FEDERAL REGISTER

Vol. 88 Wednesday,
No. 200 October 18, 2023

Pages 71725–71986

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 88 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–09512—1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:	
Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Contents

Federal Register

Vol. 88, No. 200

Wednesday, October 18, 2023

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.

3 CFR

Proclamations:

10653.....71725
10654.....71727
10655.....71729

5 CFR

2424.....71731

7 CFR

407.....71731
457.....71731

10 CFR

Proposed Rules:

50.....71777
52.....71777
100.....71777

14 CFR

39.....71733
71.....71735

Proposed Rules:

39.....71778
71 (4 documents) 71781, 71783, 71784, 71786

15 CFR

734.....71932
740.....71932
742.....71932
772.....71932
774.....71932

21 CFR

630.....71736
640.....71736

22 CFR

171.....71737

33 CFR

100 (2 documents) 71754, 71755

37 CFR

Proposed Rules:

202.....71787

40 CFR

52.....71757
241.....71761

Proposed Rules:

139.....71788

50 CFR

679 (2 documents) 71775

Proposed Rules:

622.....71812

Federal Register
Vol. 88, No. 200
Wednesday, October 18, 2023

Presidential Documents

Title 3—

The President

Proclamation 10653 of October 13, 2023

National Character Counts Week, 2023

By the President of the United States of America

A Proclamation

Whenever the First Lady and I travel across America, we witness both the incredible diversity of our country and the essential qualities that hold us all together. Americans possess an optimism that is tested yet resolute; a courage that digs deep when we need it the most; and an unshakable faith in one another, our Nation, and the future we can build together. During National Character Counts Week, we recognize the extraordinary character that resides in the soul of every American and the collective power we wield when we embrace one of our country's most fundamental principles: E pluribus unum—Out of many, one.

Every day, Americans prove that we are a good Nation because we are good people. I have seen firsthand the incredible character of firefighters, police officers, service members, and their families, each of whom sacrifice every day to protect the rest of us. I have seen that very character in nurses and doctors, who are a source of light and hope for so many enduring hard times. I have seen it in artists, scholars, and journalists, who dare to tell the truth of our Nation. I have seen it in the union workers, who fight to make sure all of us get the dignity and respect we deserve. I have seen it in mothers, fathers, and caregivers, who work hard to build a future worthy of their children's greatest dreams. I have seen it in all the teachers who go above and beyond to help students believe in themselves. I have seen it in our country's young people—the most talented, tolerant, and educated generation in history.

Americans with exemplary character abound in our Nation. That is why I have never doubted that America can do great things when we work together. In my first State of the Union Address, I proposed a Unity Agenda that outlined four problems we can solve together as a Nation: beating the opioid epidemic, tackling the mental health crisis, supporting our veterans and their families, and ending cancer as we know it. We have made real progress. Together, we passed a law making it easier for doctors to prescribe effective treatments for opioid use disorder. We passed the Bipartisan Safer Communities Act, making historic changes to gun safety laws and key investments in mental health services. We launched Advanced Research Project Agencies for Health (ARPA–H) to drive breakthroughs in the fight against cancer, Alzheimer's, diabetes, and so much more. We passed the Sergeant First Class Heath Robinson Honoring our PACT Act to ensure that veterans exposed to toxic substances during their military service get the benefits and care they deserve and never have to fight alone.

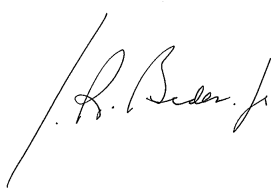
While we have made strides to unite the Nation around common causes, we have also made it a priority to fight back against forces that divide us and to remove obstacles that limit Americans' ability to realize their full potential. We hosted the ''United We Stand'' Summit at the White House, where we reaffirmed our commitment to fighting hate and racism and announced new measures to make sure hate has no safe harbor in America. We released a national strategy to end hunger and reduce diet-related disease by 2030, a moral duty we all share. No matter what we are working toward—whether it is addressing the climate crisis, reducing

the cost of health care, or rebuilding our economy—respecting the character and dignity of the American people is at the heart of everything we do.

I have often said that America is the only Nation in the world founded on an idea: that we are all created equal and deserve to be treated equally throughout our lives. Though we have never fully lived up to this promise, our national character has ensured we have never fully walked away from it either. Today of all days, let us remember that character is destiny—in our lives and in the life of the Nation—and that the soul of America depends on the souls of all Americans. As we reflect on the very best of our Nation's character, may we recommit to lifting each other up and working together to form a more perfect Union.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 15 through October 21, 2023, as National Character Counts Week. Now and throughout the year, I encourage all Americans to engage in efforts that honor and express the best attributes of our character, extend the hand of fellowship to their neighbors, and unite in service to their communities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-eighth.



[FR Doc. 2023–23097
Filed 10–17–23; 8:45 am]
Billing code 3395–F4–P

Presidential Documents

Proclamation 10654 of October 13, 2023

National Forest Products Week, 2023

By the President of the United States of America

A Proclamation

For generations, America's forests have been a source of recreation and relaxation for millions of people; a sacred place for Tribal ceremonies and cultural practices; and a source of livelihood for foresters, loggers, mill workers, carpenters, Tribes, local communities, and others who rely on forest products and healthy forest ecosystems to support themselves, their families, and their communities. This National Forest Products Week, my Administration recommits to conserving our beautiful forests. When we responsibly steward the abundant renewable resources found in our Nation's forestlands, we not only protect the environment but also support a critical pillar of our economy that uplifts communities across America.

From lumber and paper to clean water and fresh air, we depend on our forests to protect our environment and fuel our economy. But our forests—and the jobs and livelihoods of those who work in them—are endangered by a range of risks, including the existential threat of climate change. Extreme heat, more intense droughts, and decades of poor forest management have turned wildfire season into wildfire years—destroying countless acres of forestland and spreading smoky haze across our country.

From day one, my Administration has been committed to maintaining the health, diversity, and productivity of our forests. In my first week as President, I signed an Executive Order establishing the ''America the Beautiful'' Initiative—our country's first-ever national conservation goal—committing to conserve at least 30 percent of all our Nation's lands and waters by 2030 through voluntary, locally-led efforts across the country. Keeping foresters and farmers working across our country in a sustainable manner is central to this initiative.

We are building on these successes with my Investing in America Agenda. Through the Bipartisan Infrastructure Law, we are making our forests and our communities more resilient by removing overgrown vegetation from land near homes and power lines, improving evacuation routes in areas susceptible to wildfires, and finding and removing invasive species that can cause fires to spread more easily. With historic funding from the Inflation Reduction Act—the largest climate investment in the history of the world—for tree planting, sustainable forest management, and fire prevention, we are reducing the effects of climate change on our forests. I am proud to have increased the Federal firefighter minimum wage to $15 an hour—a critical first step in giving these heroes the pay, respect, and dignity they deserve.

My Administration is also working to create more opportunities for producers of American forest products. With a combination of funding from the Bipartisan Infrastructure Law and the Inflation Reduction Act, my Administration is supporting American businesses that advance forest conservation and create jobs—awarding millions of dollars through the Wood Innovations, Community Wood, and Wood Products Infrastructure Assistance grant programs. These initiatives are expanding the sustainable and innovative use of American wood products and wood waste materials to produce renewable

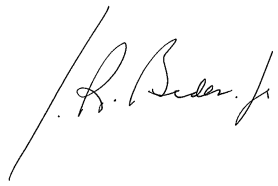
energy, strengthening emerging wood markets, and supporting sustainable forest management.

Our Nation's majestic forests are at the heart of who we are as Americans, connecting us to something bigger than ourselves. Conserving them not only sustains a vital part of our country's economy but also preserves a key part of the American story for future generations. During National Forest Products Week, my Administration recommits to safeguarding and stewarding our precious forests so that we, our children, and our grandchildren can enjoy them for many years to come.

To recognize the importance of the many products generated by our Nation's forests, the Congress, by Public Law 86–753 (36 U.S.C. 123), as amended, has designated the week beginning on the third Sunday in October of each year as ''National Forest Products Week'' and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 15 through October 21, 2023, as National Forest Products Week. I call upon the people of the United States to join me in this observance and in recognizing all Americans who are responsible for the stewardship of our Nation's beautiful forested landscapes.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-eighth.



[FR Doc. 2023–23098
Filed 10–17–23; 8:45 am]
Billing code 3395–F4–P

Presidential Documents

Proclamation 10655 of October 13, 2023

Blind Americans Equality Day, 2023

By the President of the United States of America

A Proclamation

On Blind Americans Equality Day, my Administration celebrates the contributions that people who are blind or low vision have made to our country, and we recommit to creating a more accessible Nation where everyone has the opportunity to realize their full potential.

More than 33 years ago, the United States Congress passed the Americans with Disabilities Act, a landmark civil rights law that banned discrimination against people with disabilities in many areas of public life. I was proud to co-sponsor that historic bill as a United States Senator, and I am proud of its lasting impact today.

Despite the progress we have made, we have more work to do to uphold the rights of Americans with visual disabilities. Less than half of blind or low vision Americans are employed. Public services—including online resources—are often designed in ways that make them inaccessible to this community. These are but a few of the many obstacles blind and low vision Americans still face.

As President, I have made it a priority to end discrimination, increase independence, and expand opportunity for everyone, including Americans who are blind or low vision. Soon after taking office, I issued an Executive Order to establish a Government-wide policy of diversity, equity, inclusion, and accessibility in the workplace to promote fairness in the labor market for Americans with disabilities. This Executive Order directs agencies to find and remove barriers to hiring and promotion for job applicants and employees who are disabled. Further, my Administration ended the practice of paying people employed through the AbilityOne Commission—which creates opportunities for people who are blind or have significant disabilities—less than minimum wage. I have also named the first-ever White House Disability Policy Director, whose team is working every day to defend and advance the rights of Americans with disabilities. I awarded José Feliciano the National Medal of Arts, recognizing his immense contributions as a guitarist and pioneering artist who has bridged cultures and styles, won Grammy Awards, and opened doors for generations of Latino artists and the heart of our Nation.

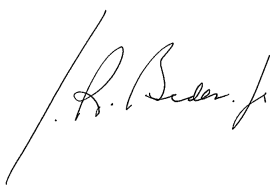
My Administration has also taken steps to increase accessibility for blind and low vision Americans. Through the Bipartisan Infrastructure Law, we are reducing the barriers that blind Americans face in their daily lives by investing $1.75 billion to improve the accessibility of transit stations across America. Under my direction, the Department of Transportation is working to expand access to transportation for people with disabilities. Meanwhile, the Department of Justice has proposed a new rule that would make State and local governments' web and mobile apps more accessible, enabling those who are blind or low vision to access critical online resources. Additionally, the National Institutes of Health designated people with disabilities as a population with health disparities, which will encourage research specific to the health issues and unmet health needs for blind and low vision Americans. I am also proud to have secured billions of dollars to expand educational opportunities for students with disabilities.

This Blind Americans Equality Day, let us rededicate ourselves to defending and strengthening the rights of blind and low vision Americans so each and every person in our Nation has the chance to achieve the American Dream.

By joint resolution approved on October 6, 1964 (Public Law 88–628, as amended), the Congress authorized October 15 of each year as ''White Cane Safety Day,'' which is recognized today as ''Blind Americans Equality Day,'' to honor the contributions of blind and low vision Americans.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 15, 2023, as Blind Americans Equality Day. I call upon all the people of the United States—including all government officials, educators, and volunteers—to mark this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-eighth.



[FR Doc. 2023–23099
Filed 10–17–23; 8:45 am]
Billing code 3395–F4–P

Rules and Regulations

Federal Register
Vol. 88, No. 200
Wednesday, October 18, 2023

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2424

Negotiability Proceedings; Correction

AGENCY: Federal Labor Relations Authority.

ACTION: Correcting amendment.

SUMMARY: The Federal Labor Relations Authority is correcting its regulations regarding negotiability proceedings.

DATES: Effective October 18, 2023.

FOR FURTHER INFORMATION CONTACT: Thomas Tso at *ttso@flra.gov* or at (771) 444–5779.

SUPPLEMENTARY INFORMATION: In FR Doc. 2023–19269, appearing in the **Federal Register** of Tuesday, September 12, 2023, on page 62445, instruction 10 revised paragraphs (a) through (c) of § 2424.25, but regulatory text was set out for paragraphs (a) through (d). The revision of paragraph (d) wasn't incorporated into the CFR because it wasn't included in the instruction. This correcting amendment revises paragraph (d) of § 2424.25.

List of Subjects in 5 CFR Part 2424

Administrative practice and procedure, Government employees, Labor management relations.

For the reasons set out in the preamble, the Federal Labor Relations Authority corrects 5 CFR part 2424 by making the following correcting amendment:

PART 2424—NEGOTIABILITY PROCEEDINGS

■ 1. The authority citation for part 2424 continues to read as follows:

Authority: 5 U.S.C. 7134.

■ 2. Amend § 2424.25 by revising paragraph (d) to read as follows:

§ 2424.25 Response of the exclusive representative; purpose; time limits; content; severance; service.

* * * * *

(d) *Severance.* The exclusive representative may, of its own accord, accomplish the severance of a previously submitted proposal or provision. To accomplish severance, the exclusive representative must identify the proposal or provision that the exclusive representative is severing and set forth the exact wording of the newly severed portion(s). Further, as part of the exclusive representative's explanation and argument about why the newly severed portion(s) are within the duty to bargain or not contrary to law, the exclusive representative must explain how the severed portion(s) stand alone with independent meaning, and how the severed portion(s) would operate. The explanation and argument in support of the severed portion(s) must meet the same requirements for specific information set forth in paragraph (c) of this section, and must satisfy the exclusive representative's burdens under § 2424.32.

* * * * *

Dated: October 13, 2023.

Rebecca J. Osborne,

Director of Legislative Affairs and Program Planning.

[FR Doc. 2023–22975 Filed 10–17–23; 8:45 am]

BILLING CODE 7627–01–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 407 and 457

[Docket ID FCIC–23–0006]

RIN 0563–AC83

Transparency in Policy Cancellations

AGENCY: Federal Crop Insurance Corporation, U.S. Department of Agriculture (USDA).

ACTION: Final rule; technical amendment; request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) is making a technical amendment to its regulations by clarifying that an Approved Insurance Provider (AIP) may only cancel a crop insurance policy (policy) with express written consent from FCIC. This requirement is already binding in the Standard Reinsurance Agreement (SRA), which establishes the terms under which FCIC provides reinsurance and subsidies on eligible crop insurance policies sold by AIPs. By adding the same conditions to the regulation as are in the policy between the AIP and the producer, it provides greater transparency to producers about the existing rights in their policy. The changes to the crop insurance policies resulting from the amendments in this rule are applicable for the 2024 and succeeding crop years for crops with a contract change date on or after November 30, 2023. For all other crops, the changes to the crop insurance policies made in this rule are applicable for the 2025 and succeeding crop years.

DATES:

Effective date: This final rule is effective November 30, 2023.

Comment date: We will consider comments that we receive by the close of business December 18, 2023. FCIC will consider the comments received and may conduct additional rulemaking in the future based on the comments.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by going through the Federal eRulemaking Portal as follows:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FCIC–23–0006. Follow the instructions for submitting comments.

All comments will be posted without change and will be publicly available on *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Francie Tolle; telephone (816) 926–7829; or email *francie.tolle@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice) or (844) 433–2774 (toll-free nationwide).

SUPPLEMENTARY INFORMATION:

Background

The Risk Management Agency (RMA) administers the FCIC regulations. FCIC serves America's agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. The AIPs sell and service Federal crop insurance policies in every State through a public-private partnership.

SRA is a cooperative financial assistance agreement between FCIC and an AIP. AIPs are bound by the SRA terms in administering Federal crop insurance policies with insured producers. FCIC is making a technical amendment for a conforming change in the regulations for consistency with an SRA requirement.

In this rule, FCIC amends the Area Risk Protection Insurance (ARPI) Basic Provisions (7 CFR part 407) and the Common Crop Insurance Policy (CCIP) Basic Provisions (7 CFR 457.8). The technical amendments made by this rule are applicable for the 2024 and succeeding crop years for crops with a contract change date on or after November 30, 2023. For all other crops, the changes to the policy made in this rule are applicable for the 2025 and succeeding crop years.

FCIC is clarifying that an AIP may only cancel a policy with express written consent from FCIC in the CCIP and ARPI Basic Provisions. The SRA prohibits any AIP from cancelling an eligible crop insurance policy held by a producer so long as the producer remains eligible and the AIP continues to write eligible crop insurance contracts within the State, except as authorized by FCIC. However, language in the regulations for ARPI and CCIP Basic Provisions requires a conforming change to be clear so that insured producers will be fully aware of their protection from unauthorized AIP cancellations, which already exists in the SRA terms.

The language in the ARPI and CCIP Basic Provisions only specified the deadline for cancellations (that is, by the cancellation date), but did not specify any allowable conditions for cancellation.

FCIC is making conforming changes in the regulations for ARPI and CCIP Basic Provisions to be consistent with existing SRA terms regarding the policy cancellation requirements to be transparent for the producer.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and 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 Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone). Additionally, program information may be made available in languages other than English.

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.

List of Subjects

7 CFR Part 407

Acreage allotments, Administrative practice and procedure, Barley, Corn, Cotton, Crop insurance, Peanuts, Reporting and recordkeeping requirements, Sorghum, Soybeans, Wheat.

7 CFR Part 457

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, FCIC amends 7 CFR parts 407 and 457, effective for the 2024 and succeeding crop years for crops with a contract change date on or after November 30, 2023, and for the 2025 and succeeding crop years for all other crops, as follows:

PART 407—AREA RISK PROTECTION INSURANCE REGULATIONS

■ 1. The authority citation for part 407 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

■ 2. In § 407.9, section 2, revise paragraph (i) to read as follows:

§ 407.9 Area Risk Protection Insurance Regulations.

* * * * *

2. Life of Policy, Cancellation, and Termination

* * * * *

(i) You may cancel this policy after the initial crop year by providing written notice to us on or before the cancellation date shown in the Crop Provisions. We may cancel this policy with express written consent from FCIC.

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 3. The authority citation for part 457 is revised to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

■ 4. In § 457.8, section 2, revise paragraph (d) to read as follows:

§ 457.8 The application and policy.

* * * * *

2. Life of Policy, Cancellation, and Termination

* * * * *

(d) You may cancel this policy after the initial crop year by providing written notice to us on or before the cancellation date shown in the Crop

Provisions. We may cancel this policy with express written consent from FCIC.

* * * * *

Marcia Bunger,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2023–22964 Filed 10–17–23; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1503; Project Identifier AD–2023–00197–A; Amendment 39–22566; AD 2023–20–07]

RIN 2120–AA64

Airworthiness Directives; Epic Aircraft, LLC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Epic Aircraft, LLC Model E1000 airplanes. This AD was prompted by improperly rigged flap position switches. This AD requires installing a secondary full position limit switch to the flap system, installing a switch ramp on the flap actuator, and modifying the take-off position switch rigging. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 22, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 22, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1503; 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 service information identified in this final rule, contact Epic Aircraft, LLC, 22590 Nelson Road, Bend, OR 97701; phone: (541) 639–4603; email: *info@epicaircraft.com;* website: *epicaircraft.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. 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–2023–1503.

FOR FURTHER INFORMATION CONTACT: Anthony Caldejon, Aviation Safety Engineer, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712; phone: (206) 231–3534; email: *anthony.v.caldejon@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 Epic Aircraft, LLC Model E1000 airplanes. The NPRM published in the **Federal Register** on July 21, 2023 (88 FR 47084). The NPRM was prompted by a report that during a production ground test, the flap position switches were not properly rigged and allowed the actuator to travel beyond the commanded flaps' full (fully extended) position. The flap actuator could overrun the flaps' fully extended position if the full position microswitch is either missing or not rigged properly, resulting in an uncertified flap configuration. This condition, if not addressed, could result in loss of control of the airplane.

In the NPRM, the FAA proposed to require installing a secondary full position limit switch to the flap system, installing a switch ramp on the flap actuator, and modifying the take-off position switch rigging.

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

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

The FAA reviewed the relevant data 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. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Epic Aircraft Service Bulletin SB–0034, Revision B, issued December 22, 2022. This service information specifies procedures for installing a secondary full position limit switch to the flap system to prevent over-travel. This service information also specifies procedures for installing a switch ramp on the flap actuator to improve reliability and modifying the take-off position switch rigging. In addition, this service information specifies procedures for checking the flap-to-wing clearances, adjusting clearances as needed, and contacting Epic Aircraft if clearance and travel limits cannot be met. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Differences Between This AD and the Service Information

The service information specifies contacting the manufacturer if the clearance and travel limits are exceeded during the check of the flap-to-wing clearances, but this AD does not require that action. This AD requires adjusting the flap-to-wing clearances until they do not exceed the specified travel limits.

Costs of Compliance

The FAA estimates that this AD affects 29 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
Install a secondary full position limit switch to the flap system.	1 work-hour × $85 per hour = $85	$587	$672	$19,488
Install a switch ramp on the flap actuator	1 work-hour × $85 per hour = $85	54	139	4,031
Modify rigging	4 work-hours × $85 per hour = $340.	0	340	9,860

The FAA has no data to determine the costs to accomplish the corrective action of adjusting the flap-to-wing clearances or the number of airplanes that may require this corrective action.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2023–20–07 Epic Aircraft, LLC: Amendment 39–22566; Docket No. FAA–2023–1503; Project Identifier AD–2023–00197–A.

(a) Effective Date

This airworthiness directive (AD) is effective November 22, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Epic Aircraft, LLC Model E1000 airplanes, serial numbers K003 through K032 inclusive, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2750, TE Flap Control System.

(e) Unsafe Condition

This AD was prompted by a report that during a production ground test, the flap position switches were not properly rigged and allowed the actuator to travel beyond the commanded flaps' full (fully extended) position. The FAA is issuing this AD to prevent the flap actuator from overrunning the flaps' fully extended position if the full position microswitch is either missing or not rigged properly, resulting in an uncertified flap configuration. The unsafe condition, if not addressed, could result in loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

Within 12 months after the effective date of this AD, install a secondary full position limit switch to the flap system, install a switch ramp on the flap actuator, and modify the take-off position switch rigging in accordance with steps 5 through 13 of the Instructions section in Epic Aircraft Service Bulletin SB–0034, Revision B, issued December 22, 2022 (Epic SB–0034, Revision B). Where Epic SB–0034, Revision B, specifies to discard a switch block, this AD requires removing that part from service. If, during the accomplishment of step 12, the flap-to-wing clearances exceed the specified travel limits, before further flight, adjust the flap-to-wing clearances until they do not exceed the specified travel limits. Where Epic SB–0034, Revision B, specifies to contact Epic Aircraft if clearance and travel limits cannot be met, this AD does not require that action.

Note 1 to paragraph (g): Information regarding the flap-to-wing travel limits may be found in Epic E1000 Maintenance Manual SK05000000, Revision A, dated April 13, 2020.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, West 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 branch, send it to the attention of the person identified in paragraph (i)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@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.

(i) Additional Information

(1) For more information about this AD, contact Anthony Caldejon, Aviation Safety Engineer, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712; phone: (206) 231–3534; email: *anthony.v.caldejon@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (j)(3) and (4) of this AD.

(j) Material Incorporated by Reference

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

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

(i) Epic Aircraft Service Bulletin SB–0034, Revision B, issued December 22, 2022.

(ii) [Reserved]

(3) For service information identified in this AD, contact Epic Aircraft, LLC, 22590 Nelson Road, Bend, OR 97701; phone: (541) 639–4603; email: *info@epicaircraft.com;* website: *epicaircraft.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on September 29, 2023.

Victor Wicklund,

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

[FR Doc. 2023–22962 Filed 10–17–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–1747; Airspace Docket No. 23–ASW–15]

RIN 2120–AA66

Establishment of Class E Airspace; Uvalde, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Uvalde, TX. The FAA is taking this action to support new public instrument procedures.

DATES: Effective date 0901 UTC, December 28, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Raul Garza Jr., Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5874.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published an NPRM for Docket No. FAA 2023–1747 in the **Federal Register** (88 FR 54955; August 14, 2023), proposing to establish the Class E airspace at Uvalde, TX. 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 designations are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023 and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by establishing Class E airspace upward from 700 feet above the surface within a 7.5-mile radius of Ox Ranch Airport, Uvalde, TX.

This action supports new public instrument procedures.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E5 Uvalde, TX [Establish]

Ox Ranch Airport, TX

(Lat 29°27′41″ N, long 100°06′51″ W)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Ox Ranch Airport.

* * * * *

Issued in Fort Worth, Texas, on October 12, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–22933 Filed 10–17–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 630 and 640

[Docket No. FDA–2022–D–0588]

Compliance Policy Regarding Blood and Blood Component Donation Suitability, Donor Eligibility and Source Plasma Quarantine Hold Requirements; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Announcement of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Compliance Policy Regarding Blood and Blood Component Donation Suitability, Donor Eligibility and Source Plasma Quarantine Hold Requirements.'' The guidance document addresses certain requirements that apply to blood establishments that collect blood and blood components, including Source Plasma. Specifically, the guidance explains the conditions under which FDA does not intend to take regulatory action for a blood establishment's failure to comply with certain requirements in FDA's regulations regarding donation suitability, donor eligibility, and quarantine hold for Source Plasma. FDA expects that the compliance policy described in the guidance will increase the availability of blood and blood components, including Source Plasma, while maintaining the health of blood donors and the safety of blood and blood components. The guidance announced in this document finalizes the draft guidance of the same title dated May 2022, and supersedes the guidance entitled ''Alternative Procedures for Blood and Blood Components During the COVID–19 Public Health Emergency; Guidance for Industry,'' dated April 2020.

DATES: The announcement of the guidance is published in the **Federal Register** on October 18, 2023.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–D–0588 for ''Compliance Policy Regarding Blood and Blood Component Donation Suitability, Donor Eligibility and Source Plasma Quarantine Hold Requirements; Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Phillip Kurs, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Compliance Policy Regarding Blood and Blood Component Donation Suitability, Donor Eligibility and Source Plasma

Quarantine Hold Requirements.'' The guidance document addresses certain requirements that apply to blood establishments that collect blood and blood components, including Source Plasma. Specifically, the guidance explains the conditions under which FDA does not intend to take regulatory action for a blood establishment's failure to comply with certain requirements in Title 21 of the Code of Federal Regulations (21 CFR 630.30) regarding donation suitability; 21 CFR 630.10(c)(2) regarding donor eligibility; and 21 CFR 640.69(f) regarding quarantine hold for Source Plasma.

In the **Federal Register** of May 24, 2022 (87 FR 31440), FDA announced the availability of the draft guidance of the same title dated May 2022. FDA received several comments on the draft guidance and those comments were considered as the guidance was finalized. A summary of changes includes clarifying the format of the report discussed in the guidance and clarifying the scope of the compliance policy. In addition, editorial changes were made to improve clarity. The guidance announced in this document finalizes the draft guidance dated May 2022, and supersedes the guidance entitled ''Alternative Procedures for Blood and Blood Components During the COVID–19 Public Health Emergency; Guidance for Industry,'' dated April 2020.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Compliance Policy Regarding Blood and Blood Component Donation Suitability, Donor Eligibility and Source Plasma Quarantine Hold Requirements.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information have been approved under OMB control number 0910–0116. This guidance also refers to previously approved FDA collections of information. The collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338 and the collections of information in 21 CFR parts 606, 630, and 640 have been approved under OMB control number 0910–0116.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: October 10, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–22957 Filed 10–17–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF STATE

22 CFR Part 171

[Public Notice 12153]

RIN 1400–AE00

Public Access to Information

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State (the Department) finalizes the proposed rule it published on March 3, 2020, relating to the availability to the public of information that is under the control of the Department. These changes were prompted by changes in the law governing disclosure of such information, including the Freedom of Information Act Improvement Act of 2016. This final rule reflects changes in the FOIA and consequent changes in the Department's procedures since the last major revision of the Department's regulations on public access to information, which occurred in 2016.

DATES: This rule is effective on November 17, 2023.

FOR FURTHER INFORMATION CONTACT: Kellie Robinson, Office of Information Programs and Services, *FOIAstatus@state.gov,* 202–261–8484.

SUPPLEMENTARY INFORMATION: This rule finalizes the Notice of Proposed Rulemaking that was published on March 3, 2020. 85 FR 13104. It implements the Freedom of Information Act (FOIA) Improvement Act of 2016, Public Law 114–185, and updates the Department's FOIA regulations at 22 CFR part 171. The following summary of the substantive changes to Part 171 was included in the NPRM but is provided here for convenience.

The rule, in § 171.4, provides updated procedures and addresses for submitting FOIA requests to the Department, including procedures for requesting information about the requester and requests for visa information.

Subpart B of the rule (§§ 171.10 through 171.17) contains the rules governing the processing of a FOIA request. Section 171.11 covers the Department's initial processing of a request; it clarifies the information that is to be provided as part of a request, the Department's process for responding to requests, and consultation and referral with respect to requests. Section 171.12 covers the timing of responses to a request, including multi-track processing, expedited processing, and ''unusual circumstances'' (as defined in the FOIA) that might affect the Department's ability to respond. Section 171.13 covers responses to requests, including the procedures upon denial of a request. The updates add a provision for consultation with the Department of Justice's Office of Information Policy with respect to invocation of a FOIA exclusion. Section 171.14 modifies the Department's process with respect to reviews of confidential commercial information, including procedures for the owner of the information to object to the release of the information.

Section 171.15 revises the timeline for submission of appeals to 90 days and provides for information to be given to requesters about dispute resolution services at various stages of the processing of a request, in accordance with the FOIA Improvement Act of 2016. Section 171.16 provides updates on the fees to be charged for FOIA requests, including how fees are calculated. This section provides an updated explanation of the term, ''representative of the news media.''

Subpart C contains the rule's Privacy Act provisions. There are two substantive changes in this subpart from that published in the NPRM. The first relates to a Privacy Act exemption that was published after the NPRM was published. *See* the final rule on March 9, 2020, ''Privacy Act; STATE–01, Email Archive Management Records,'' 85 FR 13482. This SORN was added to the lists in paragraph (a)(2)(iii), and (b)(1), (2), (3), (4), (5), (6) and (7). However, the Department has now determined that this item was added in error, and the Department is removing STATE–01 from the lists of Privacy Act exemptions in §§ 171.26(a)(2)(iii), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), and (b)(7). The reason for this action is that the Department has determined that its email records do not constitute a system of records under the Privacy Act; therefore, STATE–01, ''Email Archive Management Records'', will be

rescinded. The Department finds that there is good cause for making this amendment subsequent to the Notice of Proposed Rulemaking. Since STATE–01 will be rescinded as not describing a system of records under the Privacy Act, it must be removed from the lists in § 171.26.

Also in Subpart C, there is a change relating to the ''Risk Analysis and Management'' System of Records Notice (SORN) (STATE–78), which was established in 2011.[1] At the time, it appeared that the Department anticipated sending and receiving classified national security name checks on some individuals. For that reason, this Department provided notice that this SORN would be exempt from certain portions of the Privacy Act, including § 552a(k)(1), which exempts records from certain provisions of the Privacy Act if the records are classified records subject to the provisions of 5 U.S.C. 552(b)(1). As it turned out, no classified records have been, or will be, included in STATE–78. Therefore, the exemption is not required, and the Department is removing it from the list in § 171.26(b)(1). Although this is a new action taken since the proposed rule was published, the Department believes that public comment thereon is not required since the Department is removing, not imposing, a Privacy Act exemption, and it is in the public interest for such action to be concluded expeditiously.

In Subpart D, the rule adds information about processing of requests for confidential financial disclosure reports.

Finally, the final rule makes minor changes throughout, to conform more closely to the Department of Justice *Office of Information Policy (OIP) Template for Agency FOIA Regulations, https://www.justice.gov/oip/template-agency-foia-regulations* (the ''OIP Template'')[2] and to implement operational lessons learned since the last major revision of the Department's FOIA regulations on April 6, 2016. *See* ''Public Access to Information'', 81 FR 19863. The names of two Department bureaus have changed since publication of the NPRM: the Bureau of Human Resources is now the Bureau of Global Talent Management; and the Office of Medical Services is now the Bureau of Medical Services.

[1] 76 FR 76103, finalized at 80 FR 1847.

[2] *See also* ''Guidance for Agency FOIA Regulations'' at *https://www.justice.gov/oip/oip-guidance/guidance-agency-foia-regulations* (last accessed March 30, 2021)

Response to Public Comments

The Department would like to thank the members of the public for reviewing the proposed changes to the FOIA and Privacy Act regulations, and for providing very useful feedback. The Department received 10 substantive comments, which were contained in two documents, from the International Refugee Assistance Project (IRAP) and the Immigration Reform Law Institute (IRLI). The Department also received four submissions that were nonresponsive, in that they had nothing to do with the proposed rule.

First public comment:

IRAP stated that it is concerned about the lack of explanation or justification by the Department for the proposed changes to its FOIA regulations.

Department response:

As noted in the proposed rule, there have been changes in the law governing disclosure of information, including the Freedom of Information Act Improvement Act of 2016. The Department is revising its FOIA regulations to make them consistent with the FOIA Improvement Act of 2016 and current law, policy, and the Department of Justice, Office of Information Policy, template for agency FOIA regulations.

Second public comment:

IRAP suggests that the proposed rule in § 171.4(a)(7), *Proof of Third-Party Consent,* contains too broad a discretion to effectively deny requests, without any substantive standard or procedural safeguards to ensure that the Department's denial is appropriate. IRAP further contends that the Department did not take into account the difficulties this could impose on some requesters considering the burden the requirements for obtaining such records can be in the immigration context. These requesters are often overseas in difficult circumstances as they await the results of their application for resettlement in the United States and may face the possible struggle to find safe and affordable access to a printer and scanner, notary, and postal service.

Department response:

With respect to requests for third-party records, § 171.4(a)(7) provides that ''a requester may receive greater access by submitting a notarized authorization signed by the person whose records are requested, or by submitting a declaration made in compliance with the requirements set forth in 28 U.S.C. 1746 by the person whose records are requested, authorizing disclosure of the records to the requester, or by submitting proof that the third party is deceased (*e.g.,* a copy of a death certificate or an obituary).'' The rule does not *require* the requester to produce all these items. In fact, the rule does not say that the requester must produce any of the items, but that there might be a more expeditious response if more information is presented. The provisions of this rule are intended to advise the requester of the type of documentation to submit to ensure the most expeditious release of responsive records, while still protecting the privacy of the individual to whom the records pertain. It is not intended to deny the disclosure of records.

The Department agrees to remove the text, ''As an exercise of administrative discretion, the Department may require a requester to supply additional information in order to verify that a particular individual has consented to disclosure or is deceased.''

Pertaining to requests for visa records (§ 171.4(a)(8)), the requirements have been simplified. The Department has eliminated the requirement for the submission of the country and Foreign Service post where the visa application was made; when the visa application was made; and whether the visa application was granted or denied (and if denied, on what grounds).

The Department's public FOIA website provides requesters with further information regarding the electronic submission of their request and supplemental documentation, thereby eliminating the need for a requester to have access to a printer, scanner, notary, or postal service. The Department does not see a need to make any revisions to this section.

Third public comment:

IRAP notes that the proposed rule text in proposed § 171.4(a)(8), *Documents in Visa Files Not Within 212(f),* omits language in the current regulations on visa-related requests. Specifically, it omits what types of records may be released. IRAP suggests that the change expands the scope of the exemption and has the potential to harm applicants by preventing them from obtaining important notices about benefits and leaving them without a means to obtain those documents.

Department response:

The Department will add the following text to the end of § 171.4(a)(8): ''Other information found in the visa file, such as information submitted as part of the visa application and information not falling within section 222(f) or another FOIA exemption, may be provided to the requester.''

Fourth public comment:

IRAP suggests that the proposed rule in § 171.4(b), *Description of Records*

Sought, adds text that would give the Department broad discretion to deny or delay requests that are not able to meet this high standard of specificity. Also, IRAP contends that a requester may be able to provide some specifics regarding the topic matter but will not be able to provide such details as the author, file designation, or reference number of records that have never before been made publicly available.

Department response:

A request must reasonably describe the Department record(s) that the requester seeks. Requesters must describe the records sought in sufficient detail to enable agency personnel to locate them with a reasonable amount of effort. If a requester submits a request that meets the criteria, the request will be processed. If after receiving a request the Department determines that the request does not reasonably describe the records sought, the Department will inform the requester that the request is insufficient and may ask for additional information. FOIA calls for as much specificity as requesters can provide; if the Department cannot identify the record, it cannot act on the request, and it is up to requesters to identify what records they are seeking (see FOIA subsections (a)(1)–(3) and (b)). In addition, the proposed section is drawn directly from the DOJ Template, Section III. The final rule is consistent with current law, policy, and the OIP Template.

Fifth public comment:

IRAP is concerned that the proposed regulation on expedited processing (proposed § 171.12(d), *Grounds for Expedited Processing*), removes the text ''compelling need'' as a factor in expedited processing.

Department response:

The Department agrees to revise the text to state that ''requests shall receive expedited processing when a requester demonstrates that a 'compelling need' for the information exists. A 'compelling need' is deemed to exist where the requester can demonstrate one of the following:''

Sixth public comment:

IRAP stated that the proposed text in § 171.12(d)(4), *Timeline to Appeal Denial of Expedited Processing,* removes language in the current regulations about a timeline for appealing a denial of expedited processing and provides only that ''[i]f a request for expedited processing is denied, the Department must act on any appeal of that decision expeditiously.''

Department response:

The Department agrees to revise the text to state that ''A denial of a request for expedited processing may be appealed within 90 calendar days of the date of the Department's letter denying the request. A decision in writing on the appeal will be issued within 10 calendar days of the receipt of the appeal.''

Seventh public comment:

Regarding proposed § 171.14(c)(1–2), *When Notice to Submitters Is Not Required,* IRAP states that the ''Department does not provide a reason why it would not provide individual notifications to ensure that all submitters were informed, rather than 'likely' to be informed, of the 'descri[ption] of the business information requested' or 'copy of the requested records or record portions containing the information' in the notice.''

Department response:

The Department proposed the change to the rule as a way of facilitating handling notifications when there are voluminous responses. However, after review, the Department will delete the additional text.

Eighth public comment:

In proposed § 171.15(a)(1), *Incorrect Citation,* IRAP states that the proposed text for § 171.15(a)(1) cites to examples of adverse determination in § 171.13(d) of the proposed text. The text should cite to the proposed § 171.13(e).

Department response:

The Department agrees to revise the incorrect citation at § 171.15(a)(1) from § 171.13(d) to § 171.13(e).

Ninth public comment:

IRAP states that, in § 171.16, *Costs of Search and Review Time,* the proposed text for § 171.16(b)(5) and § 171.16(b)(6) removes provisions in the current regulations for costs of search and review time and a quota of pages provided free of charge. The commenter is concerned that this will impact certain categories of requesters when they do not meet the criteria for those who are not charged fees.

Department response:

The Department will add the following text as the penultimate sentence of § 171.16(b)(5): ''Noncommercial scientific institution requesters will not be charged for search and review time, and the first 100 pages of the duplication will be provided free of charge.'' The Department will add the following text as the penultimate sentence of § 171.16(b)(6): ''A representative of the news media will not be charged for search and review time, and the first 100 pages of the duplication will be provided free of charge.''

Tenth public comment:

The Immigration Reform Law Institute (IRLI) is ''primarily interested in the effect the proposed rule will have on public interest waiver FOIA procedures.''

Department response:

The text of §§ 171.16(j)(1)–(4) sets forth the requirements for waiver or reduction of fees. These sections are consistent with the FOIA and comply with the OIP Template. The Department is unaware of any reason why the revised rule would have any effect on public interest waivers of fees.

