.

(c) A separate logbook shall be maintained for the 3M Versaflo TR–800 and CleanSpace EX PAPRs that will be kept with the equipment, or in a location with other mine record books and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–1 and the examination results recorded in the logbook. Examination records shall be maintained for one year.

(d) All 3M Versaflo TR–800 and CleanSpace EX PAPRs to be used inby the last open crosscut or in the return air outby the last open crosscut shall be physically examined prior to initial use and each unit shall be assigned a unique identification number. Each unit shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition. The examinations for the 3M Versaflo TR–800 PAPRs shall include:

(1) Check the equipment for any physical damage and the integrity of the case.

(2) Remove the battery and inspect for corrosion.

(3) Inspect the contact points to ensure a secure connection to the battery.

(4) Reinsert the battery and power up and shut down to ensure proper connections.

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size.

The CleanSpace EX PAPR does not have an accessible/removable battery. The internal battery and motor/blower assembly are both contained within the ''power unit'' assembly and the battery cannot be removed, reinserted or fastened. Therefore, examination of the CleanSpace EX PAPR shall include any indications of physical damage.

(e) All 3M Versaflo TR–800 and CleanSpace EX PAPR units shall be serviced according to the manufacturer's recommendations.

(f) Prior to energizing and during use of the 3M Versaflo TR–800 or the CleanSpace EX PAPR inby the last open crosscut or in the return air outby the last open crosscut, procedures in accordance with 30 CFR 75.323 shall be followed.

(g) Only the 3M TR–830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133, in the 3M Versaflo TR–800 PAPR shall be used. Only the CleanSpace EX Power Unit, which meets lithium battery safety standard UL 1642 or IEC 62133, in the CleanSpace EX shall be used.

(h) If battery packs for the 3M Versaflo TR–800 PAPR are provided, all battery ''change outs'' shall occur in intake air outby the last open crosscut.

(i) The following maintenance and use conditions shall apply to equipment containing lithium type batteries:

(1) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX Power Unit shall be disassembled nor modified by anyone other than permitted by the manufacturer of the equipment.

(2) The 3M TR–830 Battery Pack shall be charged only in an area free of combustible material and in intake air outby the last open crosscut. The 3M TR–830 Battery Pack shall be charged only by a manufacturer's recommended battery charger, such as the:

(i) 3M Battery Charger Kit TR–641N, which includes one 3M Charger Cradle TR–640 and one 3M Power Supply TR–941N, or,

(ii) 3M 4-Station Battery Charger Kit TR–644N, which includes four 3M Charger Cradles TR–640 and one 3M 4-Station Battery Charger Base/Power Supply TR–944N.

(3) The CleanSpace EX internal battery, which is contained within the power unit assembly, shall be charged in areas located outby the last open crosscut in intake air and only the manufacturer's recommended battery chargers shall be used, such as the CleanSpace EX Battery Charger, Product Code PAF–0066.

(4) Neither the 3M TR–830 Battery Pack nor the CleanSpace EX power unit which contains the internal battery, shall be exposed to water, allowed to get wet or immersed in liquid. This does not preclude incidental exposure of the 3M TR–830 Battery Pack or the CleanSpace EX power unit assembly.

(5) Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR, including the internal battery, shall be used, charged or stored in locations where the manufacturer's recommended temperature limits are exceeded. Neither the 3M Versaflo TR–800 PAPR nor the CleanSpace EX PAPR shall be placed in direct sunlight nor stored near a source of heat.

(j) Annual retraining shall be given to all miners who will be involved with or affected by the use of the 3M Versaflo TR–800 or CleanSpace EX PAPRs in accordance with 30 CFR 48.8. Training of new miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.5, and training of experienced miners on the requirements of the PDO granted by MSHA in accordance with 30 CFR 48.6 shall be given. The operator shall keep a record of such training and provide such record to MSHA upon request.

(k) The miners at Hamilton County Coal, LLC, Mine No. 1 Mine, are not represented by a labor organization and there are no representatives of miners at the mine. A copy of this petition has been posted on the bulletin board at Hamilton County Coal, LLC, Mine No. 1 Mine, on August 29, 2024.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22913 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Northern Star (Pogo), LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0047 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0047.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–002–M.

Petitioner: Northern Star (Pogo), LLC, 3204 International Street, Fairbanks, AK 99702.

Mine: Pogo Mine, MSHA ID No. 50–01642, located in Southeast Fairbanks, Alaska.

Regulation Affected: 30 CFR 57.11052, Refuge areas.

Modification Request: The petitioner requests a modification of 30 CFR 57.11052 to allow the use of sealed, purified drinking water in lieu of providing potable water through waterlines in refuge areas.

The petitioner states that:

(a) Pogo Mine is an underground portal gold mine that began producing in 2005 and has permitting to continue mining through 2030.

(b) Pogo Mine currently has 14 refuge chambers and 10 entrapment chambers located throughout the underground portion of the mine. In these purpose-built refuge chambers, drinkable water has always been supplied via commercially purchased water in sealed bottles. Fire suppression is provided with fire extinguishers on the exterior and fire blankets on the interior.

(c) Each refuge chamber cut out is provided with a waterline. However, due to the configuration and condition of the waterlines and the quality of the water source, the water flowing through these lines is not potable. Installing waterlines that provide potable drinking water to each refuge chamber is not feasible due to the lack of essential infrastructure. Given the non-potable nature of the water and the potential for waterline damage, there is no guarantee that potable drinking water can be provided via the waterlines, as could be interpreted by 30 CFR57.11052(d). Application of the standard could adversely impact the safety of miners using the refuge if they were to rely on the waterlines that run throughout the mine to the refuge chambers. The alternative method of storing sealed, purified water inside each refuge chamber provides certainty that miners will have sanitary drinking water available to them, regardless of the current condition of the water supply or the nature of any emergency that might occur in the future.

(d) All refuge and entrapment chambers at Pogo Mine are portable. By allowing the use of refuge and entrapment chambers that are not connected to waterlines, the mine will have greater flexibility in the locating of the chambers. This will allow the chambers to continue to be located near where miners are working, and to be relocated more quickly to working areas where needed. Additionally, when damage or corrosion occur in the waterline connections it has forced the mine to pull refuge chambers from service due to water damage internally. This reduces the number of available assets in the event of an emergency.

(e) All refuge and entrapment chambers meet all criteria for safe areas of refuge to include steel (non-combustible) construction throughout, large enough to accommodate readily the normal number of persons in that area of the mine, constructed so they are gas tight with positive pressure to expel potential harmful gasses, and provided with compressed air lines and suitable hand tools for getting chambers in service. Water and stopping materials are not needed for miners to be protected during an emergency if they were to seek refuge per the manufacturer's recommendations for use.

(f) The manufacturer cautions use of water as potential fire suppression internally. This should be avoided to prevent damage and compromise of air scrubbing units. Standard firefighting practices also caution that use of water for firefighting in a sealed enclosed space would create more hazards from steam production and arcing of electronics used, potentially injuring miners and making the units less safe.

(g) The petitioner proposes that the Proposed Decision and Order (PDO) granted by MSHA apply to all existing refuge chambers and to future refuge chambers and locations.

(h) The alternative method in the petition will always guarantee no less than the same measure of protection afforded to the miners by the standard.

The petitioner proposes the following alternative method:

(a) The 14 portable refuge chambers in use at Pogo Mine are MineARC, Bost, and DEA refuge chambers and are made of steel. Each of these portable refuge chambers is equipped for a capacity of 8 to 20 miners depending on which unit is in the area. The combined capacity of the refuge chambers far exceeds the normal maximum work crew of approximately 100 miners underground on any given day during any shift.

(b) Drinking water shall continue to be supplied via commercially purchased water in sealed individual portions in each refuge chamber. The water is currently supplied by the case and packaged into 16.9 fluid ounce (500 milliliter) portions with 24 to 30 individual portions per case.

(c) The refuge chambers at the Pogo Mine are equipped to provide a minimum of 1.18 gallons (4.5 liters) per person that the chambers are rated to hold.

(d) The condition and quantity of water is confirmed by inspection, on a regular basis.

(e) Written instructions for conservation of water shall be provided with the refuge chamber supplies.

(f) All miners affected shall receive training in the operation of the refuge chambers and shall receive refresher training annually.

(g) The refuge chambers shall be inspected regularly, with quarterly inspections and servicing from manufacturer approved representatives. These inspections and servicing shall continue to be documented and provided to the Mine Manager or their designee.

(h)

TABLE 1—REFUGE CHAMBERS AT POGO MINE

[Current status]

Refuge chamber	Manufacturer	Number capacity in persons
MRC 1	DEA	16
MCR 2	DEA	16
MCR 3	DEA	8
MCR 4	DEA	12
MCR 5	Bost	20
MCR 6	Bost	20
MCR 7	Bost	20
MCR 8	MineArc	16
MCR 9	MineArc	16
MCR 10	MineArc	8
MCR 11	MineArc	8
MCR 18	MineArc	8
MCR 19	MineArc	8
MCR 24	Bost	20

TABLE 2—ENTRAPMENT CHAMBERS AT POGO MINE

[Current status]

Entrapment chamber	Manufacturer	Number capacity in persons
MCR 12	MineArc	6
MCR 13	MineArc	6
MCR 14	MineArc	6
MCR 15	MineArc	6
MCR 16	MineArc	6
MCR 17	MineArc	6
MCR 20	MineArc	4
MCR 21	MineArc	4
MCR 22	MineArc	4
MCR 23	MineArc	4

(i) Portable refuge chambers have a capacity from 8 to 20 persons with 4 that have a 20-person capacity. Additionally, portable entrapment chambers have a capacity of 4 to 6 persons and are utilized per Northern Star (Pogo), LLC, standards to provide safe refuge for persons potentially working behind heavy equipment who may be entrapped in an emergency with heavy equipment in their path of travel preventing safe evacuation. All chambers are equipped with gas monitoring equipment, packaged drinking water, oxygen bottles, backup compressed air, toilet, radio, phone, air conditioning, back up battery power, fire blankets, fire extinguishers, and food rations.

(j) The MineARC refuge chambers are equipped with and pre-packaged MARCISORB chemical absorber cartridges to remove the buildup of harmful carbon dioxide (CO_2) and carbon monoxide (CO) from the air inside the refuge chamber. The DEA refuge chambers have been retrofitted with a MineARC electrical scrubbing system and pre-packaged MARCISORB chemical absorber cartridges as well. Bost refuge chambers have an electrical scrubbing system utilizing soda lime (Drägersorb) to remove the buildup of CO_2 and gold-based oxidation catalyst (Premiox™) to remove CO from the air inside the refuge chamber.

(k) Northern Star (Pogo), LLC, has reviewed this petition with the miner's representatives on June 15, 2024, who concur with and support all statements made with this petition. Miners at Pogo Mine are not represented by any labor organization.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22930 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health

Administration (MSHA) by Peabody Gateway North Mining LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 4, 2024.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2024–0049 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2024–0049.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk, 4th Floor West. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2024–026–C.

Petitioner: Peabody Gateway North LLC, 12968 State 13, Coulterville, Illinois 62237.

Mine: Gateway North Mine, MSHA ID No. 11–03235, located in Randolph County, Illinois.

Regulation Affected: 30 CFR 75.507–1(a), Permissible electric equipment.

Modification Request: The petitioner requests a modification of 30 CFR 75.507–1(a) to permit an alternative method of compliance to permit the use of battery-powered non-permissible radios used in the return airways.

The petitioner states that:

(a) Peabody previously filed a petition for modification of 30 CFR 75.507–1(a) on July 12, 2023 (Docket Number M–2023–020–C), but the Proposed Decision and Order (PDO) was denied by MSHA on June 4, 2024.

(b) Peabody currently uses Motorola and Kenwood permissible radios in its underground mine to communicate between miners. Such communication facilitates movement of equipment, assignment of necessary work as well as communication with the surface control room.

(c) The mines also use wired communication systems and the communication and tracking systems required in the mine's Emergency Response Plan. Such communication facilitates efficiency and safety. It occurs along the face areas and in other areas covered by this standard. It facilitates communication in case of emergencies such as injuries both on the section and to the surface.

(d) Motorola and Kenwood have discontinued the manufacture and sale of MSHA-approved permissible radios. Such radios were the only permissible radios available for the underground coal mine industry. The notices indicated that for a period of time the radios were sold out of stock but that ceased as indicated in the notes. Peabody is not aware of any other radio which is economically feasible.

(e) Peabody seeks modification of 30 CFR 75.507–1(a) as it applies to use of low voltage battery-powered non-permissible radios. It intends to use the following equipment:

(1) Motorola R–7 Portable Two-Way Radio. Other safe portable radios may subsequently be used if approved in advance by the MSHA District Manager.

(f) Peabody mines utilize the continuous miner method of mining. Some sections utilize two continuous miners and use of the radios permits coordination of the coal haulers and between the two continuous miners as well as communication near pillar and sealed area workings.

(g) Effective communication is critical to the safety of the miners at the mine. It reduces the potential for collisions and pedestrian accidents and facilitates communication in an emergency.

(h) The alternative method proposed in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

The petitioner proposes the following alternative method:

(a) Non-permissible intrinsically safe radios to be used include the Motorola R7 Portable Two-Way Radio.

(b) All such radios shall be rated IP 66 or higher.

(c) All non-permissible radios used in the return airways will be examined by a qualified person as defined in 30 CFR 75.153 prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations results shall be recorded in the weekly examination book and will be made available to MSHA and the miners at the mine.

(d) A qualified person as defined in 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible radios used in the return airways.

(e) Non-permissible radios shall not be used if methane is detected in concentrations at or above one percent. When one percent or more methane is detected while the non-permissible radios are being used, the radios shall be de-energized immediately by turning them off and withdrawn from the area.

(f) All hand-held methane detectors shall be MSHA approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320. Each miner using a radio shall be trained in the use of handheld methane details.

(g) All radios shall be used in accordance with the safe use procedures recommended by the manufacturer.

(h) Personnel who use non-permissible radios shall be properly trained to recognize the hazards and limitations associated with use of the equipment.

(i) The radio battery is designed to last more than the length of a shift. The radio shall not be charged underground and shall be charged on the surface in accordance with the procedure for other battery-operated devices such as methane detectors.

(j) The operator shall post the PDO granted by MSHA in unobstructed locations on the bulletin boards and/or in other conspicuous places where notices to miners are ordinarily posted, at all the mines for which the PDO

granted by MSHA applies, for a period of not less than 60 consecutive days and a copy shall be made available to all miners' representatives.

(k) The proposed radios will be available for inspection and testing during MSHA's investigation. As other radios are acquired, if the petition is granted, such radios shall be made available for MSHA inspection. The radios shall be made available for MSHA testing during the investigation.

(l) The Motorola radio is rated IP 66 and IP 68. It is powered by a lithium cell. Two such radios have been purchased by Peabody and are available at Gateway North for examination and testing by MSHA. Peabody has not, itself, tested such radios because it is presumed that MSHA will intend to conduct tests at the mine and would be unlikely to accept Peabody's results.

(m) The miners at Gateway North Mine are not currently represented by a labor organization and this petition is posted at the mine.

In support of the proposed alternative method, the petitioner has also submitted manufacturer product specification sheets for MSHA-approved permissible radios indicating they are no longer available and manufacturer product specification sheets for the proposed Motorola R–7 Portable Two-Way Radio.