Regulatory Findings

Administrative Procedure Act

The Department published this rule under the provisions of 5 U.S.C. 553 and provided for a 60-day public comment period.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Act of 1995

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

Congressional Review Act

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Order 12988—Civil Justice Reform

The Department has reviewed this regulation in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Orders 12372 and 13132—Federalism

This regulation 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. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary

impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

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

Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14094 (Modernizing Regulatory Review)

The Department has considered this rule in light of these Executive Orders and affirms that this regulation is consistent with the guidance therein. The Office of Management and Budget has designated this rule as significant under E.O. 12866, as amended. The benefits of this rulemaking for the public include: providing the public with an up-to-date procedure for requesting information from the Department that is consistent with the FOIA Improvement Act of 2016, updating its procedures for communicating electronically with requesters, including in its acknowledgment a brief description of the records sought to allow requesters to more easily keep track of their requests, adding a provision that the Department may divide a multi-part request into multiple requests to facilitate processing, adding a provision for consultation with the Department of Justice's Office of Information Policy with respect to invocation of a FOIA exclusion, providing information regarding the reasons for a denial and any FOIA exemptions applied in denying the request, revising the timeline for submission of appeals to 90 days, providing requesters with information regarding assistance available from the Department's FOIA Public Liaison and the dispute resolution services offered by the Office of Government Information Services (OGIS), updating information on the fees to be charged for FOIA requests, and updating its description of ''representative of the news media,'' The Department is aware of no cost to the public from this rulemaking.

Paperwork Reduction Act

This rule does not impose or revise any reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 171

Administrative practice and procedure, Freedom of Information, Privacy.

■ 1. For the reasons set forth in the preamble, 22 CFR part 171 is revised to read as follows:

PART 171—PUBLIC ACCESS TO INFORMATION

Subpart A—General Policy and Procedures

Subpart B—Freedom of Information Act Provisions

Subpart C—Privacy Act Provisions

Subpart D—Access to Financial Disclosure Reports

Authority: 22 U.S.C. 2651a; 5 U.S.C. 552, 552a; E.O. 12600 (52 FR 23781); Pub. L. 114–185; Pub. L. 95–521, 92 Stat. 1824 (codified as amended at 5 U.S.C. Ch. 131); 5 CFR part 2634.

Subpart A—General Policy and Procedures

§ 171.1 General provisions.

(a) *In General.* This part contains the rules that the Department of State and the Foreign Service Grievance Board (FSGB), an independent body, follow in processing requests for records under the Freedom of Information Act (FOIA), as amended, 5 U.S.C. 552, and the Privacy Act of 1974 (PA), as amended, 5 U.S.C. 552a. These rules should be read in conjunction with the text of the FOIA, the PA, and the Uniform Freedom of Information Fee Schedule and Guidelines published by the Office of Management and Budget (''OMB Guidelines'').

(b) *Definitions.* For purposes of subparts A and B of this part,

Component means the offices that respond directly to requests concerning records under their jurisdiction: the Office of Inspector General; the Bureau of Consular Affairs' Directorates for Visa Services, Passport Services, and Overseas Citizens Services; the Bureau of Diplomatic Security; the Bureau of Global Talent Management; the Bureau of Medical Services; and the Foreign Service Grievance Board.

Control means the Department's legal authority over a record, taking into account the ability of the Department to use and dispose of the record, the intent of the record's creator to retain or relinquish control over the record, the extent to which Department personnel have read or relied upon the record, and the degree to which the record has been integrated into the Department's record-keeping systems or files.

Department means the United States Department of State, including its field offices, Foreign Service posts abroad, and its components. This part does not address FOIA requests to the U.S. Agency for International Development (USAID). Requesters should visit USAID's website for further information.

Record means information regardless of its physical form or characteristics—including information created, stored, and retrievable by electronic means—that is created or obtained by the Department and under the control of the Department at the time of the request, including information maintained for the Department by an entity under government contract for records management purposes. It does not include records that are not already in existence and that would have to be created specifically to respond to a request.

§ 171.2 Types of records maintained.

Most of the records maintained by the Department pertain to the formulation and execution of U.S. foreign policy. The Department also maintains certain records that pertain to individuals, such as applications for U.S. passports, applications for U.S. visas, records on consular assistance given abroad by U.S. Foreign Service posts to U.S. citizens

and lawful permanent residents, and records on Department employees. Further information on the types of records maintained by the Department may be obtained by reviewing the Department's records disposition schedules, which are available on the Department's FOIA website at *www.foia.state.gov*.

§ 171.3 Records available on the Department's website.

(a) Records that are required by the FOIA to be made available for public inspection in an electronic format under 5 U.S.C. 552(a)(2) also are available on the Department's public website. Included on the Department's FOIA home page, *www.foia.state.gov,* are links to other sites where Department information may be available and to the Department's records disposition schedules. Also available on the FOIA website are certain records released by the Department pursuant to requests under the FOIA and compilations of records reviewed and released in certain special projects. Links to the Department's Privacy Act System of Records Notices are available at *www.state.gov/privacy*. In addition, see 22 CFR part 173 regarding release within the United States of public diplomacy program material generated pursuant to the U.S. Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431, *et seq.,* also referred to as the Smith-Mundt Act).

(b) The Department's Office of Inspector General (OIG) is responsible for determining which of its records are required to be made publicly available on its website at *www.stateoig.gov*. OIG will ensure that its website of posted records and indices is reviewed and updated on an ongoing basis.

§ 171.4 Requests for information—types and how made.

(a) *General Information.* (1) Requests for records made in accordance with this part must be made in writing. FOIA requests may be made to the Office of Information Programs and Services (A/GIS/IPS) by email to *foiarequest@state.gov,* through the Department's FOIA website (*www.foia.state.gov/*), by fax to (202) 485–1669, or by mail to the address below. PA requests must be made in writing and signed, and the requester's signature must be either notarized or made under penalty of perjury pursuant to 28 U.S.C. 1746. See § 171.22(a). PA requests may be made to A/GIS/IPS by email to *foiarequest@state.gov,* by fax to (202) 485–1669, or by mail. FOIA and PA requests made by mail should be addressed to: Office of Information Programs and Services (A/GIS/IPS), Room B–266, U.S. Department of State, 2201 C Street NW, Washington, DC 20520.

(2) Requests for passport records covered under PA System of Records Notice STATE–26 (available at *www.state.gov/system-of-records-notices-privacy-office/*) must be made in writing, and may be submitted directly to the Law Enforcement Liaison Division of the Passport Services directorate (PPT) of the Bureau of Consular Affairs by mailing the request to U.S. Department of State, Office of Law Enforcement Liaison, FOIA Officer, 44132 Mercure Circle, P.O. Box 1227, Sterling, VA 20166–1227. Requests for passport records and information that do not need to be certified may also be emailed to *PPT-Public-FOIARequests@state.gov*.

(3) Requests for records of the OIG must be made in writing, and may be submitted via email to *foia@stateoig.gov,* by fax to 703–284–1866, or by mail addressed to FOIA Officer, Officer of General Counsel, Office of Inspector General, U.S. Department of State, 1700 N Moore Street, Suite 1400, Arlington, VA 22209. Submission by email is preferred. Guidance and contact information are available on the OIG's website at *www.stateoig.gov/foiarequest*.

(4) The Office of Information Programs and Services, the Law Enforcement Liaison Division of the Passport Services directorate, and the OIG are the only Department components authorized to accept FOIA and PA requests submitted to the Department.

(5) The requester should provide the specific citation to the authority under which he or she is requesting information (*e.g.,* the FOIA, the PA, or Mandatory Declassification Review (MDR) under the current Executive Order on classification). This will facilitate the processing of the request. When individual U.S. citizens and lawful permanent residents request access to records about themselves, the Department processes responsive records maintained in Privacy Act systems of records under both the FOIA and the PA to provide requesters with the greatest degree of access to the records. Information in such records will be withheld only if it is exempt from access under both laws; if the information is exempt under only one of the laws, it will be released. Responsive records that are not maintained in a Privacy Act system of records are processed only under the FOIA.

(6) A requester who requests records about himself or herself, including passport records, must comply with the verification of identity requirements as set forth in § 171.22 of Subpart C (the Privacy Act Provisions) of this part in order for the request to be processed under the PA.

(7) Where a request for records pertains to a third party or to a requester's own records outside of a request under the Privacy Act, a requester may receive greater access by submitting a notarized authorization signed by the person whose records are requested, or by submitting a declaration made in compliance with the requirements set forth in 28 U.S.C. 1746 by the person whose records are requested, authorizing disclosure of the records to the requester, or by submitting proof that the third party is deceased (*e.g.,* a copy of a death certificate or an obituary).

(8) The Immigration and Nationality Act, as amended, section 222(f) (8 U.S.C. 1202(f)), provides that the records of the Department of State and of diplomatic and consular offices of the United States pertaining to the issuance or refusal of visas or permits to enter the United States must be considered confidential and shall be used only for certain enumerated purposes, including the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States. As a result, information subject to release in response to a request for visa records about an individual may be limited. Requests for visa records should include the following information for the applicant and, if applicable, the petitioner: full name, as well as any aliases used; current address; email; and date and place of birth (including city, state, and country). Additional information describing the records sought will assist the Department in properly identifying the responsive records and in processing the request. Attorneys or other legal representatives requesting visa information on behalf of a visa applicant should submit a statement with the request signed by the applicant (and the petitioner if the records sought pertain to a petition) authorizing release of the requested visa information to the representative. Alternatively, requesters may submit a DS–4240–R to certify their identity or a DS–4240–C to provide authorization by the applicant (and the petitioner if the records sought pertain to a petition) to release the requested information to the legal representative. Forms created by other Federal agencies will not be accepted. Other information found in the visa file, such as information submitted as part of the visa application and information not falling within section 222(f) or another FOIA

exemption, may be provided to the requester.

(b) *Description of records sought.* Although no particular format is required, a request must reasonably describe the Department record(s) that the requester seeks. Requesters must describe the records sought in sufficient detail to enable agency personnel to locate them with a reasonable amount of effort. To the extent possible, requesters should include specific information that may assist the Department in identifying the requested record(s), such as the date, title or name, author, recipient, subject matter, case number, file designation reference number, or timeframe. If after receiving a request the Department determines that the request does not reasonably describe the records sought, the Department will inform the requester that the request is insufficient and shall inform the requester what additional information is needed or why the request is otherwise insufficient. If a request does not reasonably describe the records sought, the agency's response to the request may be delayed. Any records provided in response to a request will be provided in the form or format requested if a releasable form of the records is readily reproducible in that form or format. Requesters must provide contact information, such as their phone number, email address, and/or mailing address, to assist the Department in communicating with them and providing released records.

(c) *Privacy Act versus FOIA.* While the Department makes every effort to provide the greatest possible access to all requested records regardless of the statute(s) under which the information is requested, the following guidance is provided for the benefit of requesters:

(1) The Freedom of Information Act applies to requests for records concerning the general activities of government and of the Department in particular (see subpart B of this part).

(2) The Privacy Act applies to requests from U.S. citizens or lawful permanent residents for records about them that are maintained by the Department in a system of records retrievable by the individual's name or personal identifier (see subpart C of this part).

§ 171.5 Archival records.

The Department ordinarily transfers records designated as historically significant to the National Archives when they are 25 years old. Accordingly, requests for some Department records 25 years old or older should be submitted to the National Archives by mail addressed to Special Access and FOIA Staff (RD–F), National Archives at College Park, 8601 Adelphi Road, Room 5500, College Park, MD 20740–6001; by fax to (301) 837–1864; or by email to *specialaccess_foia@nara.gov.* The Department's website, *www.foia.state.gov,* has additional information regarding archival records.

Subpart B—Freedom of Information Act Provisions

§ 171.10 Purpose and scope.

This subpart contains the rules that the Department follows under the Freedom of Information Act (FOIA) as amended, 5 U.S.C. 552. The rules should be read together with the FOIA, which provides additional information about access to records and contains the specific exemptions that are applicable for withholding information; the Uniform Freedom of Information Fee Schedule and Guidelines published by the Office of Management and Budget (OMB Guidelines) (*see www.justice.gov/oip/foia-resources#s5*); and information located at *www.foia.state.gov.*

§ 171.11 Processing requests.

(a) *In general.* (1) The Office of Information Programs and Services (A/GIS/IPS) is responsible for initial action on all FOIA requests for Department records, with two exceptions: requests seeking records under the purview of the Office of Inspector General (OIG), which receives and processes requests for OIG records (see § 171.4 (a)(3)); and requests seeking records under the purview of the Law Enforcement Liaison Division of the Passport Services directorate of the Bureau of Consular Affairs (CA), which receives and processes requests for certain consular records (see § 171.4 (a)(2)).

(2) For requests for which A/GIS/IPS is responsible for initial action, A/GIS/IPS will issue all initial decisions on whether a request is valid (or has subsequently been perfected) and whether to grant or deny requests for a fee waiver or for expedited processing.

(3) After A/GIS/IPS takes initial action, all requests for records coming under the jurisdiction of the following components are processed by those components, although A/GIS/IPS may provide review and coordination support to these components in some situations: the Directorates for Visa Services, Passport Services, and Overseas Citizens Services, in the Bureau of Consular Affairs; the Bureau of Diplomatic Security; the Bureau of Global Talent Management; and the Bureau of Medical Services. Additionally, the Foreign Service Grievance Board (FSGB), as an independent body, processes all FOIA requests seeking access to its records and responds directly to requesters.

(b) *Receipt of request.* The Department is in receipt of a request when the request is received by A/GIS/IPS, OIG, or PPT, depending on which office is the proper recipient. At that time, the Department must send an acknowledgement letter to the requester that identifies the date of receipt of the request in the proper office (A/GIS/IPS, OIG, or PPT), and the case tracking number. When one of these offices determines that a request was misdirected within the Department, that office must promptly route the request to the proper office(s) within the Department.

(c) *Cut-off date and exclusions.* In determining which records are responsive to a request, the Department ordinarily will include only records in its possession as of the date of initiation of the search for responsive records, unless the requester has specified an earlier cut-off date. A record that is excluded from the requirements of the FOIA pursuant to 5 U.S.C. 552(c) is not considered responsive to a request.

(d) *Consultation, referral, and coordination.* When reviewing records located in response to a request, the component processing the request will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA. As to any such record, the component must proceed in one of the following ways:

(1) *Consultation.* When records originated with the Department, but contain within them information of interest to another agency or other Federal Government office, the component processing the request should typically consult with that other entity prior to making a release determination.

(2) *Referral.* (i) When the component processing the request believes that a different Department component or other Federal Government agency is better able to determine whether to disclose the record, the component processing the request typically should refer the responsibility for responding to the request regarding that record to that component or agency, as long as the referral is to an entity subject to the FOIA. Ordinarily, the agency that originated the record will be presumed to be best able to make the disclosure determination. However, if the component processing the request and the originating agency jointly agree that the former is in the better position to respond regarding the record, then the record may be handled as a consultation.

(ii) Whenever the component processing the request refers any part of the responsibility for responding to a request to another entity, the component must document the referral, maintain a copy of the record that it refers, and notify the requester of the referral and inform the requester of the name(s) of the entity to which the record was referred, including that entity's FOIA contact information.

(3) *Coordination.* The standard referral procedure is not appropriate where disclosure of the identity of the component or agency to which the referral would be made could harm an interest protected by an applicable exemption, such as the exemptions that protect personal privacy or national security interests. For example, if a non-law enforcement component responding to a request for records on a living third party locates within its files records originating with a law enforcement agency, and if the existence of that law enforcement interest in the third party was not publicly known, then to disclose that law enforcement interest could cause an unwarranted invasion of the personal privacy of the third party. Similarly, if a component locates within its files material originating with an Intelligence Community agency, and the involvement of that agency in the matter is classified and not publicly acknowledged, then to disclose or give attribution to the involvement of that Intelligence Community agency could cause national security harm. In such instances, in order to avoid harm to an interest protected by an applicable exemption, the component that received the request should coordinate with the originating component or agency to seek its views on the whether the record may be disclosed. The release determination for the record that is the subject of the coordination will be conveyed to the requester by the component that originally received the request.

(e) *Timing of responses to consultations and referrals.* All consultations and referrals received by the Department will be handled according to the date that the perfected FOIA request was received by the first agency.

(f) *Agreements regarding consultations and referrals.* The Department may make agreements with other agencies to eliminate, reduce, or streamline the need for consultations or referrals for particular types of records.

§ 171.12 Timing of responses to requests.

(a) *In general.* The Department ordinarily will respond to requests in the order received. In instances involving misdirected requests that are re-routed pursuant to § 171.11 (b), the response time will commence on the date that the request is received by the proper office that is designated to receive requests (A/GIS/IPS, OIG or PPT), but in any event not later than 10 working days after the request is first received by any of these three offices.

(b) *Multi-track processing.* The Department has a specific track for requests that are granted expedited processing, in accordance with the standards that are set forth in paragraph (d) of this section. An intake office (A/GIS/IPS, OIG, or PPT) may also designate additional processing tracks that, for example, distinguish between simple and more complex requests based on the estimated amount of work and/or time needed to process the request. Among the factors that may also be considered are the number of records requested, the number of pages involved in processing the request, and the need for consultations or referrals. The Department must advise requesters of the track in which their request falls and, when appropriate, should offer the requesters an opportunity to narrow their request so that it can be placed in a different processing track.

(c) *Unusual circumstances.* Whenever the statutory time limit for processing a request cannot be met because of unusual circumstances, as defined in the FOIA, and the Department extends the time limit on that basis, the Department must, before expiration of the 20-day period to respond, notify the requester in writing of the unusual circumstances involved. Where the extension exceeds 10 working days, the Department must, as described by the FOIA, provide the requester with an opportunity to modify the request or arrange an alternative time period for processing the original or a modified request. The Department must make available its designated FOIA contact and FOIA Public Liaison for this purpose (*see foia.state.gov/contact/*). In the written notice to the requester, the Department must also alert the requester to the availability of the Office of Government Information Services to provide dispute resolution services.

(d) *Expedited processing.* (1) Requests shall receive expedited processing when a requester demonstrates that a compelling need for the information exists. A compelling need is deemed to exist when the requester can demonstrate one of the following:

(i) Failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) With respect to a request made by a person primarily engaged in disseminating information, there exists an urgency to inform the public concerning actual or alleged Federal Government activity; or

(iii) Failure to release the information would impair substantial due process rights or harm substantial humanitarian interests.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. Requests for expedited processing must be submitted to the office responsible for receiving the FOIA request (A/GIS/IPS, OIG, or PPT). When making a request for expedited processing of an administrative appeal, the request must be submitted to A/GIS/IPS, or OIG in the case of appeals of OIG decisions (see § 171.15). A Department FOIA office that receives a misdirected request for expedited processing must forward it promptly to the correct office responsible for receiving requests (A/GIS/IPS, OIG, or PPT) for its determination. The time period for making the determination on the request for expedited processing commences on the date that the correct office receives the request, provided that the Department will be considered to have received the request for expedited processing no more than 10 working days after the request for expedited processing is received by A/GIS/IPS, OIG, or PPT.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct, explaining in detail the basis for making the request for expedited processing. For example, under paragraph (d)(1)(ii) of this section, a requester who is not a full-time member of the news media must establish that the requester is a person whose primary professional activity or occupation is information dissemination, though it need not be the requester's sole occupation. Such a requester also must establish a particular urgency to inform the public about the government activity involved in the request—one that extends beyond the public's right to know about government activity generally. The existence of numerous articles published on a given subject can be helpful in establishing the requirement that there be an ''urgency to inform'' the public on the topic. As a matter of administrative discretion, the Department may waive the formal certification requirement.

(4) A notice of the determination whether to grant expedited processing must be provided to the requester within 10 calendar days of the date of

the receipt of the request for expedited processing in the appropriate office (whether A/GIS/IPS, OIG, or PPT). If expedited processing is granted, the request must be given priority, placed in the processing track for expedited requests, and processed as soon as practicable. A denial of a request for expedited processing may be appealed within 90 calendar days of the date of the Department's letter denying the request. A decision in writing on the appeal will be issued within 10 calendar days of the receipt of the appeal.

§ 171.13 Responses to requests.

(a) *In general.* The Department will, to the extent practicable, communicate with requesters having access to the internet using electronic means, such as email or a web portal.

(b) *Acknowledgment of requests.* The Department must acknowledge the request in writing and assign it an individualized tracking number if it will take longer than 10 working days to process. The Department must include in the acknowledgment a brief description of the records sought to allow requesters to more easily keep track of their requests. The Department may in its discretion divide a multi-part request into multiple requests in order to facilitate processing.

(c) *Estimated dates of completion and interim responses.* Upon request, the Department will provide an estimated date by which the Department expects to provide a response to the requester. If a request involves a voluminous amount of material, or searches in multiple locations, the agency may provide interim responses, releasing the records on a rolling basis.

(d) *Grants of requests.* Once the Department makes a determination to grant a request in full or in part, it must notify the requester in writing. The Department also must inform the requester of any fees charged under § 171.16 and must disclose the requested records to the requester promptly upon payment of any applicable fees. The Department must inform the requester of the availability of the FOIA Public Liaison to offer assistance.

(e) *Adverse determinations of requests.* If the Department makes an adverse determination denying a request in any respect, it must notify the requester of that determination in writing. Adverse determinations, or denials of requests, include decisions that: the requested record is exempt from disclosure, in whole or in part; the request does not reasonably describe the records sought; the information requested is not a record subject to the FOIA; the requested record does not exist, cannot be located, or has been destroyed; or the requested record is not readily reproducible in the form or format sought by the requester. Adverse determinations also include denials involving fees or fee waiver matters or denials of requests for expedited processing.

(f) *Content of denial.* The denial must be signed by the head of the component processing the request, or designee, and must include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reasons for the denial, including any FOIA exemptions applied in denying the request;

(3) An estimate of the volume of any records or information withheld, such as the number of pages or some other reasonable form of estimation, although such an estimate is not required if the volume is otherwise indicated by deletions marked on records that are disclosed in part or if providing an estimate would harm an interest protected by an applicable exemption;

(4) A statement that the denial may be appealed under § 171.15 and a description of the requirements set forth therein; and

(5) A statement notifying the requester of the assistance available from the Department's FOIA Public Liaison and the dispute resolution services offered by the Office of Government Information Services of the National Archives and Records Administration.

(g) *Markings on released documents.* Markings on released documents must be clearly visible to the requester. Records disclosed in part must be marked to show the amount of information deleted and the exemption under which the deletion was made unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted must also be indicated on the record, if technically feasible.

(h) *Use of record exclusions.* (1) In the event that the Department identifies records that may be subject to exclusion from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), A/GIS/IPS or OIG must confer with the Department of Justice, Office of Information Policy to obtain approval to apply the exclusion.

(2) Any time the Department invokes an exclusion, it must maintain an administrative record of the process of invocation and approval of the exclusion by OIP.

§ 171.14 Confidential commercial information.

(a) *Definitions.* The following definitions apply for purposes of this section:

Confidential commercial information means commercial or financial information obtained by the Department from a submitter that may be exempt from disclosure under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4).

Submitter means any person or entity from which the Department obtains confidential commercial information, directly or indirectly. The term includes corporations, partnerships, and sole proprietorships; state, local, and tribal governments; foreign governments; NGOs; and educational institutions. This term does not include another Federal Government entity.

(b) *Designation of confidential commercial information.* A submitter of confidential commercial information must use good-faith efforts to designate by appropriate markings at the time of submission any portions of its submission that it considers exempt from disclosure under FOIA Exemption 4. These designations expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period.

(c) *Notice to submitters.* (1) The Department must provide a submitter with prompt written notice whenever records containing its confidential commercial information are requested under the FOIA if the agency determines that it may be required to disclose the records, provided:

(i) The information has been designated in good faith by the submitter as information considered exempt from disclosure under Exemption 4; or

(ii) The Department has reason to believe that the requested information may be exempt from disclosure under Exemption 4 but has not yet determined whether the information is protected from disclosure.

(2) The notice must either describe the confidential commercial information requested or include a copy of the requested records or record portions containing the information.

(d) *When notice is not required.* The notice requirements of this section do not apply if:

(1) The Department determines that the information is exempt from disclosure under the FOIA and, therefore, will not be disclosed;

(2) The information has been lawfully published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600; or

(4) The designation made by the submitter under paragraph (b) of this section appears obviously frivolous. In such a case, the Department must give the submitter written notice of any final decision to disclose the information a reasonable number of days prior to a specified disclosure date.

(e) *Opportunity to object to disclosure.* The Department must allow a submitter a reasonable time to respond to the notice described in paragraph (c) of this section and must specify that time period in the notice. If a submitter has any objections to disclosure, it should provide the Department a detailed written statement that specifies all grounds for withholding the particular information under any exemption of the FOIA. In order to rely on Exemption 4 as basis for nondisclosure, the submitter must explain why the information constitutes a trade secret or commercial or financial information that is privileged or confidential. If a submitter fails to respond to the notice within the time specified in it, the submitter will be considered to have no objection to disclosure of the information. The Department is not required to consider any information received after any disclosure decision. Information provided by a submitter under this subpart may itself be subject to disclosure under the FOIA.

(f) *Notice of intent to disclose.* The Department will consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose confidential commercial information. Whenever the Department decides to disclose information over the objection of a submitter, it must give the submitter written notice, which must include:

(1) A statement of the reason(s) why each of the submitter's disclosure objections was not sustained;

(2) A description of the information to be disclosed or copies of the records as the Department intends to release them; and

(3) A specified disclosure date, which must be a reasonable time after the notice.

(g) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of confidential commercial information, the Department must promptly notify the submitter.

(h) *Notice to requester.* The Department must notify the requester whenever it provides a submitter with notice and an opportunity to object to disclosure; whenever it notifies a submitter of its intent to disclose requested information; and whenever a submitter files a lawsuit seeking to prevent the disclosure of the requested information.

§ 171.15 Administrative appeals.

(a) *Requirements for making an appeal.* (1) Requesters may appeal any adverse determinations made on their FOIA request by the Department. Examples of adverse determinations are provided in § 171.13(e). The requester must make the appeal in writing and to be considered timely it must be postmarked, or in the case of electronic submissions, transmitted, within 90 calendar days after the date of the adverse determination. The appeal must clearly identify the component's determination that is being appealed and the assigned request number. To facilitate handling, the requester should mark both the appeal letter and envelope, or subject line of the electronic transmission, ''Freedom of Information Act Appeal.''

(2) To appeal any adverse determinations made by A/GIS/IPS or a component other than OIG, requesters must submit an administrative appeal to the A/GIS/IPS FOIA Appeals Office using any of the following methods: by mail to the Appeals Officer, Office of Information Programs and Services (A/GIS/IPS), Room B–266, U.S. Department of State, 2201 C Street NW, Washington, DC 20520; by fax to (202) 485–1718; or by email to *FOIAAppeals@state.gov.*

(3) To appeal any adverse determinations made by OIG, requesters must submit an administrative appeal to OIG via email to *foia@stateoig.gov,* by fax to 703–284–1866, or by mail addressed to the FOIA Officer, Officer of General Counsel, Office of Inspector General, U.S. Department of State, 1700 N Moore Street, Suite 1400, Arlington, VA 22209. Contact information for OIG is available on OIG's FOIA website at *www.stateoig.gov/foiaappeals.* For those cases in which both A/GIS/IPS and OIG provided written denials to the requester, the requester may administratively appeal to both A/GIS/IPS and OIG and each office will handle its respective portion of the appeal.

(4) To appeal any adverse determinations made by the FSGB, requesters must submit an administrative appeal to A/GIS/IPS using the methods listed above in paragraph (2). A/GIS/IPS will assign a tracking number to the appeal and forward it to the FSGB, which is an independent body, for adjudication.

(b) *Adjudication of appeals.* (1) The A/GIS/IPS Director or designee will act on behalf of the Assistant Secretary for Administration on all appeals of A/GIS/IPS FOIA determinations under this section. Likewise, the General Counsel of OIG or his/her designee will act on behalf of the Inspector General on all appeals of OIG FOIA determinations under this section.

(2) An appeal ordinarily will not be adjudicated if the request becomes a matter of FOIA litigation.

(c) *Decisions on appeals.* The Department must provide its decision on an appeal in writing. A decision that upholds the Department's determination in whole or in part must include a brief statement of the reason for the affirmance, including any FOIA exemptions applied. The decision must inform the requester that the decision represents the final decision of the Department; must advise the requester of the statutory right to file a lawsuit; and must inform the requester of the dispute resolution services offered by the Office of Government Information Services of the National Archives and Records Administration (OGIS) as a non-exclusive alternative to litigation. If a decision is remanded or modified on appeal, the requester will be notified in writing. The appropriate component will then further process the request in accordance with that appeal determination and respond directly to the requester.

(d) *Engaging in dispute resolution services provided by OGIS.* Dispute resolution is a voluntary process. If a component agrees to participate in the dispute resolution services provided by OGIS, it will actively engage as a partner to the process in an attempt to resolve the dispute.

(e) *When appeal is required.* Before seeking review by a court of the Department's adverse determination, a requester generally must first submit a timely administrative appeal.

§ 171.16 Fees to be charged.

(a) *In general.* The Department will charge fees for processing requests under the FOIA in accordance with the provisions of this section and with the OMB Guidelines. For purposes of assessing fees, the FOIA establishes three categories of requesters: (1) commercial use requesters, (2) non-commercial scientific or educational institutions or news media requesters, and (3) all other requesters. Different fees are assessed depending on the category. Requesters may seek a fee waiver. The Department considers fee waivers in accordance with the requirements set forth below. To resolve

any issues that arise under this section, the Department may contact a requester for additional information. The Department must use the most efficient and least costly methods to comply with requests for records made under the FOIA. The Department shall attempt to notify the requester if fees are estimated to exceed $25.00, unless the requester has expressed a willingness to pay fees as high as those anticipated. Such notification shall include a breakdown of the fees for search, review, and duplication. The Department ordinarily will collect all applicable fees before sending copies of records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States, or by another method as determined by the Department.

(b) *Definitions.* For purposes of this section:

Charging fees. In responding to FOIA requests, the Department will charge the following fees unless a waiver or reduction of fees has been granted under paragraph (j) of this section. Because the fee amounts provided below already account for the direct costs associated with a given fee type, the Department should not add any additional costs to charges calculated under this section.

Commercial use request is a request that asks for information for a use or purpose that furthers a commercial, trade, or profit interest, which can include furthering those interests through litigation. The Department's decision to place a requester in the commercial use category will be made on a case-by-case basis based on the requester's intended use of the information. The Department will notify requesters of their placement in this category.

Direct costs are those expenses the Department incurs in searching for, duplicating, and, in the case of commercial use requests, reviewing records in response to a FOIA request. For example, direct costs include the salary of the employee performing the work (*i.e.,* the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits) and the cost of operating computers and other electronic equipment, such as photocopiers and scanners. The term does not include overhead expenses such as the costs of space and of heating or lighting of a facility.

Duplication is reproducing a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, audiovisual materials, or electronic records, among others.

Educational institution is any school that operates a program of scholarly research. A requester in this category must show that the request is made in connection with the requester's role at the educational institution. The Department may seek verification from the requester that the request is in furtherance of scholarly research. The Department will advise requesters of their placement in this category.

Non-commercial scientific institution is an institution that is not operated on a ''commercial'' basis, as defined in paragraph (b)(1) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. A requester in this category must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research and are not for a commercial use. Noncommercial scientific institution requesters will not be charged for search and review time, and the first 100 pages of the duplication will be provided free of charge. The Department will advise requesters of their placement in this category.

Representative of the news media is any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations that broadcast news to the public at large and publishers of periodicals that disseminate news and make their products available through a variety of means to the general public, including news organizations that disseminate solely on the internet. A request for records supporting the news-dissemination function of the requester shall not be considered to be for a commercial use. Freelance journalists who demonstrate a solid basis for expecting publication through a news media entity shall be considered as a representative of the news media. A publishing contract would provide the clearest evidence that publication is expected; however, the Department shall also consider a requester's past publication record in making this determination. A representative of the news media will not be charged for search and review time, and the first 100 pages of the duplication will be provided free of charge. The Department will advise requesters of their placement in this category.

Review is the examination of a record located in response to a request to determine whether any portion of it is exempt from disclosure. Review time includes processing any record for disclosure, such as doing all that is necessary to prepare the record for disclosure, including the process of redacting the record and marking the appropriate exemptions. Review costs are properly charged even if a record ultimately is not disclosed. Review time also includes time spent both obtaining and considering any formal objection to disclosure made by a confidential commercial information submitter under § 171.14 but it does not include time spent resolving general legal or policy issues regarding the application of exemptions.

Search is the process of looking for, identifying, and retrieving records or information responsive to a request. Search time includes page-by-page or line-by-line identification of information within records and the reasonable efforts expended to locate and retrieve information from electronic records.

(i) Requests made by educational institutions, non-commercial scientific institutions, or representatives of the news media are not subject to search fees. Search fees shall be charged for all other requesters, subject to the restrictions of paragraph (j) of this section. The Department may properly charge for time spent searching even if responsive records are not located, or if records are determined to be entirely exempt from disclosure.

(ii) For each hour spent by personnel searching for requested records, the fees shall be as stated at the following website: *foia.state.gov/Request/Guide.aspx* (section VII, ''Fees'') and *www.stateoig.gov/foiafees* for OIG requested records.

(iii) For requests that require the retrieval of records stored by the Department at a Federal records center operated by the National Archives and Records Administration (NARA), the Department will charge additional costs in accordance with the Transactional Billing Rate Schedule established by NARA.

(2) *Review.* The Department will charge review fees to requesters who make commercial use requests. Review fees will be assessed in connection with the initial review of the record, *i.e.,* the review conducted to determine whether an exemption applies to a particular record or portion of a record. No charge will be made for review at the administrative appeal stage of

exemptions applied at the initial review stage. However, if a particular exemption is deemed to no longer apply, any costs associated with the Department's re-review of the records in order to consider the use of other exemptions may be assessed as review fees. Review fees shall be charged at the same rates as those charged for a search under paragraph (c)(1)(ii) of this section.

(3) *Duplication.* The Department will charge duplication fees to all requesters, subject to the restrictions of paragraph (d) of this section. The Department must honor a requester's preference for receiving a record in a particular form or format where it is readily reproducible by the Department in the form or format requested. The Department charges the direct costs of producing the copy, including operator time. Where paper documents must be scanned in order to comply with a requester's preference to receive the records in an electronic format, the requester must also pay the direct costs associated with scanning those materials. Duplication fees are as stated at the following website: *foia.state.gov/Request/Guide.aspx* (section VII, ''Fees'').

(d) *Restrictions on charging fees.* (1) The Department will not charge search fees for requests by educational institutions, non-commercial scientific institutions, or representatives of the news media, unless the records are sought for a commercial use.

(2) If the Department fails to comply with the FOIA's time limits in which to respond to a request, it may not charge search fees, or, in the instances of requests from requesters described in paragraph (d)(1) of this section, may not charge duplication fees, except as described in paragraphs (d)(2)(i) through (iii) of this section.

(i) If the Department has determined that unusual circumstances as defined by the FOIA apply and the agency provided timely written notice to the requester in accordance with the FOIA, a failure to comply with the time limit is excused for an additional 10 days.

(ii) If the Department has determined that unusual circumstances as defined by the FOIA apply, and more than 5,000 pages are necessary to respond to the request, the Department may charge search fees, or, in the case of requesters described in paragraph (d)(1) of this section, may charge duplication fees, if the following steps are taken. The Department must have provided timely written notice of unusual circumstances to the requester in accordance with the FOIA, and the Department must have discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii). If this exception is satisfied, the Department may charge all applicable fees incurred in the processing of the request.

(iii) If a court has determined that exceptional circumstances exist as defined by the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order.

(3) Except for requesters seeking records for a commercial use, the Department must provide without charge:

(i) the first 100 pages of duplication (or the cost equivalent for other media); and

(ii) the first two hours of search.

(4) When, after deducting the 100 free pages (or its cost equivalent) and the first two hours of search, the total fee calculated under paragraph (c) of this section is $25.00 or less, no fee will be charged.

(5) Apart from the stated provisions regarding waiver or reduction of fees, see paragraph (j) of this section, the Department may in its sole discretion decide to not assess fees or to reduce them if it is in the best interests of the government not to do so.

(e) *Notice of anticipated fees in excess of $25.00.* (1) When the Department determines or estimates that the fees to be assessed in accordance with this section will exceed $25.00, the Department must notify the requester of the actual or estimated amount of the fees, including a breakdown of the fees for search, review, or duplication, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the Department will advise the requester accordingly. If the request is not for commercial use, the notice will specify that the requester is entitled to the statutory entitlement of 100 pages of duplication at no charge and, if the requester is charged search fees, two hours of search time at no charge, and will advise the requester whether those entitlements have been provided.

(2) In cases in which the Department has notified the requester that the actual or estimated fees are in excess of $25.00, the request will not be considered received and further work will not be completed until the requester commits in writing to pay the actual or estimated total fee, or designates an amount of fees the requester is willing to pay, or in the case of a noncommercial use requester who has not yet been provided with the requester's statutory entitlements, designates that the requester seeks only that which can be provided by the statutory entitlements. The requester must provide the commitment or designation in writing, and must, when applicable, designate an exact dollar amount the requester is willing to pay. The Department is not required to accept payments in installments.

(3) If the requester has indicated a willingness to pay some designated amount of fees, but the Department estimates that the total fee will exceed that amount, the Department will toll the processing of the request when it notifies the requester of the estimated fees in excess of the amount the requester has indicated a willingness to pay. The Department will inquire whether the requester wishes to revise the amount of fees the requester is willing to pay or modify the request. Once the requester responds, the time to respond will resume from where it was at the date of the notification.

(4) The Department must make available its FOIA Public Liaison or other FOIA professional to assist any requester in reformulating a request to meet the requester's needs at a lower cost.

(f) *Charges for other services.* Although not required to provide special services, if a component chooses to do so as a matter of administrative discretion, the direct costs of providing the service shall be charged. Examples of such services include certifying that records are true copies, providing multiple copies of the same document, or sending records by means other than first class mail.

(g) *Charging interest.* The Department may charge interest on any unpaid bill starting on the 31st day following the date the bill was sent to the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and shall accrue from the date of the billing until payment is received by the Department. The fact that a fee has been received by the Department within the thirty-day grace period, even if not processed, shall stay the accrual of interest. The Department must follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(h) *Aggregating requests.* When the Department reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a single request into a series of requests for the purpose of avoiding fees, the Department may aggregate those

requests and charge accordingly. The Department may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. For requests separated by a longer period, components will aggregate them only where there is a reasonable basis for determining that aggregation is warranted in view of all the circumstances involved. Multiple requests involving unrelated matters cannot be aggregated.

(i) *Advance payments.* (1) For requests other than those described in paragraphs (i)(2) or (i)(3) of this section, the Department cannot require a requester to make an advance payment before work is commenced or continued on a request. Payment owed for work already completed (*i.e.,* payment before copies are sent to the requester) is not advance payment.

(2) When the Department estimates or determines that a total fee to be charged under this section will exceed $250, it may require that the requester make an advance payment up to the amount of the entire anticipated fee before beginning to process the request. The Department may elect to process the request prior to collecting fees when it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(3) Where a requester has previously failed to pay FOIA fees to any component within 30 calendar days of the date of its billing, the Department may require the requester to pay the full amount due, plus any applicable interest on that prior request, and to make an advance payment of the full amount of any anticipated fee before the Department begins to process a new request or continues to process a pending request or any appeal from that requester. Where the Department has a reasonable basis to believe that a requester has misrepresented the requester's identity in order to avoid paying outstanding fees, it may require that the requester provide proof of identity. Additionally, if a requester has failed to pay FOIA fees to another U.S. Government agency in a FOIA case, the Department may require proof that such fee has been paid before processing a new or pending request from that requester.

(4) In cases in which the Department requires advance payment, the request will not be considered received and further work will not be completed until the required payment is received. If the requester does not pay the advance payment within 30 calendar days after the date of the Department's fee determination, the request will be closed.

(j) *Requirements for waiver or reduction of fees.* (1) Requesters may seek a waiver of fees by submitting a written application demonstrating how disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(2) The Department must furnish records responsive to a request without charge or at a reduced rate when it determines, based on all available information, that the factors described in paragraphs (j)(2)(i) through (iii) of this section are satisfied:

(i) Disclosure of the requested information would shed light on the operations or activities of the government. The subject of the request must concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated.

(ii) Disclosure of the requested information is likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(A) Disclosure of the requested records must be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.

(B) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public shall be considered. The Department will presume that a representative of the news media satisfies this consideration.

(iii) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the information is primarily in the commercial interest of the requester, the Department will consider the following factors:

(A) The Department must identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters must be given an opportunity to provide explanatory information regarding this consideration.

(B) If there is an identified commercial interest, the Department must determine whether that is the primary interest furthered by the request. A waiver or reduction of fees is justified when the requirement of paragraphs (j)(2)(i) and (ii) of this section are satisfied and any commercial interest is not the primary interest furthered by the request. The Department ordinarily will presume that when a news media requester has satisfied the requirements of paragraphs (j)(2)(i) and (ii) of this section, the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(3) Where only some of the records to be released satisfy the requirements for a waiver or reduction of fees, a waiver or reduction must be granted for those records.

(4) Requests for a waiver or reduction of fees should be made when the request is first submitted to the Department and should address the criteria referenced above. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester must pay any costs incurred up to the date the fee waiver request was received.

§ 171.17 Preservation of records.

The Department must preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code and applicable records disposition schedules, including the General Records Schedule 4.2 of the National Archives and Records Administration. The Department must not dispose of or destroy records while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

Subpart C—Privacy Act Provisions

§ 171.20 Purpose and scope.

This subpart contains the rules that the Department follows when implementing certain provisions of the Privacy Act of 1974 (PA), as amended, 5 U.S.C. 552a. These rules should be read together with the statute. The rules

in this subpart apply to all records in systems of records maintained by the Department that are retrieved by an individual's name or personal identifier. They describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by the Department. If any records retrieved pursuant to an access request under the PA are found to be exempt from access under that Act, they will be processed for possible disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended. No fees shall be charged when an individual requests access to or amendment of his or her own PA records.

§ 171.21 Definitions.

As used in this subpart, the following definitions shall apply:

Individual means a citizen or a lawful permanent resident (LPR) of the United States.

Maintain includes maintain, collect, use, or disseminate.

Record means any item, collection, or grouping of information about an individual that is maintained by the Department and that contains the individual's name or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voice print, or photograph.

System of records means a group of any records under the control of the Department from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to an individual.

§ 171.22 Request for access to records.

(a) *In general.* Requests for access to records under the PA must be made in writing and sent to the Office of Information Programs and Services, the Law Enforcement Liaison Division of the Passport Services directorate within the Bureau of Consular Affairs, or the Office of Inspector General at the addresses given in § 171.4. The Director of the Office of Information Programs and Services (A/GIS/IPS) is responsible for acting on all PA requests for Department records except for requests received directly by the Office of Inspector General, which processes its own requests for information, and the Law Enforcement Liaison Division of the Passport Services directorate within the Bureau of Consular Affairs, which receives directly and processes its own PA requests for information as described in PA System of Record Notice STATE–26. All processing of PA requests coming under the jurisdiction of the Directorates for Visa Services and Overseas Citizens Services in the Bureau of Consular Affairs, the Bureau of Diplomatic Security, the Bureau of Global Talent Management, the Bureau of Medical Services, and the Foreign Service Grievance Board (FSGB) are handled by those bureaus or offices.

(b) *Description of records sought.* Requests for access should describe the requested record(s) in sufficient detail to permit identification of the record(s). At a minimum, requests should include the individual's full name (including maiden name, if appropriate) and any other names used, current complete mailing address, and date and place of birth (city, state, and country). Helpful information includes the approximate time period of the record and the circumstances that give the individual reason to believe that the Department maintains a record under the individual's name or personal identifier, and, if known, the system of records in which the record is maintained. In certain instances, it may be necessary for the Department to request additional information from the requester, either to ensure a full search, or to ensure that a record retrieved does in fact pertain to the individual.

(c) *Verification of personal identity.* The Department will require reasonable identification of individuals requesting records about themselves under the PA's access provisions to ensure that records are only accessed by the proper persons. Requesters must state their full name, current address, citizenship or legal permanent resident alien status, and date and place of birth (city, state, and country). The request must be signed, and the requester's signature must be either notarized or made under penalty of perjury pursuant to 28 U.S.C. 1746. If the requester seeks records under another name the requester has used, a statement, under penalty of perjury, that the requester has also used the other name must be included. Requesters seeking access to copies of the Passport Services' passport records must meet the requirements in paragraph (d) of this section.

(d) *Special requirements for passport records.* Given the sensitive nature of passport records and their use, requesters seeking access to copies of passport records from Passport Services under the PA must submit a letter that is either notarized or made under penalty of perjury pursuant to 28 U.S.C. 1746, which includes the full name at birth and any subsequent name changes of the individual whose records are being requested (if submitting the request on behalf of a minor, provide the representative's full name as well); the date and place of birth of the individual whose records are being requested; the requester's current mailing address; and, if available, daytime telephone number and email address; the date or estimated date the passport(s) was issued; the passport number of the person whose records are being sought, if known; and any other information that will help to locate the records. The requester must also include a clear copy of both sides of the requester's valid government-issued photo identification, *e.g.,* a driver's license.

(e) *Authorized third party access.* The Department shall process all properly authorized third party requests, as described in this section, under the PA. In the absence of proper authorization from the individual to whom the records pertain, the Department will process third party requests under the FOIA. The Department's forms DS–4240–R and DS–4240–C, respectively, may be used to certify identity and provide third party authorization. Forms created by other Federal agencies will not be accepted.

(1) *Parents and guardians of minor children.* Upon presentation of acceptable documentation of the parental or guardian relationship, a parent or guardian of a U.S. citizen or LPR minor (an unmarried person under the age of 18) may, on behalf of the minor, request records under the PA pertaining to the minor. In any case, U.S. citizen or LPR minors may request such records on their own behalf. When making a request as the parent or guardian of a minor child, for access to records about that individual, a requester must establish: (1) the identity of the individual who is the subject of the records, by stating the name, current address, date and place of birth; (2) the requester's own identity, as required in paragraph (c) of this section; (3) that the requester is the parent of that individual, which the requester may prove by providing a copy of the individual's birth certificate showing parentage, or by providing a court order establishing guardianship; and (4) that the requester is acting on behalf of that individual in making the request.

(2) *Guardians of incompetent adults.* A guardian of an individual who has been declared by a court to be incompetent may act for and on behalf of the incompetent individual upon presentation of appropriate documentation of the guardian relationship.

(i) *Verification of guardianship of incompetent adult.* When making a

request as the guardian of someone determined by a court to be incompetent, for access to records about that individual, a requester must establish: (1) the identity of the individual who is the subject of the records, by stating the name, current address, date and place of birth; (2) the requester's own identity, as required in paragraph (c) of this section; (3) that the requester is the guardian of that individual, which the requester may prove by providing a copy of a court order establishing guardianship; and (4) that the requester is acting on behalf of that individual in making the request.

(ii) *Authorized representatives or designees.* When an individual wishes to authorize the Department to permit a third party access to his or her records, the individual to whom the records pertain must submit, in addition to the identity verification information described in paragraph (c) (or paragraph (d) of this section if the request is for passport records), a signed statement from the individual to whom the records pertain, either notarized or made under penalty of perjury pursuant to 28 U.S.C. 1746, giving the Department authorization to release records about the individual to the third party. The designated third party must submit identity verification information described in paragraph (c). Third party requesters seeking access to copies of the Passport Office's records must submit a clear copy of both sides of a valid government-issued photo identification (*e.g.,* a driver's license) in addition to the other information described above.

(f) *Referrals and consultations.* If the Department determines that records retrieved as responsive to the request were created by another agency, it ordinarily will refer the records to the originating agency for direct response to the requester. If the Department determines that Department records retrieved as responsive to the request are of interest to another agency, it may consult with the other agency before responding to the request. The Department may make agreements with other agencies to eliminate the need for consultations or referrals for particular types of records.

(g) *Records relating to civil actions.* Nothing in this subpart entitles an individual to access any information compiled in reasonable anticipation of a civil action or proceeding.

(h) *Time limits.* The Department will acknowledge the request promptly and furnish the requested information as soon as possible thereafter.

§ 171.23 Request to amend or correct records.

(a) An individual has the right to request that the Department amend a record pertaining to the individual that the individual believes is not accurate, relevant, timely, or complete.

(b) Requests to amend records must be in writing and mailed or delivered to A/GIS/IPS or OIG at the address given in § 171.4, with ATTENTION: PRIVACY ACT AMENDMENT REQUEST written on the envelope. A/GIS/IPS or OIG will coordinate the review of the request with the appropriate offices under its purview. The Department will require verification of personal identity as provided in § 171.22(c) before it will initiate action to amend a record. Amendment requests should contain, at a minimum, identifying information needed to locate the record in question, a description of the specific correction requested, and an explanation of why the existing record is not accurate, relevant, timely, or complete. The request must be signed, and the requester's signature must be either notarized or made under penalty of perjury pursuant to 28 U.S.C. 1746. The requester should submit as much pertinent documentation, other information, and explanation as possible to support the request for amendment.

(c) All requests for amendments to records shall be acknowledged within 10 working days.

(d) In reviewing a record in response to a request to amend, the Department shall review the record to determine if it is accurate, relevant, timely, and complete.

(e) If the Department agrees with an individual's request to amend a record, it shall:

(1) Advise the individual in writing of its decision;

(2) Amend the record accordingly; and

(3) If an accounting of disclosure has been made, advise all previous recipients of the record of the amendment and its substance.

(f) If the Department denies an individual's request to amend a record, it shall advise the individual in writing of its decision and the reason for the refusal, and the procedures for the individual to request further review. See § 171.25.

§ 171.24 Request for an accounting of record disclosures.

(a) *How made.* Except where accountings of disclosures are not required to be kept, as set forth in paragraph (b) of this section, or where accountings of disclosures do not need to be provided to a requesting individual pursuant to 5 U.S.C. 552a(c)(3), an individual has a right to request an accounting of any disclosure that the Department has made to another person, organization, or agency of any record about such individual, provided that the disclosed records are maintained in a system of records. This accounting shall contain the date, nature, and purpose of each disclosure as well as the name and address of the recipient of the disclosure. Any request for accounting should identify each particular record in question and may be made by writing directly to A/GIS/IPS at the address given in § 171.4.

(b) *Where accountings not required.* The Department is not required to keep an accounting of disclosures in the case of:

(1) Disclosures made to employees within the Department who have a need for the record in the performance of their duties; and

(2) Disclosures required under the FOIA.

§ 171.25 Appeals from denials of PA amendment requests.

(a) If the Department denies a request for amendment of such records, the requester shall be informed of the reason for the denial and of the right to appeal the denial within 90 working days of the date of the Department's denial letter.

(b) For decisions made by A/GIS/IPS, requesters should submit their appeal to the A/GIS/IPS FOIA Appeals Office using any of the following methods: by mail to the Appeals Officer, Office of Information Programs and Services (A/GIS/IPS), Room B–266, U.S. Department of State, 2201 C Street NW, Washington, DC 20520; by fax to (202) 485–1718; or by email to *FOIAAppeals@state.gov.* To facilitate handling, the requester should mark both the appeal letter and envelope, or subject line of the electronic transmission, ''Privacy Act Appeal.''

(c) For decisions made by OIG, requesters should submit their appeal to the OIG. The contact information for OIG is available at *www.stateoig.gov/foiaappeals.* To facilitate handling, the requester should mark both the appeal letter and envelope, or subject line of the electronic transmission, ''Privacy Act Appeal.''

(d) Appellants should submit an administrative appeal of any denial, in whole or in part, of a request for access to FSGB records under the PA to A/GIS/IPS FOIA Appeals Office using any of the following methods: by mail to the Appeals Officer, Office of Information Programs and Services (A/GIS/IPS),

Room B–266, U.S. Department of State, 2201 C Street NW, Washington, DC 20520; by fax to (202) 485–1718; or by email to *FOIAAppeals@state.gov*. A/GIS/IPS will assign a tracking number to the appeal and forward it to the FSGB, which is an independent body, for adjudication.

(e) A/GIS/IPS or OIG will decide appeals from denials of PA amendment requests within 30 working days from the date when the appeal is received, unless an extension of that period for good cause shown is needed.

(f) Decisions will be made in writing, and appellants will receive notification of the decision. A reversal will result in reprocessing of the request in accordance with that decision. An affirmance will include a brief statement of the reason for the affirmance and will inform the appellant that the decision represents the final decision of the Department and of the right to seek judicial review of the decision, when applicable.

(g) If the decision is that a record shall be amended in accordance with the appellant's request, A/GIS/IPS or OIG shall direct the office under its purview that is responsible for the record to amend the record, advise all previous recipients of the record of the amendment and its substance (if an accounting of previous disclosures has been made), and so advise the individual in writing.

(h) If the decision is that the amendment request is denied, in addition to the notification required by paragraph (f) of this section, A/GIS/IPS or OIG shall advise the appellant:

(1) of the right to file a concise Statement of Disagreement stating the reasons for disagreement with the decision of the Department;

(2) of the procedures for filing the Statement of Disagreement;

(3) that any Statement of Disagreement that is filed will be made available to anyone to whom the record is subsequently disclosed, together with, at the discretion of the Department, a brief statement by the Department summarizing its reasons for refusing to amend the record;

(4) that prior recipients of the disputed record will be provided a copy of any statement of disagreement, to the extent that an accounting of disclosures was maintained.

(i) If the appellant files a Statement of Disagreement under paragraph (h) of this section, the Department will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently access the record. When the disputed record is subsequently disclosed, the Department will note the dispute and provide a copy of the Statement of Disagreement. The Department may also include a brief summary of the reasons for not amending the record. Copies of the Department's statement shall be treated as part of the individual's record for granting access; however, it will not be subject to amendment by an individual under this part.

§ 171.26 Exemptions.

Systems of records maintained by the Department are authorized to be exempt from certain provisions of the PA under both general and specific exemptions set forth in the Act. In utilizing these exemptions, the Department is exempting only those portions of systems that are necessary for the proper functioning of the Department and that are consistent with the PA. Where compliance would not interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, the applicable exemption may be waived, either partially or totally, by the Department or the OIG, in the sole discretion of the Department or the OIG, as appropriate. Records exempt under 5 U.S.C. 552a(j) or (k) by the originator of the record remain exempt if subsequently incorporated into any Department system of records, provided the reason for the exemption remains valid and necessary.

(a) *General exemptions.* If exempt records are the subject of an access request, the Department will advise the requester of their existence and of the name and address of the source agency, unless that information is itself exempt from disclosure.

(1) Individuals may not have access to records maintained by the Department that are maintained or originated by the Central Intelligence Agency under 5 U.S.C. 552a(j)(1).

(2) In accordance with 5 U.S.C. 552a(j)(2), individuals may not have access to records maintained or originated by an agency or component thereof that performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of:

(i) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(ii) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(iii) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. The reason for invoking these exemptions is to ensure effective criminal law enforcement processes. Records maintained by the Department in the following systems of records are exempt from all of the provisions of the PA except paragraphs (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (e)(7), (e)(9), (e)(10), and (e)(11), and (i), to the extent to which they meet the criteria of section (j)(2) of 5 U.S.C. 552a. The names of the systems correspond to those published in the **Federal Register** by the Department.

TABLE 1 TO PARAGRAPH (a)(2)(iii)

Title	No.
Information Access Program Records	STATE–35.
Office of Inspector General Investigation Management System	STATE–53.
Risk Analysis and Management	STATE–78.
Security Records	STATE–36.

(b) *Specific exemptions.* Portions of the following systems of records are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), and (4), (G), (H), and (I), and (f). The names of the systems correspond to those published in the **Federal Register** by the Department.

(1) *Exempt under 5 U.S.C. 552a(k)(1).* Records contained within the following systems of records are exempt under this section to the extent that they are subject to the provisions of 5 U.S.C. 552(b)(1).

TABLE 2 TO PARAGRAPH (b)(1)

Title	No.
Board of Appellate Review Records	STATE–02.
Congressional Correspondence	STATE–43.
Congressional Travel Records	STATE–44.
Coordinator for the Combating of Terrorism Records	STATE–06.
External Research Records	STATE–10.
Extradition Records	STATE–11.
Family Advocacy Case Records	STATE–75.
Foreign Assistance Inspection Records	STATE–48.
Human Resources Records	STATE–31.
Information Access Programs Records	STATE–35.
Intelligence and Research Records	STATE–15.
International Organizations Records	STATE–17.
Law of the Sea Records	STATE–19.
Legal Case Management Records	STATE–21.
Munitions Control Records	STATE–42.
Office of Inspector General Investigation Management System	STATE–53.
Overseas Citizens Services Records	STATE–05.
Passport Records	STATE–26.
Personality Cross Reference Index to the Secretariat Automated Data Index	STATE–28.
Personality Index to the Central Foreign Policy Records	STATE–29.
Personnel Payroll Records	STATE–30.
Records of Domestic Accounts Receivable	STATE–23.
Records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes	STATE–54.
Records of the Office of White House Liaison	STATE–34.
Refugee Records	STATE–59.
Rover Records	STATE–41.
Security Records	STATE–36.
Visa Records	STATE–39.

(2) *Exempt under 5 U.S.C. 552a(k)(2).* Records contained within the following systems of records are exempt under this section to the extent that they consist of investigatory material compiled for law enforcement purposes, subject to the limitations set forth in 5 U.S.C. 552a(k)(2).

TABLE 3 TO PARAGRAPH (b)(2)

Title	No.
Board of Appellate Review Records	STATE–02.
Coordinator for the Combating of Terrorism Records	STATE–06.
Extradition Records	STATE–11.
Family Advocacy Case Records	STATE–75.
Foreign Assistance Inspection Records	STATE–48.
Garnishment of Wages Records	STATE–61.
Information Access Program Records	STATE–35.
Intelligence and Research Records	STATE–15.
Munitions Control Records	STATE–42.
Office of Foreign Missions Records	STATE–81.
Office of Inspector General Investigation Management System	STATE–53.
Overseas Citizens Services Records	STATE–05.
Passport Records	STATE–26.
Personality Cross Reference Index to the Secretariat Automated Data Index	STATE–28.
Personality Index to the Central Foreign Policy Records	STATE–29.
Risk Analysis and Management Records	STATE–78.
Security Records	STATE–36.
Visa Records	STATE–39.

(3) *Exempt under 5 U.S.C. 552a(k)(3).* Records contained within the following systems of records are exempt under this section to the extent that they are maintained in connection with providing protective services pursuant to 18 U.S.C. 3056.

TABLE 4 TO PARAGRAPH (b)(3)

Title	No.
Extradition Records	STATE–11.
Information Access Programs Records	STATE–35.
Intelligence and Research Records	STATE–15.
Overseas Citizens Services Records	STATE–05.
Passport Records	STATE–26.
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE–28.
Personality Index to the Central Foreign Policy Records	STATE–29.
Security Records	STATE–36.
Visa Records	STATE–39.

(4) *Exempt under 5 U.S.C. 552a(k)(4).* Records contained within the following systems of records are exempt under this section to the extent that they are required by statute to be maintained and are used solely as statistical records.

TABLE 5 TO PARAGRAPH (b)(4)

Title	No.
Foreign Service Institute Records	STATE–14.
Human Resources Records	STATE–31.
Information Access Programs Records	STATE–35.
Overseas Citizens Services Records	STATE–05.
Personnel Payroll Records	STATE–30.
Security Records	STATE–36.

(5) *Exempt under 5 U.S.C. 552a(k)(5).* Records contained within the following systems of records are exempt under this section to the extent that they consist of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that disclosure of such material would reveal the identity of a confidential informant.

TABLE 6 TO PARAGRAPH (b)(5)

Title	No.
Foreign Assistance Inspection Records	STATE–48.
Foreign Service Grievance Board Records	STATE–13.
Human Resources Records	STATE–31.
Information Access Programs Records	STATE–35.
Legal Adviser Attorney Employment Application Records	STATE–20.
Office of Inspector General Investigation Management System	STATE–53.
Overseas Citizens Services Records	STATE–25.
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE–28.
Records Maintained by the Office of Civil Rights	STATE–09.
Records of the Office of White House Liaison	STATE–34.
Risk Analysis and Management Records	STATE–78.
Rover Records	STATE–41.
Security Records	STATE–36.
Senior Personnel Appointments Records	STATE–47.

(6) *Exempt under 5 U.S.C. 552a(k)(6).* Records contained within the following systems of records are exempt under this section to the extent that they consist of testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

TABLE 7 TO PARAGRAPH (b)(6)

Title	No.
Foreign Service Institute Records	STATE–14.
Human Resources Records	STATE–31.
Information Access Programs Records	STATE–35.
Records Maintained by the Office of Civil Rights	STATE–09.
Security Records	STATE–36.

(7) *Exempt under 5 U.S.C. 552a(k)(7).* Records contained within the following systems of records are exempt under this section to the extent that they consist of evaluation material used to determine potential for promotion in the armed services, but only to the extent that such disclosure would reveal the identity of a confidential informant.

TABLE 8 TO PARAGRAPH (b)(7)

Title	No.
Human Resources Records	STATE–31.
Information Access Programs Records	STATE–35.
Overseas Citizens Services Records	STATE–25.
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE–28.
Personality Index to the Central Foreign Policy Records	STATE–29.
Security Records	STATE–36.

Subpart D—Access to Financial Disclosure Reports

§ 171.30 Purpose and scope.

This subpart sets forth the process by which persons may request access to public financial disclosure reports filed with the Department in accordance with sections 101 and 103(l) of the Ethics in Government Act of 1978, as amended, recodified at 5 U.S.C. 13103 and 13105. The retention, public availability, and improper use of these reports are governed by 5 U.S.C. 13107 and 5 CFR 2634.603. It also sets forth the prohibition on access to confidential financial disclosure reports filed under 5 CFR 2634, Subpart I, in accordance with sections 107(a) of the Ethics in Government Act of 1978, 5 U.S.C. 13109 and 5 CFR 2634.604.

§ 171.31 Requests for Public Financial Disclosure Reports—OGE Form 278.

Requests for access to public financial disclosure reports filed with the Department should be made by submitting the information required by 5 CFR 2634.603(c) or a completed Office of Government Ethics request form, OGE Form 201, to *OGE201Request@state.gov* or to the Office of the Assistant Legal Adviser for Ethics and Financial Disclosure, U.S. Department of State, 2201 C Street NW, Washington, DC 20520. The OGE Form 201 may be obtained by visiting *www.oge.gov* or writing to the address in this section.

§ 171.32 Denial of Public Access to Confidential Financial Disclosure Reports—OGE Form 450.

No member of the public shall have access to confidential financial disclosure reports filed pursuant to 5 CFR 2634, Subpart I, except pursuant to the order of a Federal court or as otherwise provided under the Privacy Act. See 5 U.S.C. 552a.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, Department of State.

[FR Doc. 2023–22380 Filed 10–17–23; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2023–0791]

Special Local Regulations; Northern California and Lake Tahoe Area Annual Marine Events; Sacramento Ironman Swim, Sacramento, CA

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulations for the annual Sacramento Ironman Swim on October 22, 2023, to provide for the safety of life on navigable waterways in the American River and Sacramento River during this event. The regulation for marine events in Northern California identifies the regulated area for this event in Sacramento, CA. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or loitering or anchoring in the regulated area, unless authorized by the designated 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 100.1103 will be enforced for the location in table 1 to § 100.1103, Item number 5, from 4:30 a.m. to 10:30 a.m. on October 22, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call, or email MST1 Shannon Curtaz-Milian, Sector San Francisco Waterways Management, U.S. Coast Guard; telephone (415) 399–7440, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.1103, table 1 to § 100.1103, Item number 5, for the Sacramento Ironman Swim regulated area from 4:30 a.m. to 10:30 a.m. on October 22, 2023. This action is being taken to provide for the safety of life on navigable waterways during this event. The regulation for marine events within Northern California, § 100.1103, specifies the location of the regulated area for the Sacramento Ironman Swim which encompasses portions of the American River and Sacramento River. During the enforcement period, the regulated area will be in effect in the navigable waters, from surface to bottom, defined by a line drawn from Township 9 Park to North of the Tower Bridge.

During the enforcement period, under the provisions of 33 CFR 100.1103(b), if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander (PATCOM) or any 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. The PATCOM or Official Patrol may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

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. If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notification, a Broadcast Notice to Mariners or other marine broadcast may

be used to grant general permission to enter the regulated area.

Dated: October 12, 2023.

Taylor Q. Lam,

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

[FR Doc. 2023–22977 Filed 10–17–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2023–0702]

RIN 1625–AA08

Special Local Regulation; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for the San Diego Sharkfest Swim marine event that will be held on the navigable waters of San Diego Bay, San Diego, CA. This action is necessary to provide for the safety of life on these navigable waters of San Diego Bay during a swim event on October 21, 2023. This rule would prohibit spectators from anchoring, blocking, loitering or transiting through the event area unless authorized by the Captain of the Port San Diego or a designated representative.

DATES: This rule is effective from 9 a.m. to 10 a.m. on October 21, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Junior Grade Shelley Turner, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because we must establish this special local regulation by October 21, 2023. The Coast Guard was given short notice from the event sponsor that the date of the event would differ from the existing annual marine event as outlined in 33 CFR 100.1101, Table 1 to § 100.1101, Item 7. As such, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule in time for the new event dates. This regulation is necessary to ensure the safety of life on the navigable waters of San Diego Bay during the marine event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to ensure the safety of life on the navigable waters of San Diego Bay during the marine event on October 21, 2023.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector San Diego (COTP) has determined that a large number of swimmers in San Diego Bay associated with the San Diego Sharkfest Swim marine event on October 21, 2023, poses a potential safety concern. This rule is needed to protect persons, vessels, and the marine environment in the navigable waters within San Diego Bay while the event is occurring.

IV. Discussion of the Rule

This rule establishes a special local regulation from 9 a.m. to 10 a.m. on October 21, 2023. This special local regulation will cover the navigable waters of San Diego Bay encompassed by a line connecting the following coordinates beginning at 32°42′14″ N, 117°09′55″ W (Point A); thence running southerly to 32°41′49″ N, 117°09′57″ W (Point B); thence running south, along the shoreline to 32°41′19″ N, 117°09′48″ W (Point C); thence running north easterly to 32°41′23″ N, 117°09′41″ W (Point D); thence running northerly to 32°42′00″ N, 117°09′38″ (Point E); thence running northerly, along the shoreline to the beginning point. The duration of the zone is intended to ensure the safety of vessels, event participants, and these navigable waters during the scheduled marine event. No vessel or person would be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. The regulatory text appears at the end of this document.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the regulated area. The affected portion of the San Diego Bay will be of a 1 hour limited duration, during morning hours when vessel traffic is historically low and is necessary for safety of life to participants in the event. Moreover, the Coast Guard would make a post in the Local Notice to Mariners with details on the regulated area, as well as issue a Safety Marine Information Broadcast over Channel 22A.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety

zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal Government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a regulated area that would limit access to certain areas of San Diego Bay from 9 a.m. to 10 a.m. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measure, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T11–133 to read as follows:

§ 100.T11–133 San Diego Sharkfest Swim, San Diego Bay, California.

(a) *Regulated area.* The regulations in this section apply to the following area: all navigable waters of San Diego Bay encompassed by a line connecting the following points beginning at 32°42′14″ N, 117°09′55″ W (Point A); thence running southerly to 32°41′49″ N, 117°09′57″ W (Point B); thence running south, along the shoreline to 32°41′19″ N, 117°09′48″ W (Point C); thence running north easterly to 32°41′23″ N, 117°09′41″ W (Point D); thence running northerly to 32°42′00″ N, 117°09′38″ (Point E); thence running northerly, along the shoreline to the beginning point. These coordinates are based on the 1984 World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section—

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port San Diego (COTP) in the enforcement of the regulations in this section.

Participant means all persons and vessels registered with the event sponsor as a participants in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the Captain of the Port San Diego or their designated representative.

(2) Vessels requiring entry into this regulated area must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 21A or by telephone at 619–278–7033.

(3) The COTP will provide notice of the regulated area through advanced notice via Local Notice to Mariners and Safety Marine Information Broadcasts on Channel 22A.

(d) *Enforcement period.* This section will be enforced from 9 a.m. to 10 a.m. on October 21, 2023.

Dated: October 10, 2023.

J.W. Spitler,

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

[FR Doc. 2023–22910 Filed 10–17–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–HQ–OAR–2023–0442; FRL–11287–01–OAR]

RIN 2060–AW03

Findings of Failure To Submit State Implementation Plan Revisions for Reclassified Moderate Nonattainment Areas for the 2015 Ozone National Ambient Air Quality Standards (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to find that 11 States failed to submit State Implementation Plan (SIP) revisions required by the Clean Air Act (CAA) in a timely manner for certain nonattainment areas classified as Moderate for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The States that failed to submit the required SIP revisions for reclassified Moderate areas are Arizona, California, Connecticut, Delaware, Illinois, Indiana, Michigan, New Jersey, Nevada, Texas, and Wisconsin. This action triggers certain CAA deadlines for the imposition of sanctions if a State does not submit a complete SIP addressing the outstanding requirements and for the EPA to promulgate a Federal Implementation Plan (FIP) if the EPA does not approve the State's SIP revision addressing the outstanding requirements.

DATES: This final action is effective on November 17, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2023–0442. 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 electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Lingard, Office of Air Quality Planning and Standards, Air Quality Policy Division (C539–01), Environmental Protection Agency, Research Triangle Park, NC; telephone number: (919) 541–5272; email address: *lingard.robert@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How is this ***Federal Register*** *document organized?*

The information presented in this preamble is organized as follows:

B. Notice and Comment Under the Administrative Procedure Act (APA)

Section 553 of the APA, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this final agency action without prior proposal and opportunity for comment because no significant EPA judgment is involved in making findings of failure to submit SIPs, or elements of SIPs, required by the CAA, where States have made no submissions to meet the requirement. Thus, notice and public procedures are unnecessary to take this action. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

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

In addition to being available in the docket, an electronic copy of this **Federal Register** document will be posted at *https://www.epa.gov/ground-level-ozone-pollution/findings-failure-submit-state-implementation-plan-revisions.*

D. Where do I go if I have specific State questions?

For questions related to specific States mentioned in this document, please contact the appropriate EPA Regional office:

Regional offices	States
EPA Region 1: Mr. John Rogan, Chief, Air Quality Branch, EPA Region 1, 1 Congress Street, Suite 1100, Boston, Massachusetts 02203. *rogan.john@epa.gov.*	Connecticut.
EPA Region 2: Mr. Kirk Wieber, Manager, Air Program Branch, EPA Region 2, 290 Broadway, New York, New York 10007. *wieber.kirk@epa.gov.*	New Jersey.
EPA Region 3: Mr. Mike Gordon, Chief, Planning and Implementation Branch, EPA Region 3, 1600 JFK Boulevard, Philadelphia, Pennsylvania 19103. *gordon.mike@epa.gov.*	Delaware.
EPA Region 5: Mr. Doug Aburano, Manager, Air Programs Branch, EPA Region 5, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604. *aburano.douglas@epa.gov.*	Illinois, Indiana, Michigan, Wisconsin.
EPA Region 6: Mr. Guy Donaldson, Manager, State Planning and Implementation Branch, EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270. *donaldson.guy@epa.gov.*	Texas.
EPA Region 9: Ms. Idalia Perez, Manager, Air Planning Office, EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. *perez.idalia@epa.gov.*	Arizona, California, Nevada.

II. Background

On October 1, 2015, the EPA revised the NAAQS for ozone to establish new 8-hour standards.[1] In that action, the EPA promulgated identical revised primary and secondary ozone standards, designed to protect public health and welfare, of 0.070 parts per million (ppm). Those standards are met when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration is less than or equal to 0.070 ppm.[2]

Promulgation of revised NAAQS triggers a requirement for the EPA to designate areas of the country as nonattainment, attainment, or unclassifiable for the standards; for the ozone NAAQS, this also involves classifying any nonattainment areas at the time of initial area designation.[3] Ozone nonattainment areas are classified based on the severity of their ambient ozone levels (as determined based on an area's ''design value,'' which represents air quality in the area for the most recent 3 years). The possible classifications for ozone nonattainment areas are Marginal, Moderate, Serious, Severe, and Extreme.[4] Nonattainment areas with a ''lower'' classification (*e.g.,* Marginal) have ozone levels that are closer to the standards than areas with a ''higher'' classification (*e.g.,* Severe).[5]

The EPA finalized the air quality thresholds corresponding with, and attainment dates for, each level of nonattainment area classification for the 2015 ozone NAAQS on March 9, 2018.[6] In multiple separate rules, the EPA cumulatively designated 53 areas throughout the country as nonattainment for the 2015 ozone NAAQS and established classifications for the designated nonattainment areas.[7] On October 7, 2022, the EPA determined that 22 areas or portions of areas classified as Marginal under the 2015 ozone NAAQS failed to attain the standards by the applicable attainment date and were reclassified as Moderate, effective November 7, 2022.[8] Separately, on January 5, 2023, the EPA determined that the Las Vegas, Nevada, area classified as Marginal under the 2015 ozone NAAQS failed to attain the standards by the August 3, 2021, attainment date and was reclassified as Moderate, effective the same day.[9]

Responsible State air agencies with nonattainment areas classified as Moderate for the 2015 ozone NAAQS are required to submit a SIP revision that satisfies the air quality planning requirements for a Moderate area under sections 172, 182(b), and 182(f) of the CAA. The required SIP elements include: nonattainment new source review (NNSR); reasonable further progress (RFP); ozone attainment demonstration (AD); reasonably available control measures (RACM); reasonably available control technology (RACT); contingency measures (CM); and Basic motor vehicle inspection and maintenance (I/M Basic) where required. Included within RACT are provisions to require the implementation of RACT for each category of volatile organic compound (VOC) sources in the area covered by any control techniques guideline (CTG), for major stationary sources of VOC not covered by a CTG, and for major stationary sources of NO_X.[10] The SIP revisions for the nonattainment areas reclassified as Moderate, effective November 7, 2022, were due no later than January 1, 2023.[11]

Pursuant to CAA section 110(k)(1)(B), the EPA must determine no later than 6 months after the date by which a State is required to submit a SIP whether a State has made a submission that meets the minimum completeness criteria established pursuant to CAA section 110(k)(1)(A). These criteria are set forth at 40 CFR part 51, appendix V. For those States that have not yet made a submittal that was complete with respect to the applicable minimum completeness criteria, the EPA is making a finding of failure to submit a complete SIP.

Based on a review of SIP submittals received and deemed complete as of the date of this final action, the EPA is finding that the States listed in Table 1 have failed to submit specific required SIP elements, which were due no later than January 1, 2023.

TABLE 1—FINDINGS OF FAILURE TO SUBMIT CERTAIN REQUIRED SIP ELEMENTS FOR THE 2015 OZONE NAAQS

Region	State	Area name	Required Moderate area SIP element *
1	CT	Greater Connecticut	RFP, Ozone AD, CM, I/M Basic.
2	NJ	Philadelphia-Wilmington-Atlantic City.	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.
3	DE	Philadelphia-Wilmington-Atlantic City.	RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.
5	IL	Chicago	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.
5	IL	St. Louis	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.
5	IN	Chicago	NO_X RACT for major sources.
5	MI	Allegan County	RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM.
5	MI	Berrien County	RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM.
5	MI	Muskegon County	RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM.
5	WI	Chicago	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.
5	WI	Milwaukee	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.

[1] 80 FR 65292 (October 1, 2015).

[2] 40 CFR 50.15.

[3] CAA sections 107(d)(1) and 181(a)(1).

[4] CAA section 181(a)(1).

[5] *See* 40 CFR 51.1303 for the design value thresholds for each classification for the 2015 ozone NAAQS.

[6] 83 FR 10376 (March 9, 2018).

[7] 83 FR 25776 (June 4, 2018), effective August 3, 2018; 83 FR 35136 (July 25, 2018), effective September 24, 2018; 86 FR 31438 (June 14, 2021), effective July 14, 2021.

[8] 87 FR 60897 (October 7, 2022). The applicable Marginal area attainment date was August 3, 2021, except for the San Antonio, Texas, area, which was September 24, 2021.

[9] 88 FR 775 (January 5, 2023). The applicable Marginal area attainment date was August 3, 2021.

[10] *See* CAA sections 182(b)(2) and 182(f). The EPA's CTGs may be accessed at *https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques.*

[11] 87 FR 60897, 60907 (October 7, 2022).

TABLE 1—FINDINGS OF FAILURE TO SUBMIT CERTAIN REQUIRED SIP ELEMENTS FOR THE 2015 OZONE NAAQS—Continued

Region	State	Area name	Required Moderate area SIP element *
5	WI	Sheboygan County	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM.
6	TX	Dallas-Fort Worth	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.
6	TX	Houston-Galveston-Brazoria	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.
6	TX	San Antonio	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.
9	AZ	Phoenix-Mesa	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT,** Non-CTG VOC RACT for major sources,** NO_X RACT for major sources,** CM, I/M Basic.
9	CA	Mariposa County	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.
9	NV	Las Vegas	NNSR, RFP, Ozone AD, RACM, VOC CTG RACT, Non-CTG VOC RACT for major sources, NO_X RACT for major sources, CM, I/M Basic.

* Listed SIP elements are to satisfy the air quality planning requirements for Moderate areas under CAA sections 172, 182(b), and 182(f), which were due for the listed areas no later than January 1, 2023.

** The Arizona Department of Environmental Quality submitted a RACT SIP for the Maricopa County portion of the Phoenix-Mesa Moderate area on May 4, 2023, and EPA determined the submittal was complete on September 12, 2023.

The Kentucky portion of the Louisville, Kentucky-Indiana, area is not included in this action because the State of Kentucky submitted a complete request for the EPA to redesignate its area portion to attainment for the 2015 ozone NAAQS, and this request was received before the January 1, 2023, SIP submittal deadline for reclassified Moderate areas.[12] The Washington, District of Columbia-Maryland-Virginia, area is not included in this action because the EPA has proposed a clean data determination for the area for the 2015 ozone NAAQS.[13] Finally, the Pechanga Band of Luiseño Mission Indians of the Pechanga Reservation area is not included in this action because CAA provisions mandating the submission of State implementation plans do not apply to tribes.[14]

III. Consequences of Findings of Failure To Submit

If the EPA finds that a State has failed to make the required SIP submittal or that a submitted SIP is incomplete, then CAA section 179(a) establishes specific consequences, after a period of time, including the imposition of mandatory sanctions for the affected area. Additionally, such a finding triggers an obligation under CAA section 110(c) for the EPA to promulgate a FIP no later than 2 years after issuance of the finding of failure to submit if the affected State has not submitted, and the EPA has not approved, the required SIP submittal.

If the EPA has not affirmatively determined that a State has made the required complete SIP submittal for an area within 18 months of the effective date of this action, then, pursuant to CAA section 179(a) and (b) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b)(2) will apply in the affected nonattainment area. If the EPA has not affirmatively determined that the State has made the required complete SIP submittal within 6 months after the offset sanction is imposed, then the highway funding sanction will apply in the affected nonattainment area, in accordance with CAA section 179(b)(1) and 40 CFR 52.31. The sanctions will not take effect if, within 18 months after the effective date of these findings, the EPA affirmatively determines that the State has made a complete SIP submittal addressing the deficiency for which the finding was made. Additionally, if the State makes the required SIP submittal and the EPA takes final action to approve the submittal within 2 years of the effective date of these findings, the EPA is not required to promulgate a FIP for the affected nonattainment area.