The petitioner asserts that the alternative method in the petition will at all times guarantee no less than the same measure of protection afforded to the miners by the standard.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–22931 Filed 10–3–24; 8:45 am]

BILLING CODE 4520–43–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 24–09]

Notice of Entering Into a Compact With the Republic of Sierra Leone

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the provisions of the Millennium Challenge Act of 2003, as amended, the Millennium Challenge Corporation (MCC) is publishing a summary of the Millennium Challenge Compact (Compact) between the United States of America and the Republic of Sierra Leone. Representatives of the United States of America and the Republic of Sierra Leone executed the Compact on September 27, 2024. The complete text of the Compact has been posted at: *https://www.mcc.gov/resources/doc/compact-sierra-leone/.*

(Authority: 22 U.S.C. 7709 (b)(3))

Dated: September 30, 2024.

Peter E. Jaffe,

Vice President, General Counsel, and Corporate Secretary.

Summary of Sierra Leone Compact

Overview of MCC Sierra Leone Compact

The Millennium Challenge Corporation (MCC), on behalf of the United States of America, has signed a five-year Compact with the Republic of Sierra Leone aimed at reducing poverty through economic growth. MCC funding of $480,669,000, together with a voluntary contribution of $14,200,000 from the Government of Sierra Leone, will support economic growth in Sierra Leone through investments in the energy sector to address the constraints of insufficient availability of affordable and reliable electricity. The Compact will address these constraints through three projects: (1) the Transmission Backbone Project; (2) the Distribution and Access Project; and (3) the Power Sector Reform Project.

Background and Context

Sierra Leone's economy suffers from a power sector that cannot serve its existing customer base or keep up with future business and household demand. This is due to limited and high-cost supply, low capacity and poor reliability of the transmission and distribution networks, and the ineffectiveness of sector policies and institutions. These bottlenecks negatively impact current customers, most of whom are in the capital city, and prevent Sierra Leone from expanding electricity service to the 70% of the population without electricity. As the economy grows and the grid expands, load forecasts suggest demand will more than double by the end of the compact term.

Meeting this demand will require large investments in foundational infrastructure and institutional capabilities. The need to simultaneously address multiple sector constraints, combined with the long lead times required to plan, finance, and construct large scale infrastructure, poses a major coordination challenge for public and private investment in the sector. This coordination challenge is magnified by the lack of capacity at sector institutions to reassess, update, and execute against sector planning documents—as well as sector wide issues with transparency and governance. As a result, much needed public and private investment is all too often delayed, withdrawn, or exceedingly costly due to the risks and uncertainties involved.

Given this sector context, the Compact strengthens the foundations of a reliable electricity sector through investments in transmission and distribution infrastructure, development of a strong enabling environment for independent power producers, and substantial capacity building support for the utilities and key sector institutions.

Project Summaries

The compact program consists of three projects:

(1) The Transmission Backbone Project ($226,702,000) will expand Sierra Leone's transmission network to increase network coverage, increase the throughput capacity needed to evacuate increasing electricity supply, and increase reliability of service. With less than 500 miles of transmission lines currently in Sierra Leone, the country's extremely limited grid means most citizens do not have access to power. This project connects a high-voltage West African Power Pool transmission line to the capital city. The project also builds and operationalizes a main and back up transmission dispatch center critical for network reliability and integration into the regional power marketplace. Technical assistance supports critical capacity development for the transmission utility in transmission operations and maintenance.

(2) The Distribution and Access Project ($123,634,000) is designed to increase reliability of the grid, improve the financial viability of the distribution utility, and make strategic investments in connecting new customers to the grid and regularizing existing connections. This project refurbishes critical components of the distribution network in the capital city where 80% of power is consumed in Sierra Leone and reduces both technical and commercial losses through the provision of new meters and organizational change. Access investments include distribution line and substation expansion as well as direct connections to select end users, driven by socioeconomic data and planned transmission expansion. In addition, this project will involve the construction and operationalization of a main and a back-up distribution dispatch center to improve the Electricity Distribution and Supply Authority's operations and maintenance performance.

(3) The Power Sector Reform Project ($50,490,000) is designed to improve sector financial sustainability, reduce the cost of service, and improve regulation by investing in priority sector reforms and capacity-building for key sector actors, including the utilities, regulator, and Ministry of Energy. The project includes embedded support to key sector institutions such as the regulator, the Electricity and Water Regulatory Commission, and the Ministry of Energy (especially its planning functions) to help them develop the capabilities needed to shepherd sector development over the coming decade. This support is intended to help Sierra Leone implement its Power Sector Reform Roadmap and Action Plan, including achieving improvements on key sector performance indicators targeting improved sector financial sustainability, reduced cost of service while fostering cost recovery for supplied electricity, and improved regulation. Additionally, this project seeks to spur private sector financed generation through project preparation support, transaction advisory services, and de-risking mechanisms.

Compact Budget

The table below presents the overall compact budget of approximately $495 million, which includes MCC funding under the Compact of up to $480,669,000 and a voluntary Government of Sierra Leone contribution of $14,200,000.

Component	Amount
1. Transmission Backbone Project	$226,702,000
Activity 1.1: Transmission Dispatch Center	23,447,000
Activity 1.2: Southern Transmission Corridor	170,900,000
Activity 1.3: Bumbuna-Freetown Line Upgrade	24,390,000
Activity 1.4: EGTC Capacity Building	7,965,000
2. Distribution and Access Project	123,634,000
Activity 2.1: Distribution Dispatch Center	30,554,000
Activity 2.2: Distribution Refurbishment	44,335,000
Activity 2.3: Access	26,850,000
Activity 2.4: EDSA Capacity Building	21,895,000
3. Power Sector Reform Project	50,490,000
Activity 3.1: MIAA	25,250,000
Activity 3.2: Financial Sustainability	8,300,000
Activity 3.3: Policy & Planning	10,420,000
Activity 3.4: Cross-Cutting Capacity Activity	6,520,000
4. Monitoring and Evaluation	7,800,000
5. Program Administration and Oversight	72,043,000
Total MCC Compact Funding	480,669,000
Total MCC Compact Funding	480,669,000
Government of Sierra Leone Contribution	14,200,000
Total Program Funding	494,869,000

[FR Doc. 2024–22902 Filed 10–3–24; 8:45 am]
BILLING CODE 9211–03–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

National Council on the Arts 214th Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, notice is hereby given that a meeting of the National Council on the Arts will be held open to the public by videoconference. Additional sessions will be closed to the public for reasons stated below.

DATES: See the **SUPPLEMENTARY INFORMATION** section for meeting time and date. The meeting is located in eastern time and the ending time is approximate.

ADDRESSES: The National Endowment for the Arts, Constitution Center, 400 Seventh Street SW, Washington, DC 20560. This meeting will be held by videoconference. Public portions of the meeting will be webcast. Please see *arts.gov* for the most up-to-date information.

FOR FURTHER INFORMATION CONTACT: Liz Auclair, Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682–5744.

SUPPLEMENTARY INFORMATION: The meeting will take place on October 24 and 25, 2024.The meeting on October 25, 2024, from 11:00 a.m. to 12:45 p.m., will be open to the public by videoconference. If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the March 11, 2022 determination of the Chair. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c) (6) of 5 U.S.C. 552b. The meeting session that occurs on October 24, 2024, will be closed to the public for the aforementioned reasons.

Detailed Meeting Information:

Closed Session: October 24, 2024; 11:00 a.m. to 1:30 p.m. *Location:* Videoconference.

Open Session: October 25, 2024; 11:00 a.m. to 12:45 p.m. *Location:* Videoconference.

There will be opening remarks and voting on recommendations for grant funding and rejection, updates from NEA Chair Maria Rosario Jackson, and presentations about the state of the nation's Local Arts Agency field. This session will be held open to the public by videoconference. To view the

webcasting of this open session of the meeting, go to: *https://www.arts.gov/.* If you need special accommodations due to a disability, please contact Beth Bienvenu, Office of Accessibility, National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506, 202/682–5733, Voice/T.T.Y. 202/682–5496, at least seven (7) days prior to the meeting.

Dated: October 1, 2024.

David Travis,

Specialist, Office of Guidelines and Panel Operations.

[FR Doc. 2024–22998 Filed 10–3–24; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of October 7, 14, 21, 28, and November 4, 11, 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of October 7, 2024

Tuesday, October 8, 2024

10:00 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting) (Contact: Jeffrey Lynch: 301–415–5041)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of October 14, 2024—Tentative

There are no meetings scheduled for the week of October 14, 2024.

Week of October 21, 2024—Tentative

There are no meetings scheduled for the week of October 21, 2024.

Week of October 28, 2024—Tentative

Wednesday, October 30, 2024

1:00 p.m. Today and Tomorrow Across Region II Business Lines (Public Meeting) (Contact: Katie McCurry: 404–997–4438)

Additional Information: The meeting will be held in the 8th Floor Conference Center, Marquis One Tower, 245 Peachtree Center Avenue NE, Suite 1200, Atlanta, Georgia. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of November 4, 2024—Tentative

There are no meetings scheduled for the week of November 4, 2024.

Week of November 11, 2024

Thursday, November 14, 2024

9:00 a.m. Strategic Programmatic Overview of the Operating Reactors and New Reactors Business Lines (Public Meeting) (Contact: Annie Ramirez: 301–415–6780)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: October 2, 2024.

For the Nuclear Regulatory Commission.

Wesley W. Held

Policy Coordinator, Office of the Secretary.

[FR Doc. 2024–23163 Filed 10–2–24; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0158]

Information Collection: NRC Form 7, Application for NRC Export/Import License, Amendment, Renewal, or Consent Request(s)

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, NRC Form 7, ''Application for NRC Export/Import License, Amendment, Renewal, or Consent Request(s).''

DATES: Submit comments December 3, 2024. 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–2024–0158. 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–2024–0158 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–2024–0158. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2024–0158 on this website.
- *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML24179A068. The supporting statement is available in ADAMS under Accession No. ML24179A069.
- *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–2024–0158, 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 OMB's approval for the information collection summarized below.

1. *The title of the information collection:* NRC Form 7, Application for NRC Export/Import License, Amendment, Renewal, or Consent Request(s).
2. *OMB approval number:* 3150–0027.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* NRC Form 7.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* Persons or businesses seeking an authorization to export or import nuclear equipment and material listed in part 110 of title 10 of the *Code of Federal Regulations.*
7. *The estimated number of annual responses:* 55.
8. *The estimated number of annual respondents:* 55.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 132.
10. *Abstract:* Persons in the U.S. wishing to export or import nuclear material or equipment, or byproduct material requiring a specific authorization, amend or renew a license, or wishing to request consent to export Category 1 quantities of byproduct material must file an NRC Form 7 application. The NRC Form 7 application will be reviewed by the NRC and by the Executive Branch, and if applicable statutory, regulatory, and policy considerations are satisfied, the NRC will issue an export, import, amendment or renewal license or notice of consent.

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: September 30, 2024.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2024–22900 Filed 10–3–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498, 50–499, and 72–1041; NRC–2024–0169]

STP Nuclear Operating Company; South Texas Project, Units 1 and 2, and the Associated Independent Spent Fuel Storage Installation; Consideration of Approval of Direct Transfer of Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for direct transfer of licenses; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, the Commission) received and is considering approval of an application filed by STP Nuclear Operating Company (STPNOC, the licensee), acting on behalf of the City of San Antonio, Texas, acting by and through the City Public Service Board of San Antonio (CPS Energy), and Constellation South Texas, LLC (Constellation South Texas) (collectively, the applicants), on July 31, 2024. The application seeks NRC approval of the direct transfer of a two percent ownership interest of Renewed Facility Operating License Nos. NPF–76 and NPF–80 for South Texas Project (STP), Units 1 and 2, and the associated independent spent fuel storage installation facility (ISFSI) from

Constellation South Texas to CPS Energy.

DATES: Submit comments November 4, 2024. A request for a hearing must be filed by October 24, 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–2024–0169. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearing.Docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. eastern time (ET) Federal workdays; telephone: 301–415–1677.

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: Thomas Byrd, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3719; email: *Thomas.Byrd@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0169 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–2024–0169.
- *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 application for direct transfer of the licenses dated July 31, 2024, is available in ADAMS under Accession No. ML24213A084.
- *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. 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–2024–0169 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. Introduction

The NRC is considering the issuance of an order under sections 50.80 and 72.50 of title 10 of the *Code of Federal Regulations* (10 CFR) approving the direct transfer of a two percent ownership interest of Renewed Facility Operating License Nos. NPF–76 and NPF–80 for STP, Units 1 and 2, respectively, and its generally licensed ISFSI. The application for approval filed by the applicants describes this transfer of a two percent ownership interest from Constellation South Texas to CPS Energy. According to the application, upon consummation of the transfer, Constellation South Texas and CPS Energy will each hold a 42 percent interest in STP, Units 1 and 2. The transfer will not change the role of STPNOC as the licensed operator for STP, Units 1 and 2.

No physical changes to the STP, Units 1 and 2, or operational changes are being proposed in the application.

The NRC's regulations at 10 CFR 50.80 and 10 CFR 72.50 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the direct transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the 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 10 CFR 2.309. If a petition is filed, the 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 20 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).

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 20 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*.

IV. 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 Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated July 31, 2024.

Dated: September 30, 2024.

For the Nuclear Regulatory Commission.

Thomas J. Byrd,

Project Manager, Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2024–22927 Filed 10–3–24; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–767 and K2024–60; MC2024–768 and K2024–61; MC2024–769 and K2024–62; MC2024–770 and K2024–63; MC2024–771 and K2024–64; MC2024–772 and K2024–65; MC2024–773 and K2024–66; MC2024–774 and K2024–67]

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:* October 8, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2024–767 and K2024–60; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 406 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 27, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 7, 2024.

2. *Docket No(s).:* MC2024–768 and K2024–61; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 407 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 27, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 7, 2024.

3. *Docket No(s).:* MC2024–769 and K2024–62; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 408 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 27, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Jennaca D. Upperman; *Comments Due:* October 7, 2024.

4. *Docket No(s).:* MC2024–770 and K2024–63; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 409 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 27, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 7, 2024.

5. *Docket No(s).:* MC2024–771 and K2024–64; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 410 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 27, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Jennaca D. Upperman; *Comments Due:* October 7, 2024.

6. *Docket No(s).:* MC2024–772 and K2024–65; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 367 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 27, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Nikki Brendemuehl; *Comments Due:* October 7, 2024.

7. *Docket No(s).:* MC2024–773 and K2024–66; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 411 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 27, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Christopher C. Mohr; *Comments Due:* October 7, 2024.

8. *Docket No(s).:* MC2024–774 and K2024–67; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 412 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 27, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Christopher C. Mohr; *Comments Due:* October 7, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2024–22901 Filed 10–3–24; 8:45 am]

BILLING CODE 7710–FW–P

[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).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–36, OMB Control No. 3235–0028]

Submission for OMB Review; Comment Request; Extension: Rule 17f–2(d)

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'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17f–2(d) (17 CFR 240.17f–2(d)),

under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17f–2(d) requires that records created pursuant to the fingerprinting requirements of Section 17(f)(2) of the Act be maintained and preserved by every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency (''covered entities'' or ''respondents''); permits, under certain circumstances, the records required to be maintained and preserved by a member of a national securities exchange, broker, or dealer to be maintained and preserved by a self-regulatory organization that is also the designated examining authority for that member, broker or dealer; and permits the required records to be preserved on microfilm. The general purpose of Rule 17f–2 is to: (i) identify security risk personnel; (ii) provide criminal record information so that employers can make fully informed employment decisions; and (iii) deter persons with criminal records from seeking employment or association with covered entities. The rule enables the Commission or other examining authority to ascertain whether all covered persons are being fingerprinted and whether proper procedures regarding fingerprinting are being followed. Retention of these records for a period of not less than three years after termination of a covered person's employment or relationship with a covered entity ensures that law enforcement officials will have easy access to fingerprint cards on a timely basis. This in turn acts as an effective deterrent to employee misconduct.