IV. Findings of Failure To Submit for States That Failed To Make a Nonattainment Area SIP Submittal

Based on a review of SIP submittals received and deemed complete as of the date of signature of this action, the EPA finds that the States listed in Table 1 above failed to submit the indicated SIP elements required under sections 172, 182(b), and 182(f) of the CAA and that were due no later than January 1, 2023, for the listed nonattainment areas.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review, and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the PRA. This final action does not establish any new information collection requirement apart from what is already required by law. This action relates to the requirement in the CAA for States to submit SIPs under CAA sections 172 and 182 that address the statutory requirements that apply to areas designated as nonattainment for the ozone NAAQS.

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. This action is a finding that the named States have not made the necessary SIP submission for certain nonattainment areas to meet the requirements of part D of title I of the CAA.

[12] The EPA proposed but has not yet finalized action on a redesignation request for Kentucky's portion of the Louisville area received September 6, 2022 (88 FR 23598, April 18, 2023). No requirements under CAA section 182(b) became due prior to Kentucky's submittal of a complete redesignation request and, therefore, none will be applicable for purposes of any final redesignation. The Indiana portion of the Louisville area was redesignated to attainment for the 2015 ozone NAAQS effective July 11, 2022 (87 FR 39750, July 11, 2022).

[13] 88 FR 6688 (February 1, 2023).

[14] 40 CFR 49.4.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no new enforceable duty on any State, local or Tribal governments or the private sector.

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175. This action finds that several States have failed to submit SIP revisions that satisfy the nonattainment area planning requirements under sections 172 and 182 of the CAA. No Tribe is subject to the requirement to submit an implementation plan under section 172 or under subpart 2 of part D of title I of the CAA. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it is a finding that several States failed to submit SIP revisions that satisfy the nonattainment area planning requirements under sections 172 and 182 of the CAA and does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. 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 EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, which finds that certain States have failed to submit SIP revisions that satisfy the nonattainment area planning requirements under sections 172 and 182 of the CAA, 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.

K. Congressional Review Act (CRA)

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

L. Determinations Under CAA Section 307(b)(1) and (d)

Section 307(b)(1) of the CAA governs judicial review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the United States Court of Appeals for the District of Columbia Circuit if (i) the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) such action is locally or regionally applicable, but ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' For locally or regionally applicable final actions, the CAA reserves to the EPA complete discretion whether to invoke the exception in (ii).

This rulemaking is ''nationally applicable'' within the meaning of CAA section 307(b)(1). In this final action, the EPA is applying a uniform legal interpretation with respect to findings of failure to submit required SIPs for reclassified Moderate areas under the 2015 ozone NAAQS from 11 States with nonattainment areas, located in six of the 10 EPA Regions, and in the 2nd, 3rd, 5th, 6th, 7th, and 9th Circuits. This final action is also based on a common core of factual findings concerning the receipt and completeness of the relevant SIP submittals. For these reasons, this is a ''nationally applicable'' action within the meaning of CAA section 307(b)(1).

In the alternative, to the extent a court finds this action to be locally or regionally applicable, the Administrator is exercising the complete discretion afforded to him under the CAA to make and publish a finding that this action is based on a determination of ''nationwide scope or effect'' within the meaning of CAA section 307(b)(1).[15] In this final action, the EPA is applying a uniform legal interpretation with respect to findings of failure to submit required SIPs for reclassified Moderate areas under the 2015 ozone NAAQS, based on a common core of factual findings concerning the receipt and completeness of the relevant SIP submittals. In deciding to invoke this exception, the Administrator has taken into account a number of policy considerations, including his judgment regarding the benefit of obtaining the D.C. Circuit's authoritative centralized review, rather than allowing development of the issue in other contexts, in order to ensure consistency in the Agency's approach to implementation of the 2015 ozone

[15] 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.

NAAQS in the majority of the nonattainment areas nationwide for the 2015 ozone NAAQS. This final action treats all of the identified States with reclassified Moderate nonattainment areas consistently, in making findings of failure to submit required SIPs.

The Administrator finds that this is a matter on which national uniformity is desirable to take advantage of the D.C. Circuit's administrative law expertise and facilitate the orderly development of the basic law under the CAA. The Administrator also finds that consolidated review of this action in the D.C. Circuit will avoid piecemeal litigation in the regional circuits, further judicial economy, and eliminate the risk of inconsistent results for different States. The Administrator also finds that a nationally consistent approach to the CAA's mandate concerning reclassification of areas that fail to attain the 2015 ozone NAAQS constitutes the best use of agency resources. The Administrator is publishing his finding that this action is based on a determination of nationwide scope or effect in the **Federal Register** as part of this final action.

For these reasons, this final action is nationally applicable or, alternatively, the Administrator is exercising the complete discretion afforded to him by the CAA and finds that this final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1) and is publishing that finding in the **Federal Register**. Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by December 18, 2023.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedures, Air pollution control, Approval and promulgation of implementation plans, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Joseph Goffman,

Principal Deputy Assistant Administrator.

[FR Doc. 2023–22987 Filed 10–17–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 241

[EPA–HQ–OLEM–2020–0550; FRL–7815–01–OLEM]

RIN 2050–AH13

Non-Hazardous Secondary Material Standards; Response to Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is finalizing its denial of a rulemaking petition from American Forest and Paper Association et al. requesting amendments to the Non-Hazardous Secondary Materials regulations, initially promulgated on March 21, 2011, and amended on February 7, 2013, February 8, 2016, and February 7, 2018, under the Resource Conservation and Recovery Act. These regulations establish standards and procedures for identifying whether non-hazardous secondary materials are solid wastes when legitimately used as fuels or ingredients in combustion units. The petition requested the following amendments: Change the legitimacy criterion for comparison of contaminants in the non-hazardous secondary material against those in the traditional fuel the unit is designed to burn from mandatory to ''should consider''; remove associated designed to burn and other limitations for creosote-treated railroad ties; and revise the definition of ''paper recycling residuals'' to remove the limit on non-fiber materials in paper recycling residuals that can be burned as a non-waste fuel. The Environmental Protection Agency proposed to deny the petition on January 28, 2022. After review of the public comments, the Agency is finalizing its denial of the requested amendments. In addition to denying this rulemaking petition, the Agency is revising the definition of paper recycling residuals to limit the impact non-fiber materials may have on the heat value of paper recycling residuals in order for them to be considered a non-waste fuel.

DATES: This final rule is effective on December 18, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OLEM–2020–0550. 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 or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Patrick Wise, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division (MC 5303P), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–566–0520; email address: *wise.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: The following outline is provided to aid in locating information in this preamble.

I. General Information

A. List of Abbreviations and Acronyms Used in This Rule

AAR Association of American Railroads
AF&PA American Forest and Paper Association
ASLRRA American Short Line and Regional Railroad Association
AWC American Wood Council
Btu British thermal unit
CAA Clean Air Act
CFR Code of Federal Regulations
CISWI Commercial and Industrial Solid Waste Incinerator
CTRT Creosote-treated railroad ties
EPA U.S. Environmental Protection Agency
FR Federal Register
HAP Hazardous air pollutants
ISRI Institute of Scrap Recycling Industries
MACT Maximum achievable control technology
NAICS North American Industrial Classification System
NHSM Non-hazardous secondary material
OMB Office of Management and Budget
PRR Paper recycling residuals
RCRA Resource Conservation and Recovery Act
RIN Regulatory information number
SO_2 Sulfur dioxide
SVOC Semi-volatile organic compound
TWC Treated Wood Council
U.S.C. United States Code

B. What is the statutory authority for this final rule?

The Environmental Protection Agency (EPA or ''the Agency'') is finalizing its denial of the requested revisions in the American Forest and Paper Association (AF&PA) petition [1] and is making regulatory revisions to the definition of paper recycling residuals under the authority of sections 2002(a)(1) and 1004(27) of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6912(a)(1) and 6903(27). Section 129(a)(1)(D) of the Clean Air Act (CAA) directs the EPA to establish standards for Commercial and Industrial Solid Waste Incinerators (CISWI), which burn solid waste. Section 129(g)(6) of the CAA provides that the term ''solid waste'' is to be established by the EPA under RCRA (42 U.S.C. 7429(g)(6)). Section 2002(a)(1) of RCRA authorizes the Agency to promulgate regulations as are necessary to carry out its functions under the Act. The statutory definition of ''solid waste'' is stated in RCRA section 1004(27).

C. Does this final rule apply to me?

Categories and entities potentially affected by this action, either directly or indirectly, include, but may not be limited to the following:

GENERATORS AND POTENTIAL USERS [a] OF CATEGORICAL NON-WASTE FUELS

Primary industry category or subcategory	NAICS [b]
Utilities	221
Manufacturing	31, 32, 33
Wood Product Manufacturing	321
Sawmills	321113
Wood Preservation (includes railroad tie creosote treating)	321114
Paper Manufacturing	322
Cement Manufacturing	32731
Rail Transportation (includes line haul and short line)	482
Scenic and Sightseeing Transportation, Land (Includes: railroad, scenic and sightseeing)	487110
Port and Harbor Operations (Used railroad ties)	488310
Landscaping Services	561730
Solid Waste Collection	562111
Solid Waste Landfill	562212
Solid Waste Combustors and Incinerators	562213
Marinas	713930

[a] Includes: Major Source Boilers, Area Source Boilers, and Solid Waste Incinerators.
[b] NAICS—North American Industrial Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially impacted by this action. This table lists examples of the types of entities which the EPA is aware of that could potentially be affected by this action. Other types of entities not listed could also be affected. To determine whether your facility, company, business, organization, etc., is affected by this action, you should examine the applicability criteria in this rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. Background

A. History of the Non-Hazardous Secondary Materials Rulemaking

The non-hazardous secondary materials (NHSM) regulations establish standards and procedures for identifying when non-hazardous secondary materials burned in combustion units are solid wastes. The RCRA statute defines ''solid waste'' as ''any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material . . . resulting from industrial, commercial, mining, and agricultural operations, and from community activities.'' (RCRA section 1004(27) (emphasis added)). The key concept is that of ''discard'' and, in fact, this definition hinges on the meaning of the phrase ''other discarded material,'' since this term encompasses all other examples provided in the definition.

The meaning of ''solid waste,'' as defined under RCRA, is of particular importance as it relates to section 129 of the CAA. If a material or any portion thereof is a solid waste under RCRA, a combustion unit burning it is required to meet the CAA section 129 emission standards for solid waste incineration units (*NRDC* v. *EPA,* 489 F.3d 1250, 1258). If the material is not a solid waste, combustion units are required to meet the CAA section 112 emission standards. CAA section 129 further states that the term ''solid waste'' shall have the meaning ''established by the Administrator pursuant to the Solid Waste Disposal Act'' (42 U.S.C.

[1] Petition for Rulemaking to Amend the Legitimacy Criteria in 40 CFR part 241,—The Categorical Non-Waste Fuels Classification Criteria for Creosote Treated Railroad Ties and Other Treated Railroads Ties, and the Definition of Paper Recycling Residuals, December 7, 2018, available in docket (EPA–HQ–OLEM–2020–0550).

7429(g)(6)). The Solid Waste Disposal Act, as amended, is commonly referred to as RCRA.

The Agency first solicited comments on how the RCRA definition of solid waste should apply to NHSMs when used as fuels or ingredients in combustion units in an advance notice of proposed rulemaking (ANPRM), which was published in the **Federal Register** on January 2, 2009 (74 FR 41). The EPA then published an NHSM proposed rule on June 4, 2010 (75 FR 31844), which the EPA finalized on March 21, 2011 (76 FR 15456).

In the March 21, 2011 rule, the EPA finalized standards and procedures to be used to identify whether NHSMs are solid wastes when used as fuels or ingredients in combustion units. ''Secondary material'' was defined for the purposes of that rulemaking as any material that is not the primary product of a manufacturing or commercial process, and can include post-consumer material, off-specification commercial chemical products or manufacturing chemical intermediates, post-industrial material, and scrap (codified at 40 CFR 241.2). ''Non-hazardous secondary material'' is a secondary material that, when discarded, would not be identified as a hazardous waste under 40 CFR part 261 (codified at 40 CFR 241.2). Traditional fuels, including historically managed traditional fuels (*e.g.,* coal, oil, natural gas) and ''alternative'' traditional fuels (*e.g.,* clean cellulosic biomass), are not secondary materials and thus are not solid wastes under the rule unless discarded (codified at 40 CFR 241.2).

A key concept included in the March 21, 2011 rule is that NHSMs used as non-waste fuels in combustion units regulated under CAA section 112 must meet the legitimacy criteria specified in 40 CFR 241.3(d)(1); otherwise, NHSMs must be combusted in incinerator units regulated under CAA section 129. Application of the legitimacy criteria helps ensure that the fuel product is being legitimately and beneficially used and not simply being discarded through combustion. To meet the legitimacy criteria, the NHSM must be managed as a valuable commodity, have a meaningful heating value and be used as a fuel in a combustion unit that recovers energy, and contain contaminants or groups of contaminants at concentration levels comparable to (or lower than) those in traditional fuels which the combustion unit is designed to burn. The NHSM legitimacy criteria have been in place since 2011 and were upheld by the D.C. Circuit Court in *Solvay* v. *EPA.* 608 Fed. Appx. 10 (D.C. Cir. 2015) (45 ELR 20107 Nos. 11–1189, (D.C. Cir., 06/03/2015)).

Based on these criteria, the March 21, 2011 rule identified the following NHSMs as not being solid wastes:

- The NHSM that meets the legitimacy criteria and is used as a fuel and that remains within the control of the generator (whether at the site of generation or another site the generator has control over) (40 CFR 241.3(b)(1));
- The NHSM that meets the legitimacy criteria and is used as an ingredient in a combustion unit (whether by the generator or outside the control of the generator) (40 CFR 241.3(b)(3));
- Discarded NHSM that has been sufficiently processed to produce a fuel or ingredient that meets the legitimacy criteria (40 CFR 241.3(b)(4)); or
- On a case-by-case petition basis, NHSM that has been determined to have been handled outside the control of the generator, has not been discarded and is indistinguishable in all relevant aspects from a fuel product, and meets the legitimacy criteria (40 CFR 241.3(c)).

In 2013, the EPA amended the NHSM rules to ''clarify several provisions in order to implement the non-hazardous secondary materials rule as the Agency originally intended.'' [2] While the 2013 final rule did not contain any provisions specific to creosote-treated railroad ties (CTRT), the EPA noted that AF&PA and the American Wood Council submitted a letter with supporting information on December 6, 2012, seeking a categorical non-waste determination for CTRT combusted in any unit.[3] The EPA discussed at the time that the Agency was reviewing the petition and also asked petitioners to provide additional information regarding CTRT, including industry sectors that burn CTRT; types of combustion units; types of traditional fuels that could otherwise be burned in these combustion units; extent of use of CTRT in non-industrial boilers; and laboratory analyses of CTRT for the contaminants, as defined under 40 CFR 241.2, known to be significant components of creosote, such as polycyclic aromatic hydrocarbons. The EPA also provided notice that, assuming the additional information supported the petitioners' representations, the Agency intended to propose a categorical non-waste fuel determination for CTRT.

On February 8, 2016 (81 FR 6687), the EPA published final NHSM rule amendments that provided a categorical non-waste fuel determination for CTRT that undergo, at a minimum, metal removal and shredding or grinding and are used as fuel in units designed to burn both biomass and fuel oil as part of normal operations and not solely as part of start-up or shut-down operations.[4] In addition, the final rule included a special provision for units at major source pulp and paper mills or power producers subject to 40 CFR part 63, subpart DDDDD that were designed to burn biomass and fuel oil as part of normal operations, but are modified (*e.g.,* oil delivery mechanisms are removed) in order to use natural gas instead of fuel oil. These units may continue to combust the CTRT as product fuel if the following conditions are met: (A) CTRT must be burned in an existing (*i.e.,* commenced construction prior to April 14, 2014) stoker, bubbling bed, fluidized bed, or hybrid suspension grate boilers; and (B) CTRT can comprise no more than 40 percent of the fuel that is used on an annual heat input basis.

A similar categorical non-waste fuel determination approach was applied to creosote-borate and mixtures of creosote and certain non-creosote treated railroad ties (*i.e.,* other treated railroad ties, or OTRT) in the February 7, 2018 NHSM rule amendments.[5]

B. Summary of This Action

This action consists of two parts. First, the Agency is finalizing its response to a rulemaking petition (''the petition'') requesting amendments to the NHSM regulations, initially promulgated on March 21, 2011, and amended on February 7, 2013, February 8, 2016, and February 7, 2018 under RCRA. Second, the Agency is finalizing a revised definition of PRR. These two parts of this action are separate and distinct, and each part operates independently from the other.

In addition, within the first part (in which the Agency is finalizing its response to the petition), the Agency intends that each of the individual components of the petition and EPA's responses to those components, are also severable.

C. Summary of the Petitioners' Requested Changes

The petition was received on December 7, 2018; petitioners included AF&PA, the Association of American Railroads (AAR), Treated Wood Council (TWC), American Short Line and Regional Railroad Association

[2] *Commercial and Industrial Solid Waste Incineration Units: Reconsideration and Final Amendments; Non-Hazardous Secondary Materials That Are Solid Waste; Final Rule.* 78 FR 9112, February 7, 2013.

[3] 78 FR 9173, February 7, 2013.

[4] 81 FR 6723, February 8, 2016.

[5] 83 FR 5318–19, February 7, 2018.

(ASLRRA), and American Wood Council (AWC). The petition requested the following amendments to the NHSM regulations: (1) Change from mandatory to ''should consider'' the legitimacy criterion for comparison of contaminants in the NHSM to the traditional fuel the unit is designed to burn found at 40 CFR 241.3(d)(1)(iii); (2) remove associated designed to burn and other limitations for creosote-treated railroad ties found at 40 CFR 241.4(a)(7)–(10); and (3) revise the definition of paper recycling residuals that can be burned as non-waste fuel found at 40 CFR 241.2 to remove the limit on non-fiber materials. In issuing this petition denial, the EPA has considered and addressed each of the issues raised in the petition throughout this notice. Arguments raised in pages 13–16 of the petition regarding the contaminant comparison criteria are addressed in Section III.A. of the preamble; arguments raised on pages 16–17 of the petition regarding CTRT storage times are addressed in Section III.C. of the preamble; arguments raised in pages 18–20 of the petition regarding environmental benefits of removing restrictions on the combustion of CTRT are addressed in Sections III.A and III.B of the preamble; arguments raised in pages 20–22 of the petition regarding the definition of paper recycling residuals are addressed in Section III.D of the preamble.

D. Background on Creosote-Treated Railroad Ties

CTRT are still produced in large numbers today, and roughly 10–20 million railroad ties are removed from service each year in the U.S.[6] After railroad ties are removed from service, they may be stored for varying periods of time before being transferred for sorting/processing. Based on information provided by industry,[7] the processing of the railroad ties into fuel by the reclamation/processing companies involves several steps (metal removal, shredding, screening, etc.), which have already been described in the proposed petition response. Once the processing of CTRT is complete, the CTRT are sold directly to the end-use combustor for energy recovery, where they are typically combusted within a few days or weeks of receipt.

Use of CTRT as an alternative fuel has both positive and negative environmental implications. Combusting CTRT for energy recovery may reduce fossil fuel use,[8] increase the heat value of the fuel mix, improve the combustion temperature and conditions,[9] and divert waste ties from landfill. However, CTRT has elevated levels of various contaminants when compared to coal (76 FR 15483, March 21, 2011), fuel oil, and biomass (81 FR 6687, February 8, 2016). Thus, the 2016 NHSM non-waste determination is limited to CTRT that are used as fuel in specific types of units where CTRT have contaminants at levels comparable to or lower than the traditional fuel that combustion units are designed to burn.

In addition, in the January 28, 2022 proposed petition response, the EPA discussed potential problems associated with processing CTRT for use as fuel and requested public comment on the frequency and severity of such issues. Grinding CTRT can create dust that may blow onto neighboring properties. Processing CTRT into fuel can also be associated with other, more-generalized issues like excess noise from grinding, loud night-time operations, and the smell of creosote.

However, Tribal, State, and local governments have authority under their solid waste and water programs, as well as local ordinances, to address any citizen complaints associated with the management and processing of CTRT prior to their use as a non-waste fuel, including problems associated with dust, excess noise, and runoff. In most cases, CTRT remain solid waste until processed to produce a non-waste fuel per 40 CFR 241.3(b)(4) and thus remain under such solid waste regulatory authority. In addition, a Federal non-waste determination under 40 CFR part 241 does not affect a State's authority to regulate a non-hazardous secondary material as a solid waste under the State's RCRA Subtitle D solid waste management program.

It should also be noted that environmental concerns associated with processing and management may impact a material's classification as a non-waste fuel. In order to fulfill the ''valuable commodity'' legitimacy criterion required of NHSM burned as fuel (40 CFR 241.3(d)(1)(i)), the material must be ''managed in a manner consistent with the analogous fuel or otherwise be adequately contained to prevent releases to the environment.'' Likewise, when no analogous fuel exists, the material must be ''adequately contained so as to prevent releases to the environment.''

The EPA requested public comment on the potential health and environmental risks associated with managing and processing CTRT prior to combustion and potential approaches to addressing these issues, but the Agency received no public input on these matters. Absent sufficient information surrounding these issues and considering the existing authority of State and local governments to address many of these issues, the EPA is declining to take further action on this issue at this time.

III. EPA Response to Petitioners' Requested Changes

This action is based on the petition and its supporting materials, the Agency's review and evaluation of this information, information submitted by other stakeholders, and relevant information compiled by the Agency. All materials and information that form the basis for this decision are available in the public docket supporting this action. The petition's arguments and supporting information, in addition to other public comments received, are summarized and discussed below, followed by the Agency's response.

A. Request To Change the Contaminant Comparison Criterion From Mandatory to ''Should Consider''

1. Petitioners' Request

40 CFR 241.3(d)(1)(iii) currently states that, ''The non-hazardous secondary material *must* contain contaminants or groups of contaminants at levels comparable in concentration to or less than those in traditional fuel(s) that the combustion unit is *designed* to burn'' (emphasis added). Petitioners requested the following revision in the regulatory language: ''Persons *should* consider whether the non-hazardous secondary material contains contaminants or groups of contaminants at levels comparable in concentration to or lower than those in traditional fuel(s) that the combustion unit is *capable* of burning . . . *The factor in this paragraph does not have to be met for the non-hazardous secondary material to be considered a non-waste fuel*'' (emphasis added).

Petitioners' rationale for this suggested change focused on a July 7, 2017 decision by the U.S. Court of

[6] 2018 Railroad Tie Survey, Association of American Railroads, available in the docket EPA–HQ–OLEM–2020–0550.

[7] AFPA Rail Tie Petition Request December 6, 2012, EPA–HQ–RCRA–2013–0110–0002.

[8] While creosote is a coal derivative, because the creosote has already been used once as a preservative on railway ties, burning those ties still may reduce the need for burning of fossil fuels.

[9] In addition, Freeman et al., 2000 indicates that co-firing CTRT with coal at 10% the annual heating value may reduce emissions of certain pollutants. However, that study is very limited and cannot be extrapolated to the use of CTRT as a fuel in general. Little is known about impacts of variability in CTRT or coal composition and how these would impact emissions for any given combustor design or control device configuration. For more information, see *Creosote Treated Railroad Ties and Coal Co-firing Technical Support Document,* available in the docket, EPA–HQ–OLEM–2020–0550–0004.

Appeals for the D.C. Circuit that rejected mandatory compliance with the contaminant comparison criterion portion of the legitimacy test in the context of the RCRA rules defining ''solid wastes'' under RCRA's Subtitle C hazardous waste program (''DSW rule''). *American Petroleum Institute* v. *Environmental Protection Agency,* 862 F.3d 50 (D.C. Cir. 2017) (''*API*''). Petitioners argued that, in light of the Court's DSW rule decision, the continued mandatory use of the contaminant comparison criterion in the NHSM rule, including limiting railroad tie non-waste fuel classifications to certain types of combustion units, can no longer be justified.

Petitioners referenced preamble language the EPA used in the 2015 DSW final rule regarding the contaminant comparison criterion and said that ''[t]his language is consistent with the Identification of Non-Hazardous Secondary Materials that are Solid Wastes final rule (76 FR 15456, March 21, 2011)'' (80 FR 1727, January 13, 2015). From this preamble language petitioners concluded that the EPA has acknowledged the equivalence of the contaminant comparison factors in the two rules (*i.e.,* Factor 4 in the DSW rule and third legitimacy criterion in the NHSM rule).

In 2017, the *API* Court invalidated the fourth factor in the DSW rule, finding that ''[n]ever in the rulemaking does EPA make out why a product that fails those criteria is likely to be discarded in any legitimate sense of the term.'' 862 F.3d at 62. Petitioners say that the Court also challenged the EPA's ''bare assertion that high levels of hazardous constituents . . . could indicate discard,'' and noted that the contaminant comparison at issue was ''not a reasonable tool for distinguishing products from wastes.'' *Id* at 60, 63 (internal quotes omitted).

Petitioners argued that the *API* holding, with its critique of the EPA's application of this element of the definition of legitimate recycling in the DSW rule, applies with equal force to the NHSM legitimacy criteria set forth at 40 CFR 241.3(d). See *id* at 63. Therefore, petitioners alleged that, based on the reasoning and holding in *API*, the contaminant comparison criterion currently contained in the NHSM rule's legitimacy criteria and the corresponding NHSM rules for railroad ties treated with creosote and other wood preservatives can no longer be used as mandatory elements to determine whether a secondary material is discarded or not.

Furthermore, petitioners asserted that the EPA has recognized that the contaminant comparison should not be a determining factor for whether a material is being discarded. In its 2016 Rule on Additions to List of Categorical Non-Waste Fuels, the EPA expressly noted that ''CTRTs do not become wastes solely because of the switch to natural gas'' (81 FR 6687, 6731, February 8, 2016). In that rule, the EPA reasoned that facilities that have demonstrated the ability to burn fuel oil and biomass should not be penalized for switching to natural gas, a fuel that creates less air pollution. In addition, petitioners stated that the EPA properly determined that resinated wood should qualify as a categorical non-waste fuel under the NHSM rule, despite expressly recognizing that this material ''may not meet the regulatory contaminant legitimacy criteria in every situation'' (78 FR 9112, 9156, February 7, 2013). Petitioners claimed that this prior EPA precedent is fully consistent with the Court's decision in *API* and underscores the need to eliminate the contaminant comparison as a mandatory factor in the NHSM rule's legitimacy criteria generally, and as a condition as applied to individual NHSMs.

2. Public Comment

Commenters continued to argue that the 2017 *API* decision is applicable to the NHSM contaminant comparison criterion, iterating similar positions taken in the original petition. In particular, commenters contended that the sole statutory definition of ''solid waste'' in RCRA means that the contaminant comparison test must be applied identically for hazardous and non-hazardous materials. Because the test was invalidated for hazardous secondary material in the 2017 *API* decision, they argued the contaminant comparison criterion should also be eliminated as a mandatory criterion for non-hazardous secondary material being burned as a non-waste fuel. Commenters likewise stated that a non-mandatory standard should be permissible for materials that are not hazardous when discarded if a non-mandatory test is allowable for materials that are hazardous when discarded. Commenters also stated that combustion units would still be regulated by CAA section 112 standards if the contaminant comparison test was not mandatory.

3. EPA Response

The argument that the 2017 *API* decision invalidates the contaminant comparison criterion for the NHSM program fails because the contaminant standards in each rule were established for different purposes and in different contexts.

The DSW rule establishes standards for legitimate recycling of hazardous secondary materials into products (not fuels). The exclusions in the DSW rule address reclamation, and specifically omit burning for energy recovery. Unlike NHSMs, hazardous secondary materials that are burned for energy recovery are *always* solid waste,[10] unless the material is a commercial chemical product that is itself a fuel.[11] Combustion is an inherently destructive process, even when energy is recovered, and unlike other types of recycling, there is no final product to consider in determining the impact of elevated hazardous constituents. The contaminant comparison in 40 CFR 260.43(b) compares hazardous constituents in the product of the recycling process to the corresponding constituents in the analogous product made from virgin material. While 40 CFR 260.43(b) specifies that this factor ''does not have to be met for the recycling to be considered legitimate,'' the regulation also explains that ''[i]n evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.'' In other words, the definition of legitimate recycling in 40 CFR 260.43, as it relates to hazardous constituents, focuses on the effect those hazardous constituents have on the risks posed by the product of recycling.

In contrast, the NHSM rule was established solely to determine whether an NHSM that is combusted as a fuel or an ingredient is a waste or a non-waste for purposes of applying appropriate emission standards under CAA section 129 or CAA section 112. Without the contaminant criterion, an NHSM could contain contaminant levels that are significantly higher than the traditional fuel(s) they are meant to replace and still be considered a non-waste fuel. So, for example, if CTRT-derived pellets could be marketed to any wood-burning boiler, such as those sometimes used in

[10] The EPA notes that the statutory objectives associated with designating a solid waste as discarded warrant different implementation strategies depending on the context. See *Utility Air Regulatory Group* v. *EPA,* 573 U.S. 302, 320 (2014) (finding that statutory terms, even those that are defined in the statute, ''may take on distinct characters from association with distinct statutory objects calling for different implementation strategies'').

[11] *See* 40 CFR 261.2(c)(2), RCRA section 3004(q); *Natural Resources Defense Council* v. *EPA,* 755 F.3d 1010 (June 27, 2014)) and *Sierra Club* v. *EPA,* 755 F.3d 968.

schools,[12] then those boilers would be burning a material with higher levels of contaminants than the clean wood they were designed to burn, potentially exposing the children in those schools with wood-burning boilers to unexpected air pollutants. Burning is an inherently destructive process, even if there is energy recovery. Thus, through the NHSM rules, the Agency evaluates whether burning an NHSM for energy recovery also has the effect of destroying contaminants that would not otherwise be present in the corresponding traditional fuel, indicating discard is occurring. The presence of higher levels of contaminants underscores the appropriateness of applying CAA section 129 standards to the combustion of the material in question, as these standards are more appropriate for wastes, which are likely to contain more contaminants than traditional fuels.

NHSM standards for categorical non-wastes also differ significantly from the DSW rule because the NHSM standards allow consideration of ''other relevant factors'' in determining whether the contaminant comparison criterion is met (see 40 CFR 241.4(b)(5)(ii)). Thus, the NHSM standards already provide flexibility to meet the contaminant comparison criterion, where appropriate. The *API* Court's rejection of the mandatory contaminant comparison for hazardous wastes in the DSW rule turned, in large part, on what the Court viewed as a rigid and severe standard. The Court felt that the requirement ''sets the bar at the contaminant level of the analogue without regard to whether any incremental contaminants are significant in terms of health and environmental risks.'' 862 F.3d 50, 60 (D.C. Cir. 2017). However, the Court went on to commend an exception to that test in which a recycler could satisfy this legitimacy criterion with evidence of ''lack of exposure from toxics in the product, lack of the bioavailability of toxins in the product, or other relevant considerations which show that the recycled product does not contain levels of hazardous constituents that pose a significant human health or environmental risk.'' *Id.* (quoting 40 CFR 260.43(a)(4)(iii) (2016)). Ultimately, the Court found the exception to be insufficient ''due to the draconian character of the procedures.'' *Id.* at 61. That is, if a recycler failed to satisfy any step in the exception process, an otherwise legitimate product would be considered to be hazardous waste. The NHSM regulations avoid these problems by allowing the Agency to consider ''other relevant factors,'' which offers flexibility without the ''draconian'' procedures of the 2015 DSW rule. Petitioners recognize this fact by noting that the EPA has already applied such flexibility when the Agency originally promulgated 40 CFR 241.4(a)(7)(ii), which recognized the fact that CTRT burned as fuel in certain units at major source pulp and paper mills or power producers which were constructed prior to April 14, 2014 and burn CTRT as less than 40% of its fuel source would be considered non-waste fuel, even if those units have been modified to burn natural gas. Likewise, the Agency previously exercised this flexibility in establishing the categorical non-waste listing for resinated wood; however, that context differed in that the EPA determined that the management of resinated wood prior to combustion as a fuel is equivalent to the management of resinated wood being used as a raw material. As such, the Agency concluded that, though resinated wood may not fulfill the legitimacy criteria in all cases, ''resinated wood that is used as fuel represents an integral component of the wood manufacturing process and, as such, is not being discarded when burned as fuel.'' The use of resinated wood as a fuel is integrated into the wood production process in such a way that the relevant manufacturing facilities would have to be significantly re-engineered if they could not use resinated wood for its fuel value (78 FR 9155, February 7, 2013). In contrast, units that burn CTRT are far removed from the CTRT production process, and are also able to burn other types of fuels, so the Agency maintains that the more stringent provisions in the categorical non-waste listing for CTRT (as compared to that for resinated wood) are appropriate. The EPA also notes that the Agency has not reopened or requested comment on this provision, but cites it as a demonstration that the Agency can and has used flexibility to address case-specific circumstances where appropriate.

Commenters imply that the existence of such flexibility requires the EPA to disregard relative contaminant levels when comparing NHSMs to traditional fuels because of other implications related to a material's waste status. However, any ''other relevant factors'' considered in making a waste determination must be relevant to the core question of whether the material is a solid waste when combusted. Some commenters seem to propose looking to greenhouse gas emissions and landfill capacity as ''other relevant factors,'' but neither of these topics dictate whether the particular material in question is combusted as a waste. The extent to which a particular disposal practice of NHSM does or does not release greenhouse gases or consume landfill capacity once discarded does not impact whether the NHSM is discarded when combusted.

Finally, in response to comments arguing that CAA section 112 standards would still apply to units combusting NHSM with significantly elevated levels of contaminants when compared to traditional fuels, the EPA does not agree that these elevated levels of contaminants would be addressed by the CAA section 112 standards, which were intended for units that burn non-waste fuel. Emission standards for dioxins, SO_2, NO_X, etc. for non-major sources are addressed under the CAA section 129 standards but are not addressed by area source boiler standards under CAA section 112, which require only tune-ups. Therefore, for all of the reasons stated above, the *API* decision does not directly apply because the context of burning NHSM differs fundamentally from hazardous waste recycling (which, to reiterate, does not include burning for energy recovery).

To end, we also note that the NHSM legitimacy criteria have been in place since 2011 and were upheld by the D.C. Circuit Court in *Solvay* v. *EPA.* 608 Fed. Appx. 10 (D.C. Cir. 2015) (45 ELR 20107 Nos. 11–1189, (D.C. Cir., 06/03/2015)). A substantive change to the contaminant comparison criterion would allow NHSM generators to ''consider'' significantly higher levels of contaminants in their NHSM-derived fuel, without any threshold or indication of when such a consideration might result in an NHSM being a solid waste. Such a substantive change would also create regulatory uncertainty for the combustion units that burn this material and rely on an accurate non-waste determination for their CAA regulatory applicability determinations. The Agency is, therefore, denying the petitioners' request regarding the contaminant comparison criterion.

B. Request To Remove Associated Designed To Burn and Other Limitations for Creosote-Treated Railroad Ties

1. Petitioners' Request

As discussed above, 40 CFR 241.3(d)(1)(iii) states that ''[t]he non-hazardous secondary material must contain contaminants or groups of contaminants at levels comparable in

[12] See, for example, *Biomass Boilers in Public Schools and Buildings, https://vecan.net/iniatives/biomass-boilers-public-schools-buildings/,* and *Wood Pellet Heating for Schools https://www.maineenergysystems.com/wood-pellet-heating-for-schools/,* both retrieved 06/20/2023.

concentration to or less than those in the traditional fuel(s) that the combustion unit *is designed to burn* . . .'' (emphasis added). As currently applied, the petitioners believe the designed to burn criterion means that the exact same railroad tie is considered a solid waste when burned in one unit, but a non-waste fuel when burned in another—depending solely on the type of fuel the boilers are designed to combust. The petition stated that the EPA has acknowledged the character of the NHSM does not change depending on the design of the boiler it goes to, and has offered no rationale for how the existence of a fuel oil nozzle in a boiler (*i.e.,* a boiler originally designed to burn fuel oil, but later retrofitted to burn natural gas) informs the question of whether CTRT are being legitimately used as fuel, or in fact are simply being discarded in a hypothetical ''sham recycling'' operation. Accordingly, the petition requested that the EPA remove the limitations in the CTRT categorical non-waste listing that are related to boiler design (*i.e.,* 40 CFR 241.4(a)(7)(i) and (ii)).

In addition, petitioners argued, the EPA has imposed other restrictions unrelated to the characteristics of the NHSM itself—including a requirement that the facility in question must have been built before April 2014 and that the amount of NHSM combusted in that facility may not exceed 40% of the total fuel mix in a given year. Petitioners claimed that, in adding these various requirements regarding the characteristics of the combustion unit, the characteristics of the material and the motivation of the recycler are essentially rendered irrelevant to the determination of whether the material is a solid waste. Petitioners contend that this is contrary to RCRA case law and an arbitrary and unreasonable basis on which to decide whether the material is, in fact, being discarded or legitimately used as fuel.

Petitioners indicated that, as the agency charged with environmental protection, the EPA should encourage the widespread use of CTRT and other similarly situated NHSM as fuel, rather than restrict that use and condemn valuable fuel sources to landfills. Furthermore, petitioners stated that the regulatory revisions requested in the petition promote environmental sustainability, consistent with the EPA's Waste Management Hierarchy, eliminate undue and burdensome regulation, and reduce costs associated with such regulatory burdens.

2. Public Comment

Petitioners, through their comments, continued to argue for the removal of the associated designed to burn and other limitations for CTRT combusted as fuels.

These commenters stated that the EPA's regulation of CTRT is neither reasonable nor appropriate according to the Administrative Procedures Act. Commenters expanded upon this point by explaining that two identical CTRT removed from service would be regulated differently if one were burned in a boiler designed to burn biomass and fuel oil and the other in a unit designed to burn biomass and natural gas. Commenters further noted that if a boiler designed to burn biomass and fuel oil was built before 2014 and converted from fuel oil to natural gas, that boiler would be able to burn CTRT as a non-waste fuel, while a new boiler designed to burn biomass and natural gas would not. Commenters also noted that the EPA has declared resinated wood and coal refuse to be non-waste fuels, even though resinated wood contains elevated formaldehyde levels compared to virgin biomass and coal refuse could be combusted in boilers not designed to burn coal. This decision by the EPA allows resinated wood and coal refuse to be combusted in any boiler, while CTRT combustion must follow additional conditions to be burned as a non-waste fuel only in specific boilers as designated in 40 CFR 241.4(a)(7).

One commenter also argued that, if a unit meets its permit requirements and the contaminant comparison criterion is met, the designed to burn qualification should be irrelevant, and that the CAA directs the EPA to focus on emissions from the combustion of fuels rather than on the nature of the fuel combusted.

3. EPA Response

Regarding petitioners' claim that the same NHSM is treated differently in different units, such a claim ignores the underlying premise of the NHSM rules. As explained in the program's original March 21, 2011 rulemaking (76 FR 15455), the NHSM program exists to determine whether an NHSM that is combusted is a waste or a non-waste for purposes of applying appropriate emission standards under CAA section 129 or CAA section 112 to the unit burning the NHSM. An NHSM that is burned in a unit that is designed to burn a comparable traditional fuel is, because of that comparability, a non-waste fuel. When an NHSM is burned in a unit that is not designed to burn a comparable traditional fuel (*e.g.,* that is designed to burn fuel with lower levels of contaminants than found in the NHSM), that combustion is acting as a means of destroying those elevated contaminants and therefore is more appropriately regulated as solid waste incineration. Thus, it is entirely appropriate that an NHSM would be considered a non-waste fuel when burned in a unit designed to burn a comparable traditional fuel, and a solid waste when burned in a unit that is not designed to burn a comparable traditional fuel. Contaminants or groups of contaminants in the NHSM must occur at levels comparable to or lower than those in the traditional fuel the unit is designed to burn. As the Agency determined when it established the categorical non-waste listing for CTRT (81 FR 6687, February 8, 2016), under 40 CFR 241.4(a)(7)(i), each unit must be designed to burn both biomass and fuel oil, since contaminant levels in CTRT (*e.g.,* SVOCs) are considerably higher than in biomass alone. Without the designed to burn criterion, contaminant levels could be compared to any traditional fuel or combination of traditional fuels, resulting in a unit burning contaminants under the boiler provisions in CAA section 112 that the unit would otherwise never have been eligible to handle.[13] The EPA has not reopened or requested comment on the contaminant concentrations of a CTRT in this action and continues to rely on the determination made in the original CTRT categorical non-waste listing (81 FR 6687, February 8, 2016).