Approximately 3,800 respondents are subject to the recordkeeping requirements of the rule. Each respondent maintains approximately 68 new records per year, each of which takes approximately 2 minutes per record to maintain, for an annual burden of approximately 2.2666667 hours (68 records times 2 minutes). The total annual time burden for all respondents is approximately 8,613 hours (3,800 respondents times 2.2666667 hours). As noted above, all records maintained subject to the rule must be retained for a period of not less than three years after termination of a covered person's employment or relationship with a covered entity. In addition, we estimate the total annual cost burden to respondents is approximately $38,000 in third party storage costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by November 4, 2024 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 1, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–23003 Filed 10–3–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–442, OMB Control No. 3235–0498]

Submission for OMB Review; Comment Request; Extension: Rule 17a–12

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'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17a–12 (17 CFR 240.17a–12) and Part II of Form X–17A–5 (17 CFR 249.617) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17a–12 is the reporting rule tailored specifically for over-the-counter (''OTC'') derivatives dealers registered with the Commission, and Part II of Form X–17A–5, the Financial and Operational Combined Uniform Single (''FOCUS'') Report, is the basic document for reporting the financial and operational condition of OTC derivatives dealers. Rule 17a–12 requires registered OTC derivatives dealers to file Part II of the FOCUS Report quarterly. Rule 17a–12 also requires that OTC derivatives dealers file audited reports annually.

The reports required under Rule 17a–12 provide the Commission with information used to monitor the operations of OTC derivatives dealers and to enforce their compliance with the Commission's rules. These reports also enable the Commission to review the business activities of OTC derivatives dealers and to anticipate, where possible, how these dealers may be affected by significant economic events.

The Commission estimates that the total hour burden under Rule 17a–12 is approximately 540 hours per year, and the total cost burden is approximately $138,900 per year.

The retention period for the recordkeeping requirement under Rule 17a–12 is not less than two years following the date the notice is submitted. The recordkeeping requirement under this rule is mandatory to assist the Commission in monitoring OTC derivatives dealers. This rule does not involve the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by November 4, 2024 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 1, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–23004 Filed 10–3–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101218; File No. SR–NASDAQ–2024–028]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the Hashdex Nasdaq Crypto Index US ETF Under Nasdaq Rule 5711(d)

September 30, 2024.

I. Introduction

On June 17, 2024, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the Hashdex Nasdaq Crypto Index US ETF (''Trust'') under Nasdaq Rule 5711(d), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on July 2, 2024.[3]

On August 9, 2024, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On September 5, 2024, the Exchange filed Amendment No. 1 to the proposed rule change, described in Item II below, which Item has been prepared by the Exchange. [6] Amendment No. 1 amended and superseded the original proposed rule change in its entirety. The Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to institute proceedings under Section 19(b)(2)(B) of the Act [7] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade Shares of the Trust under Nasdaq Rule 5711(d), which governs the listing and trading of ''Commodity-Based Trust Shares.'' The Trust is managed and controlled by the Hashdex Asset Management Ltd. (''Sponsor'') and administered by Tidal ETF Services LLC (the ''Administrator''). The Shares will be registered with the SEC by means of the Trust's registration statement on Form S–1 (the ''Registration Statement'').[8]

Description of the Trust

The Shares will be issued by the Trust, a Delaware statutory trust to be established by the Sponsor. The Trust will operate pursuant to the rules and guidelines set forth in the Trust agreement (''Trust Agreement''). The Trust will issue Shares representing fractional undivided beneficial interests in its net assets. The assets of the Trust will consist only of bitcoin and ether. Under limited circumstances, the Trust will hold cash and/or cash equivalents to pay its expenses. The Trust will not be an investment company registered under the Investment Company Act of 1940, as amended (the ''1940 Act''), and will not be a commodity pool under the Commodity Exchange Act.

U.S. Bancorp Fund Services, LLC will be the sub-administrator, and transfer agent for the Trust (''Sub-Administrator'' or ''Transfer Agent''). U.S. Bank, N.A. will hold the Trust's cash and/or cash equivalents [9] (''Cash Custodian''). The Sponsor intends to enter into an agreement with Coinbase Custody Trust Company, LLC and BitGo Trust Company, Inc. (''Crypto Custodians'', and together with the Cash Custodian, the ''Custodians''). The Crypto Custodians will keep custody of all the Trust's bitcoin and ether.[10]

The Trust's Investment Objective

The investment objective of the Trust is to have the daily changes in the net asset value (''NAV'') of the Shares correspond to the daily changes in the price of the Nasdaq Crypto US Settlement Price Index,[11] NCIUSS (the ''NCIUSS'' or ''Index''), less expenses and liabilities from the Trust's operations, by investing in bitcoin and ether.

The Shares are designed to provide a straightforward means of obtaining investment exposure to bitcoin and ether through the public securities market, as opposed to direct acquisition, holding, and trading of spot bitcoin and spot ether on a peer-to-peer or other basis or via a crypto asset platform. The Shares have been designed to remove the obstacles represented by the complexities and operational burdens involved in a direct investment in bitcoin and ether, while at the same time having an intrinsic value that reflects, at any given time, the investment exposure to the bitcoin and ether owned by the Trust at such time, less the Trust's expenses and liabilities. The Shares provide investors with an alternative method of achieving exposure to bitcoin and ether through the public securities market, which may be more familiar to them.

The Trust will gain exposure to bitcoin and ether by buying spot bitcoin and spot ether. The Trust will maintain cash and/or cash equivalent balances to the extent it is necessary for currently due Trust-payable expenses.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 100434 (June 26, 2024), 89 FR 54868. The proposed rule change was subject to notice and comment. The Commission has not received any comments.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 100681, 89 FR 66470 (Aug. 15, 2024) (designating September 30, 2024, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change).

[6] The full text of Amendment No. 1 is available on the Commission's website at: *https://www.sec.gov/comments/sr-nasdaq-2024-028/srnasdaq2024028-516575-1489102.pdf.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] On July 24, 2024, the Trust filed with the Commission an initial registration statement (the ''Registration Statement'') on Form S–1 under the Securities Act of 1933 (15 U.S.C. 77a). The description of the operation of the Trust herein is based, in part, on the most recent Registration Statement. The Registration Statement is not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

[9] ''Cash equivalents'' are limited to short-term treasury bills (90 days or less to maturity), money market funds, and demand deposit accounts.

[10] The Trust may engage additional custodians for its bitcoin and ether, each of whom may be referred to as a Crypto Custodian. The Trust may also remove or change current Crypto Custodians, provided that there is at least one Crypto Custodian at all times. Any such changes to the Trust's Crypto Custodians would require a rule filing under Rule 19b–4 of the Act.

[11] *See https://indexes.nasdaqomx.com/docs/Methodology_NCIUS.pdf.*

If there are no Share redemption orders or currently due Trust-payable expenses, the Trust's portfolio is expected to consist of bitcoin and ether. The Trust will not invest in any other spot crypto asset besides bitcoin and ether. The Trust will not invest in crypto securities, tokenized assets or stablecoins. As of May 27, 2024, the crypto asset constituents of the Index (''Index Constituents'') and their weightings [12] were as follows:

Constituents	Weight (%)
Bitcoin (BTC)	70.54
Ether (ETH)	29.46

The Sponsor will employ a passive investment strategy that is intended to track the changes in the Index regardless of whether the Index goes up or goes down, meaning that the Sponsor will not try to ''beat'' the Index. The Trust's passive investment strategy is designed to allow investors to purchase and sell the Shares for the purpose of investing in the Index, whether to hedge the risk of losses in their Index-related transactions or gain price exposure to the Index. The Trust's investments will be consistent with the Trust's investment objective and will not be used to enhance leverage. That is, given its passive investment strategy, the Trust's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2Xs, 3Xs, −2Xs, and −3Xs) of the Trust's Index.

None of the Trust, the Sponsor, any Crypto Custodian, or any other person associated with the Trust will, directly or indirectly, engage in action where any portion of the Trust's ether becomes subject to the Ethereum proof-of-stake validation or is used to earn additional ether or generate income or other earnings.

From time to time, the Trust may be entitled to or come into possession of ''Incidental Rights'' and/or ''IR Virtual Currency'' by virtue of its ownership of bitcoin or ether, generally through a fork in the Bitcoin or Ethereum blockchain, an airdrop offered to holders of bitcoin or ether or other similar event. ''Incidental Rights'' are rights to acquire, or otherwise establish dominion and control over, any crypto asset (for the avoidance of doubt, other than bitcoin and ether) or other asset or right, which rights are incident to the Trust's ownership of bitcoin or ether and arise without any action of the Trust or of the Sponsor. ''IR Virtual Currency'' is any crypto asset (other than bitcoin or ether), or other assets or rights, acquired through the exercise of any Incidental Right.

With respect to a fork, airdrop or similar event, the Sponsor will cause the Trust to permanently and irrevocably abandon any such Incidental Rights and IR Virtual Currency and no such Incidental Right or IR Virtual Currency shall be taken into account for purposes of determining the NAV of the Trust.

The Trust's Benchmark

The Trust will use the Index as a reference to track and measure its performance compared to the price performance of the markets for the Index Constituents and to value the bitcoin and ether held by the Trust for purposes of calculating the Trust's NAV.

The Index is designed to measure the performance of a portion of the overall crypto asset market. The Index does not track the overall performance of all crypto assets generally, nor the performance of any specific crypto assets. The Index is owned and administered by Nasdaq, Inc. (''Index Provider'') and is calculated by CF Benchmarks Limited (''Calculation Agent''), which is experienced in calculating and administering crypto assets indices. The Calculation Agent publishes daily the Index Constituents, the Index Constituents' weightings, the intraday value of the Index (under the ticker NCIUS), and the daily settlement value of the Index (under the ticker NCIUSS), which is effectively the Index's closing value.[13]

The Index is derived from a rules-based methodology (''Index Rules''), which is overseen by the Nasdaq Cryptocurrency Index Oversight Committee (''NCIOC''). The NCIOC governs the Index and is responsible for its implementation, administration, and general oversight, including assessing crypto assets for eligibility, adjustments to account for regulatory changes and periodic methodology reviews. Neither the Trust, nor the Sponsor have control over the Index Rules or the Index administration.

According to the Index Rules, crypto assets are eligible for inclusion in the Index if they satisfy the criteria set forth under the Nasdaq Crypto U.S. Index methodology, which includes being listed on a U.S.-regulated digital asset trading platform at the time of inclusion [14] or serving as the underlying asset for a derivative instrument listed on a U.S.-regulated derivatives platform.[15] The Index adjusts its constituents and weightings on a quarterly basis to reflect changes in the crypto asset markets.

Pursuant to the Index Rules, to be eligible for inclusion in the Index, crypto assets must meet the following criteria on a quarterly basis:

(1) Have active tradable markets listed on at least two Core Crypto Platforms [16] for the entire period since the previous Index reconstitution;

(2) Be supported by at least one Core Custodian [17] for the entire period since the previous Index reconstitution.

[12] The Index Constituents will be weighted according to their relative free float market capitalizations, as described in the next section ''The Trust's Benchmark''.

[13] The closing level of the Index is calculated once a day on business days at 4:05 p.m. New York Time. *See https://indexes.nasdaqomx.com/docs/Methodology_NCIUS.pdf* (under ''Index Calculation and Dissemination'').

[14] Currently, there are no U.S.-regulated digital asset trading platforms and therefore, no crypto assets are eligible for inclusion in the Index based on this criteria today; however, the Nasdaq Crypto U.S. Index methodology has been written and designed to be forward-looking to account for any potential future regulatory changes, including potential changes where digital asset trading platforms would be regulated by U.S. regulators such as the SEC and the CFTC .

[15] Currently, U.S.-regulated derivatives platforms would be regulated by the CFTC, and therefore crypto assets eligible for inclusion in the Index based on this criteria includes crypto assets (*i.e.,* spot bitcoin and spot ether) that are used as a reference price for futures contracts traded on a CFTC-regulated exchange.

[16] As discussed above, to be eligible for Index inclusion, a crypto asset must trade on at least two ''Core Crypto Platforms.'' As set forth in the Index methodology, a ''Core Crypto Platform'' is a crypto asset platform that, in the opinion of the NCIOC, exhibits at a minimum the characteristics specified in the Index methodology, such as having strong forking controls, effective anti-money laundering controls, including surveillance for manipulative trading practices and erroneous transactions, demonstrating robust IT infrastructure and active capacity management, evidencing cooperation with regulators and law enforcement, and be licensed by a public independent governing body. Such license could be obtained today through the New York State Department of Financial Services' (NYDFS) BitLicense, and Core Crypto Platforms could also be registered with FinCEN as Money Services Businesses. The list of existing Core Crypto Platforms will be recertified by the NCIOC at a minimum on an annual basis. The Core Crypto Platforms as of May 27, 2024 are BitStamp, Coinbase, Gemini, itBit, and Kraken.

[17] As discussed above, only crypto assets that are supported by at least one ''Core Custodian'' for the entire period since the previous Index reconstitution will be considered for inclusion in the Index. A ''Core Custodian'' is a crypto assets custodian that, in the opinion of the NCIOC, exhibits the characteristics specified in the Index methodology. *See https://indexes.nasdaqomx.com/docs/Methodology_NCIUS.pdf* (under ''Core Custodians''). A Core Custodian might lose eligibility if it does not comply with the specified requirements in the Index methodology or with any other NCIOC requirements. The NCIOC will review new Core Custodian candidates throughout the year and announce any new additions when approved. The list of existing Core Custodians will be recertified by the NCIOC at a minimum on an annual basis. Changes to the list of Core Custodians may be made by the approval of the NCIOC and announced accordingly in the case of exceptional

Continued

(3) To be considered for entry to the Index at any Index reconstitution, an asset must have a median daily trading volume in the USD pair conducted across all Core Crypto Platforms that is no less than 0.5% of the cryptocurrency asset that has the highest median daily trading volume.

(4) Be listed (at the time of inclusion) on a U.S.-regulated digital asset trading platform or serve as the underlying asset for a derivative instrument listed on a U.S.-regulated derivatives platform.[18]

(5) Have free-floating pricing (*i.e.,* not be pegged to the value of any asset).

If a crypto asset meets requirements (1) through (5), it will be considered eligible for Index inclusion.

Notwithstanding inclusion in the eligible list, the NCIOC reserves the right to further exclude any additional assets based on one or more factors, including but not limited to its risk of being deemed a security by United States securities laws along with its review of general reputational, fraud, manipulation, or security concerns connected to the asset. Assets that, in the sole discretion of the Nasdaq Crypto Index Oversight Committee, do not offer utility, do not facilitate novel use cases, or that do not exhibit technical, structural or cryptoeconomic innovation (*e.g.,* assets inspired by memes or internet jokes) may also be excluded.

The Index will assess any crypto assets resulting from a hard fork or an airdrop under the same criteria as established digital assets and will only include a new digital asset if it meets the eligibility criteria set forth above.

The Sponsor will not invest the Trust's assets in any other crypto assets (*i.e.,* other than bitcoin and ether), even if such other crypto assets are included in the Index pursuant to the Index Rules and the eligibility criteria above.[19]

The Index Constituents will be weighted according to their relative free float market capitalizations. The free float market capitalization of an Index Constituent on any given day is defined as the product of an Index Constituent Settlement Price (as defined below) and its ''Circulating Supply'' [20] as set in the most recent reconstitution. Weights are calculated by dividing the free float market capitalization of a digital asset by the total free float market capitalization of all Index Constituents at the time of rebalancing.

The Index will be reconstituted and rebalanced quarterly, on the first Business Day in March, June, September, and December (each a ''Reconstitution Date'').

The settlement price of each Index Constituent (''Index Constituent Settlement Price'') is calculated once every trading day [21] by applying a publicly available rules-based pricing methodology (the ''Pricing Methodology'') to a diverse collection of pricing sources to provide an institutional-grade reference price for each constituent. The Pricing Methodology is designed to account for variances in price across a wide range of sources, each of which has been vetted according to criteria identified in the methodology. Specifically, the Index Constituent Settlement Price is the Time Weighted Average Price (''TWAP'') calculated across the volume weighted average prices (''VWAPs'') for each minute in the settlement price window, which is between 3:50:00 and 4:00:00 p.m. New York time, on all Core Crypto Platforms. Where there are no transactions observed in any given minute of the settlement price window, that minute is excluded from the calculation of the TWAP.

The Pricing Methodology also utilizes penalty factors to mitigate the impact of anomalous trading activity such as manipulation, illiquidity, large block trading, or operational issues that could compromise price representation. Three types of penalties are applied when three or more contributing Core Crypto Platforms contribute pricing for a constituent asset: abnormal price penalties, abnormal volatility penalties, and abnormal volume penalties. These penalties are defined as adjustment factors to the weight of information from each platform that contributes pricing information based on the deviation of a platform's price, volatility, or volume from the median across all Core Crypto Platforms. For example, if a Core Crypto Platform's price is 2.5 standard deviations away from the median price, its price penalty factor will be a 1/2.5 multiplier.

The Sponsor believes that the NCIUSS is a suitable Index for the Trust for pricing the Trust's assets and as an Index that the Trust tracks. Specifically, it would provide reliable pricing for purposes of tracking the actual performance of the crypto asset markets for bitcoin and ether. Second, it is administered by a reputable index administrator that is not affiliated with the Sponsor or Trust,[22] which provides assurances of accountability and independence. Finally, its Pricing Methodology is designed to resist potential price manipulation from unregulated crypto markets by applying the following safeguards:

(1) Requiring that constituents be listed (at the time of inclusion) on a U.S.-regulated crypto asset trading platform or serve as the underlying asset for a derivative instrument listed on a U.S.-regulated derivatives platform [23]

(2) Strict eligibility criteria for the Core Crypto Platforms from which the Index data is drawn;

events or in order to maintain the integrity of the Index. The Core Custodians as of May 27, 2024 are BitGo, Coinbase, Fidelity and Gemini.

[18] *See supra* notes 14–15.

[19] The Exchange would file an amendment to this rule filing if any Index change would require a change to the Trust's investment objective.

[20] The Index will utilize ''Circulating Supply'' of an Index Constituent for all calculations of free float market capitalization and the determination of constituent weights. ''Circulating Supply'' is defined as the total supply of all units of a digital asset issued outside of the codebase since the initial block on a digital asset's blockchain or since the point of inception of the digital asset on a cryptographic distributed ledger that can be ''spent'' or moved from one deposit address to another that is deemed to be likely to be available for trading as defined by the Calculation Agent and described by the methods in the CF Cryptocurrency Index Family Multi Asset Ground Rules (section 4.2.1 to 4.3.1.2.1). Circulating Supply data will be determined at the block height or ledger number which is the last confirmed block or ledger number at 16:00:00 UTC on the day that is eight (8) business days immediately preceding the relevant Reconstitution Date. Where the Calculation Agent cannot reliably determine any of the respective inputs for the calculation of the Circulating Supply for a given crypto asset that is an Index Constituent then its Circulating Supply shall be approximated. This will be done by applying the Median Free Float Factor (Circulating Supply/Total Supply) that has been determined for that reconstitution of all Index Constituents to the Total Supply (Circulating Supply = Total Supply × Median Free Float Factor). During reconstitution, updated Circulating Supply of crypto assets will be set and will remain fixed until the next reconstitution. The Index fixes Circulating Supply of Index Constituents between reconstitutions in order to preserve the investability property of the Index.

[21] All Index Constituent calculations are performed concurrently with the Index calculation, which takes place at 4:05 p.m. New York time. *See supra* note 13.

[22] Nasdaq, Inc. (''Nasdaq''), the Index Provider, adheres to the International Organization of Securities Commissions principles for benchmarks (the ''IOSCO Principles'') for many of its indexes via an internal control and governance framework that is audited by an external, independent auditor on an annual basis. Although NCIUSS is not currently one of the indexes that is required to comply with IOSCO Principles, as a reference rate index, it is administered in a manner that is generally consistent with both the IOSCO Principles and the elements of Nasdaq's internal control and governance framework pursuant to IOSCO Principles. NCIUSS is administered and governed by the NCIOC in accordance with the publicly available NCIUS methodology. The NCIOC oversees all aspects of the administration of the NCIUSS, including the defined processes and controls for the selection and recertification of third parties such as the Core Crypto Platforms and Core Custodians, as well as the validation and reconciliation of Index calculations and pricing data. As discussed above, the list of existing Core Crypto Platforms and Core Custodians will be recertified by the NCIOC at a minimum on an annual basis. The NCIOC also oversees the identification and mitigation of any potential conflicts of interest, formal complaints, and updates or changes to the Index methodology consistent with the IOSCO Principles.

[23] *See supra* notes 14–15.

(3) A diverse collection of trustworthy pricing sources to provide an institutional-grade reference price for the Index Constituents; and

(4) The use of adjustment factors to mitigate against the impact of any anomalous trading activity on the Index Constituent Settlement Prices.

Custody of the Trust's Bitcoin and Ether

An investment in the Shares is backed by assets held by the Trust, including the bitcoin and ether held by the Crypto Custodians on behalf of the Trust. The Crypto Custodians must qualify as Core Custodians by the NCIOC and, thus satisfy at least the requirements set forth by the NCIOC in the NCIUSS methodology.[24] The Trust may engage additional custodians for its bitcoin and ether and may also remove or change current Crypto Custodians, provided that there is at least one Crypto Custodian who is also a Core Custodian at all times.[25]

The Trust's Crypto Custodians will hold and be responsible for maintaining custody of the Trust's bitcoin and ether. The Sponsor will cause the Trust to maintain ownership and control of the Trust's bitcoin in a manner consistent with good delivery requirements for spot commodity transactions.

All of the Trust's bitcoin and ether will be held in one or more accounts in the name of the Trust (each a ''Custody Account'' and together the ''Custody Accounts''), other than the Trust's assets which are temporarily maintained in a trading account under limited circumstances (''Trading Account''), *i.e.,* in connection with creation and redemption basket activity or sales of bitcoin and ether deducted from the Trust's holdings in payment of Trust expenses or the Sponsor's fee (or, in extraordinary circumstances, upon liquidation of the Trust).

The Trust's bitcoin, ether and cash holdings from time to time may temporarily be maintained in the Trading Account. The Sponsor intends to execute an agreement so Coinbase Inc. can serve as the Trust's ''Prime Execution Agent'' (''Prime Execution Agent Agreement''). In this capacity, the Prime Execution Agent will facilitate the buying and selling of bitcoin and ether by the Trust in response to cash creations and redemptions between the Trust and registered broker-dealers that are Depositary Trust Company (''DTC'') participants that enter into an authorized participant agreement with the Sponsor (''Authorized Participants''), and the sale of bitcoin and ether to pay the Sponsor's fee, any other Trust expenses not assumed by the Sponsor, to the extent applicable, and in extraordinary circumstances, in connection with the liquidation of the Trust's assets.

Creation and Redemption of Shares

The Trust issues and redeems ''Baskets'' [26] on a continuous basis. Baskets are issued or redeemed only in exchange for an amount of cash determined by the Sponsor or the Administrator on each Business Day. No Shares are issued unless the Cash Custodian has allocated to the Trust's account the corresponding amount of cash. Baskets may be created or redeemed only by Authorized Participants. Each Authorized Participant must be registered as a broker-dealer under the Exchange Act and regulated by the FINRA, and must be qualified to act as a broker or dealer in the states or other jurisdictions where the nature of its business so requires.

The Authorized Participants will deliver only cash to create Shares and will receive only cash when redeeming Shares. Further, Authorized Participants will not directly or indirectly purchase, hold, deliver, or receive bitcoin and ether as part of the creation or redemption process, or otherwise direct the Trust or a third party with respect to purchasing, holding, delivering, or receiving bitcoin and ether as part of the creation or redemption process.

The Trust will create Shares by receiving bitcoin and ether from a third party that is not the Authorized Participant, and the Trust—not the Authorized Participant—is responsible for selecting the third party to deliver the assets. Further, the third party will not be acting as an agent of the Authorized Participant with respect to the delivery of the bitcoin and ether to the Trust or acting at the direction of the Authorized Participant with respect to the delivery of the bitcoin and ether to the Trust. The Trust will redeem Shares by delivering bitcoin and ether to a third party that is not the Authorized Participant, and the Trust—not the Authorized Participant—is responsible for selecting the third party to receive the bitcoin and ether. Further, the third party will not be acting as an agent of the Authorized Participant with respect to the receipt of the bitcoin and ether from the Trust or acting at the direction of the Authorized Participant with respect to the receipt of the bitcoin and ether from the Trust. The third-party will be unaffiliated with the Trust and the Sponsor.

In connection with cash creations and cash redemptions, the Authorized Participants will submit orders to create or redeem Baskets [27] of Shares exclusively in exchange for cash. The Trust will engage in transactions to convert cash into bitcoin and ether (in association with creation orders) and bitcoin and ether into cash (in association with redemption orders). The Trust will conduct its bitcoin and ether purchase and sale transactions by choosing, in its sole discretion, either to trade directly with designated third parties (each, a ''Crypto Trading Counterparty''), who are not registered broker-dealers pursuant to written agreements between each such Crypto Trading Counterparty and the Trust, or to trade through the Prime Execution Agent acting in an agency capacity with third parties pursuant to the Prime Execution Agent Agreement. Crypto Trading Counterparties settle trades with the Trust using their own accounts at the Prime Execution Agent when trading with the Trust.

For a creation of a Basket of Shares, the Authorized Participant will be required to submit the creation order by 2:00 p.m. ET, or the close of regular trading on the Exchange, whichever is earlier (the ''Order Cutoff Time''). The Order Cutoff Time may be modified by the Sponsor in its sole discretion.

On the date of the Order Cutoff Time for a creation order, the Trust will enter into a transaction by choosing, in its sole discretion, to trade directly with a Crypto Trading Counterparty or the Prime Execution Agent, to buy bitcoin and ether in exchange for the cash proceeds from such creation order. The Authorized Participant is responsible for the dollar cost of the difference between the bitcoin and ether price utilized in calculating the NAV per Share on the Creation Order Date (as described below) and the price at which the Trust acquires the bitcoin and ether to the extent the price amount for buying the bitcoin and ether is higher than the price utilized in calculating the

[24] *See https://indexes.nasdaqomx.com/docs/Methodology_NCIUS.pdf.* As noted above, the Core Custodians as of May 27, 2024 are BitGo, Coinbase, Fidelity and Gemini, and the Trust's Crypto Custodians are on this list.

[25] If the Trust determines to do so, the Exchange will submit a rule filing with the Commission under Rule 19b–4 of the Act.

[26] Baskets will be offered continuously at NAV per Share for 5,000 Shares. Therefore, a Basket of Shares would be valued at NAV per Share multiplied by the Basket size and the value of the bitcoin and ether to be acquired by the Trust as part of the creation of a Basket would be based on the dollar value of the NAV per Share multiplied by the Basket size for such creations. Only Authorized Participants may purchase or redeem Baskets.

[27] The Trust issues and redeems Shares only in blocks or ''Baskets'' of 5,000 or integral multiples thereof.

NAV. In the case the price amount for buying the bitcoin and ether is lower than the price utilized in calculating the NAV, the Authorized Participant shall keep the dollar impact of any such difference.

Creation orders will take place as follows, where ''T'' is the date of the creation order and each day in the sequence must be a business day in the U.S.

Creation order date (T)	Settlement date (T+1)
• Authorized Participant places a creation order. • The Transfer Agent accepts (or rejects) the creation order. • The Trust will enter into a transaction with the Crypto Trading Counterparty or the Prime Execution Agent to purchase the corresponding bitcoin and ether. • As soon as practicable after 4:00 p.m. ET, the Sponsor determines the Basket cash component, including any dollar cost difference between the bitcoin and ether price utilized in calculating NAV per Share and the price at which the Trust acquires the bitcoin and ether.	• The Authorized Participant delivers the Basket cash component to the Trust's cash account that is maintained with the Cash Custodian. • The Crypto Trading Counterparty or the Prime Execution Agent deposits the bitcoin and ether into the Trust's Trading Account related to the purchase transaction. • Once the Trust is in simultaneous possession of the Basket cash component and the bitcoin and ether, the Trust delivers the corresponding Shares to the Authorized Participant. • The Trust transfers the cash related to the purchase transaction from the Trust cash account maintained with the Cash Custodian to the Crypto Trading Counterparty or the Prime Execution Agent.

When the Trust chooses to enter into a transaction with the Prime Execution Agent, because the Trust's Trading Account may not be funded with cash on the Creation Order Date for the purchase of bitcoin and ether associated with a cash creation order, the Trust may borrow trade credits (''Trade Credits'') in the form of cash from the ''Trade Credit Lender'', under a trade financing agreement (''Trade Financing Agreement'') or may require the Authorized Participant to deliver the required cash for the creation order on the Creation Order Date. The extension of Trade Credits on the Creation Order Date allows the Trust to purchase bitcoin and ether through the Prime Execution Agent on the Creation Order Date, with such bitcoin and ether being deposited in the Trust's Trading Account. On Settlement Date for a creation order, the Trust delivers Shares to the Authorized Participant in exchange for cash received from the Authorized Participant. To the extent Trade Credits were utilized, the Trust uses the cash to repay the Trade Credits borrowed from the Trade Credit Lender. On the Settlement Date for a creation order, the bitcoin and ether purchased are swept from the Trust's Trading Account to the Custody Account pursuant to a regular end-of-day sweep process.

For a redemption of a Basket of Shares, the Authorized Participant will be required to submit a redemption order by the Order Cutoff Time. On the date of the Order Cutoff Time for a redemption order, the Trust will enter into a transaction by choosing, in its sole discretion, to trade directly with a Crypto Trading Counterparty or the Prime Execution Agent, to sell bitcoin and ether in exchange for cash. The Authorized Participant will bear the difference between the bitcoin and ether price utilized in calculating the NAV per Share on the Redemption Order Date and the price realized in selling the bitcoin and ether to raise the cash needed for the cash redemption order to the extent the price realized in selling the bitcoin and ether is lower than the price utilized in the NAV. To the extent the price realized in selling the bitcoin and ether is higher than the price utilized in the NAV, the Trust will deliver the dollar impact of any such difference to the Authorized Participant.

Redemption orders will take place as follows, where ''T'' is the date of the redemption order and each day in the sequence must be a business day.