It should be noted that as a result of the 2013 NHSM rule, the regulations already provide considerable flexibility in implementing the designed to burn criterion. Persons making contaminant level comparisons may choose any traditional fuel that is physically capable of being burned, or is actually burned, in the particular type of boiler, whether or not the combustion unit is permitted to burn that traditional fuel. Broad groups of similar traditional fuels may be used when comparing contaminant levels (*e.g.,* coal, biomass, fuel oil, and natural gas). The regulatory language in 40 CFR part 241 makes it clear that a unit is considered designed to burn a traditional fuel if it can burn the fuel, regardless of whether it has burned, or is permitted to burn, such a fuel.

Petitioners suggest replacing language in the CTRT rules regarding which units are ''designed to burn'' CTRT with units ''operating in compliance with all

[13] This issue would be a concern even under the petitioners' requested change to make the contaminant comparison criterion ''to be considered'' rather than mandatory.

applicable permits.'' However, the NHSM rules are used to determine which CAA permits are applicable to a unit combusting NHSM, making the suggested reference to ''applicable permits'' circular and meaningless.

In regard to petitioners' comments on the EPA's decision to include in the non-waste determination CTRT burned as fuel in units at major source pulp and paper mills or power producers subject to 40 CFR part 63, subpart DDDDD that had been originally designed to burn biomass and fuel oil, but had switched to natural gas (see 40 CFR 241.4(a)(7)(ii)), the EPA once again notes that the Agency neither reopened nor took comment on this provision. The EPA notes that the petition only raised the issue of the requirements that limit the non-waste determination for 40 CFR 241.4(a)(7)(ii) to CTRT combusted in facilities that had been built before April 2014 in amounts that do not exceed 40% in the context of their opposition to any requirements under the non-waste determination that are related to the combustion unit.[14] As discussed above, petitioners' claim ignores the underlying premise of the NHSM rules. As explained in the program's original March 21, 2011 rulemaking (76 FR 15455), the NHSM program exists to determine whether an NHSM that is combusted is a waste or a non-waste for purposes of applying appropriate emission standards under CAA section 129 or CAA section 112 to the unit burning the NHSM. Thus, in general, restrictions related to ensuring that an NHSM is burned in a unit that was designed to burn a comparable fuel in order to be considered a non-waste fuel under the CAA are entirely appropriate, because it is the ''designed to burn'' criteria that help ensure that the NHSM is burned in units that would otherwise burn comparable traditional fuels (and therefore the NHSM is not being burned simply as a means of destroying contamination). The EPA need not reconsider the specific requirements in 40 CFR 241.4(a)(7)(ii) beyond the ''designed to burn'' provision that was discussed in detail in the petition. No challenge to the 40 CFR 241.4(a)(7)(ii) regulation was filed and the time period to challenge that rule has long passed under the judicial review provision of RCRA section 7006, which requires such challenges to be filed within 90 days of the rule's promulgation. The opportunity to petition the Agency for changes to any RCRA rule is always available to members of the public (as is the current case), but such petitions are evaluated typically based on new information identified by petitioners (as well as information identified by the Agency, and those commenting on a proposed Agency action) as the basis for the requested changes to a regulation. No such information was provided in the petition specific to this provision. Instead, Petitioners simply provide a general assertion that the provision is an ''arbitrary and unreasonable basis on which to decide whether the material is, in fact, being discarded or legitimately used as fuel.'' [15] In the future, if a member of the public were to petition the EPA to reconsider the specific requirements in 40 CFR 241.4(a)(7)(ii) beyond the ''designed to burn'' provision, the EPA would develop a separate regulatory action that considers all possible regulatory options for this categorical non-waste determination, including the option of sunsetting the provision at 40 CFR 241.4(a)(7)(ii) and leaving the requirements of 40 CFR 241.4(a)(7)(i) in place, including the ''designed to burn'' criteria.

However, this provision does demonstrate that the EPA can and has used the Agency's authority to consider ''other relevant factors'' in making a categorical non-waste fuel determination in cases where one of the legitimacy criteria is not met (see 40 CFR 241.4(b)(5)(ii)). It is important to recognize that the provisions of 40 CFR 241.4(a)(7)(ii) were proposed, based on the information available to the Agency at the time, to apply to boilers that were existing at the time the rule was promulgated to avoid penalizing the units originally designed to burn both biomass and fuel oil that switched to cleaner-burning fuel.[16] Facilities constructed after that point would fall under the main provision found at 40 CFR 241.4(a)(7)(i) and would be able to take the existing regulations under consideration when deciding their operations. Thus, the conditions imposed on CTRT combusted in natural gas-fired units under 40 CFR 241.4(a)(7)(ii) are part of the relevant factors the EPA used to determine whether discard has occurred (see 81 FR 6724–25, February 8, 2016).

Commenters claim that the environmental implications of not combusting CTRT, such as a potential increase in landfilling of CTRT and subsequent increase in greenhouse gas emission from the landfilled CTRT, obligate the EPA to withdraw designed to burn criteria from the categorical non-waste listing for CTRT due to ''other relevant factors.'' However, any ''other relevant factors'' considered in weighing a categorical non-waste listing must be relevant to the core question of whether the material is a solid waste when combusted. Some commenters propose looking to greenhouse gas emissions and landfill capacity as ''other relevant factors,'' but neither of these topics dictate whether the particular material in question is combusted as a waste; therefore, both considerations are outside the scope of this Petition Denial. The ''other relevant factors'' must still be applied in the context of determining whether a material is a waste or not. Ignoring designed to burn and other criteria would violate the fundamental principles of solid waste identification legitimacy criteria codified in the NHSM regulations and upheld by the D.C. Circuit Court, as noted at 87 FR 4536, 4542 (January 28, 2022). The extent to which a particular disposal practice of NHSM does or does not release greenhouse gases or consume landfill capacity does not impact whether the NHSM is discarded when combusted.

The petitioners' comments also cite two examples of NHSMs—resinated wood and coal refuse—that do not have designed to burn and existing boiler conditions associated with the categorical determination (see 40 CFR 241.4(a)(2) and (3)). The EPA has responded to a similar comment on the 2016 NHSM rule (see 81 FR 6731, February 8, 2016), noting how, unlike CTRT, resinated wood's use as a fuel was integrated into the production process and that resinated wood production facilities were specifically designed to utilize the material for its fuel value (for more, see section III.A.3 (above) and 76 FR 15500, March 21, 2011). As for coal refuse, data available suggest that this material is used in a small selection of coal refuse plants and as a secondary fuel at some additional bituminous coal combusting electric power plants (76 FR 80486, December 23, 2011). Further, the coal refuse is limited to legacy pile coal, which are processed in the same manner as currently generated coal refuse (a traditional fuel) and exhibit similar contaminant content. These situations

[14] AF&PA et al., *Petition for Rulemaking to Amend the Legitimacy Criteria in 40 CFR part 241,—The Categorical Non-Waste Fuels Classification Criteria for Creosote Treated Railroad Ties and Other Treated Railroads Ties, and the Definition of Paper Recycling Residuals,* December 7, 2018, page 16.

[15] AF&PA et al., *Petition for Rulemaking to Amend the Legitimacy Criteria in 40 CFR part 241,—The Categorical Non-Waste Fuels Classification Criteria for Creosote Treated Railroad Ties and Other Treated Railroads Ties, and the Definition of Paper Recycling Residuals,* December 7, 2018, page 16.

[16] 81 FR 6724, February 8, 2016.

are very dissimilar to the case of CTRT combusted in a biomass boiler that would otherwise burn clean biomass because CTRT contain contaminants (in particular, PAHs) at levels multiple magnitudes higher than clean biomass (81 FR 6717, February 8, 2016).[17] Thus, both these categorical non-waste determinations take into account the specific types of materials and combustion units involved and the reasoning cannot be extrapolated to all combustion units that might burn CTRT, absent the designed to burn criteria.

The designed to burn criterion is fundamental to the NHSM program since it is the primary mechanism for identifying which traditional fuel should be used as the basis of determining whether contaminant levels in the NHSM are comparable to or less than the traditional fuel(s) being replaced. Without the designed to burn criterion, CTRT could be combusted in any biomass-only boiler, including biomass boilers that are area sources under the CAA. These boilers would likely have higher HAP emissions when burning CTRT rather than biomass because these contaminants are present in greater concentrations in CTRT as generated. As previously noted, emission standards for dioxins, SO_2, NO_X, etc. for non-major sources are addressed under the CAA section 129 standards but are not addressed by area source boiler standards under CAA section 112 which require only tune-ups. The Agency is therefore denying petitioners' request regarding the designed to burn criterion. See section III.A above for a discussion on the contaminant comparison criterion.

C. Preamble Discussion of Storage Times for Railroad Ties

1. Petitioners' Request

In addition to the requested regulatory changes, the petition raised an issue related to railroad tie storage timeframes as it impacts NHSM eligibility as discussed in the 2016 NHSM rule. In the preamble to that rule, the EPA discussed its presumption that storage of CTRT for long periods of time (*e.g.,* a year or longer) without an end-use determination is not ''reasonable,'' and indicates that the material has been discarded. Petitioners interpreted this preamble language to establish a bright-line limit of one year for CTRT accumulation in the railroad right-of-way, and asserted that this perceived time limit is incompatible with the realities of railroad operations. That is, unlike discrete facilities from which valuable secondary materials are easily reclaimed, the railroad right-of-way extends over thousands of miles across the United States. Petitioners said that many locations where CTRT are removed are not readily accessible except by rail, and tie pickup interrupts freight and passenger train service and competes with safety-related operations such as track maintenance and inspection. Train service and safety are regulated by the Surface Transportation Board and Federal Railroad Administration, respectively. Petitioners indicated that, due in part to those agencies' requirements, service and safety must take precedence over tie recovery. Petitioners asserted that these challenges make it unrealistic to collect used CTRT within one year of removal from service—but for reasons completely unrelated to the determination of whether CTRT are managed as a ''valuable commodity'' under the NHSM framework. Petitioners also noted that the EPA has recognized that ''the reasonable timeframe for storage may vary by industry'' (81 FR 6725, February 8, 2016). In the context of railroad tie management, petitioners asserted that three or more years is a reasonable timeframe for storage of removed CTRT in the right-of-way.

2. Public Comment

Comments relating to the perceived one-year limit on CTRT accumulation in the right-of-way largely reiterated the arguments presented in the original petition.

One comment argued that the economic value of removed CTRT indicates that the CTRT are not discarded. This commenter claimed that the sale or transfer of CTRT to a third party invalidates claims of discard, even if final disposition and party of sale have not been determined prior to removal. Thus, they claimed, accumulated CTRT are valuable and therefore not discarded under the plain language meaning of the word.

Likewise, multiple commenters argued that railroad operational realities make the perceived one-year storage time limit infeasible for safety and logistical reasons. Commenters claimed that a one-year time limit for CTRT in the right-of-way would be unworkable due to remote rail locations and prioritization of safety requirements and maintenance activities over removal of accumulated CTRT.

Finally, one commenter interpreted the EPA's preamble language from the 2016 NHSM rule to indicate that CTRT cannot be considered discarded until at least one year after removal from service. Their comment claimed that the lack of an explicit statement that CTRT are discarded immediately upon removal in the 2016 rule indicates that the EPA cannot now reasonably conclude that discard may occur sometime less than one year after tie removal.

3. EPA Response

Storage time of unprocessed CTRT in the right-of-way has little impact for the purposes of determining whether the CTRT can qualify as a non-waste fuel under the Federal NHSM regulations. The EPA believes that petitioners' recurring comments surrounding storage times and discard originates from a misunderstanding of the 2016 rule's preamble language. Therefore, this section of the preamble—which relies upon the rationale provided in the 2016 rule—explains why the EPA is denying petitioners' three-year fixed storage timeframe consideration and addresses petitioners' misunderstanding of this issue by elaborating how and why accumulation timeframes in the right-of-way do not affect CTRT's eligibility to be combusted as non-waste fuel under the NHSM program.

First and foremost, qualification of CTRT as a non-waste fuel under the categorical non-waste determination at 40 CFR 241.4(a)(7) does not consider storage times. Granted, when the EPA considers a petition for a categorical non-waste listing under 40 CFR 241.4(b), reasonable storage timeframes are required as a component of the ''managed as a valuable commodity'' legitimacy criterion. However, once the determination has been made that the petition for a non-waste categorical listing meets this requirement, future demonstration of those reasonable storage timeframes is not required. Indeed, this is a major incentive for requesting a categorical non-waste fuel determination; qualifying operators that meet the provisions of the categorical listing (in this case, at 40 CFR 241.4(a)(7)) enjoy streamlined management (*e.g.,* do not need to make a site-specific demonstration that the NHSM meets the legitimacy criteria) because it has already been demonstrated—through the process of establishing the categorical determination—that the NHSM in question meets the program requirements. Thus, entities managing CTRT under the categorical listing are not required to document the CTRT's storage timeframes and are not limited by a bright-line restriction of one year of accumulation in the right-of-way. (It

[17] For more information, see the Summary of Public Comments and Responses for the Proposed Response to the Petition to Revise the Non-Hazardous Secondary Material Standard, located in the docket EPA–HQ–OLEM–2020–0550.

should be noted, however, that extended lengths of storage of CTRT in the right-of-way could constitute disposal under State solid waste regulations, making the CTRT subject to State solid waste management requirements.)

Should an operator wish to combust CTRT as a non-waste fuel under the NHSM program outside the confines of the categorical determination at 40 CFR 241.4(a)(7), storage time for CTRT in the right-of-way is still unlikely to have a meaningful impact on the material's eligibility. In this scenario, the operator could choose to employ the self-determination process outlined in 40 CFR 241.3(b)(4) for NHSM that are discarded but subsequently processed and meet the legitimacy criteria at 40 CFR 241.3(d)(1). As noted in the February 8, 2016 rule's preamble, the amount of time for industry to determine value and end use of CTRT (whether sent to a landfill, used as fuel, or another non-fuel purpose) sometimes exceeds one year (81 FR 6725). Generally speaking, however, long periods of time without determining end use can be indicative of discard, though there is no bright-line time period which triggers a discard determination. The fact that CTRT removed from service sometimes sit for extended periods—regardless of whether that period is more than or less than a year—indicates that they should be viewed critically when determining discard status. Further, it is the EPA's understanding (according to the descriptions provided in both the petition and public comments) that it is standard industry practice to transfer CTRT to a reclaimer or other third party. These CTRT would be considered discarded until processed into a non-waste fuel, since NHSMs that are transferred off-site for reclamation and reuse as a fuel are considered discarded and must be processed and meet the legitimacy criteria. The assertion that the CTRT are a valuable commodity in a robust market does not change the fact that the CTRT have been discarded. NHSMs may have value in the marketplace and still be solid wastes until processed.

It should be noted that discarded NHSM may be subject to Tribal, State, and local solid waste requirements, regardless of their intended future use as a non-waste fuel under the Federal NHSM program. Though the designation of discard may be functionally irrelevant for CTRT that are subsequently processed and verified to meet the legitimacy criteria for non-waste fuels, CTRT that are determined to be solid waste would still be subject to all relevant solid waste regulations. Indeed, the EPA explicitly addressed this issue at 40 CFR 241.3(b)(4), which states that until the discarded non-hazardous secondary material is processed to produce a non-waste fuel or ingredient, the discarded non-hazardous secondary material is considered a solid waste and would be subject to all appropriate Federal, State, and local requirements.

Thus, a designation of discard does not preclude using the NHSM as a non-waste fuel, so long as the processing requirement and legitimacy criteria are met. Crucially, the relevant regulations at 40 CFR 241.3(b)(4) go on to stipulate that the legitimacy criteria apply after the non-hazardous secondary material is processed to produce a fuel or ingredient product. Consideration of reasonable timeframes would therefore look to the period of storage following processing (*e.g.,* grinding CTRT to resize the material and removing metal contaminants such as rail spikes), which the EPA understands to usually be short. Moreover, the EPA has not established a bright-line limit on reasonable storage times and has previously explicitly stated that what constitutes a reasonable timeframe for storage will vary by industry (see, *e.g.,* 76 FR 15520, March 21, 2011). Accordingly, CTRT could be combusted as a non-waste fuel after being stored for more than one year, so long as storage of the processed CTRT is limited to reasonable timeframes.

Thus, the EPA believes that previous dialogue between the Agency, petitioners, and commenters on timeframes for storage of CTRT in the right-of-way has little, if any, practical effect on the combustion of CTRT as non-waste fuel under the Federal NHSM program. Accordingly, the EPA is denying petitioners' request to establish a rigid three-year timeframe for rail tie storage in the right-of-way, and instead the Agency will maintain the existing standard to allow for flexibility and has provided the preceding explanation in an attempt to resolve petitioners' misunderstanding.

Finally, it should be noted that other laws or regulations may still apply to CTRT placed in the right of way. CTRT stored in the right of way could be considered discarded and would in such cases be subject to all relevant Federal, Tribal, State, and local solid waste requirements. These regulations may vary by location, and State solid waste designations are not required to match those of the Federal rules. Broader issues associated with the accumulation of CTRT in the right of way would fall under the jurisdiction of these regulations. Additionally, some States (*e.g.,* California, New York) have specific laws or regulations for creosote and/or products treated with creosote.

D. Request To Amend the Definition of ''Paper Recycling Residuals''

1. Petitioners' Request

Petitioners also requested that the EPA revise the definition of ''paper recycling residuals'' (PRR) to amend the description and remove the definitional condition that PRR that ''contain more than *small amounts* of non-fiber materials . . . are not paper recycling residuals'' (40 CFR 241.2, emphasis added). Petitioners believed that this condition is overly vague and directly at odds with the Court's decision in *API.*

Petitioners requested that the second sentence in the definition precluding materials that contain ''more than small amounts of non-fiber materials'' from qualifying as PRR should be removed. They argued that this condition suggests that the list of non-fiber materials identified in the definition are somehow viewed as contaminants in PRR. But, as discussed above, petitioners argue that in vacating the contaminant comparison criterion in the DSW rule, the D.C. Circuit made clear that the mere presence of some contaminants in a material destined for legitimate recycling is not the basis for finding that the material has been ''discarded'' and thus subject to regulation as a solid waste.

In addition to arguing that this condition is inconsistent with the D.C. Circuit's holding in *API,* the petitioners believe that the ''small amount'' limitation is overly vague. While members of the regulated community affirm that they have used good faith efforts in determining that PRR burned as fuel meet this condition, they also note that ''a statute which either forbids or requires the doing of an act so vague that men of common intelligence must necessarily guess at its meaning and differ as to its applications, violates the first essential of due process of law.'' *FCC* v. *Fox Television Stations, Inc.,* 567 U.S. at 239, 253 (2012) (internal citation omitted). According to petitioners, the ''small amount'' criterion in the definition of PRR falls squarely within this ''impermissibly vague'' infirmity and should be removed from the definition to help ensure that ''those enforcing the law do not act in an arbitrary or discriminatory way.'' *FCC,* 567 U.S. at 253 (internal citation omitted).

Furthermore, petitioners argue that the current definition describing PRR as ''composed primarily of wet strength

and short wood fibers'' is not correct, as the re-pulping of recovered fibers can result in a variety of strengths and sizes of fibers in PRR, so the current limitation to ''wet strength and short wood fibers'' is unnecessarily restrictive. Some residuals from recycling paper, paperboard and corrugated containers are composed of fibers other than wet strength fibers or short-wood fibers, but nonetheless cannot be used to make new paper or paper products and therefore are burned for their energy value.

In January 2022, the EPA proposed to deny this request, and in the same notice proposed an amended definition of PRR. This new definition replaced the less-specific ''small amounts'' language restricting PRR non-fiber content with more specific language that would have limited the amount of non-fiber content to 2% or less, by weight.[18] The revised definition in the proposed rule also adopted descriptive changes requested in the petition to more accurately reflect the nature of PRR.

2. Public Comment on EPA's Proposed Definition of PRR

One commenter argued that a non-fiber limit for paper recycling residuals was not necessary, reiterating a similar assertion presented in the original petition. The commenter stated that environmental and health risks from burning PRR containing non-fiber material would already be covered under CAA permit conditions, and thus adding a non-fiber limit to PRR would be redundant.

Two commenters stated that the EPA's proposed change to the definition of paper recycling residuals incorporating a limit of 2% by weight of non-fiber materials was an inappropriate application of an Institute of Scrap Recycling Industries (ISRI) industry standard. The commenters explained that the 2% ISRI figure referred to the limit on prohibitive materials for ''furnish'' (*i.e.,* incoming mixed paper to be recycled), not to the outgoing paper recycling residuals created by the recycling process. Applying this standard to paper recycling residuals would therefore not be an appropriate application of the standard.

Several commenters also argued that any numeric limit on non-fiber material would be difficult for facilities to meet. This is due, in part, to the lack of a standard test method for measuring the non-fiber content of PRR. Furthermore, one commenter noted that the 2% numeric standard itself could not have been met under typical conditions: PRR typically have more than 2% non-fiber content, albeit this amount also varies by mill.

Rather than the 2% by weight threshold for non-fiber materials proposed, one commenter suggested that a meaningful heating value would be a more appropriate standard. Commenters argued that heating value is central in distinguishing an NHSM that is combusted as a legitimate fuel from an NHSM combusted for discard, and a heating value standard would thus be a more appropriate standard for managing the concern that non-fiber material does not provide for energy recovery. The commenter also noted, contrary to the EPA's statement in the proposed rule, that non-fiber materials like waxes, adhesives, and plastics actually raise the heating value of PRR. This means that PRR with higher amounts of non-fiber material may have higher heating values. The commenter then suggested that the definition of PRR should be modified to state that PRR may be considered a non-waste fuel if the meaningful heating value of the materials is preserved. As a specific numerical alternative, the commenter also suggested that a value of greater than or equal to 6,300 Btu/lb on a dry basis, either annually or over a long-term average basis, would be an appropriate heating value standard. Commentors set this value using AF&PA member data and EPA Boiler MACT database data. Commenters stated that the value was chosen to be at the low end of the range of data available, rather than the midpoint of the range, to ensure that the numeric standard would be attainable.

One commenter agreed with the EPA that the current definition of PRR in 40 CFR 241.2 (''the secondary material generated from the recycling of paper, paperboard and corrugated containers composed primarily of wet strength and short wood fibers'') was too limiting and should be changed. However, the commenter argued that the EPA's proposed change to ''the secondary material generated from the recycling of paper, paperboard and corrugated containers *composed primarily of* fibers that are too small or weak to be used to make new paper and paperboard products'' (emphasis added) was also too limiting. The commenter suggested that the definition be rewritten to read ''the secondary material generated from the recycling of paper, paperboard and corrugated containers *that includes* fibers *generally* too small or weak to be used to make new paper and paperboard products'' (emphasis added). The commenter argued that, while mill equipment extracts most of the fiber that can be made into paper and paperboard, some longer and stronger fibers can evade the process and end up in the PRR. The commenter also noted that mills have an economic incentive to capture the valuable fibers to make them into new products instead of combusting these fibers for energy recovery.

3. EPA Response

The EPA disagrees with the petitioner's original arguments, reiterated in comments, for removing language limiting the amount of non-fiber materials in PRR burned as a non-waste fuel. The reasoning for not including the non-fiber materials as PRR was not focused on discard due to contaminants present, but rather, discard due to lack of heating value and not contributing to energy recovery. In the April 14, 2014 proposed rule, the EPA requested, but did not receive, information regarding the percent of non-fiber materials commonly present in PRR and their heating value (*79 FR 21017*). Lacking information to the contrary, the Agency determined that PRR with higher amounts of non-fiber materials would likely have a lower heating value. Combustion of materials with low heating values is typically considered discard. PRR already have a relatively low heating value (as fired, average 3,700 Btu/lb on a wet basis),[19] so the Agency reasoned that large amounts of non-fiber materials would lower the heating value of the material, further raising the question of burning as discard.

However, in the January 2022 proposed rule, the EPA sought to set a numerical threshold for non-fiber materials content, rather than prohibit them entirely or rely on the term ''small amounts.'' As indicated above, information on such threshold amounts of non-fiber materials was not received from industry prior to publication of the January 2022 proposed rule, and a review of current scientific studies also did not reveal specific amounts. As an alternative, although not directly used for PRR as fuels, the Scrap Specifications Circular (2021); Institute of Scrap Recycling Industries Guidelines for Paper Stock identifies a 2% prohibitive material content limit for mixed paper stock used for re-

[18] This standard was derived from the 2021 ISRI Scrap Specifications Circular, which sets an industry standard for ''furnish'' *i.e.,* the paper materials being fed into the paper recycling process. The Circular sets a standard allowing no more than 2% non-fiber content in furnish.

[19] 81 FR 6716, February 8, 2016.

pulping paper.[20] In the circular, prohibitive material is material which by its presence, in excess of the amount allowed, will make the furnish unusable as the grade specified, as well as any materials that may be damaging to equipment. In evaluating the grades of paper identified in the circular, the maximum allowance of prohibitive materials in mixed paper (which consists of all paper and paperboard of various qualities not limited to the type of fiber content) is 2%. The Agency previously concluded that this prohibitive material measure could provide an analogous measure for non-fiber materials contained within PRR. Accordingly, the EPA proposed to set a maximum non-fiber content standard for PRR of 2% by weight.

However, information provided to the Agency in comments on the January 2022 proposed rule provided new information previously unavailable to the Agency. Commenters' data indicates that many of the constituents of non-fiber content in PRR are more likely to raise the heating value of PRR. Commenters also argued that the ISRI standard for non-fiber content of paper recycling inputs would be inappropriate to apply to material outputs from the paper recycling process and claimed that the difficulty of complying with the proposed standard could lead paper recycling mills to dispose of PRR in landfills instead.

Accordingly, the EPA is replacing the proposed 2% by weight standard with a performance-based threshold to address the heating value concerns and associated consideration of potential discard. Requiring PRR combusted under the categorical non-waste listing at 40 CFR 241.4(a)(6) to have a minimum heating value is intended to prevent residuals with poor heating value from being used as a fuel in a combustion unit, as this use case would constitute disposal rather than use as a legitimate fuel.

The Agency maintains that residuals from processes such as mixed paper waste recycling with significant quantities of non-fiber materials (*e.g.,* clays, starches) could be considered to be a solid waste fuel when combusted when those materials lack meaningful heating value.[21] Under the amended definition of PRR, the determination of non-waste fuel status would depend more directly on the heating value of the material stream in question, but could still be deemed waste if non-fiber content drives down heating value below the minimum threshold.[22]

This unique heating value threshold for PRR is appropriate and consistent with previous Agency statements regarding the use of PRR as non-waste fuel for energy recovery. The EPA maintains that unique heating value expectations are appropriate for PRR because the boilers that combust this material are specifically designed to cost-effectively recover energy from it (see 79 FR 21018–9, April 14, 2014). Data received in comments corroborate that the selected threshold would ensure low heating value PRR are not discarded under the guise of fuel combustion, while also being achievable for the limited number of mills that currently combust this material.

Furthermore, the definition of PRR as ''composed of primarily wet strength and short wood fibers'' was based on previously submitted industry information (81 FR 6721, February 8, 2016). However, based on the information submitted in this petition, the Agency agrees that the reference to ''primarily wet strength and short wood fibers'' is too limiting and inadvertently excludes fibers of different strength and size that may provide heating value. Nevertheless, the commenter's suggestion to further change the EPA's revised language in the January 28, 2022, proposal from ''*composed primarily of* fibers that are too small or weak to be used to make new paper and paperboard products'' (emphasis added) to ''*that includes* fibers *generally* too small or weak to be used to make new paper and paperboard products'' (emphasis added) is not an acceptable change. This commenter-proposed language would not be a specific enough definition to provide assurance that non-fiber material in PRR would be minimized when PRR are combusted as fuel. Commenters argue that the EPA's proposed definition is ''unnecessarily limiting,'' but a definition that upholds the integrity of PRR is necessary to ensure that non-fiber material is not overloaded and labelled as PRR, which could show an indication of discard rather than use as a legitimate fuel. Therefore, we are finalizing the proposal to change the language to ''fibers that are too small or weak to be used to make new paper and paperboard products.''

Accordingly, the Agency finalizes the revised definition of PRR as set out in the amendatory section at the end of this document.

IV. Effect of This Action on Other Programs

The primary action of this final rulemaking is to revise the definition of Paper Recycling Residuals in the NHSM regulations at 40 CFR 241.2. Accordingly, this action affects other programs only insofar as they rely on the definitions outlined in part 241. In particular, Clean Air Act permitting regulations refer to the RCRA definition of solid waste in determining whether a combustion unit is a solid waste incinerator or an industrial furnace for permitting purposes. Thus, the changes to the definition of PRR implemented by this rule apply to CAA permitting nationwide (*i.e.,* do not depend upon State adoption).

In order to qualify as a categorical non-waste fuel under 40 CFR 241.4(a) and thereby be combusted in a unit not permitted to incinerate solid waste under the CAA, a material would have to meet the relevant definition in 40 CFR 241.2 *and* fulfill any additional requirements listed in the relevant categorical non-waste listing at 241.4. Additionally, though the NHSM regulations do not include specific record-keeping requirements, the CAA regulations at 40 CFR 60.2175(v) (for new sources) or 40 CFR 60.2740(u) (for existing sources) require that units combusting materials designated as categorical non-waste fuels under the NHSM program must keep records demonstrating that the material is a listed non-waste fuel under 40 CFR 241.4(a). In order to fulfill that requirement, the material would have to meet the definition of the categorical non-waste (at § 241.2) as well as any additional requirements included in the NHSM listing itself (at § 241.4(a)). Under the current RCRA and CAA regulations, as implemented through Title V permits, an operator combusting a material as a categorical non-waste fuel must show that the material meets the definition of the categorical non-waste listing they are claiming. Based on the revised definition of Paper Recycling Residuals, the relevant CAA permitting authority may require the operator to document the fact that the PRR's heating value is above the definitional threshold of 6,300 Btu/lb on a dry basis. Given the fact the operator must know fuel value of the PRR for proper operation of the boiler, such a potential permit condition is expected to have a negligible burden. The exact nature and frequency of the sampling

[20] ISRI Scrap Specifications Circular (2021), page 34; *http://www.scrap2.org/specs/.*

[21] 81 FR 6718, February 8, 2016.

[22] The EPA recognizes that plastic films, foam and waxes could increase the heating value of a recycling residual stream. While no upper boundary on the heat content of PRR is being established, the EPA notes that the definition of PRR including the term ''composed primarily of fibers'' would prevent application of the PRR definition to materials that are composed mostly of plastics, foams and waxes removed during the recycling of recovered paper, paperboard and corrugated containers.

performed to document the fact that the PRR meet the revised definition in 40 CFR 241.2 will vary according to numerous site-specific factors and therefore is best left to the discretion of the relevant permitting authority. It should also be noted that the definition of PRR refers to ''secondary material generated from the recycling of paper, paperboard and corrugated containers,'' so inclusion of materials that are not part of the usual paper, paperboard, or corrugated container recycling processes is definitionally disallowed.

Beyond amending the definition of PRR, this action does not change the effect of the NHSM regulations on other programs as described in the March 21, 2011 NHSM final rule (76 FR 15456), as amended on February 7, 2013 (78 FR 9138), February 8, 2016 (81 FR 6688) and February 7, 2018 (83 FR 5317). Refer to section VIII of the preamble to the March 21, 2011 NHSM final rule for the discussion on the effect of the NHSM rule on other programs.

V. State Authority

A. Relationship to State Programs

This action and change to the definition of PRR does not change the relationship to State programs as described in the March 21, 2011 NHSM final rule. Refer to section IX of the preamble to the March 21, 2011 NHSM final rule for the discussion on State authority including, ''Applicability of State Solid Waste Definitions and Beneficial Use Determinations'' and ''Clarifications on the Relationship to State Programs.'' The Agency, however, would like to reiterate that this rule (like the March 21, 2011 and the February 7, 2013 final rules) is not intended to interfere with a State's program authority over the general management of solid waste.

B. State Adoption of the Rulemaking

No Federal approval procedures for State adoption of this final rule are included in this rulemaking action under RCRA subtitle D. While states are not required to adopt regulations promulgated under RCRA subtitle D, some states incorporate Federal regulations by reference or have specific State statutory requirements that their State program can be no more stringent than the Federal regulations. In those cases, the EPA anticipates that, if required by State law, the changes being made in this document will be incorporated (or possibly adopted by authorized State air programs) consistent with the State's laws and administrative procedures.

VI. Costs and Benefits

This action is definitional in nature, and any costs or benefits accrue to the corresponding Clean Air Act rules. In accordance with the Office of Management and Budget (OMB) Circular A–4 requirement that the EPA analyze the costs and benefits of regulations, the EPA prepared a regulatory impact analysis document for this action that examines the scope of indirect impacts.

VII. Children's Environmental Health

Executive Order 13045 requires that economically significant rules that may impact children's environmental health are evaluated against possible alternatives. Though this rule is not economically significant and its impacts are not expected to affect children's environmental health, the Agency still considers potential environmental health effects on children under EPA's 2021 *Policy on Children's Health.*

Children's environmental health refers to the effect of environmental exposure during early life: from conception, infancy, early childhood, and adolescence through until 21 years of age. EPA's policy is informed by the scientific understanding that children may be at greater risk to environmental contaminants than adults due to differences in behavior and biology and that the effects of early life exposures may also arise in adulthood or in later generations.

However, EPA does not believe the environmental health or safety risks addressed by this action present a risk to children. Because this rule does not change existing conditions, no environmental health impacts are expected to arise from this rulemaking. The change to the definition of PRR would not affect the overall risk to anyone, including children, posed by boiler emissions. This is because the overall level of emissions, or the emissions mix from boilers, are not expected to change significantly because of the change in definition of PRR.

In the event of any unforeseen changes to air emissions, the EPA does not believe this change would disproportionately impact children. A demographic analysis of the populace living near major source boilers found that the percentage of the population in these areas that are children is generally the same as the national average (see ''Assessment of the Potential Costs, Benefits, and Other Impacts for the Final Rule'' in the docket). Further, boilers at paper recycling mills that combust PRR as non-waste fuel remain subject to the appropriate standards established under CAA section 112. Thus, even in the event of a change in air emissions due to this rule, any potential health impacts would not be expected to disproportionately affect children. Additionally, this rule is definitional in nature, so any considerations of risk related to combustion units' CAA permits should be accounted for in the relevant CAA rulemakings that established those permitting programs.

VIII. 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 a ''significant regulatory action'' as defined in Executive Order 12866, as amended by Executive Order 14094, because it may raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in the Executive Order. Accordingly, EPA submitted this action to OMB for Executive Order 12866 review. Documentation of any changes made in response to the Executive Order 12866 review is available in the docket. The EPA prepared an economic analysis of the potential impacts associated with this action. This analysis, ''Assessment of the Potential Costs, Benefits, and Other Impacts for the Final Rule'' is also available in the docket.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA as this action only changes the definition of PRR for the purposes of the NHSM regulations. There are no new recordkeeping or reporting requirements with this definitional change. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2050–0205.

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. In making this determination, the EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities

because the rule has no net burden on the small entities subject to the rule. Because the petition denial maintains the status quo, there is no impact to any entity, including to any small entity, from the petition denial. In addition, the revision to the definition of PRR will reduce regulatory uncertainty associated with these materials and help increase management efficiency for all pulp and paper mills with units that combust PRR, including mills that meet the definition of small entity without requiring a change in operations. We have therefore concluded that this action has no net burden on the small entities subject to the rule.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The costs involved in this action are imposed only by participation in a voluntary Federal program. UMRA generally excludes from the definition of ''Federal intergovernmental mandate'' duties that arise from participation in a voluntary Federal program. Affected entities are not required to manage the final additional NHSMs as non-waste fuels.

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175. It will neither impose substantial direct compliance costs on Tribal governments, nor preempt Tribal law. Potential aspects associated with the categorical non-waste fuel determinations under this final rule may invoke minor indirect Tribal implications to the extent that entities generating or consolidating these NHSMs on Tribal lands could be affected. However, any impacts are expected to be negligible. Thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The change to the definition of PRR would not affect the overall risk to children posed by boiler emissions. This is because the overall level of emissions, or the emissions mix from boilers, are not expected to change significantly because of the change in definition of PRR, and because boilers at paper recycling mills that combust PRR as non-waste fuel remain subject to the appropriate standards established under CAA section 112.

However, the EPA's *Policy on Children's Health* applies to this action. Information on how the Policy was applied is available under ''Children's Environmental Health'' in Section VII of this preamble.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. The selected NHSMs affected by this proposed action would not be generated in quantities sufficient to significantly (adversely or positively) impact the supply, distribution, or use of energy at the national level. Even if 100% of the available PRR were converted to energy (an unlikely best-case scenario), that would translate to a potential increase of only 0.002% to 0.003% in the national energy supply, and these effects would be localized at recycling paper mills.

I. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. Therefore, the EPA conducted a search to identify potentially applicable voluntary consensus standards. However, the Agency identified no such standards and none were brought to its attention in comments. Therefore, the EPA has decided to use the 6,300 Btu/lb dry basis minimum standard for PRR heating value.

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.

The 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. Both landfills and boilers are generally more likely to be located in disadvantaged communities, so transporting and managing NHSMs (whether for disposal at a landfill or combustion as a non-waste fuel in a boiler) is likely to have environmental health effects on these communities.[23]

The EPA believes that this action is not likely to change existing disproportionate and adverse effects on communities with environmental justice concerns. This is because the overall level of emissions, or the emissions mix from boilers, are not expected to change significantly because of the change in definition of PRR, and because boilers at paper recycling mills that combust PRR as non-waste fuel remain subject to the protective standards established under CAA section 112. Further, this RCRA action alone does not directly require any change in the management of these materials. Thus, any potential materials management changes stimulated by this action, and corresponding impacts to minority and low-income communities, are considered to be indirect impacts, and would only occur in conjunction with the corresponding CAA rules.

[23] For more information on the environmental justice analysis, see the March 21, 2011 NHSM final rule (76 FR 15455) and U.S. EPA, Office of Resource Conservation and Recovery, *Summary of Environmental Justice Impacts for the Non-Hazardous Secondary Material (NHSM) Rule, the 2010 Commercial and Industrial Solid Waste Incinerator (CISWI) Standards, the 2010 Major Source Boiler NESHAP and the 2010 Area Source Boiler NESHAP,* February 2011, docket number EPA–HQ–RCRA–2008–0329–1834.

The information supporting this Executive Order review is contained in the docket as part of the *Assessment of the Potential Costs, Benefits, and Other Impacts of the Final Rule.*

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 241

Environmental protection, Air pollution control, Non-Hazardous Secondary Materials, Waste treatment and disposal.

Michael Regan,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 241 as follows:

PART 241—SOLID WASTES USED AS FUELS OR INGREDIENTS IN COMBUSTION UNITS

■ 1. The authority citation for part 241 continues to read as follows:

Authority: 42 U.S.C. 6903, 6912, 7429.

■ 2. Section 241.2 is amended by revising the definition of ''Paper recycling residuals'' to read as follows:

§ 241.2 Definitions.