Redemption order date (T)	Settlement date (T+1)
• Authorized Participant places a redemption order. • The Transfer Agent accepts (or rejects) the redemption order. • The Trust instructs the Crypto Custodian to prepare to move the corresponding bitcoin and ether from the Trust's Custody Account to the Trading Account. • The Trust enters into a transaction with the Crypto Trading Counterparty or the Prime Execution Agent to sell the corresponding bitcoin and ether. • As soon as practicable after 4:00 p.m. ET, the Sponsor determines the Basket cash component, including any dollar cost difference between the bitcoin and ether price utilized in calculating NAV per Share and the price at which the Trust sells the bitcoin and ether.	• The Authorized Participant delivers the Baskets of Shares to be redeemed to the Trust. • The Crypto Trading Counterparty or the Prime Execution Agent delivers cash to the Trust's cash account that is maintained with the Cash Custodian related to the sell transaction. • Once the Trust is in simultaneous possession of the Basket of Shares and the respective Basket cash component, the Trust cancels the Shares comprising the number of Baskets redeemed by the Authorized Participant. • The Trust instructs the Crypto Custodian to transfer the corresponding bitcoin and ether agreed on the sell transaction from the Trust's Trading Account to the Crypto Trading Counterparty or Prime Execution Agent. • The Trust transfers the Basket cash component from the cash account maintained with the Cash Custodian to the Authorized Participant.

The Trust may use financing in connection with a redemption order when bitcoin and ether remain in the Custody Account at the point of intended execution of a sale of bitcoin and ether. In those circumstances, the Trust may borrow Trade Credits in the form of bitcoin and ether from the Trade Credit Lender, which allows the Trust to sell bitcoin and ether through the Prime Execution Agent on the Redemption Order Date, and the cash proceeds are deposited in the Trading Account. On the Settlement Date for a redemption order, the Trust delivers cash to the Authorized Participant in exchange for Shares received from the Authorized Participant. In the event financing was

used, the Trust will use the bitcoin and ether moved from the Custody Account to the Trading Account to repay the Trade Credits borrowed from the Trade Credit Lender.

Net Asset Value

The Trust's NAV per Share will be calculated by taking the current value of its total assets, subtracting any liabilities, and dividing that total by the number of Shares. The assets of the Trust will consist of bitcoin, ether, cash and cash equivalents. The Sponsor has the exclusive authority to determine the Trust's NAV, which it has delegated to the Administrator.

The Administrator of the Trust will calculate the NAV once each Business Day, as of the earlier of the close of the Nasdaq or 4:00 p.m. New York time. For purposes of making these calculations, a Business Day means any day other than a day when Nasdaq is closed for regular trading (''Business Day'').

The Administrator will value the bitcoin and ether held by the Trust based on the Index Constituent Settlement Price, unless the prices are not available or the Administrator, in its sole discretion, determines that the Index Constituent Settlement Price is unreliable (''Fair Value Event''). In the instance of a Fair Value Event, the Trust's holdings may be fair valued on a temporary basis in accordance with the fair value policies approved by the Administrator.

In the instance of a Fair Value Event and pursuant to the Administrator's fair valuation policies and procedures, VWAP or Volume Weighted Median Prices (''VWMP'') from another index administrator (''Secondary Index'') will be utilized.

If a Secondary Index is also not available or the Administrator in its sole discretion determines the Secondary Index is unreliable, the price set by the Trust's principal market as of 4:00 p.m. ET, on the valuation date will be utilized. In the event the principal market price is not available or the Administrator in its sole discretion determines the principal market valuation is unreliable, the Administrator will use its best judgment to determine a good faith estimate of fair value. The Administrator identifies and determines the Trust's principal market (or in the absence of a principal market, the most advantageous market) for bitcoin and ether consistent with the application of fair value measurement framework in FASB ASC 820–10.[28] The principal market is the market where the reporting entity would normally enter into a transaction to sell the asset or transfer the liability. The principal market must be available to and be accessible by the reporting entity. The reporting entity is the Trust.

If the Index Constituent Settlement Price is not used to determine the Trust's bitcoin and ether holdings, owners of the beneficial interests of Shares (the ''Shareholders'') will be notified in a prospectus supplement or on the Trust's website and, if this index change is on a permanent basis, a filing with the Commission under Rule 19b–4 of the Act will be required.

A Fair Value Event value determination will be based upon all available factors that the Sponsor or the Administrator deems relevant at the time of the determination and may be based on analytical values determined by the Sponsor or Administrator using third-party valuation models. Fair value policies approved by the Administrator will seek to determine the fair value price that the Trust might reasonably expect to receive from the current sale of that asset or liability in an arm's-length transaction on the date on which the asset or liability is being valued consistent with ''Relevant Transactions''.[29]

Indicative Trust Value

In order to provide updated information relating to the Trust for use by Shareholders and market professionals, the Sponsor will engage an independent calculator to calculate an updated Indicative Trust Value (''ITV''). The ITV will be calculated by using the prior day's closing NAV per Share of the Trust as a base and will be updated throughout the regular market session of 9:30 a.m. E.T. to 4:00 p.m. E.T. (the ''Regular Market Session'') to reflect changes in the value of the Trust's holdings during the trading day. For purposes of calculating the ITV, the Trust's spot bitcoin and ether holdings will be priced using a real time version of the Index, the Nasdaq Crypto US Index (''NCIUS'').[30]

The ITV will be disseminated on a per Share basis every 15 seconds during the Exchange's Regular Market Session and be widely disseminated by one or more major market data vendors during the Regular Market Session.[31]

Background—Spot Bitcoin and Ether ETPs

The Commission has recently permitted exchange-traded products (''ETPs'') to directly hold bitcoin and ether. The Exchange and the Sponsor applaud the Commission as these approvals mark a significant step forward in offering U.S. investors and traders transparent, exchange-listed products for expressing views on crypto assets.

The Exchange and the Sponsor believe that the proposed rule change does not introduce any elements that the Commission has not previously approved, and therefore, it will not impose any inappropriate consequences on the market. Although building on previously approved ETP proposals, the Trust employs a new strategy of investing in bitcoin and ether, as it will hold both spot bitcoin and spot ether in accordance with the Index methodology, and its approval will add value to the U.S. market.

The Trust will hold spot bitcoin and spot ether, commodities for which proposals to list and trade ETPs have recently been approved by the Commission. As the Trust will invest in bitcoin and ether for which proposals to list and trade ETPs have been recently approved by the Commission, and because the Exchange will utilize the same surveillance mechanisms that were deployed pursuant to the proposals to list and trade those approved ETPs, the Sponsor and the Exchange understand that the proposed rule change does not introduce any novel regulatory issues and believe that the Commission should approve this proposal.

Spot Bitcoin ETP

On January 10, 2024, the Commission issued an order granting approval for proposals to list certain bitcoin-based commodity trust and bitcoin-based trust units (''Spot Bitcoin ETPs'').[32] In

[28] *See* FASB (Financial Accounting Standards Board) Accounting standards codification (ASC) 820–10. For financial reporting purposes only, the Trustee has adopted a valuation policy that outlines the methodology for valuing the Trust's assets. The policy also outlines the methodology for determining the principal market (or in the absence of a principal market, the most advantageous market) in accordance with FASB ASC 820–10.

[29] A ''Relevant Transaction'' is any crypto asset versus U.S. dollar spot trade that occurs during the observation window between 3:00 p.m. and 4:00 p.m. ET on a ''Core Crypto Platform'' in the BTC/USD and ETH/USD pair that is reported and disseminated by a Core Crypto Platform through its publicly available application programming interface and observed by the index administrator.

[30] The Nasdaq Crypto US Index (Index symbol NCIUS) is calculated every second throughout a 24-hour trading day, seven days per week, using published, real-time bid and ask quotes for Index constituents observed on Core Crypto Platforms through the publicly available API. *See https://indexes.nasdaqomx.com/Index/Overview/NCIUS.*

[31] Several major market data vendors display and/or make widely available ITVs taken from the Consolidated Tape Association (''CTA'') or other data feeds.

[32] *See* Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (Self-

Continued

considering the Spot Bitcoin ETPs, the Commission determined in the Spot Bitcoin ETP Approval Order that the exchanges' comprehensive surveillance-sharing agreement with the Chicago Mercantile Exchange (''CME'')—a U.S. regulated market whose bitcoin futures market is consistently highly correlated to spot bitcoin—could be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the proposals. The exchanges have comprehensive surveillance-sharing agreements with the CME via their common membership in the Intermarket Surveillance Group (''ISG''), which facilitates the sharing of information that is available to the CME through its surveillance of its markets.

After reviewing the proposals for the Spot Bitcoin ETPs, the Commission found that they were consistent with the Act, including with Section 6(b)(5), and rules and regulations thereunder applicable to a national securities exchange, including the Exchange. The abovementioned Section 6(b)(5) requires, among other things, that the investment product is designed to ''prevent fraudulent and manipulative acts and practices'' and, ''in general, to protect investors and the public interest.''

The Commission's analysis [33] in the Spot Bitcoin ETP Approval Order also demonstrated that prices typically move in close, though not perfect, correlation [34] between the spot bitcoin market and the CME bitcoin futures market. Therefore, the Commission concluded that fraud or manipulation affecting spot bitcoin market prices would likely similarly impact CME bitcoin futures prices. Since the CME's surveillance can help detect these impacts on CME bitcoin futures prices, such surveillance can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the Spot Bitcoin ETPs proposals.

In the Spot Bitcoin ETP Approval Order, the Commission also stated that the Spot Bitcoin ETP proposals, similar to other spot commodity ETPs it has approved, are reasonably designed to ensure fair disclosure of information necessary for accurate share pricing, to prevent trading in the absence of sufficient transparency, to protect material nonpublic information related to the products' portfolios, and to maintain fair and orderly markets for the shares of the Spot Bitcoin ETPs.

Spot Ether ETP

A few months after the issuance of its Spot Bitcoin ETP Approval Order, the Commission issued on May 23, 2024 an approval order for proposals to list certain ether-based trusts (''Spot Ether ETPs'').[35] The Commission also concluded in the Spot Ether ETP Approval Order that the exchanges' comprehensive surveillance-sharing agreement with the CME, a U.S.-regulated market whose ether futures market is consistently highly correlated with spot ether, can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices within the context of the mentioned proposals.

As in the case of the Spot Bitcoin ETP Approval Order, in the Spot Ether ETP Approval Order, the Commission determined that the exchanges' comprehensive surveillance-sharing agreement with the CME ether futures market, which exhibits a consistent high correlation with spot ether, can reasonably be expected to assist in surveilling for fraudulent and manipulative practices in the specific context of the Spot Ether ETP proposals. Therefore, based on similar reasons to the Spot Bitcoin ETP Approval Order, the Commission approved the Spot Ether ETPs, stating that the proposals to list and trade those Spot Ether ETPs were also consistent with the requirements of the Act and the regulations applicable to a national securities exchange, in particular with Section 6(b)(5) and Section 11A(a)(1)(C)(iii) of the Act.

Availability of Information

The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) the prior Business Day's NAV per Share; (b) the prior Business Day's Nasdaq official closing price; (c) calculation of the premium or discount of such Nasdaq official closing price against such NAV per Share; (d) data in chart form displaying the frequency distribution of discounts and premiums of the Nasdaq official closing price against the NAV per Share, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (e) the prospectus; and (f) other applicable quantitative information. The Administrator will also disseminate the Trust's holdings on a daily basis on the Trust's website. The NAV per Share for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last sale information regarding the Shares will be disseminated through the facilities of the relevant securities information processor.

Also, an estimated value that reflects an estimated ITV will be disseminated. For more information on the ITV, including the calculation methodology, see ''Indicative Trust Value'' above. The ITV disseminated during the Regular Market Session should not be viewed as an actual real time update of the NAV per Share, which will be calculated only once at the end of each trading day. The ITV will be widely disseminated on a per Share basis every 15 seconds during the Regular Market Session by one or more major market data vendors. In addition, the ITV will be available through online information services.

Quotation and last sale information for bitcoin and ether is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters. Information relating to trading, including price and volume information for bitcoin and ether, is available from major market data vendors and from the platforms on which such bitcoin and ether are traded. Depth of book information is also available from such crypto platforms. The normal trading hours for the ether and bitcoin platforms are 24 hours per day, 365 days per year.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units) (the ''Spot Bitcoin ETP Approval Order'').

[33] The robustness of the Commission's correlation analysis rests on the pre-requisites of (1) the correlations being calculated with respect to bitcoin futures that trade on the CME, a U.S. market regulated by the CFTC, (2) the lengthy sample period of price returns for both the CME bitcoin futures market and the spot bitcoin market, (3) the frequent intra-day trading data in both the CME bitcoin futures market and the spot bitcoin market over that lengthy sample period, and (4) the consistency of the correlation results throughout the lengthy sample period.

[34] Correlation should not be interpreted as an indicator of a causal relationship or whether one variable leads or lags the other.

[35] *See* Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Shares of Ether-Based Exchange-Traded Products) (the ''Spot Ether ETP Approval Order'').

Initial and Continued Listing

The Shares will be subject to Nasdaq Rule 5711(d)(vi), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. A minimum of 40,000 Shares, or the equivalent of eight Baskets, will be required to be outstanding at the time of commencement of trading on the Exchange. Upon termination of the Trust, the Shares will be removed from listing.

As required in Nasdaq Rule 5711(d)(viii), the Exchange notes that any registered market maker (''Market Maker'') in the Shares must file with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying commodity, related futures or options on futures, or any other related derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker in the Shares shall trade in the underlying commodity, related futures or options on futures, or any other related derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by Nasdaq Rule 5711(d). In addition to the existing obligations under Exchange rules regarding the production of books and records, the registered Market Maker in the Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or any limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying commodity, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

The Exchange is able to obtain information regarding trading in the Shares and the underlying bitcoin and ether, or any other bitcoin or ether derivative through members acting as registered Market Makers, in connection with their proprietary or customer trades.

As a general matter, the Exchange has regulatory jurisdiction over its members, and their associated persons. The Exchange also has regulatory jurisdiction over any person or entity controlling a member, as well as a subsidiary or affiliate of a member that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory or self-regulatory organizations of which such subsidiary or affiliate is a member.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in the Shares from 4:00 a.m. to 8:00 p.m. ET. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. The Shares of the Trust will conform to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d) and will comply with the requirements of Rule 10A–3 of the Act.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including without limitation the conditions specified in Nasdaq Rule 4120(a)(9) and (10) and the trading pauses under Nasdaq Rules 4120(a)(11) and (12).

Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the bitcoin and ether underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

If the ITV or the value of the Index is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the ITV or the value of the Index occurs. If the interruption to the dissemination of the ITV or the value of the Index persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

In addition, if the Exchange becomes aware that the NAV per Share with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV per Share is available to all market participants.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The surveillance program includes real-time patterns for price and volume movements and post-trade surveillance patterns (*e.g.,* spoofing, marking the close, pinging, phishing). In addition to the Exchange's existing surveillance, a new pattern will be added to surveil for significant deviation in the Shares' price from the underlying asset's price. The Exchange will use the trade data from an external vendor that consolidates the real-time data from multiple crypto assets platforms.

Trading of Shares on the Exchange will be subject to the Exchange's surveillance program for derivative products, as well as cross-market surveillances administered by FINRA, on behalf of the Exchange pursuant to a regulatory services agreement, which are also designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and bitcoin and ether derivatives with other markets and other entities that are members of the ISG,[36] and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and bitcoin and ether derivatives from such markets and other entities. The Exchange also may obtain information regarding trading in the Shares and listed bitcoin and ether derivatives via the ISG, from other

[36] For a list of the current members and affiliate members of ISG, see *https://www.isgportal.com/.*

exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange is able to obtain information regarding trading in the Shares, the physical commodities included in, or options, futures or options on futures on, Shares through Members, in connection with such Members' proprietary or customer trades which they effect on any relevant market. The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the exchanges that are members of the ISG.

The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an information circular (''Information Circular'') of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for creations and redemptions of Shares in Baskets (and that Shares are not individually redeemable); (2) Section 10 of Nasdaq General Rule 9, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the ITV and NAV is disseminated; (4) the risks involved in trading the Shares during the pre-market and postmarket sessions when an updated ITV will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information. The Information Circular will also discuss any exemptive, no action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular will also reference the fact that there is no regulated source of last sale information regarding bitcoin and ether, that the Commission has no jurisdiction over the trading of bitcoin and ether as a commodity.

Additionally, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Trust's website.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [37] that an exchange has rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria set forth in Nasdaq Rule 5711(d). The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and bitcoin and ether derivatives with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and bitcoin and ether derivatives from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and listed bitcoin and ether derivatives via the ISG, from other exchanges that are members or affiliates of ISG, or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange is also able to obtain information regarding trading in the Shares and bitcoin and ether derivatives through Members, in connection with such Members' proprietary or customer trades which they effect on any relevant market. The Exchange will require the Trust to represent to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

Trading in Shares of the Trust will be halted if the circuit breaker parameters have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of Shares that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The Commission has approved numerous spot-based bitcoin and ether products to be listed on U.S. national securities exchanges.[38] In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) the requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act because this filing sufficiently demonstrates that the applicable standard that has previously been articulated by the Commission with respect to proposals to list and trade units of commodity-based trusts has been met as outlined below.

To list and trade the commodity-trust ETPs, one way that an exchange can meet the obligation under Exchange Act

[37] 15 U.S.C. 78f(b)(5).

[38] *See* ''Background—Spot Bitcoin and Ether ETPs'' above.

Section 6(b)(5) that its rules be designed to prevent fraudulent and manipulative acts and practices is by demonstrating that the exchange has a comprehensive surveillance-sharing agreement with a regulated market of significant size related to the underlying or reference assets. The Exchange and CME are members of the ISG, satisfying the comprehensive surveillance sharing agreement portion.

In the Spot Bitcoin ETP Approval Order and the Spot Ether ETP Approval Order, the Commission concluded that the proposing exchanges' comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market—whose bitcoin and ether futures market is consistently highly correlated to spot bitcoin and spot ether, respectively—could be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the proposals.

Consequently, this Trust, which invests solely in bitcoin and ether, is similar to these approved products, since its only holdings are bitcoin, ether, cash and/or cash equivalents. CME's bitcoin futures market and ether futures market are highly, though not perfectly correlated with the spot bitcoin market and the spot ether market respectively, so that surveillance of CME's bitcoin futures market and CME's ether futures market can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of this proposal.

For all the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of the Shares, which are Commodity-Based Trust Shares and that will enhance competition among market participants, to the benefit of investors and the marketplace.

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. Proceedings To Determine Whether To Approve or Disapprove SR–NASDAQ–2024–028, as Modified by Amendment No. 1, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [39] to determine whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as modified by Amendment No. 1, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change, as modified by Amendment No. 1.

Pursuant to Section 19(b)(2)(B) of the Act,[40] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices'' and ''to protect investors and the public interest.'' [41]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Item II above, in addition to any other comments they may wish to submit about the proposed rule change, as modified by Amendment No. 1. In particular, the Commission seeks comment on whether the proposed Trust, which would hold both spot bitcoin and spot ether, and Shares would be susceptible to manipulation and whether the Exchange's proposal, as modified by Amendment No. 1, is designed to prevent fraudulent and manipulative acts and practices. Namely, as the Trust would hold both spot bitcoin and spot ether, the Commission seeks comment on whether the Trust raises any new or novel concerns not previously contemplated by the Commission.

[39] 15 U.S.C. 78s(b)(2)(B).

[40] *Id.*

[41] 15 U.S.C. 78f(b)(5).

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[42]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved by October 25, 2024. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by November 8, 2024.

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–2024–028 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–2024–028. 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

[42] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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–2024–028 and should be submitted on or before October 25, 2024. Rebuttal comments should be submitted by November 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–22903 Filed 10–3–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–263, OMB Control No. 3235–0275]

Submission for OMB Review; Comment Request; Extension: Rule 17Ad–13

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'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17Ad–13 (17 CFR 240.17Ad–13), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17Ad–13 requires certain registered transfer agents to file annually with the Commission and the transfer agent's appropriate regulatory authority a report prepared by an independent accountant on the basis of a study and evaluation of the transfer agent's system of internal accounting controls for the transfer of record ownership and the safeguarding of related securities and funds. If the independent accountant's report specifies any material inadequacy in a transfer agent's system, the rule requires the transfer agent to notify the Commission and its appropriate regulatory agency in writing, within sixty calendar days after the transfer agent receives the independent accountant's report, of any corrective action taken or proposed to be taken by the transfer agent. In addition, Rule 17Ad–13 requires that transfer agents maintain the independent accountant's report and any other documents required by the rule for at least three years, the first year in an easily accessible place. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. Small transfer agents and transfer agents that service only their own companies' securities are exempt from Rule 17Ad–13.

Approximately 100 professional independent transfer agents must file with the Commission one report prepared by an independent accountant pursuant to Rule 17Ad–13 each year. Commission staff estimates that, on average, the annual internal time burden for each transfer agent to submit the independent accountant's report to the Commission is minimal or zero. The time required for an independent accountant to conduct the study and evaluation of a transfer agent's system of internal accounting controls and complete the report varies depending on the size and nature of the transfer agent's operations. Commission staff estimates that, on average, each Rule 17Ad–13 report can be completed by the independent accountant in 120 hours. In light of Commission staff's review of previously filed Rule 17Ad–13 reports and Commission staff's conversations with transfer agents and accountants, Commission staff estimates that 120 hours are needed to perform the study and prepare the report on an annual basis. Commission staff estimates that the average hourly rate of an independent accountant is $291, resulting in a total annual external cost burden of $34,920 for each of the approximately 100 professional independent transfer agents. The aggregate total annual external cost for the 100 respondents is approximately $3,492,000.

The retention period for the recordkeeping requirement under Rule 17Ad–13 is three years following the date of a report prepared pursuant to the rule. The recordkeeping requirement under this rule is mandatory to assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. This rule does not involve the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by November 4, 2024 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 1, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–23005 Filed 10–3–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–544, OMB Control No. 3235–0604]

Submission for OMB Review; Comment Request; Extension: Exchange Act Form 10–D

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously

[43] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

approved collection of information discussed below.

Form 10–D is a periodic report used by asset-backed issuers to file distribution and pool performance information pursuant to Rule 13a–17 (17 CFR 240.13a–17) or Rule 15d–17 (17 CFR 240.15d–17) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The form is required to be filed within 15 days after each required distribution date on the asset-backed securities, as specified in the governing documents for such securities. The information provided by Form 10–D is mandatory and all information is made available to the public upon request. Form 10–D takes approximately 39.0 hours per response to prepare and is filed by approximately 2,169 respondents 4.1213 times a year for a total of 8,939 responses. We estimate that 75% of the 39.0 hours per response (29.25 hours) is prepared by the company for a total annual reporting burden of 261,466 hours (29.25 hours per response × 8,939 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by November 4, 2024 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 1, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–23006 Filed 10–3–24; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20711 and #20712; GEORGIA Disaster Number GA–20013]

Presidential Declaration of a Major Disaster for the State of Georgia

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–4830–DR), dated September 30, 2024.

DATES: Issued on September 30, 2024.

Physical Loan Application Deadline Date: November 29, 2024.

Economic Injury (EIDL) Loan Application Deadline Date: June 30, 2025.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on September 30, 2024, applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955 for further assistance.

Incident: Hurricane Helene.

Incident Period: September 24, 2024 and continuing.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Appling, Brooks, Coffee, Columbia, Jefferson, Liberty, Lowndes, Pierce, Richmond, Tattnall, Toombs.

Contiguous Counties (Economic Injury Loans Only):

Georgia: Atkinson, Bacon, Ben Hill, Berrien, Brantley, Bryan, Burke, Candler, Chatham, Colquitt, Cook, Echols, Emanuel, Evans, Glascock, Irwin, Jeff Davis, Johnson, Lanier, Lincoln, Long, McDuffie, McIntosh, Montgomery, Telfair, Thomas, Treutlen, Ware, Warren, Washington, Wayne.

Florida: Hamilton, Jefferson, Madison.

South Carolina: Aiken, Edgefield, McCormick

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.625
Homeowners without Credit Available Elsewhere	2.813
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.250
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.250

The number assigned to this disaster for physical damage is 207118 and for economic injury is 207120.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Deputy Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–23025 Filed 10–3–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20703 and #20704; SOUTH CAROLINA Disaster Number SC–20012]

Presidential Declaration of a Major Disaster for the State of South Carolina

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of South Carolina (FEMA–4829–DR), dated September 29, 2024.

DATES: Issued on September 29, 2024.

Physical Loan Application Deadline Date: November 29, 2024.

Economic Injury (EIDL) Loan Application Deadline Date: June 30, 2025.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on September 29, 2024, applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955 for further assistance.

Incident: Hurricane Helene.

Incident Period: September 25, 2024 and continuing.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Aiken, Anderson, Bamberg, Barnwell, Cherokee, Greenville, Greenwood, Lexington, Newberry, Oconee, Pickens, Saluda, Spartanburg.

Contiguous Counties (Economic Injury Loans Only):

South Carolina: Abbeville, Allendale, Calhoun, Colleton, Edgefield, Fairfield, Hampton, Laurens, McCormick, Orangeburg, Richland, Union, York.

Georgia: Burke, Elbert, Franklin, Habersham, Hart, Rabun, Richmond, Stephens.

North Carolina: Cleveland, Henderson, Jackson, Macon, Polk, Rutherford, Transylvania.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.625
Homeowners without Credit Available Elsewhere	2.813
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.250
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.250

The number assigned to this disaster for physical damage is 207038 and for economic injury is 207040.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Deputy Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–22949 Filed 10–3–24; 8:45 am]

BILLING CODE 8026–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36805]

Delmarva Central Railroad Company—Acquisition Exemption—Line of The Maryland and Delaware Railroad Company

Delmarva Central Railroad Company (DCR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR part 1150.41 to acquire from The Maryland and Delaware Railroad Company (MDDE) an approximately 3.0-mile rail line known as the Snow Hill North Line, extending between the connection with DCR at milepost 39.0 at Frankford, Del., and milepost 42.0 immediately south of Fava Road at Selbyville, Del. (the Line).

The verified notice states that Carload Express, Inc. (the parent company of DCR), Old Line Holding Company, Inc. (the parent company of MDDE), and MDDE have entered into a purchase agreement dated August 1, 2024, pursuant to which the Line will be acquired by DCR as a designated corporate affiliate of Carload Express. DCR states that it will operate the Line as an extension of its existing rail line to Frankford from Harrington, Del.[1]

DCR certifies that its projected annual revenues as a result this transaction will not result in the creation of a Class II or Class I rail carrier. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed $5 million, it must, at least 60 days before the exemption is to become effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. On August 20, 2024, DCR certified that it posted the required 60-day notice at the workplaces of current MDDE employees who work on the Line.[2]

DCR also certifies that the proposed acquisition and operation of the Lines does not involve a provision or agreement that may limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after October 20, 2024, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than October 11, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36805, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on DCR's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to DCR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: September 30, 2024.

By the Board, Valerie O. Quinn, Acting Director, Office of Proceedings.

Stefan Rice,

Clearance Clerk.

[FR Doc. 2024–22951 Filed 10–3–24; 8:45 am]

BILLING CODE 4915–01–P

[1] According to DCR, the purchase agreement further provides that, after DCR's acquisition of the Line, Carload Express, Inc., will file for Board authority to control MDDE, and Old Line Holding Company, Inc., will file for Board authority to acquire from MDDE the ''Snow Hill South Line,'' which extends south from milepost 42.0 at Selbyville.

[2] According to the verified notice, MDDE employees are not represented by any labor union.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2024–0640]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: National Airspace System Data Release Request

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 8, 2024. The collection is a request form, and collection frequency is on occasion, depending on how often requests for National Airspace System (NAS) data are submitted to the FAA. The information to be collected will be used to evaluate the validity of a user's request for NAS data from FAA systems and equipment.

DATES: Written comments should be submitted by November 4, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Heron by email at: *david.m.heron.@faa.gov;* phone: 202–267–8448.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0668.

Title: NAS Data Release Request.

Form Numbers: FAA Form 1200–5.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 8, 2024 (89 FR 16813).

This information collection is required to obtain or retain a benefit, which is to obtain NAS data from the FAA. This submission includes information about the entity requesting the NAS data to determine their rationale for making the NAS data request, details on the intended use of the NAS data requested, whether the request includes sensitive flight data elements, and the scope and nature of the work each specific individual will perform who is requesting access to the requested NAS data. These details are necessary to establish the requestor's ''need to know'' basis as part of NAS Data Release evaluation process. The information provided by the requestor is used by the FAA NAS Data Release Board (NDRB) to approve or disapprove individual requests for NAS data, consistent with FAA Order 1200.22E External Requests for National Airspace System (NAS) Data.

Respondents: Approximately 9 requests submitted annually to the FAA by requestors of NAS data.

Frequency: On occasion.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: 9 hours total.

Issued in Washington, DC, on October 1, 2024.

Jack Morris,

Group Manager, Strategic Operations Security, AJR–22.

[FR Doc. 2024–23007 Filed 10–3–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2024–0007]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) summarized below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before December 3, 2024.

ADDRESSES: Written comments and recommendations for the proposed ICR should be submitted on *https://www.regulations.gov/* to the docket, Docket No. FRA–2024–0007. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number (2130–0615) in any correspondence submitted. FRA will summarize comments received in a subsequent 30-day notice.

FOR FURTHER INFORMATION CONTACT: Ms. Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908, or Ms. Arlette Mussington, Information Collection Clearance Officer, at email: *arlette.mussington@dot.gov* or telephone: (571) 609–1285.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, comments received will advance three objectives: (1) reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Grants Management Requirements for Federal Railroad Administration. Grant Awards and Cooperative Agreements.

OMB Control Number: 2130–0615.

Abstract: FRA solicits grant applications through a multitude of grant programs for projects including, but not limited to, preconstruction planning activities, safety improvements, congestion relief, improvement of grade crossings, rail line relocation, as well as projects that encourage development, expansion, and upgrades to passenger and freight rail infrastructure and services. FRA funds projects that meet FRA and government-wide evaluation standards and align with the DOT Strategic Plan.

FRA requires systematic and uniform collection and submission of information, as approved by OMB, to ensure accountability of Federal assistance provided by FRA. Through this information collection, FRA will measure Federal award recipients' performance and results, including expenditures in support of agreed-upon activities and allowable costs outlined in the standard FRA Notice of Grant Award sent to the recipients.

This information collection includes OMB-required reports and documentation, as well as additional forms and submissions to compile data relevant to addressing FRA's important policy challenges, promoting cost-effectiveness in FRA programs, and providing effective oversight of programmatic and financial performance. FRA issues and manages awards in compliance with 2 CFR part 200; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Specifically, FRA is proposing to add one new form; revise two existing forms; and discontinue a form that is no longer required, as outlined below. Additionally, to conform with FRA's policy and Forms Management Program,[1] the required prefix, ''6180'', is being added to the form number of all existing FRA forms that are included in this information collection, with the exception of FRA F 33.[2] This change complies with the formatting requirement issued by FRA Order 1322.1A that all required public forms include the number 6180 as a prefix as part of the form number.

FRA is proposing to add new form, FRA F 6180.288 titled, Pre-Award Authority Request Form. Currently, FRA accepts requests for pre-award authority via a letter from the award recipient. The purpose of FRA F 6180.288 is to allow recipients who would like to incur eligible pre-award costs to request pre-award authority from FRA by submitting a standardized form. This form streamlines the information collection processes and FRA's subsequent review of the request. The form also directs the recipient to confirm that they understand pre-award costs are considered at-risk until the grant agreement has been executed, and that FRA will authorize such pre-award costs only to the extent they are allowable under the terms of the grant agreement.