* * * * *

Paper recycling residuals means the secondary material generated from the recycling of paper, paperboard and corrugated containers composed primarily of fibers that are too small or weak to be used to make new paper and paperboard products. Secondary material from paper recycling processes with a heating value below 6,300 Btu/lb on a dry basis due to excessive non-fiber material content (including polystyrene foam, polyethylene film, other plastics, waxes, adhesives, dyes and inks, clays, starches and other coating and filler material) are not paper recycling residuals for the purposes of this definition.

* * * * *

[FR Doc. 2023–22878 Filed 10–17–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 230306–0065; RTID 0648–XD274]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod, except for the Community Development Quota program (CDQ), in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the non-CDQ allocation of the 2023 Pacific cod total allowable catch (TAC) in the Bering Sea subarea of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 16, 2023, through 2400 hrs, A.l.t., December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Krista Milani, 907–581–2062.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The non-CDQ allocation of the 2023 Pacific cod TAC in the Bering Sea subarea of the BSAI is 113,776 metric tons (mt) as established by the final 2023 and 2024 harvest specifications for groundfish in the BSAI (88 FR 14926, March 10, 2023) and correction (88 FR 18258, March 28, 2023). In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the non-CDQ allocation of the 2023 Pacific cod TAC in the Bering Sea subarea of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 110,976 mt, and is setting aside the remaining 2,800 mt as incidental catch in directed fishing for other species. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod in the Bering Sea subarea of the BSAI.

While this closure is effective, the maximum retainable amounts at 50 CFR 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of non-CDQ Pacific cod in the Bering Sea subarea of the BSAI. NMFS was unable to publish notice providing time for public comment because the most recent, relevant data only became available as of October 12, 2023.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: October 13, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–22958 Filed 10–13–23; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 230224–0053; RTID 0648–XD331]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the annual 2023 total allowable catch of pollock for Statistical Area 630 in the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 15, 2023, through 2400 hours, A.l.t., December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Abby Jahn, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR parts 600 and 679.

The annual 2023 total allowable catch (TAC) of pollock in Statistical Area 630 of the GOA is 33,729 metric tons (mt) as established by the final 2023 and 2024 harvest specifications for groundfish in the GOA (88 FR 13238, March 2, 2023).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the annual 2023 TAC of pollock in Statistical Area 630 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 33,229 mt and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA.

While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the closure of pollock in Statistical Area 630 in the GOA. NMFS was unable to publish notice providing time for public comment because the most recent, relevant data only became available as of October 12, 2023.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: October 13, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–22961 Filed 10–13–23; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 88, No. 200
Wednesday, October 18, 2023

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 Parts 50, 52, and 100

[NRC–2023–0153]

Draft Regulatory Guide: General Site Suitability Criteria for Nuclear Power Stations

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft regulatory guide (DG), DG–4034, ''General Site Suitability Criteria for Nuclear Power Stations.'' This DG is a proposed Revision 4 for Regulatory Guide (RG) 4.7 of the same name which describes the major site characteristics related to public health and safety and environmental issues that the NRC staff considers in determining the suitability of sites for commercial nuclear power stations.

DATES: Submit comments by November 17, 2023. 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.

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–2023–0153. 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 individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Belkys Sosa, Office of Nuclear Reactor Regulation, telephone: 301–415–3357; email: *Belkys.Sosa@nrc.gov* and Edward O'Donnell, Office of Nuclear Regulatory Research, telephone: 301–415–3317; email: *Edward.Odonnell@nrc.gov*. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0153 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–2023–0153.
- *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 DG–4034, ''General Site Suitability Criteria for Nuclear Power Stations'' is available in ADAMS under Accession No. ML23123A090.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2023–0153 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. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

This DG, entitled ''General Site Suitability Criteria for Nuclear Power Stations,'' is temporarily identified by its task number, DG–4034.

This proposed revision to RG 4.7 implements the Commission approved alternative population-related criteria in SRM–SECY–20–0045, ''Population-Related Siting Considerations for Advanced Reactors,'' (ADAMS Accession No. ML22194A885) through the addition of Appendix A. It provides alternatives to demonstrate compliance with paragraph 100.21(h) of title 10 of the *Code of Federal Regulations* (10 CFR) in determining the suitability of sites for commercial nuclear power

stations to support licensing for non-light-water reactors (LWRs) and light-water small modular reactors with attributes that could support siting a commercial nuclear power station closer to population centers than large LWRs typically have been sited. Appendix A retains the regulatory requirements in 10 CFR part 100 that call for licensees to establish an exclusion area, a low population zone, and a minimum distance to the nearest densely populated center containing more than 25,000 residents. In addition, Appendix A introduces a new graded approach where instead of locating a reactor in an area where the population density does not exceed 500 persons per square mile out to 20 miles from the reactor, an applicant can demonstrate compliance with 10 CFR 100.21(h) by siting a nuclear reactor in a location where the population density does not exceed 500 persons per square mile out to a distance equal to twice the distance at which a hypothetical individual could receive a calculated total effective dose equivalent of 1 rem over a period of 1 month from the release of radionuclides following postulated accidents.

In addition, proposed Revision 4 restructures RG 4.7 to remove repetition found in Revision 3 by consolidating materials from the Discussion section and the two tables in Revision 3 of the RG into Section C, ''Staff Regulatory Guidance.'' To improve clarity and cohesiveness each topic in Section C was structured to list (1) relevant statutes and regulations, (2) related guidance, and (3) considerations, regulatory experience, and staff position.

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML23123A095). The staff developed a regulatory analysis to assess the value of issuing or revising a regulatory guide as well as alternative courses of action.

As noted in the **Federal Register** on December 9, 2022 (87 FR 75671), this document is being published in the ''Proposed Rules'' section of the **Federal Register** to comply with publication requirements under 1 CFR chapter I.

III. Backfitting, Forward Fitting, and Issue Finality

Issuance of this DG does not constitute backfitting as defined in 10 CFR 50.109, ''Backfitting,'' and as described in NRC Management Directive (MD) 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests,'' would not affect the issue finality of any approval issued under 10 CFR part 52; and would not constitute forward fitting as that term is defined and described in MD 8.4.

If finalized, this regulatory guide will not apply to any construction permits, operating licenses, early site permits, limited work authorizations issued under 10 CFR 50.10, or combined licenses, for which the NRC issued a final environmental impact statement (EIS) preceded by a draft EIS under 10 CFR 51.76 or 51.75, any of which were issued by the NRC prior to issuance of the final regulatory guide. The NRC has already completed its siting determination for those construction permits, operating licenses, early site permits, limited work authorizations, and combined licenses. Therefore, no further NRC regulatory action on siting will occur for those licenses, permits, and authorizations, for which the guidance in the regulatory guide would be relevant.

The methods described in this proposed RG will be used in evaluating applications for construction permits, early site permits, combined operating licenses and limited work authorizations, which includes information under 10 CFR 51.49(b) or (f), with respect to compliance with applicable regulations governing the siting of new nuclear power plants and testing facilities, unless the applicant proposes an acceptable alternative method for complying with those regulations. Methods that differ from those described in this proposed RG may be deemed acceptable if the applicant provides sufficient basis and information for the NRC staff to verify that the proposed alternative complies with the applicable NRC regulations.

IV. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC's public website at *https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html.* Suggestions will be considered in future updates and enhancements to the ''Regulatory Guide'' series.

Dated: October 13, 2023.

For the Nuclear Regulatory Commission.

Stanley J. Gardocki,

Acting Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2023–22980 Filed 10–17–23; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1999; Project Identifier MCAI–2023–00697–T]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2021–02–18, which applies to all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes. AD 2021–02–18 requires repetitive inspections for cracking or broken rivets of certain left- and right-hand stringers and surrounding structure, and repair if necessary. Since the FAA issued AD 2021–02–18, a modification was developed to reinforce the structure in the affected area, providing terminating action for the repetitive inspections required by AD 2021–02–18. This proposed AD continues to require the actions in AD 2021–02–18 and proposes to require the new terminating action for the repetitive inspections, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 4, 2023.

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–2023–1999; or in person at

Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

• For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *Ads@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2023–1999.

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

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3220; email: *shahram.daneshmandi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–1999; Project Identifier MCAI–2023–00697–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Shahram Daneshmandi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3220; email: *shahram.daneshmandi@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–02–18, Amendment 39–21401 (86 FR 10740, February 23, 2021) (AD 2021–02–18), for all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes. AD 2021–02–18 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2020–0159, dated July 16, 2020 (EASA AD 2020–0159), to correct an unsafe condition.

EASA AD 2020–0159 requires repetitive inspections for cracking or broken rivets of certain left- and right-hand stringers and surrounding structure, and repair if necessary. The FAA issued AD 2021–02–18 to address such cracking in the stringers, which could result in reduced structural integrity of the airplane.

Actions Since AD 2021–02–18 Was Issued

Since the FAA issued AD 2021–02–18, EASA superseded EASA AD 2020–0159 and issued EASA AD 2023–0103, dated May 23, 2023 (EASA AD 2023–0103) (also referred to as the MCAI), to correct an unsafe condition for all Airbus Defense and Space S.A. Model CN–235, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes. The MCAI states that since EASA AD 2020–0159 was issued, a modification was developed to reinforce the structure in the affected area, which is a terminating action for the repetitive inspections required by EASA AD 2020–0159. The MCAI does not include Model CN–235–100 airplanes since a determination was made that the only remaining airplanes in service are operated by a government military service. The FAA has determined that since these models remain on the FAA type certificate data sheet that AD action is necessary to address the unsafe condition. Therefore, this proposed AD includes this model in the AD applicability and provides corrective actions to address the unsafe condition.

FAA AD 2021–02–18 explained that the requirements were ''interim action,'' and further rulemaking was being considered. The FAA has now determined that further rulemaking is necessary, and this proposed AD follows from that determination.

The FAA is proposing this AD to prevent cracks on certain left- and right-hand stringers in the area of frame (FR) 43 of the fuselage. This condition, if not corrected, could result in reduced structural integrity of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1999.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0103 specifies procedures for detailed visual (DET) or high frequency eddy current inspections of the stringer P0a and P0a' at the riveted line of the attachment to the gusset and along the stringer head, in particular at the area of the last attachment of the gusset to the stringer in the midpoint between FR43 and FR44, DET inspections for fatigue cracks of the fuselage skin, along the stringers' footprint and surrounding structure and the attachment of the gusset to the FR43; DET inspections for fatigue cracks of the actuator bracket on FR43, along the radius of the vertical nerves, inner lug holes, and attachment holes of the bracket to FR43; DET inspections for fatigue cracks or broken rivets in the web and joint clips to skin and stringer of both sides of the frame between stringer P1d and P1d' (two stringers for each side from the central stringer P0a); DET inspections for fatigue cracks or broken rivets of the gussets, along the flange which joins FR43; and repair of any cracking or broken rivets.

EASA AD 2023–0103 also specifies procedures for modifying structures between frames FR43 and FR44, on stringers STGR0A and STGR0A': Replacing supports, formers, installing fittings, radius guards, and hardware attachments.

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

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would retain certain requirements of AD 2021–02–18. This proposed AD would require accomplishing the actions specified in EASA AD 2023–0103 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2023–0103 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2023–0103 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2023–0103 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2023–0103. Service information required by EASA AD 2023–0103 for compliance will be available at *regulations.gov* under Docket No. FAA–2023–1999 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 10 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 17 work-hours × $85 per hour = Up to $1,445	Up to $14,002	Up to $15,447	Up to $154,470.

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

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2021–02–18, Amendment 39–21401 (86 FR 10740, February 23, 2021); and

■ b. Adding the following new AD:

Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.): Docket No. FAA–2023–1999; Project Identifier MCAI–2023–00697–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 4, 2023.

(b) Affected ADs

This AD replaces AD 2021–02–18, Amendment 39–21401 (86 FR 10740, February 23, 2021) (AD 2021–02–18).

(c) Applicability

This AD applies all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by cracks found on certain left- and right-hand stringers in the area of frame (FR) 43 of the fuselage. The FAA is issuing this AD to address such cracking in the stringers, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0103, dated May 23, 2023 (EASA AD 2023–0103).

(h) Exceptions to EASA AD 2023–0103

(1) Where EASA AD 2023–0103 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0103.

(3) Where EASA AD 2023–0103 specifies ''The SB: Airbus DS Service Bulletin (SB) SB235–53–0070C (for CN–235, CN–235–200 and CN–235–300 aeroplanes) and SB295–53–0025C (for C–295 aeroplanes), as applicable,'' for this AD replace those words with ''The SB: Airbus DS Service Bulletin (SB) SB235–53–0070C (for CN–235, CN–235–200 and CN–235–300 aeroplanes), SB235–53–0070M (for CN–235–100 aeroplanes), and SB295–53–0025C (for C–295 aeroplanes), as applicable.''

(4) Where EASA AD 2023–0103 specifies ''Groups: Group 1 aeroplanes are CN–235, CN–235–200 aeroplanes. Group 2 aeroplanes are CN–235–300 and C–295 aeroplanes,'' for this AD replace those words with ''Groups: Group 1 aeroplanes are CN–235, CN–235–100, and CN–235–200 aeroplanes. Group 2 aeroplanes are CN–235–300 and C–295 aeroplanes.''

(5) Where the column header of Table 1 of EASA AD 2023–0103 is titled ''Accumulated Flight Hours (FH) and Flight Cycles (FC)'', for this AD replace those words with ''Accumulated Flight Hours (FH) and Flight Cycles (FC), as of March 30, 2021 (the effective date of AD 2021–02–18).''

(6) Where EASA AD 2023–0103 specifies a compliance time of ''During the next A-check, or within 300 FH after 30 July 2020 [the effective date of EASA AD 2020–0159], whichever occurs later,'' for this AD replace those words with ''Within 300 FH after March 30, 2021 (the effective date of AD 2021–02–18).''

(7) Where EASA AD 2023–0103 specifies a compliance time of ''Within 50 FH or 50 FC, whichever occurs first after 30 July 2020 [the effective date of EASA AD 2020–0159],'' for this AD replace those words with ''Within 50 FH or 50 FC, whichever occurs first after March 30, 2021 (the effective date of AD 2021–02–18).''

(8) Where paragraph (2) of EASA AD 2023–0103 specifies to ''contact Airbus DS for approved instructions and accomplish those instructions accordingly'' if discrepancies are detected, for this AD if any cracking is detected, the cracking must be repaired before further flight using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2023–0103 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

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

(3) *Required for Compliance (RC):* Except as required by paragraph (j)(2) of this AD, if any service information referenced in EASA AD 2023–0103 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(k) Additional Information

For more information about this AD, contact Shahram Daneshmandi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3220; email: *shahram.daneshmandi@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0103, dated May 23, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0103, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

(4) You may view this service information 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 service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on October 11, 2023.

Victor Wicklund,

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

[FR Doc. 2023–22885 Filed 10–17–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2105; Airspace Docket No. 22–AAL–61]

RIN 2120–AA66

Amendment of Alaskan Very High Frequency Omnidirectional Range Federal Airway V–506 in the Vicinity of Kodiak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Alaskan Very High Frequency Omnidirectional Range Federal airway (VOR) V–506 in the vicinity of Kodiak, AK. The FAA is taking this action due to the loss of signal from the Kodiak, AK, VOR and due to the pending decommissioning of the Hotham, AK, Nondirectional Radio Beacon (NDB).

DATES: Comments must be received on or before December 4, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2105 and Airspace Docket No. 22–AAL–61 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the airway structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Western Service Center, Federal Aviation 2200 South 216th St., Des Moines, WA 98198.

Incorporation by Reference

Alaskan VOR Federal airways are published in paragraph 6010(b) of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub L., 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of an ongoing, large, and comprehensive T-route modernization project in the state of Alaska. The project mission statement states: ''To modernize Alaska's Air Traffic Service route structure using satellite-based navigation development of new T-routes and optimization of existing T-routes will enhance safety, increase efficiency and access, and will provide en route continuity that is not subject to the restrictions associated with ground-based airway navigation.''

As part of this initiative, the Hotham NDB is scheduled to be decommissioned. As a result, the portion of Alaskan V–506 that extends between the Kotzebue VOR/Distance Measuring Equipment (VOR/DME) and the Hotham NDB will become unusable. This airspace action proposes to amend the Alaskan V–506 by revoking the portion of the airway that extends between the Kotzebue VOR/DME and the Hotham NDB.

Additionally, the Kodiak VOR/DME is unusable on V–506 within 55 nautical miles of the navigational aid location. A notice to air missions was issued in 2019 upon a failed flight inspection, stating that V–506 from the Kodiak VOR/DME to the 55 nautical mile change over points on the airway are unusable. The disruption of the signal was first suspected to be caused by tree growth surrounding the VOR site within the VOR clear zone; however, efforts to restore the signal by clearing trees in this area have been unsuccessful. Due to the lack of usable signal and known cause of the signal loss, the FAA proposes to amend the Alaskan V–506 by revoking the portion of the airway that extends between the intersection of the Kodiak VOR/DME 107° radial and the Anchorage Oceanic Control Area/

Flight Information Region (CTA/FIR) boundary and the King Salmon VOR/Tactical Air Navigation (VORTAC).

The Proposal

The FAA proposes to amend 14 CFR part 71 by amending Alaskan VOR Federal airway V–506. The proposed airspace actions are described below.

V–506: The Alaskan Federal airway V–506 extends between Barrow, AK, VOR/DME and the intersection of the Kodiak VOR/DME 107° radial and the Anchorage Oceanic CTA/FIR boundary. As amended, the Alaskan V–506 would extend between the Kotzebue VOR/DME and the King Salmon VORTAC.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(b) Alaskan VOR Federal Airways.

* * * * *

V–508 [Amended]

From Kotzebue, AK; 53 miles 12 AGL, 71 miles 55 MSL, 35 miles 12 AGL; Nome, AK; Bethel, AK; 63 miles 12 AGL, 84 miles 70 MSL, 51 miles 12 AGL; to King Salmon, AK.

* * * * *

Issued in Washington, DC, on October 13, 2023.

Karen L. Chiodini,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2023–22952 Filed 10–17–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–1984; Airspace Docket No. 23–ASW–17]

RIN 2120–AA66

Establishment of Class E Airspace; Liberty, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Liberty, TX. The FAA is proposing this action to support new instrument procedures at this airport.

DATES: Comments must be received on or before December 4, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–1984 and Airspace Docket No. 23–ASW–17 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instruction for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Raul Garza Jr., Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5874.

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 would establish Class E airspace extending upward from 700 feet above the surface Class E surface airspace at Liberty Dayton Regional Medical Center, Liberty, TX, to support instrument flight rule (IFR) operations at this airport.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments

reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or dely. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT post these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov* as described in the system of records notice (DOT/ALL–14FDMS), which can be reviewed at *www.dot.gov/privacy*.

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

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 proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published subsequently in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

The Proposal

The FAA is proposing to amend 14 CFR part 71 by:

Establishing Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of Liberty Dayton Regional Medical Center, Liberty, TX;

This action is to support new instrument procedures and IFR operations at this airport.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E5 Liberty, TX [Establish]

Liberty Dayton Regional Medical Center, TX
(Lat 30°4′10″ N, long 094°47′56″ W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Liberty Dayton Regional Medical Center.

* * * * *

Issued in Fort Worth, Texas, on October 12, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–22934 Filed 10–17–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2103; Airspace Docket No. 22–AAL–24]

RIN 2120–AA66

Revocation of Colored Federal Airway Blue 3 (B–3) in Western Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke Colored Federal Airway B–3 in Western Alaska. The FAA is taking this action due to the pending decommissioning of the Aniak, Anvik, North River, Norton Bay, Hotham, and Noatak Nondirectional Radio Beacons (NDB) in Alaska.

DATES: Comments must be received on or before December 4, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2103

and Airspace Docket No. 22–AAL–24 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the airway structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Western Service Center, Federal Aviation 2200 South 216th St., Des Moines, WA 98198.

Incorporation by Reference

Colored Federal airways are published in paragraph 6009 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub. L. 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of an ongoing, large, and comprehensive T-route modernization project in the state of Alaska. The project mission statement states: ''To modernize Alaska's Air Traffic Service route structure using satellite-based navigation development of new T-routes and optimization of existing T-routes will enhance safety, increase efficiency and access, and will provide en route continuity that is not subject to the restrictions associated with ground-based airway navigation.''

As part of this initiative, the Aniak, Anvik, North River, Norton Bay, Hotham, and Noatak NDBs are scheduled to be decommissioned. As a result, Colored Federal airway B–3 will become unusable. This airspace action proposes to revoke B–3 in its entirety.

The Proposal

The FAA proposes to amend 14 CFR part 71 by revoking Colored Federal airway B–3. The proposed airspace actions are described below.

B–3: The Colored Federal airway, B–3, extends between the Aniak NDB and the Noatak NDB. The FAA is proposing to revoke B–3 in its entirety.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6009 Colored Federal Airways.

* * * * *

B–3 [Remove]

* * * * *

Issued in Washington, DC, on October 13, 2023.

Karen L. Chiodini,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2023–22951 Filed 10–17–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2052; Airspace Docket No. 23–ASO–39]

RIN 2120–AA66

Amendment of Class E Airspace; Thomasville, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface for Thomasville Regional Airport, Thomasville, GA. This action would increase the exiting radius and add an extension to the northeast, as well as update the airport's name.

DATES: Comments must be received on or before December 4, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2052 and Airspace Docket No. 23–ASO–39 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* anytime. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–6364.

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 would amend Class E airspace in Thomasville, GA.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only once if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives and a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is

possible without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without editing, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov*. Recently published rulemaking documents can be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA, 30337.

Incorporation by Reference

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, incorporated by reference in 14 CFR 71.1 annually. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023. These updates will be published in the next FAA Order JO 7400.11 update. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class E airspace extending upward from 700 feet above the surface for Thomasville Regional Airport, Thomasville, GA, by updating the airport name (formerly Thomasville Municipal Airport). Also, an airspace evaluation determined the radius would increase to 7 miles (previously 6.5 miles), and an extension to the northeast would be added. Controlled airspace is necessary for the area's safety and management of instrument flight rules (IFR) operations.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis per FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' before any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASO GA E5 Thomasville, GA [Amended]

Thomasville Regional Airport, GA
(Lat 30°54′05″ N, long 83°52′53″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Thomasville Regional Airport and within 3.5 miles on each side of the 040° bearing of the airport, extending from the 7-mile radius to 9.7 miles northeast of the airport.

* * * * *

Issued in College Park, Georgia, on October 13, 2023

Andreese C. Davis,

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

[FR Doc. 2023–22948 Filed 10–17–23; 8:45 am]

BILLING CODE 4910–13–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 2023–3]

Access to Electronic Works

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

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The U.S. Copyright Office is extending the deadline to submit comments in connection with a notice of proposed rulemaking regarding expanding the categories of electronic deposits in its regulation governing electronic deposits of published works submitted to the Office that have been selected for addition to the collections of the Library of Congress.

DATES: Written reply comments must be received by no later than 11:59 p.m. Eastern Time on October 30, 2023.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov.* Specific instructions for submitting comments are available on the Copyright Office website at *https://www.copyright.gov/rulemaking/edeposit-access.*

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: On September 1, 2023, the U.S. Copyright Office issued a notice of proposed rulemaking seeking comments from the public on questions regarding expanding the categories of electronic deposits in its regulation governing electronic deposits of published works submitted to the Office that have been selected for addition to the collections of the Library of Congress.[1] The notice set an October 2, 2023 deadline for submitting initial comments and an October 16, 2023 deadline for reply comments.

To ensure that members of the public have sufficient time to prepare responses to the Office, and to ensure that the Office can proceed on a timely basis with its inquiry of the issues identified in its notice with the benefit of a complete record, the Office is extending the reply comment period deadline as set forth here. Reply comments will now be due by 11:59 p.m. Eastern Time on Tuesday, October 30, 2023.

Dated: October 12, 2023.

Maria Strong,

Associate Register of Copyrights and Director of Policy and International Affairs.

[FR Doc. 2023–22930 Filed 10–17–23; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 139

[EPA–HQ–OW–2019–0482; FRL–7218–03–OW]

RIN 2040–AF92

Vessel Incidental Discharge National Standards of Performance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On October 26, 2020, the U.S. Environmental Protection Agency (EPA) proposed under the Vessel Incidental Discharge Act (VIDA) national standards of performance for marine pollution control devices for discharges incidental to the normal operation of primarily non-military and non-recreational vessels 79 feet in length and above into the waters of the United States or the waters of the contiguous zone (hereafter, ''the proposed rule''). This supplemental notice presents ballast water management system type-approval data EPA received from the U.S. Coast Guard (USCG) since the proposed rule and supplements the proposed rule with supplemental regulatory options that EPA is considering for discharges from ballast tanks, hulls and niche areas, and graywater systems. These supplemental options are informed by comments received during the first public comment period and subsequent meetings with interested states, tribes, and other stakeholders held between August and November 2021. EPA solicits public comment solely about the information presented in this document; the Agency is not soliciting public comment on any other aspects of the proposed rule that are not addressed in this document. All comments on this document and the comments on the proposed rule will be considered during the development of the final rule.

DATES: Comments must be received on or before December 18, 2023.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OW–2019–0482, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Water Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday through 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 ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jack Faulk, Oceans, Wetlands, and Communities Division, Office of Water (4504T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–564–0768; email address: *faulk.jack@epa.gov.*

SUPPLEMENTARY INFORMATION: This supplementary information is organized as follows:

[1] 88 FR 60413 (Sept. 1, 2023).

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OW–2019–0482, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute to EPA's docket at *https://www.regulations.gov.* Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments. EPA is soliciting comment on a subset of issues described in the proposed rule and is not requesting comment on issues not discussed in that document.

B. Virtual Public Meetings

EPA will be hosting two virtual public meetings to introduce the supplemental notice, highlight supplemental regulatory options that EPA is considering for the final rule, and provide information on the public comment submission process. The public meeting schedule and additional details regarding the meetings will be announced on EPA's website at *https://www.epa.gov/vessels-marinas-and-ports/vessel-incidental-discharge-act-vida-stakeholder-engagement-opportunities.* EPA will present the same material at both meetings. Please note that the virtual meetings will not be a platform for submitting comments.

II. Purpose of This Notice

On October 26, 2020 (85 FR 67818), EPA proposed under the Vessel Incidental Discharge Act (VIDA) national standards of performance for marine pollution control devices for discharges incidental to the normal operation of primarily non-military and non-recreational vessels 79 feet in length and above into the waters of the United States or the waters of the contiguous zone.[1] This document supplements the proposed rule.

Since publishing the proposed rule, EPA re-engaged with the states through the VIDA's Governors consultation process to discuss topics for which the states expressed an interest in further collaboration and conducted post-proposal outreach to states, tribes, and interested stakeholders from environmental organizations and the regulated community to obtain additional clarification regarding their concerns with the proposed rule. EPA also obtained and analyzed a significant amount of new data from the USCG related to ballast water management system (BWMS) performance. With this document, EPA announces the availability of these new data, provides its analysis of the data, and solicits comment on supplemental regulatory options for the standards and definitions applicable to ballast tanks, hull and niche areas, and graywater systems. The supplemental regulatory options were developed based on EPA's analysis of the public comments received on the proposed rule and during additional post-proposal outreach. EPA solicits public comments regarding the information and issues presented in this document. EPA is not soliciting additional comment on other issues raised in the proposed rule.

III. Summary of Proposed Numeric Ballast Water Discharge Standard and Newly Acquired Ballast Water Management System Type-Approval Data

A. Summary of Proposed Numeric Ballast Water Discharge Standard

In 2020, EPA proposed to continue, as part of the ballast water discharge standard, the numeric discharge standard for biological parameters (expressed as instantaneous maximums) found in the 2013 Vessel General Permit (VGP) and the USCG regulations promulgated on March 23, 2012 (77 FR 17254) as follows:

- For organisms greater than or equal to 50 micrometers (μm) in minimum dimension: discharge must include less than 10 living organisms per cubic meter (m^3) of ballast water.
- For organisms less than 50 μm and greater than or equal to 10 μm: discharge must include less than 10 living organisms per milliliter (mL) of ballast water.
- For indicator microorganisms:
  - Toxicogenic *Vibrio cholerae* (serotypes O1 and O139): a concentration of less than 1 colony forming unit (cfu) per 100 mL.
  - *Escherichia coli:* a concentration of less than 250 cfu per 100 mL.
  - Intestinal enterococci: a concentration of less than 100 cfu per 100 mL.

In the proposed rule, EPA noted that the 2013 VGP requirements and the USCG type-approval process are effective and promote the development of highly efficient technologies despite ongoing challenges associated with the installation, operation and maintenance, and monitoring of those systems. The proposed rule additionally described type-approval testing data quality concerns and challenges associated with ballast water test methods and monitoring. Specifically, in 2016, the USCG announced in the **Federal Register** the availability of its Practicability Review, as established in 33 CFR 151.2030(c), finding that technology and testing protocols cannot be practically implemented to comply with a performance standard more stringent than that required by the existing regulations (81 FR 29287, May 11, 2016) because there were no data demonstrating that ballast water management systems (BWMSs) could meet such a standard. As such, the USCG could not evaluate whether testing protocols exist that can accurately measure efficacy of treatment against a more stringent performance standard. The following three subsections summarize the International Maritime Organization (IMO) and USCG type-approval data considerations, testing methodology limitations, and monitoring challenges described in the proposed rule.

1. International Maritime Organization (IMO) and USCG Ballast Water Management System Type-Approval Data Proposed Rule Considerations

The proposed rule described the Agency's rationale for discounting the IMO BWMS test data detailed in the 2011 Scientific Advisory Board (SAB) report that the United States Court of Appeals for the Second Circuit referenced in its decision on the 2013 VGP. *See Nat. Res. Def. Council* v. *U.S. EPA,* 808 F.3d 556, 566–67 (2d Cir. 2015). EPA noted that, after publication of the SAB report, the USCG found that systems type-approved under the

[1] ''Discharges incidental to the normal operation of a vessel'' are also referred to as ''incidental discharges'' or ''discharges'' in this rulemaking.

original IMO guidelines were unlikely to meet the USCG discharge standard and that testing during that type-approval did not necessarily follow, or at least did not document, adequate quality assurance and quality control (QA/QC) procedures. In fact, every BWMS vendor with an IMO type-approval that requested USCG type-approval had to undergo a new round of testing according to USCG standards to demonstrate system performance meeting USCG type-approval requirements. The IMO has since updated and codified new type-approval test requirements (IMO, 2018) that address many of the issues that limited the reliability of the IMO type-approval data assessed in the 2011 SAB report.

Notwithstanding the data quality deficiencies of the IMO dataset, the proposed rule included EPA's evaluation of three ultraviolet (UV)/filtration systems from the 2011 SAB report that the Second Circuit Court of Appeals identified as being able to meet a more stringent standard (Hyde Marine Guardian, Optimarin, and Alfa Laval/Alfa Wall Pure Ballast). *Nat. Res. Def. Council* v. *U.S. Envtl. Prot. Agency.,* 808 F.3d 566, 570 n.11 (2d Cir. 2015). The proposed rule summarized how the court mischaracterized the effectiveness of those three systems in achieving a more stringent standard. Although there were some data from these systems showing organism reductions greater than the proposed standard, those differences were minor and within the margin of error inherent in measuring aquatic organisms in the natural environment due to the variability in ballast water uptake and testing. Hence, the data cited by the Second Circuit Court of Appeals did not reflect substantial improvement in organism removal beyond the proposed standard.

The proposed rule also described EPA's evaluation of BWMS USCG type-approval data available to the Agency at the time. EPA stated that a more stringent numeric discharge standard was not reliably achievable because test results were within the same order of magnitude as the proposed standard and fell within the margin of error expected due to the great variability associated with the characteristics of ballast water and challenges associated with monitoring, analyzing, and enumerating organisms in the different size classes.

2. Ballast Water Test Methods Do Not Allow for Establishing a More Stringent or ''No Detectable Organisms'' Standard

The proposed rule described the practical and statistical challenges associated with performing the tests that would be necessary to show that a well-operated BWMS is able to reliably meet a more stringent or ''no detectable organisms'' standard. There are no performance data available at concentrations of less than one organism per volume of ballast water for the two largest organism size classes. The Agency noted that test methods (and associated method detection limits) prevent demonstrating that any BWMS can achieve a standard more stringent than the 2013 VGP numeric discharge limit. EPA highlighted that, consistent with findings of the SAB, it was unreasonable to assume that a test result showing zero living organisms using currently available test methods demonstrates complete sterilization, if for no other reason than a sample taken represents a very small portion of the overall discharge and the collection of that sample may miss the few live organisms present in the discharge. Collecting larger volumes of ballast water to address this uncertainty also becomes impractical. For example, the SAB estimated that anywhere from 120 to 600 cubic meters of ballast water would have to be collected to adequately assess whether the discharge meets a standard 10 times more stringent (U.S. EPA, 2011).

3. Monitoring Challenges Associated With Measuring Live Organisms in Ballast Water

The proposed rule also described the challenges associated with collecting and analyzing ballast water to detect and quantify organisms at levels lower than the proposed standard. These challenges gave EPA low confidence in the ability of a vessel to demonstrate compliance with a lower numeric discharge standard. Even in the 2013 VGP, the three-component self-monitoring program [2] excluded monitoring for the two largest organism size classes because of the extreme difficulties with directly monitoring living organisms in ballast water discharges. Rather, the 2013 VGP established a monitoring program that serves as an indicator of system performance while operating as the system was designed (and type-approved). The proposed rule pointed out that demonstrating a higher level of treatment effectiveness would require testing of a different parameter that can be monitored. This would reasonably require a comprehensive monitoring program to gather necessary data on which to perform the Best Available Technology Economically Achievable (BAT) analysis. EPA generally sets a BAT standard based on data demonstrating the candidate BAT technology's performance, accounting for variability of a properly operating system. Without a way to detect and quantify organisms at those levels, EPA does not have a basis to evaluate the performance of the technology or set limits that represent the performance.

B. Relevant Comments Received on Numeric Ballast Water Discharge Standard

EPA received numerous comments on the proposed rule during the public comment period and stakeholder meetings about its BAT analysis for the numeric ballast water discharge standard. Commenters stated that EPA only reviewed less than one-quarter of the USCG BWMS data and that these data were supplied to EPA by an industry group with a conflict of interest in the standard setting process. Other comments expressed concerns that EPA:

- Used outdated information when it relied on the 2011 SAB report and 2011 National Academy of Sciences' National Research Council report;
- Rejected data from IMO type-approval testing based on an incomplete, undocumented, and questionable ''independent review,'' and that the USCG type-approval data EPA did review could very well have the same QA/QC concerns as the IMO data;
- Established the standard first and then worked backwards toward the 2013 VGP standard rather than evaluating the data to determine what standard could be achieved independent of the existing standard;
- Relied inappropriately on international consistency;
- Failed to consider whether a more stringent standard could be met by reasonable and feasible modifications to existing BWMS designs; and,
- Asserted incorrectly that:
  - Available information does not justify a more stringent numeric discharge standard, be it 100 times, 10 times, or even 2 to 9 times more stringent than the proposed standard;
  - A more stringent numeric discharge standard would represent an insignificant improvement in treatment system effectiveness;
  - Limitations in the monitoring of organisms in ballast water do not support establishing a more stringent standard; and,
  - Comparing type-approval data for different systems would only be appropriate if all other variables were

[2] The 2013 VGP included functionality, biological organism, and residual biocide and derivative monitoring for ballast water discharges from any BWMS.

held constant or under complete control during the test.

While EPA received comments on the proposed rule on several other topics associated with establishing the ballast water discharge standard, those comments are outside the scope of this supplemental notice. Comments that are outside the scope of this document will be addressed in the final rule.

C. Ballast Water Type-Approval Data Acquired Since the Proposed Rule

As a result of concerns raised during the comment period that EPA reviewed insufficient BWMS data, EPA requested USCG BWMS type-approval data directly from the USCG. EPA requested that the data be provided in a form that would allow EPA to conduct a transparent and comprehensive assessment of the performance of BWMS and to share those data and EPA's analysis of those data with the public. Acknowledging that the USCG continues to receive new data packages, the Agency requested data for all systems type-approved by the date of the proposed rule (85 FR 67818, October 26, 2020). EPA does not expect that more time or additional applications would meaningfully alter the results of the analysis. Additionally, recognizing the statutory deadline for finalizing this standard and the significant effort required to extract, transcribe, and validate test data, EPA focused on obtaining the most important and relevant data to perform its BAT analysis. For example, EPA determined that it was unnecessary to obtain data from the USCG regarding the number and size of subsamples, or system operating parameters such as flow rates, disinfectant dosages, or turbidity. The complete set of USCG BWMS land-based and shipboard type-approval data provided to EPA by the USCG and the Agency's comprehensive Ballast Water BAT Data Analysis of these data are included in the docket for this rulemaking (U.S. EPA, 2023).

The USCG provided EPA with non-confidential/non-proprietary test data for the 37 BWMSs [3] that had been type-approved as of the date of the proposed rule (85 FR 67818, October 26, 2020) as well as 16 sets of amendment test data for those type-approved systems. EPA considered the amendments as additional independent systems because the original BWMS remains type-approved even when an amendment is submitted and approved for that system. EPA excluded two sets of amendment data from the analysis due to incomplete data. EPA also identified and excluded two duplicate data sets from the analysis to prevent weighing the same results twice in the statistical methodology. This resulted in a total of 49 data sets for the statistical analysis.

The data provided by the USCG included both land-based and shipboard testing results (uptake, discharge, and control) for all valid tests.[4] For land-based testing, the USCG provided test results for organisms less than 50 µm and greater than or equal to 10 µm in minimum dimension (referred to here as the ''medium'' organism size class) and organisms greater than or equal to 50 µm in minimum dimension (referred to here as the ''large'' organism size class), the three small organism size class parameters, and other water quality data, such as salinity and total suspended solids (TSS). For shipboard testing, the USCG provided test results for medium and large organism size classes and salinity.

The USCG masked the data to exclude information the USCG deems to be proprietary, such as the vendor, make, and model of the BWMSs and the type of treatment technology used by each BWMS. However, the USCG developed a labeling system to allow EPA to analyze the performance data and its treatment technology type classification for each BWMS without disclosing the details of the BWMS or identifying the technology.

The data provided to EPA is the result of an approximately yearlong effort by the USCG to transcribe information from BWMS type-approval application test reports, standardize terms to facilitate analysis, and perform a quality assurance review of the data provided by as many as six USCG-approved independent laboratories, located in five different countries, each supported by no fewer than six approved sub-laboratories. Importantly, this means that the values are not all reported with the same precision (*i.e.,* the number of digits or significant figures). This is especially relevant to values based on calculations or averages, where the calculated value (*e.g.,* 0.333 or 7341 organisms per milliliter) is reported at a higher precision than could be supported based on the counting method. Values are reported without confidence intervals, so the values represent a mean of a range of likely estimates.

1. Data Validation and Processing

a. Data Validation

EPA considers these USCG data to be relevant, accurate, reliable, and representative, and the Agency performed a quality control review of the data provided. EPA validated USCG-provided type-approval data to ensure that these data are fit for use for calculating a numeric discharge standard for the two largest organism classes (using Stata software; StataCorp, 2021). Data validation consisted of checks for completeness, range, and logic. Completeness checks included ensuring that type-approval data included all valid test cycles (pass and fail), each test cycle had both influent (challenge water, treatment uptake, or control uptake) and effluent (treatment discharge) data that included both medium and large organism size classes, and there was no instance of multiple results for the same test cycle. Range and logic checks confirmed the validity and magnitude of all treatment discharge results that exceeded the discharge standard, that challenge water and control or treatment uptake organism concentrations were greater than discharge concentrations, and that uptake and control discharge organism concentrations met the criteria for a minimum concentration of living organisms, per Tables 4 and 7 of the EPA Environmental Technology Verification Program's *Generic Protocol for the Verification of Ballast Water Treatment Technologies* (''ETV Protocol'') (U.S. EPA, 2010).