FRA is updating existing FRA F 6180.31 Grant Adjustment Request Form (GARF) to make the following edits: The term ''Grantee'' has been changed to ''Recipient''. On page 1, the first use of ''NGA'' has been defined (Notice of Grant Award). At the top of page 3—changing ''regional manager ''to ''project manager''; page 5.—box F, the prompt has been updated to, ''If this is an OST program (*e.g.,* INFRA, MEGA, RAISE), has OST approved the adjustment? If no, do not proceed until you have obtained OST approval''; added ''N/A'' checkbox; changed footer date to ''(03/2023)''; an ''N/A'' checkbox was added; and page 5, Section V, a financial field has been added next to ''If yes, denote the amount of needed Federal funds:'', and changed the first signature required on top of page 6 from ''RFM'' to ''RCFO''. These revisions are all items that FRA completes, and not the recipient.

FRA is updating existing form FRA F 6180.34 Quarterly Progress Report with the following edits: Added a certification checkbox after Field 10 for the grantee to mark. The updated FRA F 6180.34 also removes questions 11, 19, 20, 21, 22, 23, 24, 26a, and 26b.

In addition, FRA is requesting to discontinue the use of FRA F 6180.35 Grant Application Form. After careful review, FRA has determined that this form has not been used in several years and applications are currently received by SF–424 Application for Federal Assistance. Continuing to use FRA F 6180.35 creates duplicative burden for applicants.

In this 60-day notice, FRA has made program changes and adjustments that have decreased the previously approved burden hours from 31,811 hours to 28,869 hours. Additional grant funding authorized by the Bipartisan Infrastructure Law (BIL) has significantly increased grant applications and FRA has made adjustments that more accurately reflect the estimated number of submissions over this three-year collection period. These adjustments, and the proposed new form, FRA F 6180.288 Pre-Award Authority Request, created an increase in burden hours of 5,558 hours, however the discontinuance of FRA F 6180.35 Grant Application Form reduced the burden by 8,500 hours. This resulted in an overall reduction in burden of 2,942 hours.

Type of Request: Revision of a currently approved collection.

Form(s): FRA F 6180.30; FRA F 6180.31(revised); FRA F 6180.32; FRA F 6180.33; FRA F 6180.34 (revised); FRA F 6180.217; FRA F 6180.229; FRA F 6180.251; FRA F 6180.252; FRA F 6180.288 (new); SF 270; SF 424; SF 424A; SF 424B; SF 424C; SF 424D; SF 425; SF LLL.

Affected Public: Generally, includes States, local governments, and railroads.

Frequency of Submission: Varied; on occasion/monthly.

Reporting Burden:

Form name	Form No.	Grant activity/ Process	Respondent universe (A)	Average time per responses in hours (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C * wage rates) [3]
Application for Federal Assistance	SF 424	Application	1000	1.10	1,100	$50,391.00
Budget Information for Non-Construction Programs	SF 424A	Application	500	3.00	1,500	68,715.00
Assurances for Non-Construction Programs	SF 424B	Application	500	0.25	125	5,726.25
Budget Information for Construction Programs	SF 424C	Application	500	3.00	1,500	68,715.00
Assurances for Construction Programs	SF 424D	Application	500	0.25	125	5,726.25
Disclosure of Lobbying Activities	SF LLL	Application	1000	0.17	170	7,787.70
Applicant Financial Capability Questionnaire	FRA F 6180.251	Application	1000	2.00	2,000	91,620.00

[1] FRA 1322.1A (May 19, 2010).

[2] Updating this form with a 6180 prefix would create a duplication form number as FRA F 6180.33 is an existing public FRA form. To avoid duplication, FRA is not updating this form to include the 6180 prefix.

Form name	Form No.	Grant activity/ Process	Respondent universe (A)	Average time per responses in hours (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C * wage rates) [3]
FRA Assurances and Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters and Drug-Free Workplace Requirements.	FRA F 6180.30	Application	1000	0.25	250	11,452.50
Pre-Award Authority Request—Project Sponsors that wish to incur pre-award expenses can apply for pre-award authority. *(New Form).*	FRA F 6180.288	Pre-Award	100	3.00	300	13,743.00
Federal Financial Report [4] (SF 425; new awards)	SF 425	Awards & Maintenance.	500	1.50	750	34,357.50
Federal Financial Report [5] (SF 425; existing grantees).	SF 425	Awards & Maintenance.	864	1.50	1,296	59,369.76
Request for Advance or Reimbursement	SF 270	Awards & Maintenance.	860	1.00	860	39,396.60
Payment Summary Spreadsheet	SF 252	Awards & Maintenance.	860	0.50	430	19,698.30
Quarterly Progress Report [6] (FRA F 34; new awards) *Revised form.*	FRA F 6180.34	Awards & Maintenance.	500	2.00	1,000	45,810.00
Quarterly Progress Report [7] (FRA F 34; existing grantees) *Revised form.*	FRA F 6180.34	Awards & Maintenance.	864	2.00	1,728	79,159.68
Grant Adjustment Request Form (GARP) *Revised form.*	FRA F 6180.31	Awards & Maintenance.	212	1.00	212	9,711.72
Service Outcome Agreement (SOA) Annual Reporting.	FRA F 6180.32	Awards & Maintenance.	24	1.00	24	1,099.44
Certification of Compliance or Non-Compliance with Buy America Requirements for Steel, Iron, Construction Materials, and Manufactured Products being produced by Awardee (narrative request).	Narrative Request ...	Buy America Component.	15	4.00	60	2,748.60
Certification of Compliance with Buy America for Rolling Stock (narrative request).	Narrative Request ...	Buy America Component.	1	62.00	62	2,840.22
Waivers—Requests/Applications for Waivers, excluding FRA Form 229 (narrative request).	Narrative Request ...	Buy America Component.	15	80.00	1,200	54,972.00
NIST Manufacturing Extension Partnership Supplier Scouting—FRA—Item Opportunity Synopsis.	FRA F 6180.229	Buy America Component.	15	18.00	270	12,368.70
Awardee Investigations (including FRA initiated investigations).	Narrative Request ...	Buy America Component.	3	333.00	999	45,764.19
Awardee direct reply to FRA after request to conduct investigation of bidder/offeror (narrative request).	Narrative Request ...	Buy America Component.	2	1.00	2	91.62
Additional Documents to FRA from Awardee/Investigated Party (narrative request).	Narrative Request ...	Buy America Component.	1	4.00	4	183.24
Transmission of Awardee/Bidder/Offeror Reply to Petitioner (narrative request).	Narrative Request ...	Buy America Component.	1	4.00	4	183.24
Awardee/Investigated Bidder/Offeror response to Petitioner Comment (narrative request).	Narrative Request ...	Buy America Component.	1	8.00	8	366.48
Written request to FRA for information bearing on substance of investigation which has been submitted by petitioner, interested parties, or awardees (narrative request).	Narrative Request ...	Buy America Component.	1	4.00	4	183.24
Detailed Statement to FRA Regarding Confidentiality of Previously Submitted Information to Agency (narrative request).	Narrative Request ...	Buy America Component.	1	8.00	8	366.48
Awardee Determination to make award before resolution of investigation one of these sections specified reasons (narrative request).	Narrative Request ...	Buy America Component.	1	40.00	40	1,832.40
Notification to FRA by Awardee to make award during pendency of investigation (narrative request).	Narrative Request ...	Buy America Component.	1	1.00	1	45.81
Request to FRA for Reconsideration of Initial Decision by Party Involved in Investigations (narrative request).	Narrative Request ...	Buy America Component.	1	80.00	80	3,664.80
Pre-Award Audit (narrative request)	Narrative Request ...	Buy America Component.	1	33.00	33	1,511.73
Final Contract between Awardee and Bidder/Offeror (narrative request).	Narrative Request ...	Buy America Component.	1	16.00	16	732.96
Post Award Audit (narrative request)	Narrative Request ...	Buy America Component.	1	256.00	256	11,727.36
Rolling Stock Domestic Content Improvement Plans (narrative request).	Narrative Request ...	Buy America Component.	1	120.00	120	5,497.20
Categorical Exclusion Worksheet)	FRA F 6180.217	Awards & Maintenance.	75	156.00	11,700	535,977.00
Final Performance Report	FRA F 33	Closeout	79	8.00	632	28,951.92
Total [8]	.....	.....	11,001 responses	.....	28,869 hours	1,322,489

Total Estimated Annual Responses: 11,001.

Total Estimated Annual Burden: 28,869 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $1,322,489.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand

Deputy Chief Counsel.

[FR Doc. 2024–22953 Filed 10–3–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0073; Notice 1]

Comoto Holdings, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Comoto Holdings, Inc., (Comoto), has determined that certain Street & Steel Oakland motorcycle helmets do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 218, *Motorcycle Helmets.* On July 6, 2022, Comoto filed a noncompliance report and submitted a petition, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Comoto's petition.

DATES: Send comments on or before November 4, 2024.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Paloma Lampert, Safety Compliance Engineer, Office of Vehicle Safety Compliance, NHTSA, (202) 366–5299.

SUPPLEMENTARY INFORMATION:

I. *Overview:* Comoto determined that certain Street & Steel Oakland motorcycle helmets do not fully comply with paragraph S5.1(b) of FMVSS No. 218, *Motorcycle Helmets* (49 CFR 571.218).

Comoto filed a noncompliance report dated July 6, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Comoto petitioned NHTSA on July 6, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Comoto's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. *Equipment Involved:* Approximately 408 size XL Street & Steel Oakland motorcycle helmets, manufactured between August 1, 2021, and August 31, 2021, were reported by the manufacturer.

III. *Noncompliance:* Comoto explains that the noncompliance is that when the subject helmets are subjected to the low temperature conditioning procedure, as specified in paragraph S6.4.1(b), and then tested in accordance with paragraph S7.1, they do not meet the requirements provided in paragraph S5.1(b) of FMVSS No. 218. Specifically, Comoto found that during its own FMVSS No. 218 testing, a single helmet failed the impact attenuation dwell time requirement because a cumulative dwell time of 2.07 ms was measured during the second impact onto the flat anvil, at the right location of the helmet conditioned to the low temperature procedure.

IV. *Rule Requirements:* Paragraph S5.1(b), of FMVSS No. 218 includes the requirements relevant to this petition. Each helmet must meet the requirements of paragraph S5.1 when subjected to any conditioning procedure specified in S6.4.1(b) and tested in accordance with S7.1. When an impact attenuation test is conducted in accordance with paragraph S7.1, among other requirements, accelerations in excess of 200g shall not exceed a cumulative duration of 2.0 milliseconds

[3] The dollar equivalent cost is derived from the May 2022 Department of Labor, Bureau of Labor Statistics (BLS), using the median hourly wage rate for a Management Analyst 13–1111 of $45.81.

[4] An estimated 125 new awardees submit each quarter—125 × 4 = 500 respondents.

[5] An estimated 216 existing awardees submit each quarter—216 × 4 = 864 respondents.

[6] An estimated 125 new awardees submit each quarter—125 × 4 = 500 respondents.

[7] An estimated 216 existing awardees submit each quarter—216 × 4 = 864 respondents.

[8] Total cost equivalent was rounded.

V. *Summary of Comoto's Petition:* The following views and arguments presented in this section, ''V. Summary of Comoto's Petition,'' are the views and arguments provided by Comoto. They have not been evaluated by the Agency and do not reflect the views of the Agency. Comoto describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Comoto states that the subject noncompliance should be deemed inconsequential because the result was 2.07ms, which Comoto says is ''remarkably close to a PASS.'' Furthermore, Comoto states the same model and size helmets have met this requirement in prior years, as far back as December 2017.

Comoto concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject motorcycle helmets that Comoto no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motorcycle helmets under their control after Comoto notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2024–23011 Filed 10–3–24; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0077; Notice 2]

Michelin North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Michelin North America, LLC (MNA), has determined that certain Michelin Pilot Sport All Season 4 replacement passenger car tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles.* MNA filed a noncompliance report dated September 14, 2021. MNA subsequently petitioned NHTSA on September 30, 2021, and later supplemented the petition on September 30, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of MNA's petition.

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655–0547.

SUPPLEMENTARY INFORMATION:

I. Overview

MNA has determined that certain Michelin Pilot Sport All Season 4 replacement passenger car tires do not fully comply with the requirements of paragraph S5.5.4(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). MNA filed a noncompliance report dated September 14, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* MNA subsequently petitioned NHTSA on September 30, 2021, and later supplemented the petition on September 30, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of MNA's petition was published with a 30-day public comment period, on June 23, 2022, in the **Federal Register** (87 FR 37553). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2021–0077.''

II. Tires Involved

According to MNA approximately 3,589 Michelin Pilot Sport All Season 4, size 295/40ZR21 111Y XL, replacement passenger car tires, manufactured between October 7, 2020, and August 20, 2021, and sold in the United States and Canada were affected by the subject noncompliance. MNA says that of the 3,589 tires, 1,729 tires entered the U.S. market, 110 entered the Canadian market, and the remaining 1,750 were blocked in MNA's inventory control system to be repaired or scrapped. For the 110 tires that entered the Canadian market, the Agency cannot exempt MNA from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance for those tires. Therefore, the Agency's decision will only apply to the 1,729 tires that entered the U.S. market.

III. Noncompliance

MNA explains that the noncompliance was due to a mold error in which one sidewall, the serial sidewall, of the subject tires incorrectly states the maximum load range as required by paragraph S5.5.4(b) of FMVSS No. 139. Specifically, the subject tires were marked with a maximum load of 1,090 kg (1,433 lbs.) when the conversion of kilograms to pounds should have resulted in a maximum load of 1,090 kg (2,403 lbs.).

IV. Rule Requirements

Paragraph S5.5.4(b) of FMVSS No. 139 includes the requirements relevant to this petition. For passenger car tires, if the maximum inflation pressure of a tire is 240, 280, 300, 340, or 350 kPa, then each marking of the tire's maximum load rating in kilograms must be followed in parenthesis by the equivalent load rating in pounds, rounded to the nearest whole number.

V. Summary of MNA's Petition

The following views and arguments presented in this section, ''V. Summary of MNA's Petition,'' are the views and arguments provided by MNA and do not reflect the views of the Agency. MNA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety for the following reasons:

MNA asserts that although erroneously marked, the subject tires

were ''designed as a load index 111 tire, with a maximum load rating of 1090 kilograms, or 2,403 pounds.'' MNA says that the subject tires ''fully comply with Michelin performance requirements'' and with all applicable FMVSSs. According to MNA, other than the tire maximum load rating in pounds, the tires are correctly marked and ''provide both dealers and consumers with the necessary information to enable proper selection and application of the tires.'' MNA says that if a consumer were to go by the erroneous maximum load, in pounds, based on the markings on the tire, the tire would be put ''into service respecting a maximum load of 1,433 lbs., which is less than the actual designed maximum load of 2,403 lbs.''

MNA cites the following past inconsequentiality petitions NHTSA has granted that MNA claims are similar to the subject petition:

- Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance. *See* 78 FR 35357, June 12, 2013;
- The Goodyear Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance. *See* 70 FR 41254, July 18, 2005;
- Continental Tire North America Inc., Grant of Application for Decision of Inconsequential Noncompliance. *See* 70 FR 14748, March 23, 2005;
- Michelin North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance. *See* 69 FR 62511, October 26, 2004; and
- Bridgestone/Firestone, Inc., Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety. *See* 66 FR 57772, November 16, 2001.

MNA states that they have ''captured and retained'' a total of 1,750 tires with the intent to either repair or scrap them. MNA also states that they have corrected the tire specification drawing and updated the mold to reflect the correct maximum load in pounds.

MNA concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

On August 1, 2022, NHTSA requested that MNA provide documentation that the subject tires comply with the performance requirements and all other labeling requirements of FMVSS No. 139. MNA's response was received on September 30, 2022. MNA stated that the subject tires comply with the applicable performance requirements and provided documentation under request for confidential treatment in support. Additionally, MNA provided photographs to show that the subject tires comply with all of the necessary labeling requirements, with the exception of the load range marking.

VI. NHTSA's Analysis

NHTSA has evaluated the merits of the petition submitted by MNA and is granting MNA's request for relief from notification and remedy based on the following:

1. NHTSA has no basis to believe that the subject tires do not meet the performance and labeling requirements of FMVSS No. 139, with the exception of the load markings.

2. NHTSA agrees that if consumers were to follow the incorrect maximum loading value in pounds on the outboard sidewall of the tire, the tire would not be in overloaded condition. Additionally, the tires are marked with the correct load index, and the correct maximum loading values in kilograms on the outboard sidewall. Additionally, the inboard sidewall also contains the correct maximum loading values in both kilograms and pounds.

3. NHTSA believes that the incorrect maximum load values do not affect the ability of the manufacturer or consumer to identify the affected tires in the event of a recall.

The agency notes that the petitioner has provided citations to prior inconsequentiality determinations in support of the present request. The agency notes that inconsequentiality determinations are highly fact specific and as such should not be regarded as binding precedent.

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA finds that MNA has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, MNA's petition is hereby granted and MNA is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve tire distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2024–23016 Filed 10–3–24; 8:45 am]

BILLING CODE 4910–59–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 a vessel and persons whose property and interests in property have been unblocked and which have been removed from the Specially Designated Nationals and Blocked Persons List (SDN List).

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Compliance, tel.: 202–622–2490 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://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

A. On September 10, 2024, OFAC removed from the SDN List the vessel listed below, which was subject to prohibitions imposed pursuant to Executive Order 14024 of April 15, 2021, ''Blocking Property With Respect To Specified Harmful Foreign Activities

of the Government of the Russian Federation,'' 86 FR 20249, 3 CFR, 2021 Comp., p. 542 (Apr. 15, 2021) (E.O. 14024). On September 10, 2024, OFAC determined that circumstances no longer warrant the inclusion of the following vessel on the SDN List under this authority. This vessel is no longer subject to the blocking provisions of section 1(a) of E.O. 14024.

Vessel

1. FLYING FOX (ZGHN) Yacht 9,022GRT Cayman Islands flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; Vessel Registration Identification IMO 9829394; MMSI 319133800 (vessel) [RUSSIA–EO14024] (Linked To: IMPERIAL YACHTS SARL).

B. On September 10, 2024, OFAC removed from the SDN List the persons listed below, whose property and interests in property were blocked pursuant to E.O. 14024. On September 10, 2024, OFAC determined that circumstances no longer warrant the inclusion of the following persons on the SDN List under this authority. These persons are no longer subject to the blocking provisions of E.O. 14024.

Individual

1. RETTICH, Inga, Switzerland; Cyprus; DOB 06 Jul 1978; nationality Switzerland; Gender Female; Secondary sanctions risk: See Section 11 of Executive Order 14024. (individual) [RUSSIA–EO14024] (Linked To: BONUM CAPITAL CYPRUS LTD).

Entity

1. PROMINVESTBANK (a.k.a. COMMERCIAL INDUSTRIAL AND INVESTMENT BANK PUBLIC JOINT STOCK COMPANY; a.k.a. JOINT STOCK COMMERCIAL INDUSTRIAL AND INVESTMENT BANK PUBLIC JOINT STOCK COMPANY; a.k.a. PSC PROMINVESTBANK; a.k.a. PUBLIC STOCK COMPANY JOINT STOCK COMMERCIAL INDUSTRIAL AND INVESTMENT BANK), 12, Shevchenko lane, Kyiv 01001, Ukraine; SWIFT/BIC UPIBUAUX; website pib.ua; Executive Order 13662 Directive Determination—Subject to Directive 1; Organization Established Date 26 Aug 1992; Target Type Financial Institution; Registration Number 00039002 (Ukraine); All offices worldwide; for more information on directives, please visit the following link: *http://www.treasury.gov/resourcecenter/sanctions/Programs/Pages/ukraine*.aspx#directives. [UKRAINE–EO13662] (Linked To: STATE CORPORATION BANK FOR DEVELOPMENT AND FOREIGN ECONOMIC AFFAIRS VNESHECONOMBANK).

Dated: September 30, 2024.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2024–22954 Filed 10–3–24; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request on Distributions From an HSA, Archer MSA, or Medicare Advantage MSA

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information collection requirements related to distributions from an HSA, Archer MSA, or Medicare Advantage MSA.

DATES: Written comments should be received on or before December 3, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov*. Include OMB control number 1545–1517 or Distributions From an HSA, Archer MSA, or Medicare Advantage MSA, in the subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Distributions From an HSA, Archer MSA, or Medicare Advantage MSA.

OMB Number: 1545–1517.

Form Number: 1099–SA.

Abstract: Form 1099–SA is used to report distributions made from a health savings account (HSA), Archer medical savings account (Archer MSA), or Medicare Advantage MSA (MA MSA). The distribution may have been paid directly to a medical service provider or to the account holder. A separate return must be filed for each plan type.

Current Actions: There is no change to the form, however the agency has updated the estimated number of responses based on the most recent filing data. The agency estimates 7,958 less responses, decreasing overall burden by 1,114 hours.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 17,881.

Estimated Time per Response: 11 min.

Estimated Total Annual Burden Hours: 2,504 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall 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 to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 1, 2024.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2024–23013 Filed 10–3–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease of Department of Veterans Affairs Real Property for the Development of Permanent Supportive Housing at the Northern Arizona VA Health Care System, Prescott, Arizona Campus

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an Enhanced-Use Lease.

SUMMARY: The purpose of this **Federal Register** notice is to provide the public with notice that the Secretary of the Department of Veterans Affairs (VA) intends to enter into an Enhanced-Use Lease (EUL) of Buildings 5, 6, 7, 8, 9, and 10 on approximately 3.9 acres of underutilized land on the Prescott campus of the Northern Arizona VA Health Care System (VAHCS).

FOR FURTHER INFORMATION CONTACT: C. Brett Simms, Executive Director, Office of Asset Enterprise Management, Office of Management, 810 Vermont Avenue NW, Washington, DC 20420, 202–502–0262. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Pursuant to 38 U.S.C. 8161, *et seq.* as amended by Public Law 117–168, the Secretary of Veterans Affairs is authorized to enter into an EUL for a term of up to 99 years, that (a) provides supportive housing for Veterans and their families, or (b) enhances the use of the leased property by directly or indirectly benefitting Veterans. In addition, the EUL must not be inconsistent with and not adversely affect the mission of VA or the operation of VA's facilities, programs, and services in the area of the leased property. Consistent with this authority, the Secretary of Veterans Affairs intends to enter into an EUL for the purpose of outleasing Buildings 5, 6, 7, 8, 9, and 10 on approximately 3.9 acres of underutilized land on the campus of the Northern Arizona VAHCS, to develop approximately 103 units of supportive housing for Veterans and their families. The competitively selected EUL lessee/developer entity consisting of Gorman & Company and U.S.VETS will finance, design, develop, renovate, manage, maintain, and operate housing for eligible homeless Veterans or Veterans at risk of homelessness on a priority placement basis. In addition, the lessee/developer will be required to provide supportive services that guide Veteran residents towards long-term independence and self-sufficiency.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on September 26, 2024, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2024–22989 Filed 10–3–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that the National Research Advisory Council (NRAC) will hold a meeting on Wednesday, October 30, 2024, at 811 Vermont Avenue NW, Room 4042, Washington, DC 20420. A virtual attention option is available via Teams. The teleconference number is 1–872–701–0185, Phone Conference ID: 172 005 576# or the meeting link is: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_OWNhODZlODAtODE2MS00NGFiLTkyMjctZmE2OGQyNDFmMGMz%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%226f005f4f-99eb-4f67-8e59-6062b290a2c8%22%7d.*

The meeting will convene at 8:30 a.m. and end at 3:15 p.m. Eastern Standard Time. This meeting is open to the public and will include time reserved for public comment at the end of the meeting. The public comment period will be 30 minutes. Individual stakeholders will be afforded three to five minutes to express their comments.

The purpose of NRAC is to advise the Secretary on research conducted by the Veterans Health Administration, including policies and programs targeting the high priority of Veterans' health care needs.

On October 30, 2024, the agenda will include remarks from the VA Chief of Staff; an overview of the Office of Research and Development enterprise transformation; discussion of the administration transition, subcommittee updates (Sensitive Species, Air Force Health Study, and Diversity, Equity and Inclusion); an update on fiscal year (FY) 2024 NRAC Recommendation(s); a proposal for a new NRAC subcommittee: VA Research and Emerging Health System Priorities; a presentation on research affiliation agreements; an overview of NRAC FY 2024 Program Assessment and NRAC FY 2025 Ops Plan; a discussion of key areas of interest for NRAC in FY2025; and public comments.

Members of the public may submit written statements for review by the NRAC in advance of the meeting. Public comments may be received no later than *close of business October 18, 2024,* for inclusion in the official meeting record. Please send statements to Rashelle Robinson, Designated Federal Officer, Office of Research and Development (14RD), Department of Veterans Affairs, 811 Vermont Avenue NW, Washington, DC 20420, at 202–632.7351, or *Rashelle.robinson@va.gov.* Any member of the public seeking additional information should contact Rashelle Robinson at the above phone number or email address noted above.

Dated: October 1, 2024.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–23019 Filed 10–3–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0734]

Agency Information Collection Activity Under OMB Review: Report of General Information, Report of First Notice of Death, Report of Nursing Home or Assisted Living Information, Report of Defense Finance and Accounting Service (DFAS), Report of Non-Receipt of Payment, Report of Incarceration, Report of Month of Death

AGENCY: Veterans Benefits Administration (VBA), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. DATES: Comments must be received on or before December 3, 2024.

ADDRESSES: Comments must be submitted through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Nancy Kessinger, 202–461–8900, *nancy.kessinger@va.gov.*

VA PRA information: Maribel Aponte, 202–461–8900, *vacopaperworkreduact@va.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is

being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Report of General Information (VA Form 27–0820), Report of Death of First Notice of Death (VA Form 27–0820a), Report of Nursing Home and Assisted Living Information (VA Form 27–0820b), Report of Defense Finance and Accounting Service (DFAS) (VA Form 27–0820c), Report of Non-Receipt of Payment (VA Form 27–0820d), Report of Incarceration (VA Form 27–0820e), Report of Month of Death (VA Form 27–0820f).

OMB Control Number: 2900–0734. https://www.reginfo.gov/public/do/PRASearch (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Extension of a currently approved collection.

Abstract: The forms will be used by VA personnel to document verbal information obtained telephonically from claimants or their beneficiary. The data collected will be used as part of the evidence needed to determine the claimant's or beneficiary's eligibility for benefits.

Affected Public: Individuals and households.

Estimated Annual Burden: 212,500 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One Time.

Estimated Number of Respondents: 2,550,000.

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. 2024–23018 Filed 10–3–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans Rural Health Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10., that the Veterans Rural Health Advisory Committee will hold its face-to-face meeting at the American Legion Build, 1608 K St. NW, Washington, DC 20006 on Thursday, October 24, 2024. The meeting will convene at 8:00 a.m., Eastern Standard Time (EST) and adjourn at 5:30 p.m. EST. The meeting sessions are open to the public. Additionally, a meeting link is available for individuals who cannot attend in person and would like to join online. The meeting can be accessed through the *https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m362183abee8a40616be272e42b86ac9b* or by telephone, +1–404–397–1596, Conference ID 2820 022 4291.

The purpose of the Committee is to advise the Secretary of VA on rural health care issues affecting Veterans. The Committee examines programs and policies that impact the delivery of VA rural health care to Veterans and discusses ways to improve and enhance VA access to rural health care services for Veterans.

The agenda will include updates from Department leadership; the Executive Director, VA Office of Rural Health; and the Committee Chair; as well as presentations by subject-matter experts on general rural health care access.

Time will be allocated for receiving public comments on October 24, 2024, at 5:00 p.m. EDT. Interested parties should contact Mr. Paul Boucher, by email at *paul.boucher@va.gov,* at (207) 458–7129, or send by mail to 810 Vermont Avenue NW (12RH), ATTN: VRHAC Committee, Washington, DC 20420 no later than close of business on October 14, 2024. Individuals wishing to speak are invited to submit a 1–2-page summary of their comment for inclusion in the official meeting record no later than close of business on October 14, 2024. Any member of the public seeking additional information should contact Mr. Boucher at the email address noted above or 207–458–7129.

Dated: September 25, 2024.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–22449 Filed 10–3–24; 8:45 am]

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Federal Register

Vol. 89, No. 193

Friday, October 4, 2024

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

170 79731
184 79731
200 79731
300 80055

3 CFR

Proclamations:
10773 (amended by Proc. 10817) 80351
10817 80351
10818 80355
10819 80357
10820 80359
10821 80361
10822 80363
10823 80365
10824 80367
10825 80369
10826 80371
10827 80375
10828 80377

Executive Orders:
14127 80345

7 CFR

2 80073
305 79733
319 79733

10 CFR

2 80715

Proposed Rules:
51 80797

12 CFR

201 80075
Ch. X 80075
1006 80715

Proposed Rules:
375 80135
1227 79785
1277 80422

13 CFR

120 79734

14 CFR

1 80310
11 ..... 80020, 80310
39 ..... 80077, 80379, 80724, 80729, 80734
61 ..... 80020, 80310
63 80020
65 80020
71 ..... 80382, 80383, 80739
91 ..... 80310, 80384
97 ..... 79741, 79742
141 80020

Proposed Rules:
39 ..... 79789, 80155, 80427, 80827
71 ..... 79792, 80157, 80430, 80432, 80433
259 80435
261 80435

15 CFR

748 80080

16 CFR

Proposed Rules:
1240 80159
1421 80831

18 CFR

Proposed Rules:
40 79794

27 CFR

Proposed Rules:
24 80160

31 CFR

587 ..... 80740, 80741, 80742

32 CFR

49 80390

Proposed Rules:
220 79804

33 CFR

100 80396
165 ..... 80093, 80396, 80398, 80400, 80742, 80743

Proposed Rules:
117 80436

37 CFR

42 79744
201 80743
229 80743

38 CFR

Proposed Rules:
3 79815
81 80172

40 CFR

52 ..... 79752, 80402, 80745, 80749
170 80767
281 79756
282 ..... 79756, 80788

Proposed Rules:
51 80833
52 ..... 79828, 80439, 80445
180 80446
281 79850
282 ..... 79850, 80853

42 CFR

38 80055

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *https://www.archives.gov/federal-register/laws/current.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text is available at *https://www.govinfo.gov/app/collection/plaw*. Some laws may not yet be available.

S. 1549/P.L. 118–104
Congressional Budget Office Data Access Act (Oct. 2, 2024; 138 Stat. 1586)

S. 2228/P.L. 118–105
Building Chips in America Act of 2023 (Oct. 2, 2024; 138 Stat. 1587)

Last List October 3, 2024

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