Most instances of incomplete data were resolved by USCG through database corrections; however, some incomplete data could not be resolved because the data were not reported in the test reports. BWMSs with biological efficacy data available for only one organism size class were excluded from this analysis since the data omissions precluded EPA from assessing those systems' performance.

b. Data Processing

EPA evaluated the USCG type-approval data and addressed extenuating circumstances, including samples with missing results, no detected organisms, and gaps in salinity classifications, to ensure consistent analysis of the USCG type-approval data.

In instances where organism concentration data were missing from the testing results or marked as ''NR (not

[3] As of July 24, 2023, the USCG had type-approved 51 BWMS (*https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Commercial-Regulations-standards-CG-5PS/Marine-Safety-Center-MSC/Ballast-Water/*).

[4] A test is considered valid if it met all uptake and testing challenge requirements of the ETV Protocol (EPA/600/R–10/146, *Generic Protocol for the Verification of Ballast Water Treatment Technologies, version 5.1,* (dated September 2010)), as incorporated by reference in USCG BWMS type-approval regulations at 46 CFR 162.060.5.

reported),'' the sample/data were removed because their values were unknown.

For the samples/data sets with no detectable organisms in the treated discharge, EPA represented these non-detects (NDs) as their method detection limits (MDLs) that were determined and provided by the USCG where available. The volume of water used in the analytical methodology determines the MDL because units are in organisms per volume of water. The USCG calculated MDLs based upon the test facilities' written protocols that defined minimum sample volumes and ranges of volumes analyzed. Specific volumes sampled and analyzed for each analysis were not available, so the MDL for each sample was not known. Because USCG transcribed type-approval data ''as written,'' NDs were expressed using a variety of formats. EPA substituted, or imputed, given organism concentrations with their corresponding MDL if the original values were reported as ''0'' or non-numeric (such as ''Below Detection Limit (BDL)''). Any detected values greater than zero but below their given MDL were used as-is in this analysis. Further details of this step are provided in the comprehensive Ballast Water BAT Data Analysis in the docket for this rulemaking (U.S. EPA, 2023).

The USCG provided land-based data to EPA categorized by salinity type as marine, brackish, or fresh; however, the same categorization was not provided for the shipboard data. Salinities in shipboard data were provided as quantitative readings that EPA used to classify into types defined by <1 Practical Salinity Unit (PSU) for fresh, ≥28 PSU for marine, and measurements in between for brackish. For shipboard trials in which a salinity was provided for only the treatment discharge sample, EPA applied that salinity to the uptake sample for that trial because salinity values were consistent across samples for all other trials that reported salinities for both uptake and discharge. Shipboard trials without any reported salinity (in any of the sampling locations) were omitted from this analysis because the statistical methodology requires classification of sets by salinity category.

2. Analysis of New Data

EPA's analysis focused on the two largest organism size classes (medium and large). These two size classes are the two key parameters EPA uses to assess invasion potential from ballast water discharges and for which EPA determined type-approval test data are adequate for purposes of evaluating performance capabilities of these systems.

EPA obtained USCG type-approval data for the three smallest indicator microorganisms tested but did not assess those data as part of this analysis because the data do not provide an appropriate basis for calculating a numeric ballast water discharge standard for the two largest organism class sizes, nor did EPA receive any comments on the proposed rule standard for the indicator microorganisms.

The Agency used the newly acquired data to analyze whether a different standard from the proposed rule should be established for medium and large organism size classes. EPA considered all BWMS type-approval data provided by the USCG for these two organism size classes. In all, EPA used 1,820 treatment discharge results from 49 BWMS type-approval data sets. Type-approval applicants tested systems in two platforms (land-based or shipboard; shipboard testing not required for amendments) and in up to three salinity categories (marine, brackish, or fresh). For purposes of this analysis, EPA classified the results into 384 ''sets'' each defined by a unique combination of individual BWMS, salinity category (fresh, brackish, or marine), organism size class (medium or large), and test platform (land-based or shipboard).

In performing the analysis, EPA defined sets of trials, tested for correlations, identified a distribution shape and distribution parameters, combined land-based and shipboard trials, identified best available technology, and calculated the numeric discharge standard. Analyses were performed using ''R'' software (R Core Team, 2023). Although type-approval testing is based on counts of organisms and is therefore discrete (*i.e.,* results are integers), test facility reporting of results were generally reported as averages of subsamples and standardized to common water volumes of medium organisms/mL and large organisms/m^3, thus making the values continuous (that is, many values reported as fractions of organisms per volume). After testing several distributions, EPA determined the inverse Gaussian (IG) distribution to be the shape that best described the most sets and therefore was the distribution applied for the final analysis. Using this distribution, EPA calculated the 99th percentile and mean of each data set; the ratio of the two defined the variability factor (VF). Means and VFs were summarized across all sets for each of the two organism size classes. Further details are provided in the comprehensive Ballast Water BAT Data Analysis in the docket for this rulemaking (U.S. EPA, 2023).

EPA considered whether BAT should be based on any specific individual BWMS(s) or on any specific treatment technology type(s) into which the USCG categorized these BWMSs. As noted above, EPA did not have access to proprietary or business confidential information linking these data to design and operating details of each type-approved system to assess whether any of the systems should have been excluded from EPA's analysis; thus, EPA used an inclusive approach that considered data from all systems.

EPA evaluated whether statistical differences in the treatment effectiveness of BWMSs could help identify systems that perform significantly better, such that they could be considered as the basis for BAT. To do so, EPA compared treatment discharge concentrations of the 49 BWMSs within six groups defined by the two common organism size class and three salinity categories. Statistical tests showed significant differences among systems within each group, but frequent overlap in significances among systems prevented any clear stratifications of ''best'' or ''worst'' system groupings. Furthermore, the effectiveness of systems varied by organism size and/or salinity, such that systems had different relative comparisons depending on the group within which they were evaluated. For example, one system may have had lower concentrations in one organism size class than the other size class, making an overall determination of that system's treatment effectiveness compared to other systems uncertain. The complexity of these statistical results did not point to any clear identification of system(s) that stood out as representing BAT.

For limits calculations, EPA considered separating the three salinity categories for separate standard calculations; however, means and VFs, the two parameters used in the calculation of a numeric discharge standard, were insignificantly different among salinities. Therefore, EPA did not calculate a separate standard for each salinity category.

The results of this analysis are presented in Table 1 of this preamble. The standard is defined as the organism size class mean multiplied by the organism-size-class VF. This standard comprises the results of the analysis in units of medium organisms/mL and large organisms/m^3, not to be exceeded. It includes all BWMSs and amendments, and use MDLs as given to EPA by the USCG.

TABLE 1—STANDARD OF ORGANISM CONCENTRATIONS IN TREATMENT DISCHARGE SAMPLES

Organism size class	Numeric discharge standard
Large	6.01 organisms/m^3.
Medium	6.66 organisms/mL.

As described above, EPA's statistical analysis showed no clear stratifications of ''best'' or ''worst'' system groupings. However, as part of a sensitivity analysis, EPA compared mean discharge concentrations for each system to identify those that performed poorly in any of the six organism size/salinity category groups. EPA excluded from consideration as ''best'' any of the 49 systems with a mean discharge concentration in the worst 10th percentile for any of the six groups. Among the 49 systems, 25 were never in the worst 10th percentile for any of the six groups and were therefore identified as ''best.'' EPA calculated a national discharge standard for medium and large organism size classes using all BWMSs, and again using only this subset of ''best'' BWMSs, to quantify the impact of such a reduction in number of systems. In addition to this narrowing of systems to just those determined to be ''best,'' EPA also analyzed the impact of its decision to combine the 14 BWMS amendment data with the 35 original BWMS data sets. Finally, EPA analyzed the implications of using MDLs as given to EPA by the USCG rather than selecting a baseline MDL, acknowledging the considerable number of discharge concentrations reported as below detection but with widely varying MDLs. Results of the analyses for all combinations are shown in Table 2.

TABLE 2—SENSITIVITY ANALYSIS OF STANDARD OF ORGANISM CONCENTRATIONS IN TREATMENT DISCHARGE SAMPLES

[Means and standards are in units of organisms/mL for the medium organism size class, and organisms/m^3 for the large organism size class]

Organism size class	Amendment data included	BWMSs narrowed	MDLs used	Numeric discharge standard (organisms/volume)
Large	Yes	All systems	Baseline	7.59
Large	Yes	Best only	As given	4.21
Large	Yes	Best only	Baseline	4.63
Large	No	All systems	As given	6.28
Large	No	All systems	Baseline	8.56
Large	No	Best only	As given	4.76
Large	No	Best only	Baseline	5.68
Medium	Yes	All systems	Baseline	6.94
Medium	Yes	Best only	As given	5.93
Medium	Yes	Best only	Baseline	6.76
Medium	No	All systems	As given	9.28
Medium	No	All systems	Baseline	9.65
Medium	No	Best only	As given	9.87
Medium	No	Best only	Baseline	9.78

As shown, test results for both the baseline and sensitivity analyses were within the same order of magnitude as the standard in the proposed rule and fall within the margin of error expected due to the variability associated with the characteristics of ballast water and challenges associated with monitoring, analyzing, and enumerating organisms in the different size classes.

D. The Need for Multiple BWMS Compliance Options

The variety of operational and environmental conditions under which BWMSs must operate supports EPA's position that it is critical that a range of BWMSs be available to the global shipping industry to reduce aquatic nuisance species (ANS) discharges. As described in the proposed rule, vessels have different treatment needs due to the size of the vessel, type of operations, and environmental challenges in different waterbodies. Establishing a uniform national numeric discharge standard and applying a type-approval process allows for the installation and use of various BWMS disinfection technologies (including UV, electro-chlorination, chemical addition, ozonation, deoxygenation, pasteurization, and others) to meet various vessel needs and comply with the BAT-based standard. Further, when selecting a BWMS, shipowners also need to consider costs related to both capital and operational expenditures, to include, among other things, financing, spare parts and other supplies, energy demands, crew responsibilities and training, and operation and maintenance activities. The combination of factors described above has guided both the U.S. and IMO BWMS type-approval process that establishes a procedure to ensure that a range of BWMSs are available to meet specific vessel characteristics. Ease of operation and maintenance requirements are also a consideration, with the understanding that more complicated systems may lead to more problems. As an example, shipowners may opt to select a single vendor across the company's entire fleet to simplify fleetwide operation and maintenance.

In addition to meeting the discharge standard, the USCG type-approval process separately requires that the BWMS be practicable onboard a vessel (*e.g.,* able to operate despite roll, pitch, and vibration considerations), compatible with other onboard systems, durable, and be supported by credible and sustainable system manufacturers, suppliers, and servicers. For example, to be installed on any U.S.-flagged vessel, the USCG must verify the system meets certain installation and engineering requirements specified in 46 CFR subchapters F and J. The majority of USCG type-approved BWMSs have not been verified to comply with these requirements, so these systems are not approved for use onboard U.S.-flagged vessels. EPA did not have the information necessary to correlate BWMS test data with onboard acceptance; therefore, some of the systems analyzed may not be approved for use on U.S.-flagged vessels.

Multiple BWMS compliance options are also beneficial to shipowners with vessels subject to other requirements, most notably the IMO International Convention for the Control and Management of Ships' Ballast Water and Sediments (hereafter abbreviated as ''BWM Convention'') and any member

state requirements promulgated pursuant to that state being a party to the BWM Convention. A vessel that voyages internationally may be subject to similar, but not necessarily identical, requirements that may shape the selection of an appropriate BWMS. As described in the proposed rule, over 75 percent of vessels discharging ballast water in waters of the United States spent 25 percent or less of their time in those waters, with more than 80 percent of these vessels also subject to the BWM Convention.

E. Data Fail To Demonstrate a More Stringent Numeric Discharge Standard Is BAT

Public comments did not provide an alternative technology-based solution to EPA's BAT analysis in the proposed rule that addresses the breadth of issues associated with establishing a numeric ballast water discharge standard. Some commenters appeared to suggest that EPA should collect the universe of performance data, identify the perceived single, or top few, best performing system(s), and impose that perceived level of performance on the entirety of the universe of potentially affected entities, without considering whether such a system is workable for most vessels. EPA disagrees that such an approach would be scientifically sound or grounded in the statutory considerations of the Clean Water Act (CWA). Among other shortcomings of that approach, test results that appear to indicate greater removal of organisms are not an indication that any particular BWMS can achieve a more stringent standard in all conditions. Rather, the test results are the product of a variety of situations where BWMS manufacturers are testing their systems in different environmental conditions and locations around the world, all with the goal of obtaining type-approval by demonstrating that the BWMS can consistently meet the 2013 VGP and 2012 USCG discharge standard. As such, EPA's analysis of the newly obtained USCG BWMS type-approval data retains the proposed rule rationale that the numeric ballast water discharge standard needs to preserve a level of flexibility for the shipowner to select a technology that is appropriate for the vessel.

Based on the data analysis of the USCG type-approval data and the need for multiple compliance options to suit different vessels and circumstances, EPA is not proposing a different discharge standard for consideration; however, the Agency is interested in obtaining feedback on the Agency's analysis of the data provided by the USCG.

IV. Supplemental Regulatory Options

Through this publication, EPA gives notice of supplemental regulatory options under consideration for ballast tanks (best management practices for ballast water uptake and an equipment standard for New Lakers), hulls and associated niche areas, and graywater systems and solicits public comments on these supplemental options.

A. Ballast Tanks—Best Management Practices for Ballast Water Uptake

1. Summary of Proposed Rule and Relevant Comments Received on Ballast Water Uptake

The proposed rule excludes the 2013 VGP and current USCG requirement (33 CFR 151.2050(b)) for vessel operators to minimize or avoid uptake of ballast water in the following areas and situations: (a) areas known to have infestations or populations of harmful organisms and pathogens (*e.g.,* toxic algal blooms); (b) areas near sewage outfalls; (c) areas near dredging operations; (d) areas where tidal flushing is known to be poor or times when a tidal stream is known to be turbid; (e) in darkness, when bottom-dwelling organisms may rise in the water column; (f) where propellers may stir up the sediment; and (g) areas with pods of whales, convergence zones, and boundaries of major currents.

EPA proposed to exclude these best management practices (BMPs) from the rule based on information that became available suggesting such measures are not practical to implement and enforce as individual standards because these conditions are usually beyond the control of the vessel operator during the uptake and discharge of ballast water. Several commenters requested that these BMPs be retained, arguing they are foundational, protective practices. Some commenters disagreed with EPA's explanation that such measures are not practical to implement, stating that vessel operators can be flexible, creative, and, given appropriate and timely knowledge of the problem, can adjust vessel operations to minimize or avoid environmental impacts from ballast water discharges. For example, operators cannot control light conditions but can plan their ballast water management to avoid or minimize uptake in darkness. Similarly, some commenters stated that although operators cannot control the location of sewage outfalls or dredging operations, operators should be aware and attempt to avoid the outfall locations and dredging operations. Commenters also stated that technology is available to detect benthic depths that should allow operators to avoid or minimize the uptake of ballast and disruption of sediment in shallow waters. Additionally, some commenters stated that the BMP requirement is not a prohibition and is not overly burdensome to regulated vessels. Lastly, one commenter suggested that EPA could incorporate BMPs as guidance for vessel operators to implement ''if practical,'' rather than as mandatory requirements. Although commenters expressed support for inclusion of these BMPs, EPA did not receive any specific data or examples about how these BMPs have been or could be implemented as regulatory requirements.

2. Supplemental Regulatory Option for Ballast Water Uptake

In response to these comments, together with EPA and the USCG's understanding of the continued implementation challenges, EPA is considering a supplemental regulatory option to require vessel operators to address and identify their uptake practices as part of the ballast water management plans, a requirement of the 2013 VGP and USCG regulation that was continued under the Agency's proposed rule. EPA does not expect that this option would result in a change to the compliance costs estimated in the Regulatory Impact Analysis accompanying the proposed rule.

Under this option, the required plan would describe the vessel-specific BWMSs and practices that minimize or avoid uptake of organisms and pathogens to further help reduce the spread of harmful organisms. For example, plans could describe coordinating with local authorities to identify areas/situations of concern and any opportunities to mitigate potential problems. Demonstrating that these important considerations were made by vessel operators could provide for environmental protection but allow vessel operators to tailor measures specific to their vessel operations and routes.

This tailored approach is important for several reasons. First, adherence to port area directives and schedules restricts the ability of a vessel operator to determine the location and timing of ballast water uptake in the most frequent ballasting areas (*i.e.,* ports, harbors, offshore mooring stations, lightering areas, and designated entrance and exit sea lanes for a seaway). In addition, delays in ballasting to avoid the specific area or situations described in the BMP (*e.g.,*

darkness, dredging, or combined sewer overflow events) impact complex port and cargo operations and safety and are not always available to a vessel operator.

Second, in the limited circumstances when a vessel operator can adjust operations and control the location and timing of ballast water uptake, the information about specific areas or situations described in the BMP may not be readily known to the vessel operator. For example, locations of dredging operations are transient and sewage outfalls are not on navigational charts. The uptake practices described in the 2013 VGP and current USCG regulations were initially established by the IMO more than 25 years ago (*i.e.,* prior to commercially available treatment systems) as considerations for port states to notify vessel operators of areas and circumstances of concern where ballasting should be avoided or minimized as vessels traveled around the world. Given that more than 90 percent of vessels discharging ballast water in the United States are foreign-flagged, these vessel operators may not be aware of specific areas or situations beyond the information on navigational charts and each vessel's instrumentation detecting benthic depth.

Third, the uptake practices as described in the 2013 VGP and current USCG regulations contain subjective, imprecise terms that make them challenging to implement and enforce (*e.g.,* areas ''near'' sewage outfalls, areas ''known to have'' infestations, areas ''near'' dredging operations, areas where tidal flushing is ''known to be poor'' or times when a tidal stream is ''known to be turbid''). EPA is unaware of any existing data and resources to support objectively defining the terms or identifying these areas in each U.S. port, particularly in international ports where most uptake occurs. As described below, the VIDA contains several provisions that can help address areas and situations with harmful organisms and pathogens and other water quality concerns.

Incorporating these practices as part of the ballast water management plan is consistent with international vessel obligations established under the IMO BWM Convention. A general obligation of the BWM Convention (Article 2.8) is for Parties (*i.e.,* nations that have ratified the Convention) to encourage ships to avoid, as far as possible, the uptake of ballast water with potentially harmful aquatic organisms and pathogens, as well as sediments that may contain such organisms. The BWM Convention requires vessels flying the flag of a Party and any vessel operating in the jurisdictional waters of that Party to have an approved ballast water management plan that takes into account the IMO Guidelines for Ballast Water Management and Development of Ballast Water Management Plans (commonly referred to as ''G4''). G4 provides guidelines for ballast water management and a ballast water management plan and includes precautionary practices for vessel operators specifying that every effort should be made to avoid the uptake of potentially harmful organisms, pathogens, and sediment that may contain such organisms. Importantly, the guidelines also point to the role of the port States to notify vessel operators of areas where uptake should be minimized, or ballast water should not be taken up (G4 Part A Guidelines for Ballast Water Management Section 2.2).

To the extent that it becomes appropriate and necessary in the future, the VIDA contains other provisions, outside the standard-setting context, that empower EPA and the USCG to address specific situations that may arise with harmful organisms and pathogens and other water quality concerns. For example, EPA, working with the USCG and states, can establish emergency orders requiring BMPs for regions or categories of vessels to address specific concerns related to ANS or water quality. CWA section 312(p)(4)(E)(i), 33 U.S.C. 1322(p)(4)(E)(i). EPA solicits comment on this supplemental regulatory option to address ballast water uptake concerns via a vessel's ballast water management plan.

B. Ballast Tanks—Equipment Standard for New Lakers

1. Summary of Proposed Rule and Relevant Comments Received on Vessels Operating Exclusively in the Great Lakes

In 2020, EPA proposed to subcategorize vessels operating exclusively on the Great Lakes, regardless of when they were built, and exempt these vessels from the numeric ballast water discharge standard but continue to require these vessels to implement certain best management practices (BMPs). These vessels, commonly referred to as ''Lakers,'' were also subject to regulatory subcategorization under the 2013 VGP and were there defined as those that operate exclusively upstream of the waters of the St. Lawrence River west of a rhumb line drawn from Cap de Rosiers to West Point, Anticosti Island, and west of a line along 63 W longitude from Anticosti Island to the north shore of the St. Lawrence River. The proposed rule would be a change from the VGP, which requires Lakers constructed after January 1, 2009 (post-2009 Lakers) to meet the numeric ballast water discharge standard. The exemption of all Lakers (including post-2009 Lakers) in the proposed rule was based on a lack of data demonstrating that any available technology was economically achievable that could consistently meet a numeric discharge standard due to the unique set of circumstances that make ballast water management especially challenging for these vessels. The challenges identified include issues related to the unique nature of the waters of the Great Lakes including extremely low salinity and high levels of suspended solids, turbidity, icing, filamentous bacteria, and dissolved organic carbon from tannins and humic acid. These environmental conditions can clog filters and inhibit BWMS treatment effectiveness. These conditions pose unique challenges to U.S. Lakers because, unlike other vessels operating in challenging water conditions, U.S. Lakers cannot leave the Great Lakes and thus do not have the option to perform ballast water exchange and saltwater flushing. In addition, the operational profile (*e.g.,* short voyages) and design of these freshwater vessels (*e.g.,* uncoated ballast tanks and piping systems that cannot withstand corrosive ballast water treatment chemicals) are not conducive to certain BWMSs. The proposed rule noted that the few U.S. Lakers that have been built since 2009 are not operating BWMSs to meet the numeric discharge standard due to these challenges.

In the proposed rule, EPA explained that it had considered an equipment standard approach for all Lakers that would have required Lakers to install, operate, and maintain a USCG type-approved BWMS, but not to meet a numeric discharge standard. The proposed rule rejected this approach, stating that such a requirement was not economically achievable and significant uncertainty existed as to the availability of technology to meet such a requirement based on the environmental, operational and technical considerations as described above. The proposed rule stated that the advantage to an equipment standard approach is that, although treatment may not consistently meet a numeric discharge standard due to the Great Lakes conditions, some reduction in the discharge of organisms would likely occur.

The proposed rule also addressed three alternative regulatory options for Great Lakes vessels: require filtration

only, require open lake exchange of highly turbid water taken up in river ports, and exempt the use of a BWMS for certain voyages when the operational parameters of an installed BWMS cannot be met. The proposed rule stated that these three alternatives would not reliably meet the numeric discharge standard, and there was insufficient data at that time to establish an alternative standard or requirement for Lakers that would reduce discharges of organisms at a known effectiveness level. The proposed rule stated that additional research is needed to explore these options and pointed to Congress' acknowledgement that practicable ballast water management solutions are needed for Lakers. Specifically, the VIDA directed EPA to establish the Great Lakes and Lake Champlain Invasive Species Program in part to develop such solutions.

The discharge of ballast water from vessels operating exclusively on the Great Lakes was one of the most heavily commented-upon subjects in the proposed rule. Many commenters opposed the exemption of Lakers from the ballast water discharge standard. Specifically, many commenters stated that the exemption of post-2009 Lakers in the proposed rule was inconsistent with the VIDA requirement that the discharge standards be no less stringent (with some exceptions) than the requirements under the VGP that required post-2009 Lakers to meet the numeric ballast water discharge standard.

Several commenters urged EPA to evaluate and establish the discharge standard based upon BAT for categories and classes of vessels or to target specific taxa and high-risk voyages from lower lakes to Lake Superior to reduce the discharge of organisms. Some commenters stated that EPA should further consider a lesser standard or practice, such as installation of a BWMS without that system having to meet the discharge standard, or just components (*e.g.,* filtration) of a full system. Some commenters supported regulations similar to Canada's equipment standard for ''deemed compliance.'' Some commenters argued that the market for BWMSs will not develop, and future treatment will not be possible, unless EPA and the USCG create an incentive for additional systems and testing.

One commenter stated that the only technology that can support operations in the Great Lakes for an extended time would be UV-based treatment because other technology types have operational limitations. Another commenter requested that EPA reevaluate the finding that chemical addition technologies cause excessive corrosion in uncoated ballast tanks and that technologies using chlorine dioxide do not cause excessive corrosion in uncoated carbon steel ballast tanks. Commenters advocated for EPA to identify cost-effective application of available treatments, such as lower doses and selective voyage application of chlorine, despite a lack of anti-corrosion coating on the ballast water tanks.

Other commenters supported the proposed Laker exemption based on the vessel technical and operational challenges identified in the proposed rule. Commenters stated that current USCG type-approved BWMSs do not meet the operational profiles of vessels operating exclusively on the Great Lakes. Several commenters stated that BWMS manufacturers have largely ignored testing their systems in the Great Lakes (the few tests conducted failed to meet the numeric discharge standard) or building BWMSs to meet the challenging waters and organism assemblages and community composition in the Great Lakes. They stated that the high cost of testing and small market for BWMS sales are not conducive to increasing testing. Further, they stated that testing in freshwater in other locations is dissimilar to the Great Lakes.

2. Equipment Standard Authority and Rationale

After further deliberation, EPA is now considering a supplemental regulatory option to establish an equipment standard for ballast water discharges from New Lakers, described below as those Lakers built after the effective date of the USCG rulemaking to implement EPA's discharge standards. The requirement would potentially result in reduced discharges of organisms, even if the numeric discharge standard cannot be met. Given the unique characteristics of Lakers and the challenging environmental conditions of the Great Lakes, EPA has been unable to identify any available BWMS technology that would enable Lakers to reliably achieve the numeric ballast water discharge standard. Lakers, more so than seagoing and coastal vessels that operate in the Great Lakes only for a portion of the year, have fewer contingency measures available to address challenging environmental conditions of the Great Lakes, notably because Lakers are unable to leave the Lakes to conduct ballast water exchange and saltwater flushing.

This document describes EPA's authority and rationale for considering an equipment standard, Great Lakes BWMS testing data that demonstrate organism reductions, and the equipment standard regulatory option in relation to Canada's new ballast water regulation (Canada Gazette, Part 11, Volume 155, Number 13, SOR/2021–120, June 4, 2021). This document describes why EPA is now considering whether an equipment standard for New Lakers may be technologically available, economically achievable, and have acceptable non-water quality environmental impacts. This document further describes why EPA is not considering an equipment standard for existing Lakers, given in particular the anticipated retrofit costs for existing vessels, the Great Lakes and Lake Champlain Invasive Species Program, and the significance of the VIDA's ''period of use'' (or BWMS legacy) provision at CWA section 312(p)(6)(C) which generally provides that when a regulated vessel installs a USCG type-approved BWMS, the vessel will remain in compliance for the life of that system.

a. Best Available Technology

''Best Available Technology'' generally represents the most stringent technology-based standard under the CWA for controlling direct discharge of toxic and nonconventional pollutants. Courts have referred to this as the CWA's ''gold standard'' for controlling discharges from existing sources. *Southwestern Elec. Power Co.* v. *EPA,* 920 F.3d 999, 1003 (5th Cir. 2019). More specifically, BAT represents the best available, economically achievable performance of facilities in the industrial subcategory or category. As the statutory phrase intends, EPA considers the technological availability and the economic achievability when it determines what level of control represents BAT.

The BAT standard requires standards of performance ''to be based on technological feasibility rather than on water quality.'' *Southwestern Elec. Power Co.,* 920 F.3d at 1005. It is ''technology-based rather than harm-based'' insofar as it requires EPA to set standards that ''reflect the capabilities of available pollution control technologies to prevent or limit different discharges rather than the impact that those discharges have on the waters.'' *Texas Oil & Gas Ass'n* v. *U.S. E.P.A.,* 161 F.3d 923, 927 (5th Cir. 1998) (citing *E.I. du Pont de Nemours & Co.* v. *Train,* 430 U.S. 112, 130–31 (1977)). In other words, the VIDA tasks EPA with setting a standard that reduces the discharge of pollutants to the minimum level that existing available and economically achievable technology can support. *See Southwestern Elec. Power Co.,* 920 F.3d

at 1030 (BAT reflects '''a commitment of the maximum resources economically possible to the ultimate goal of eliminating all polluting discharges,' which was the intent of Congress in enacting BAT standards in the first place.'' (quoting *EPA* v. *Nat'l Crushed Stone Ass'n,* 449 U.S. 64, 74 (1980))).

Other statutory factors that EPA considers in assessing BAT are the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the process employed, potential process changes, and non-water quality environmental impacts, including energy requirements, and other factors as the Administrator deems appropriate. CWA section 304(b)(2)(B), 33 U.S.C. 1314(b)(2)(B). The Agency retains considerable discretion in assigning the weight to be accorded these factors. *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1045 (D.C. Cir. 1978). Generally, EPA determines economic achievability based on the effect of the cost of compliance with BAT limitations on overall industry and subcategory financial conditions. BAT reflects the highest performance in the industry and may reflect a higher level of performance than is currently being achieved based on technology transferred from a different subcategory or category, bench scale or pilot facility studies, or foreign facilities. *Southwestern Elec. Power Co.* v. *EPA,* 920 F.3d at 1006; *American Paper Inst.* v. *Train,* 543 F.2d 328, 353 (D.C. Cir. 1976); *American Frozen Food Inst.* v. *Train,* 539 F.2d 107, 132 (D.C. Cir. 1976). BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice. *See American Frozen Foods,* 539 F.2d at 132, 140; *Reynolds Metals Co.* v. *EPA,* 760 F.2d 549, 562 (4th Cir. 1985); *California & Hawaiian Sugar Co.* v. *EPA,* 553 F.2d 280, 285–88 (2nd Cir. 1977).

b. USCG Type-Approved Ballast Water Management Systems

As described in the proposed rule (Section VIII.B.1.v.A.1. *Types of Ballast Water Management Systems Determined to Represent BAT*), the use of type-approved BWMSs is a well-established and demonstrated process for selection of technologies. EPA is considering an equipment standard that would require the use of USCG type-approved BWMSs because this process addresses BWMS design, installation, operation, and testing to ensure that any type-approved system meets both performance and safety standards. For example, USCG type-approval has specifications for use of BWMSs on U.S.-flagged vessels that are relevant to U.S. Lakers, including the requirements of 46 CFR subchapters F (Marine Engineering) and J (Electrical Engineering) and requirements specifying whether the BWMS can be installed in hazardous locations on the vessel, as defined in USCG regulations at 46 CFR 111.105 or its foreign equivalent.

The BWMS treatment technologies currently available typically use one or more of three basic processes to achieve the numeric discharge standard: physical separation (primarily filtration), disinfection, and neutralization. The types of disinfection processes used in USCG type-approved BWMSs broadly include UV radiation, electro-chlorination, chemical addition, ozonation, pasteurization, and deoxygenation.

Disinfection using UV radiation is currently the most common disinfection technology used in BWMSs, with these systems typically combined with filtration during ballasting to improve the efficiency of disinfection. The USCG has type-approved 24 BWMSs using UV, 10 of which are authorized for use on U.S.-flagged vessels. One advantage to using UV BWMSs on Lakers is that these systems have short treatment hold times that are most compatible with the voyages of common inter-lake trade routes that are typically shorter than 72 hours (and even as short as two hours). In fact, several of the newer USCG type-approved UV BWMSs require no hold time or as few as 2.5 hours in freshwater.

Electro-chlorination (or electrolysis) systems are the second most common type of disinfection system used to treat ballast water. However, these systems generate chlorine from saltwater, thus limiting their use in freshwater environments. Bunkering synthetic seawater solution as a salt source is likely impractical for the large quantities of this solution needed and would come at the expense of considerably reduced cargo-carrying capacity. Therefore, EPA does not consider current USCG type-approved electro-chlorination BWMSs to be technologically available to Laker vessels.

Six BWMSs using chemical addition are USCG type-approved, three of which are authorized for use on U.S.-flagged vessels because it has been verified that the requirements as described in 46 CFR Subchapters F (Marine Engineering) and J (Electrical Engineering) were met. USCG type-approved chemical addition BWMS have hold times that range from 24 to 48 hours. Vessels with voyage routes shorter than the necessary hold time would have to delay operations or increase voyage times, such as by slow steaming, which could significantly disrupt established Great Lakes transportation markets (MARAD, 2013).

As of March 2023, USCG type-approved BWMSs also include two ozone systems, one deoxygenation system, and one pasteurization system; however, these systems are not approved for use on U.S.-flagged vessels because they have not been verified to meet the requirements of 46 CFR Subchapters F (Marine Engineering) and J (Electrical Engineering). The USCG type-approved ozonation systems have a hold time of 24 hours. The USCG type-approved pasteurization system does not have a hold time. The USCG type-approved deoxygenation system has a hold time of 120 hours that exceeds the vessel voyage routes of many Great Lakes vessels. Thus, use of these systems, particularly the deoxygenation system, likely would introduce significant delays in vessel operations, would not be considered available for most Lakers, and is incompatible with some Great Lakes shipping routes.

c. Equipment Standard Versus a Numeric Standard in Challenging Environmental Conditions

As noted in the proposed rule, the environmental conditions of the Great Lakes challenge the operation of BWMSs to the point where consistent compliance with a ballast water numeric standard for organisms using a type-approved BWMS is infeasible for Lakers. Examples of these challenging conditions include extremely low salinity and high levels of suspended solids, turbidity, icing, filamentous bacteria, and dissolved organic carbon from tannins and humic acid. These environmental conditions pose unique challenges to U.S. Lakers because, unlike other vessels operating in challenging water conditions, U.S. Lakers cannot leave the Great Lakes and thus do not have the option to perform ballast water exchange and saltwater flushing. There are many ways in which the environmental conditions of the Great Lakes can interfere with effective operation of a BWMS. For example, filamentous bacteria and high turbidity can inhibit effective treatment by clogging the filters that are also prone to clogging and freezing in the cold, freshwater conditions of the Great Lakes. BWMSs that do not use filters avoid these issues but may not be as effective in treating the unfiltered water. In addition, areas and times of high turbidity and high dissolved organic carbon from tannins and humic acid inhibit effective UV transmittance.

Land-based and shipboard testing of UV and chemical addition BWMSs in

the Great Lakes have demonstrated a substantial reduction in organisms even when the numeric discharge standard cannot be achieved (GSI, 2011; GSI 2015; Bailey et al., 2023). An equipment standard could allow vessels flexibility to operate BWMSs in challenging water conditions through use of operational contingency measures, however, these implementation details would be determined in the USCG regulations. Although contingencies may be necessary in certain locations or at certain times of the year in the Great Lakes, EPA expects that continued operation of a BWMS consistent with an equipment standard over the lifetime of a vessel would still provide reductions in the discharge of organisms.

EPA acknowledges that a numeric standard, were it technologically achievable, would better ensure a specific level of pollution reduction. However, absent the availability of ballast water management technology for new vessels operating solely within the Great Lakes that can reliably achieve such a numeric standard, EPA is considering an equipment standard as an option to best align with the ''technology-forcing'' nature of the BAT statutory standard. *NRDC* v. *EPA,* 822 F.2d 104, 123 (D.C. Cir. 1987); *see also Southwestern Elec. Power Co.,* 920 F.3d at 1003 (''By requiring BAT, the Act forces implementation of increasingly stringent pollution control methods.'').

d. U.S. Land-Based Testing in the Great Lakes

The Great Ships Initiative (GSI) [5] Land-Based Research, Development, Testing and Evaluation Facility located in Duluth-Superior Harbor on Lake Superior conducted testing of various BWMSs and their components. GSI used freshwater from the Great Lakes to evaluate performance of BWMSs at removing Great Lakes organisms within the size ranges required in the VGP and USCG discharge standard using the USCG and the IMO BWMS type-approval protocols. Although the BWMSs were unable to consistently meet the numeric ballast water discharge standard, GSI land-based testing of chemical addition and UV BWMSs demonstrated a substantial reduction in living organisms, providing further support for the equipment standard regulatory option.

In 2010, GSI tested the filtration and UV Alfa Laval PureBallast® Version 3 BWMS in Duluth-Superior Harbor using ambient Great Lakes water. In all three trials, live organism densities in the two regulated size classes in treated discharge were significantly lower than in control discharge, but above the USCG numeric discharge standard. Densities of organisms ≥50 µm size class in treated discharge exceeded the USCG discharge standard of 10 live organisms per cubic meter by two to three orders of magnitude. Live densities in the ≥10 and <50 µm size class exceeded the USCG discharge standard by one to two orders of magnitude. The USCG numeric discharge standards for the two regulated size classes were not achieved, even though intake organism densities in the Great Lakes harbor water were well below IMO and EPA's ETV Protocol challenge conditions. GSI concluded that the system failed to achieve the USCG numeric discharge standard due to the filters' ineffectiveness at removing filamentous algae in Duluth-Superior Harbor water. In addition, very low ambient UV transmittance of Duluth-Superior Harbor water (naturally caused by tannins) at the time of testing likely inhibited the effectiveness of the UV disinfection unit (GSI, 2011). Although the numeric ballast water discharge standard was not met during this land-based testing, substantial reductions in organisms resulted from use of the UV BWMS.

During September and October, 2014, GSI conducted land-based testing of three prototype versions of the chlorine addition JFE BallastAce® BWMS to evaluate not only the biological and chemical performance against the USCG ballast water discharge standard, but also the total residual oxidant (TRO) of the chemical system (GSI, 2015). Tests of all three prototypes showed a substantial reduction in living organisms (99 percent relative to the control) even when the discharge standard was not met. The JFE BallastAce BWMS, operated using the TG BallastCleaner® at the higher target TRO concentration of approximately 20 milligram per liter, achieved the USCG discharge standard for living organisms after a two day hold time, although this did result in elevated levels of disinfection byproducts. In 2018, the JFE BallastAce was type-approved by USCG at the 20 milligram per liter maximum active substance dose without toxicity concerns.[6] As detailed in EPA's Great Lakes Ballast Water research plan, described below, additional land-based and shipboard testing is underway to further evaluate the biological efficacy of BWMSs for Lakers.

e. Canada's Shipboard Testing in the Great Lakes

Between 2017 and 2022, Fisheries and Oceans Canada (DFO) sampled 12 international and Canadian domestic vessels operating in the Great Lakes and St. Lawrence River (GLSLR) to determine the efficacy of BWMSs at reducing the abundance of organisms in ballast water discharges (Bailey et al., 2023). This sampling effort included three ballast water discharge-only samples and eleven paired ballast water samples during uptake and discharge. The majority of BWMSs on the sampled ships used UV plus filtration BWMSs (10 out of 12 ships), from which four samples were collected using the higher UV dose ''USCG mode,'' seven samples were collected using the lower UV dose ''IMO mode,'' and one sample from a UV BWMS did not have the mode recorded. Two ships used chemical addition BWMSs. Two ships were sampled twice at different source ports. Where ships had two BWMS, one system was selected for sampling. The BWMS flow rate during testing was up to 1200 m^3/hour (hr).

Generally, the results demonstrated a substantial reduction in the number of living organisms for both organism size classes stipulated by the ballast water numeric discharge standard. For the ≥50 µm size class, results for two out of the three treated discharge-only samples were below the standard, while one sample had an organism concentration 100 times higher than the standard. In the 11 paired samples, the uptake concentrations ranged from 2,168 to 107,577 organisms per m^3 with the corresponding discharges either meeting the standard or achieving at least a 99 percent reduction in organisms compared to the untreated uptake. Six of the treated discharge samples were below the standard, one was close to that standard, and four were above the standard, where ''close'' is defined as a result where the confidence intervals of the count span above and below the standard.

The results for the ≥10 and <50 µm organism size class showed that the three treated discharge-only samples were below the standard. For the 11 sets of paired samples, one uptake sample was already below the standard, three uptake samples were close to the standard, and seven uptake samples were above the standard ranging from 20 to 169 organisms per mL. For

[5] The Great Ships Initiative was an industry-led collaborative effort to research problems of ship-mediated invasive species in the Great Lakes Saint Lawrence Seaway System. The facility is now operated by the Lake Superior Research Institute at the University of Wisconsin-Superior.

[6] This system is not approved for use on U.S.-flagged vessels because it does not meet the requirements of 46 CFR subchapter F (marine engineering) and J (electrical engineering).

comparison, USCG type-approval requires a minimum concentration of 1,000 organisms per mL. All paired, treated discharge samples were below the standard and had >98 percent reduction in organism concentration compared to the untreated uptake sample.

DFO observed these BWMS treatment results aboard vessels between May and November in locations where Canadian and international vessels typically ballast in GLSLR waters. During these tests, BWMSs did not encounter water with high turbidity, which may impact UV treatment and filtration effectiveness.

f. Differences Between U.S. and Canadian Requirements and Laker Fleets

In 2021, Canada finalized its ballast water discharge regulation adopting the IMO's D–2 ballast water performance standard. Canada's regulation provides that a vessel using a BWMS to meet the IMO D–2 numeric ballast water performance standard is deemed to have met that standard in respect of ballast water taken on board in the Great Lakes Basin or in the eastern waters of the St. Lawrence River if the vessel's BWMS was installed before September 8, 2024. A vessel constructed before January 1, 2009, that is operated exclusively in waters under Canadian jurisdiction and U.S. waters of the Great Lakes Basin or on the high seas is also deemed to have met the standard if the BWMS was installed before September 8, 2030. These vessels must operate and maintain an IMO-approved BWMS in accordance with the manufacturer's instructions and meet other conditions. A vessel with a BWMS installed after September 8, 2024, is required to meet the IMO D–2 numeric standard.

Canada's requirements are based on its obligation as a Party to the IMO BWM Convention, to which the U.S. is not a Party, and that differs from the CWA legal framework in several key respects. Most importantly, under the CWA's BAT standard, EPA is required to demonstrate that a treatment technology is available and economically achievable before it can be the basis for a discharge standard. Additionally, the IMO BWM Convention includes a temporary experience building phase during which vessels are not to be penalized for exceeding the D–2 numeric discharge standard. Canada makes that experience building phase permanent in its regulations for certain vessels that install a BWMS before September 8, 2024 (or by September 8, 2030, based on the criteria described above), by requiring only an equipment standard and exempting these vessels from the numeric discharge standard for the life of the installed BWMS if the conditions set out in the regulations are met.

3. Operational, Technical, and Economic Considerations of an Equipment Standard for New Versus Existing Lakers

As a general principle, when promulgating technology-based discharge requirements under the CWA, EPA may establish different requirements for a subclass or subcategory within a point source category where they are fundamentally different with respect to one of the statutory factors specified in the Act. *Chemical Mfrs. Ass'n* v. *NRDC,* 470 U.S. 119–22, 129–34 (1985). Pursuant to CWA section 312(p)(4)(C), the VIDA specifically authorizes the creation of subcategories between new and existing vessels, as well as among classes, types, and sizes of vessels. There are operational, technical, and economic differences to consider for establishing an equipment standard for new or existing Lakers.

a. Operational and Technical Considerations

Most existing Lakers, particularly those built before the era of ballast water management marked by the adoption of the IMO BWM Convention (2004), were designed to rapidly uptake and discharge ballast water with the express purpose of loading and unloading large quantities of bulk cargo at very high rates and ballast water treatment was not considered in their design. The complexities of treating ballast water on existing Lakers include pumping and piping reconfiguration, vessel stability and structural integrity issues, and new power demands. In addition, the space to house the BWMS and ancillary equipment, as well as the added weight of the retrofitted equipment, would result in lost cargo capacity. Corrosion of uncoated ballast tanks due to chemical addition BWMSs is another concern. U.S. Lakers were designed to solely operate in fresh, low salinity water in which corrosion is not a concern. Use of a chemical addition BWMS would require coating the ballast tanks and piping at significant cost and time out of service in dry dock, resulting in lost revenue for shipping season. In addition, several of the larger existing Lakers load and unload cargo and ballast at rates that are much higher than any of the existing USCG type-approved BWMSs. While use of multiple systems is an option, the complexity of ballasting increases as multiple systems are operated simultaneously and within the structural design considerations of the vessel.

New Lakers, however, can design, plan, and construct in a manner to overcome identified operational and technical challenges such as corrosion, flow rate capacity, lack of space and lost cargo capacity, and adequate power. New Lakers, unlike existing Lakers, could take advantage of the engineering flexibility available during the initial design and construction process to incorporate ballast water treatment requirements. The information for each of these factors below supports establishing an equipment standard for New Lakers and supports rejecting the equipment standard for existing Lakers.

i. Corrosion

Vessels that operate in brackish or ocean saline waters necessitate tanks and piping with an anti-corrosive coating. Historically, the U.S. Laker fleet has been built with uncoated steel ballast tanks because the freshwater of the Great Lakes is not corrosive. Chemical addition, ozone, and any BWMS that doses corrosive treatment chemicals into the ballast water significantly increases the corrosion rates in uncoated ballast tanks. Electro-chlorination BWMSs could increase corrosion rates and require coated tanks. However, these systems are not currently considered technologically available to Lakers because, as described above, they require a supply of saltwater to generate chlorine. On the other hand, UV BWMSs are non-corrosive and do not require coated ballast tanks. According to the USCG (2013b) study, ''Investigation of Ballast Water Treatment's Effect on Corrosion,'' deoxygenation BWMSs also do not raise corrosion concerns in freshwater (although it is a concern in saltwater) and may not require coated ballast water tanks and piping. New Lakers can be designed and constructed with coated tanks and piping to eliminate problems associated with chemical addition, ozone, and any BWMS that may cause corrosion.

ii. Flow Rate Capacity

The capacity of a USCG type-approved BWMS selected for a Laker must be compatible with the ballast needs of the vessel, particularly the ballasting rate of the ballast pumps. Lakers, particularly self-unloading Lakers, often have higher ballasting capacities and flow rates than seagoing vessels. U.S. Laker ballast rates typically range from 3,000 m^3/hr up to 18,000 m^3/hr for the largest Lakers. The maximum

capacity of current USCG type-approved UV BWMSs range from 500 to 6,000 m^3/hr. Current USCG type-approved chemical addition BWMSs have flow rate capacities ranging from 2,000 to 16,200 m^3/hr, with one system with capacity up to 200,000 m^3. Currently, two USCG type-approved ozone BWMSs have a max flow rate capacity of 8,000 m^3/hr. The one USCG type-approved deoxygenation BWMS has a max flow rate capacity of 4,000 m^3/hr. Some BWMSs have flow rate capacities that are compatible with some Laker ballasting rates for normal cargo operations. Lakers with higher ballasting capacities may require multiple BWMSs to provide sufficient flow rate for normal cargo operations. However, to accommodate the ballast rates of the largest Lakers in the U.S. fleet, the number of BWMSs that would be required would create exceedingly complex ballasting operations. In this case, an alternative BWMS treatment type may be more appropriate. A New Laker could be designed to allow for use of the appropriate type, size, and number of BWMSs compatible with the vessel's projected ballasting rates.

iii. Lost Cargo Capacity

Lakers are typically designed to maximize cargo capacity with little-to-no space available in the engine room or around the self-unloading equipment for a BWMS. New Lakers can be designed to provide space for one or more BWMS and ancillary equipment in the area typically designed for ballast tanks or cargo holds. The design could account for any lower cargo hauling capacity and impact to the total weight of the vessel.

iv. Increased Power

The electrical capacity of Lakers is sized to accommodate the loading and unloading equipment that is operational while the vessel is in port. Typically, the self-unloading equipment would have to be operated at the same time as the BWMS and would require increased electrical capacity. A New Laker could be designed with additional power output for the increased demand from operation of the BWMS and additional pumping needs. BWMSs using filtration and UV disinfection have the highest electrical demands of all BWMSs and must be accounted for in the design. This document further describes energy demand in Section IV.B.4 of this preamble, *Other Factors.*

b. Economic Considerations

i. Existing Lakers

EPA does not have actual cost information to retrofit an existing Laker to accommodate a BWMS; however, these costs can be estimated, which is sufficient for the purposes of establishing BAT under the CWA. *See CMA* v. *EPA,* 870 F.2d 177, 237–38 (5th Cir. 1989). Retrofitting an existing Laker to add a BWMS is expensive, particularly for U.S. Lakers that are regulated under Section 27 of the Merchant Marine Act of 1920 (more commonly referred to as ''the Jones Act'').[7] A 2017 industry report estimated the capital cost of installing BWMSs on the entire existing U.S. Laker fleet of 75 vessels, including any necessary retrofits to allow for installation and operation of these systems, at approximately $649 million and an additional $9.7 million in annual operating costs (Choice Ballast Solutions, 2017). Previously, the USCG also estimated the cost of shipboard installation of BWMSs on Lakers based on vessel type (USCG, 2013a). For comparison, the estimated capital cost to retrofit each of the large, 1000-foot Lakers ranges from as high as $34 million (Choice Ballast Solutions, 2017) to as low as $11.3 million (USCG, 2013a). The retrofit capital cost estimates for other U.S. Laker types including 690–806-foot converted bulkers to self-unloaders, 500–800-foot newer build self-unloaders, and purpose-built barges and tank barges range from approximately $2 million to $4.5 million (Choice Ballast Solutions, 2017) to approximately $8.4 million (USCG, 2013a). Annual operating costs for the different types of U.S. Lakers range from approximately $60,000 to $300,000 annually per vessel (Choice Ballast Solutions, 2017).

ii. New Lakers

EPA is considering whether the equipment standard regulatory option would be economically achievable for New Lakers. Courts have interpreted economic achievability as a test of whether the regulations can be ''reasonably borne'' by the industry as a whole. *See Chem. Mfrs. Ass'n* v. *EPA,* 870 F.2d 177, 262 (5th Cir. 1989); *BP Exploration & Oil* v. *EPA,* 66 F.3d 784, 799–800 (6th Cir. 1996); *see also Nat'l Wildlife Fed'n* v. *EPA,* 286 F.3d 554, 570 (D.C. Cir. 2002). EPA conducted an economic impact analysis for the equipment standard regulatory option for New Lakers. A summary of that analysis is included in this document, while the complete analysis is included in the docket for this rulemaking. Based on the analysis, EPA projects that the New Laker equipment standard would result in increased cost to the Laker vessel community compared to the initial Regulatory Impact Analysis of the proposed rule.

The impacted industry for the equipment standard regulatory option would include the firms that provide marine transportation using vessels that only operate on the Great Lakes. To determine the baseline conditions of this industry, EPA developed an inventory of existing Lakers. The primary data source for this inventory is the Vessels Characteristics Database managed by the U.S. Army Corps of Engineers Waterborne Commerce Statistics Center (WCSC).[8] The WCSC database contains data on all U.S. vessels operating in the Waterborne Transportation Lines of the United States, including the Great Lakes System, the Mississippi River System and Gulf Intracoastal Waterway, and the Atlantic, Gulf, and Pacific Coasts. The data is collected annually on a calendar year basis by authority of 33 U.S.C. 555. EPA used the most recent data from 2020 to create an inventory of all Lakers.[9] The data represents 44,663 vessels, including the individual components of a barge that are individually counted. The WCSC database provides EPA with the following information on each vessel:

- Owner/Operator
- Gross/Net Tonnage
- CG Number (official vessel number assigned by the U.S. Coast Guard)
- International Classification of Ships by Type code,
- Vessel Type, Construction and Characteristics code,
- Year built,
- Year rebuilt,
- City and state of operating headquarters, and
- Detailed variables on length, breadth, capacity, draft, and equipment.

EPA filtered the WCSC database to limit the vessels to existing Lakers by only including vessels in Region 3

[7] The Jones Act requires that a vessel trading between U.S. ports must be U.S.-built, primarily U.S.-owned, U.S.-flagged, and with a majority of the crew U.S. citizens. Under the Jones Act, a 50 percent U.S. tax is imposed for repairs on a U.S. vessel that are conducted in a foreign shipyard. USCG, 2012 and King et al., 2009 compared domestic and foreign vessel BWMS retrofit costs. Additional information is provided in the ''Economic Analysis of New Lakers for the Supplemental Notice of Proposed Rulemaking for the Vessel Incidental National Standards of Performance'' available in the public docket for this rulemaking.

[8] More information on the database can be found at: *https://www.iwr.usace.army.mil/About/Technical-Centers/WCSC-Waterborne-Commerce-Statistics-Center-2/WCSC-Vessel-Characteristics/.*

[9] The 2020 file EPA used can be downloaded from: *https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll2/id/11922.*

(Transportation Lines of the Great Lakes) and excluding vessels that have a value of less than 1,600 Gross Register Tons (GRT). EPA also excluded records in the WCSC database that are used to register individual barges that are part of a larger vessel. The results of this filtering resulted in an inventory of approximately 70 vessels. Because the definition of ''constructed'' includes those vessels that have undergone a major conversion, EPA used the WCSC data on existing Lakers to identify both the number of Lakers either newly built or converted over the past 10 to 20 years to analyze the cost and impacts of the equipment standard regulatory option.

Because the WCSC Vessels Characteristics data only go through 2020, manual searches of each vessel were conducted using the Port State Information eXchange (PSIX) system. EPA also looked up company names to assess their current fleet and further exclude decommissioned vessels and include new vessels.

(1) Cost Analysis

EPA developed estimates of the capital cost and operation and management cost of adding BWMSs to newly built Lakers to determine the range of potential costs associated with the standard. Costs were based on the use of UV disinfection plus filtration and chemical addition BWMSs. These system types were selected since they have the highest potential for use on a New Laker, given the constraints described in Section IV.B.2.b. of this preamble, *USCG Type-Approved Ballast Water Management Systems* (*e.g.,* use of electro-chlorination BWMSs require bunkering large quantities of synthetic seawater; the ozone, deoxygenation, and pasteurization systems are not approved for use on U.S.-flagged vessels, and the deoxygenation BWMS has a 120 hour hold time that exceeds the vessel voyage routes of many Great Lakes vessels). For purposes of this analysis, EPA assumed that the capital cost of the BWMS is similar to the acquisition cost of that system. This assumes installation would occur as part of the new vessel construction and the required space, interface connections for the ballast, and the electrical power systems can be efficiently included in the design.

To estimate the national costs of the equipment standard, EPA assumed that the number of New Lakers built each year of the period of analysis (25 years) is equal to the historical annual rate of New Laker construction over the last 10 years. EPA made a similar assumption regarding the number of Lakers that have undergone a major conversion. EPA then used the range of capital and operation and maintenance cost for New Laker BWMSs developed by EPA to estimate the annual cost of the equipment standard over the period of analysis. The annual cost over the useful life of the BWMS was estimated.

(2) Economic Impact Analysis

The impact analysis for the equipment standard allows EPA to determine if the standard is economically achievable for New Lakers. To conduct this analysis, EPA compared the annualized cost associated with installing and operating the BWMS to the annualized cost of building and operating a New Laker. If the annualized cost of installing and operating the BWMS on a New Laker is a small fraction of the annualized cost of building and operating a New Laker, then EPA can be confident that the equipment standard is economically achievable.

EPA estimated the capital and operation and maintenance costs of building and operating New Lakers by using physical and operational characteristics of recently built Lakers. EPA used these estimates to calculate a range of annualized operating costs over the useful life of a New Laker. To do this, EPA determined the cost of capital faced by the industry as well as an estimate of the useful life of a typical Laker.

EPA then re-calculated the annualized cost of the BWMS over its useful life using the cost of capital faced by the industry. Finally, EPA compared the annualized cost of the BWMS to the annualized cost of the New Laker. The average annual cost of procuring and operating the BWMS as a percentage of the average annual cost of building and operating a newly built Laker ranges from 1.1 percent based on use of chemical-addition BWMSs to 1.7 percent based on the use of UV BWMSs. The average annual cost of procuring, installing, and operating the BWMS as a percentage of the average annual cost of converting and operating a converted Laker is 4.3 percent based on use of UV BWMSs. Since the annual cost of procurement, installation, operation, and maintenance of the BWMS is a small fraction of the annual cost of operating a newly constructed or a convered Laker, EPA finds that the equipment standard is economically achievable.

(3) Small Business Impacts Analysis

The firms that own and operate Lakers fall within the NAICS code 483113—Coastal and Great Lakes Freight Transportation. According to the Small Business Administration's Small Business Size Regulations as established in 13 CFR 121.201, firms in this industry with fewer than 800 employees are considered small businesses. Therefore, EPA determined the number of employees at each parent company in the baseline industry profile. This allowed EPA to estimate the likelihood of small businesses being potentially impacted by the New Laker equipment standard. EPA determined that at least nine of the thirteen owner/operator companies qualify as small under the current SBA requirements. Those nine entities own slightly over half of all currently operating Lakers. The equipment standard, however, only applies to new or converted vessels and EPA has no information under whose ownership any New Lakers might be constructed or converted. Additionally, the cost impact of the equipment standard is relatively small when compared to the cost of building/converting and operating a Laker. Based on the above findings, EPA determined that the New Laker equipment standard will likely not have a significant economic impact on small entities. Although this regulatory option may impose equipment requirements on any small entity that operates a vessel subject to the standards, EPA does not believe that the projected cost burden would exceed the conventional cost/thresholds used for small entity impact screening analyses (costs greater than 1 percent and 3 percent of annual revenue).

4. Other Factors

a. Non-Water Quality Environmental Impacts

EPA has broad discretion to weigh the non-water quality environmental impacts of a water pollution control technology. *See., e.g., BP Exploration & Oil Inc.,* v. *USEPA,* 66 F.3d 784, 801–802 (6th Cir. 1995); *see also Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1045 (D.C. Cir. 1978) (Congress intended that EPA have discretion ''to decide how to account for the consideration factors, and how much weight to give each factor''). The potential non-water quality environmental impacts of the operation of BWMSs on New Lakers include increased energy demand, reduced cargo capacity resulting in more voyages, and greater hold times resulting in more idling vessels.

EPA expects the non-water quality environmental impacts of an equipment standard to be limited when considering the number of vessels already required to operate a BWMS on the Great Lakes. Over the last 20 years, six newly

constructed lakers were built (a rate of 0.3 Lakers per year). Based on the 20-year period, the percentage of shipping vessels that would be affected by an equipment standard for New Lakers is small. Approximately 200 international seagoing vessels travel from outside of the exclusive economic zone (EEZ) and through the St. Lawrence Seaway in the Great Lakes annually. Approximately 84 vessels travel between coastal and inland sites and ports in the Great Lakes. These non-water quality environmental impacts are very small and acceptable when taking fleet and new ship construction rates into account.

b. Binational Consistency

Another factor considered by EPA is the value of moving toward binational consistency with the Canadian regulatory program. Under the CWA section 304(b), in establishing BAT, EPA may consider ''other factors the Administrator deems appropriate.'' As described above, in 2021, Canada finalized its ballast water discharge regulation adopting the IMO's D–2 ballast water performance standard, that is similar numerically to EPA's proposed numeric discharge standard for ballast water. However, Canada's regulation also provides that a vessel using a BWMS to meet the IMO D–2 numeric ballast water performance standard for ballast water taken on board in the Great Lakes Basin or in the eastern waters of the St. Lawrence River is deemed to have met that standard if the vessel's BWMS was installed before September 8, 2024. A vessel constructed before January 1, 2009, that is operated exclusively in waters under Canadian jurisdiction and U.S. waters of the Great Lakes Basin or on the high seas is also deemed to have met the standard if the BWMS was installed before September 8, 2030. Therefore, Canada is relying on an equipment standard as a significant component of their regulatory program for vessels ballasting in Great Lakes waters.

The equipment standard regulatory option, while not fully aligning the two countries' ballast water regulatory programs for the Great Lakes Basin, would represent a step towards binational consistency. EPA has heard from the regulated community that such consistency is important for vessel companies engaged in binational trade and allows them to better protect the shared Great Lakes waters. Although not a dispositive consideration under the VIDA, EPA agrees that, for vessel regulation, movement towards international consistency is desirable insofar as it does not conflict with other statutory goals. EPA considers this progress towards binational consistency to be an ''other factor'' that the Administrator may deem appropriate to consider in setting an appropriate standard under CWA section 304(b)(2)(B).

c. The VIDA's BWMS Legacy Clause Weighs Against Establishing an Equipment Standard for All U.S. Lakers

A significant factor that weighs against EPA establishing the equipment standard for all Lakers is a desire to exercise caution considering the VIDA's ''period of use'' (or BWMS legacy) provision at CWA section 312(p)(6)(C). This provision provides generally that when a regulated vessel installs a USCG type-approved BWMS, that vessel shall be deemed to be in compliance so long as that system is maintained and used in accordance with manufacturer specifications and continues to meet the ballast water discharge standard applicable to the vessel at the time of installation. There are certain exceptions to this BWMS legacy provision, but EPA anticipates as a general matter that when a vessel installs a BWMS to comply with a ballast water standard applicable at the time of installation, that vessel may remain in compliance even in the face of new or revised requirements for vessels to achieve greater organism reductions in ballast water discharges. Such an outcome appears consistent with the intent of this provision that the Senate Report explains is to ''establish the period of use for ballast water management system equipment to generally be the design life of the equipment, provided that certain enumerated conditions are met.'' Senate Report, at p. 13. EPA understands this provision to reflect a desire by Congress to avoid imposing on regulated vessels the need to undergo repeated, expensive retrofits in relatively rapid succession as ballast water management technology improves over time.

Given the long service lives of most U.S. Lakers, approximately 50 years, if an existing vessel underwent a costly retrofit and was reconfigured to fit a current USCG type-approved system, the vessel would remain in compliance for the life of that system regardless of whether new and better technology becomes available. Retrofitting that same vessel for a newer BWMS may require a different configuration that could be cost prohibitive and impede the deployment of more effective technologies that EPA expects to result from the ballast water research conducted under the VIDA's Great Lakes and Lakes Champlain Invasive Species Program (GLLCISP), as described below. Consequently, requiring Lakers to install a BWMS now would limit the results of the VIDA-mandated research to only the small universe of Lakers that would be built after a future revision to any regulations finalized in this rulemaking. EPA doubts this was Congress' intent in crafting the VIDA BWMS legacy provision (CWA section 312(p)(6)(C)) and the GLLCISP program to develop ballast water technologies for Lakers.

Imposing an equipment standard on existing Lakers prematurely, in combination with the VIDA's BWMS legacy provision, could impede the deployment of advanced treatment technologies that EPA expects to result from the VIDA's GLLCISP program. Considering the foregoing, EPA proposes that the possible unintended consequence of impeding the deployment of new BWMS technology is an ''other factor'' that the Administrator deems appropriate to consider in setting an appropriate standard under CWA section 304(b)(2)(B).

d. The VIDA's Great Lakes Research and Other Provisions

The VIDA acknowledged the need for research on ballast water management on Lakers through the establishment of the GLLCISP. One of the main purposes of the program is for EPA to develop, achieve type-approval for, and pilot shipboard or land-based BWMSs for Lakers. In 2020, EPA initiated what is now a seven-year Great Lakes Ballast Water Research and Development plan with the goal of solving the challenges of ballast water management for the existing Laker fleet. This research is testing the efficacy of different BWMSs in Great Lakes waters and, among other things, exploring pre-filtration and enhanced filter systems, modifying existing type-approved BWMSs, testing improved UV lamps, and assessing the feasibility of mobile or shore-based treatment options as a supplement to onboard BWMSs. The research is also exploring the implications of these modifications on cargo operations and biological efficacy.

The plan is also important to expand the market of BWMS technologies in the Great Lakes. The size of the Laker fleet is small compared to the 80,000 seagoing vessels worldwide that are now purchasing and installing systems to meet the U.S. or IMO ballast water discharge standards. Due to this small market size, BWMS vendors have historically devoted limited resources to testing and advancing systems that work onboard these vessels. The research

seeks to provide Laker owners and operators with more information for selecting a commercially available system for Great Lakes use.

Finally, this research may inform EPA's obligation under CWA section 312(p)(4)(D)(i) to review the discharge standard at least every five years and revise if appropriate. EPA's Great Lakes Ballast Water Research and Development Program may provide a sound basis for proposing a new or updated standard, particularly for existing Lakers as well as Lakers built in the future.

In addition to taking a forward-looking approach to research, EPA is also considering the opportunities the VIDA provides for states to develop enhanced Great Lakes requirements (CWA section 312(p)(10)(B)). This provision establishes a process through which Governors of the Great Lakes states can work together to develop an enhanced standard of performance or other requirements with respect to any incidental discharge, including ballast water. In all cases where Great Lakes Governors propose an enhanced requirement, EPA and the USCG may only reject the proposed requirement if it is less stringent than existing standards or requirements, inconsistent with marine safety, or inconsistent with applicable maritime and navigation laws and regulations.

5. New Lakers

a. Subcategorization of New Lakers

EPA is considering whether to create a regulatory subcategory for New Lakers and a requirement to install, operate, and maintain a USCG type-approved BWMS for ballast water discharges from these vessels to reduce the discharge of organisms in the Great Lakes. EPA is considering this subcategorization based on the important differences between New Lakers and existing Lakers for the purposes of installing and operating BWMSs. New Lakers, unlike existing Lakers, can take advantage of the engineering flexibility available during the initial design and construction process to incorporate ballast water treatment capabilities. New Lakers can be designed and constructed to accommodate a USCG type-approved BWMS and overcome certain operational and technical challenges such as corrosion, flow rate capacity, lack of space and lost cargo capacity, and adequate power. Due to these technical advantages and the results of the economic analysis, EPA is considering whether use of these systems on New Lakers may be technologically available and economically achievable. An equipment standard for New Lakers would also encourage continued development and deployment of new ballast water treatment technologies suitable for use in the Great Lakes. Ballast water treatment technologies continue to evolve, and EPA expects that technological advancements in the design of BWMSs will continue to improve their availability for use on the Great Lakes.

EPA is not considering an equipment standard for existing Lakers due to the technical and operational challenges and anticipated disproportionately high costs to retrofit BWMSs onto existing Lakers as compared to New Lakers. Moreover, and significantly, EPA is exercising caution considering the VIDA's BWMS legacy provision at CWA section 312(p)(6)(C), in that if the equipment standard were applied to the existing Laker fleet, these vessels would be unlikely to benefit from any improved technology from the ballast water research conducted under the VIDA's GLLCISP. Additionally, EPA's seven-year Great Lakes Ballast Water Research and Development plan is targeted to address the complexities and improve the operation of BWMSs on existing Lakers. This research may provide a sound basis for proposing a new or updated standard, particularly for existing Lakers as well as Lakers built in the future.

EPA acknowledges that for the foreseeable future New Lakers will constitute only a modest proportion of the broader Laker fleet, and thus the equipment standard regulatory option would only apply to a small number of Lakers. EPA further acknowledges that an equipment standard for New Lakers would only eliminate a small percentage of total organisms, and potential ANS, discharged within the Great Lakes. EPA is considering an equipment standard for New Lakers notwithstanding these limitations in part because of the well-settled principle of administrative law that regulatory agencies may ''address [a] problem incrementally'' and ''need not solve a problem in a single rulemaking.'' *Nat'l Postal Pol'y Council* v. *Postal Regul. Comm'n,* 17 F.4th 1184, 1197 (D.C. Cir. 2021) (citing *Mobil Oil Expl. & Producing Se. Inc.* v. *United Distrib. Cos.,* 498 U.S. 211, 231 (1991)).

EPA views a requirement to install BWMSs on New Lakers as an incremental step and one that could ''result in reasonable further progress'' towards the ultimate goal of eliminating the discharge of untreated ballast water in the Great Lakes. 33 U.S.C. 1311(b)(2)(A). Oceangoing vessels on the Great Lakes are already required to treat ballast water discharges. The regulatory option being considered to install BWMSs on New Lakers would further reduce the amount of untreated ballast water discharged in the Great Lakes and leave existing Lakers as the only source of untreated ballast water discharges.

EPA sees two primary benefits to potentially including the equipment standard for New Lakers. First, EPA expects the equipment standard for New Lakers would have the effect of capping the number of vessels operating without a BWMS in the Great Lakes and would make incremental progress towards the elimination of untreated ballast water discharges in the Great Lakes. As such, EPA expects that the equipment standard would lead to a reduction in the number of organisms discharged and thus a reduction in propagule pressure (a key indicator of ANS establishment (NRC, 2011)). The second primary benefit of the equipment standard would be to promote greater experience among Lakers operating BWMSs on the Great Lakes. EPA anticipates that the experiences of New Lakers operating BMWSs, as well as the VIDA's long-term research program to develop improved BMWS technologies for a broader range of Lakers, will provide important information to support a future update to the proposed standards of performance that could address the full universe of Lakers. In this way, EPA views the equipment standard for New Lakers as an incremental step towards a longer term goal of achieving more significant reductions in the risk of ANS transfer within and between the Great Lakes. EPA solicits the public's input on the supplemental regulatory option to establish a ballast water equipment standard solely for New Lakers.

b. Definition of a New Laker

EPA is considering defining a ''New Laker'' as ''a bulk carrier vessel that operates exclusively on the Great Lakes and that is constructed after the effective date of USCG regulations promulgated pursuant to CWA section 312(p)(5)(A)(i).'' The VIDA directs the USCG to develop corresponding implementation requirements two years after EPA's standards are finalized. As defined in the proposed rule, ''constructed'' in this context means a stage of construction when: (1) the keel of a vessel is laid; or (2) construction identifiable with the specific vessel begins; or (3) assembly of the vessel has commenced and comprises at least 50 tons or one percent of the estimated mass of all structural material, whichever is less; or (4) the vessel undergoes a major conversion.

EPA is considering this definition of New Laker based on the timeframe EPA expects would be necessary for vessel owners to design a vessel that accounts for both EPA and the USCG ballast water regulatory responsibilities under the VIDA. The VIDA directs EPA to develop national standards of performance, then the USCG to develop corresponding implementing requirements to ensure, monitor, and enforce compliance with the EPA standards. The USCG must also promulgate requirements governing the design, construction, testing, approval, installation, and use of marine pollution control devices (*e.g.,* BWMSs) to ensure compliance with the EPA national standards of performance. Thus, it is critical for vessel owners to be able to wait until both the EPA regulations and the USCG requirements are final to allow for selection and installation of a BWMS consistent with those requirements.

EPA is considering this definition of New Laker as an alternative to the new vessel date in the VGP of January 1, 2009, for several reasons. First, in the 2013 VGP, EPA selected January 1, 2009, as the cutoff date based on consistency with the IMO's 2004 BWM Convention that used the 2009 date to distinguish vessel groups and establish compliance dates. However, the BWM Convention did not enter into force until 2017, at which point the IMO updated the compliance dates, such that new build vessels are defined as those built after September 8, 2017, and are expected to meet the standard immediately. Ships constructed before September 8, 2017, are expected to comply by September 8, 2024.

Second, the few U.S. Lakers that have been built since 2009 are not operating BWMSs notwithstanding the 2013 VGP requirements to meet the numeric discharge standard. These vessels received USCG extensions (33 CFR 151.1513 and 151.2036) to the compliance schedule of the numeric discharge standard in USCG regulations at 33 CFR 151.1512(b), which is the same as the numeric discharge standard implementation schedule in the VGP. The USCG extensions can be issued up to five years or until implementation of USCG regulations that change the discharge standard. The USCG can re-issue these compliance date extensions. These vessels are also covered by EPA's low enforcement response policy (U.S. EPA, 2013). The basis of this policy was due to the challenges of meeting the numeric ballast water discharge standard for vessels operating exclusively on the Great Lakes.

Third, the 2015 decision from the United States Court of Appeals for the Second Circuit, which remanded certain provisions of the 2013 VGP to EPA, took issue with the 2009 cutoff date. The Court stated that ''[P]ost–2009 Lakers face many of the same challenges and constraints as pre-2009 Lakers, such as their short voyages, high pumping rates, and freshwater environment . . . Thus, distinguishing pre-2009 and post-2009 Lakers was arbitrary and capricious.'' *Nat. Res. Def. Council* v. *U.S. E.P.A.,* 808 F.3d 556, 577 (2d Cir. 2015). Considering this decision, the proposed rule would eliminate the distinction between pre- and post-2009 Lakers as compared to the 2013 VGP. However, this document identifies important distinctions between existing Lakers and New Lakers that have yet to be constructed. In particular, New Lakers may be designed and constructed to account for and overcome certain operational and technical challenges without the need for complicated and expensive retrofits.

The definition of ''New Laker'' in the equipment standard regulatory option differs from that in Canada's 2021 ballast water regulation. Under Canada's regulation, the ''newest'' vessels, those with a BWMS installed after September 8, 2024, are required to meet the IMO D–2 numeric ballast water discharge standard. A vessel with a BWMS installed before September 8, 2024, is deemed to have met the standard in respect to ballast water taken on board in the Great Lakes Basin or in the eastern waters of the St. Lawrence River. A vessel constructed before January 1, 2009, that is operated exclusively in waters under Canadian jurisdiction and U.S. waters of the Great Lakes Basin or on the high seas is also deemed to have met the standard if the BWMS was installed before September 8, 2030. Although there may conceivably be administrative advantages to using the same date in both the U.S. and the Canadian regulations, the differences between the U.S. and Canadian legal authorities and the physical, operational, and economic conditions of their respective Laker fleets, as described in Section IV.B.3 of this preamble, *Operational, Technical, and Economic Considerations of an Equipment Standard for New Versus Existing Lakers,* have prompted EPA to consider differentiating between existing and New Lakers.

EPA is soliciting the public's input on the appropriate definition of New Laker for the purpose of establishing a ballast water equipment standard, particularly whether there may be reason to prefer a cutoff date for the New Lakers subcategory based on that in the 2013 VGP (January 1, 2009) or some other date.

C. Hulls and Associated Niche Areas

Vessel hulls are often coated with anti-fouling compounds to prevent or inhibit the attachment and growth of biofouling organisms. Vessel biofouling is the accumulation of aquatic organisms such as microorganisms, plants, and animals on surfaces and structures immersed in or exposed to the aquatic environment. Selection, application, and maintenance of an appropriate coating type and thickness according to vessel profile is critical to effective biofouling management, and therefore prevention of the introduction and spread of ANS from the vessel hull and associated niche areas.

In the proposed rule, EPA included requirements to help reduce the discharge of biofouling organisms from vessel equipment and systems, notably from hulls and associated niche areas, by requiring vessel operators to develop and follow a biofouling management plan and follow specific in-water equipment and system cleaning protocols. Additionally, EPA proposed to prohibit in-water cleaning of biofouling on hulls and associated niche areas that exceed a U.S. Navy fouling rating (FR) of FR–20,[10] except when the fouling is local in origin and cleaning does not result in the substantial removal of a biocidal anti-fouling coating, as indicated by a plume or cloud of paint; or, when an in-water cleaning and capture (IWCC) system is used that is designed and operated to capture coatings and biofouling organisms, filter biofouling organisms from the effluent, and minimize the release of biocides. EPA recommended, but did not propose to require, the use of IWCC systems for removal of local macrofouling.

This document discusses five key issues raised during the public comment period on the general applicability of the hull and associated niche area requirements and cleaning of this equipment as proposed in subsections 139.22(a) and (c). While EPA's proposed rule also included biofouling requirements specific to hull and associated niche area coatings and other incidental discharges such as seawater piping and cathodic protection, EPA is only soliciting comments on the issues discussed in this document. EPA does not expect that the options discussed in

[10] FR–20 is considered soft fouling and is described as: ''Slime as dark green patches with yellow or brown colored areas (advanced slime). Bare metal and painted surfaces may by be obscured by the fouling.'' (U.S. Navy, 2006)

this document for hulls and niche areas would result in a change to the compliance costs estimated in the Regulatory Impact Analysis accompanying the proposed rule.

1. Biofouling as a Discharge Incidental to the Normal Operation of a Vessel

Vessel biofouling is the accumulation of aquatic organisms on hulls and associated niche areas. Biofouling can include pathogens, as well as microfouling and macrofouling. Biofouling organisms are discharged from vessel surfaces both passively through sloughing and actively through in-water cleaning activities. With this document, EPA is considering adding definitions for ''passive discharge of biofouling'' and ''active discharge of biofouling.''

During the public comment period, EPA received comments questioning the Agency's legal authority to regulate the passive discharge of biofouling as an incidental discharge under the VIDA. Some commenters asserted that the plain language of the statutory definition of ''discharge incidental to the normal operation of a vessel'' does not encompass the passive detachment of biofouling organisms from vessel surfaces outside the context of active hull cleaning events. These commenters objected that including the regulation of passive discharges of biofouling would thus have the effect of preempting state authority beyond Congressional intent. Commenters did not question EPA's authority to regulate discharges from active hull-cleaning events.

With this document, EPA is considering if the best interpretation of CWA section 312(p) authorizes the Agency to regulate passive discharge of biofouling as a discharge incidental to the normal operation of a vessel under the VIDA. This interpretation is based on the plain language of the statute, as well as the statutory context and regulatory history. EPA understands the statutory definition of ''discharge incidental to the normal operation of a vessel'' at CWA section 312(a)(12)(A), to include any incidental discharge (including passive discharge) of biofouling organisms from vessel equipment and systems for several reasons. First, passive biofouling releases are an ordinary accompanying circumstance of vessel operation and transit. Based on a plain reading of the CWA-defined term ''discharge incidental to the normal operation of a vessel,'' EPA interprets passive biofouling to be genuinely incidental to the normal operation of a vessel. Second, the statute does not limit what can be considered an incidental discharge to specific named discharges. Instead, CWA section 312(a)(12)(A) explicitly uses the word ''including'' before introducing a list of discharges, which indicates that the list is illustrative and not exhaustive. *See, e.g., In re Vill. Apothecary, Inc.,* 45 F.4th 940, 947 (6th Cir. 2022) (''Although context matters, most courts read the word 'include' to introduce a nonexhaustive list.'').

Third, CWA section 312(a)(12)(A)(i) states that a discharge incidental to the normal operation of a vessel includes ''any other pollutant discharge from the operation of a marine propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment. . . .'' This language is best read to encompass passive biofouling discharges from the hull of a vessel because all such discharges are connected to operation of the listed equipment. For example, the shipboard maneuvering systems cannot ''operate'' without the hull. The CWA section 312(a)(12)(A)(i) definition also includes ''any other pollutant discharge . . . from a protective, preservative, or absorptive application to the hull of the vessel.'' The same definition at subsection (A)(ii) includes ''a discharge in connection with the testing, maintenance, and repair of a system described in clause (i) whenever the vessel is waterborne.'' Read together, these provisions define a discharge incidental to the normal operation of a vessel, for the purposes of CWA section 312, to include ''a discharge in connection with the . . . maintenance[ ] and repair'' of any ''protective, preservative, or absorptive application to the hull.'' The accumulation, growth, and discharge of biofouling organisms is intimately ''connected'' to the maintenance of ''protective'' and ''preservative'' applications to the hull. Improper or inadequate maintenance of these applications (or coatings) leads to excessive growth of biofouling organisms and the attendant discharge of such organisms. A vessel is more likely to accumulate and discharge biofouling organisms if the hull coatings are not properly maintained and, even in a properly maintained vessel, biofouling organisms are ultimately discharged from the hull coatings as much as the hull itself.

The statutory context and purpose further support the interpretation that passive biofouling is an incidental discharge. The VIDA was enacted to provide ''uniform national standards'' for vessel discharges, and EPA regulating passive biofouling under the VIDA would further that purpose by avoiding state-by-state variation. This is particularly appropriate for biofouling because EPA and the USCG participated in the Correspondence Group on Review of the Biofouling Guidelines (currently the 2011 Guidelines for the Control and Management of Ships' Biofouling to Minimize the Transfer of Aquatic Species (Resolution MEPC.207(62))), and thus possess the expertise to regulate this discharge. Only a handful of states have any programs to regulate biofouling, so excluding the passive discharge of biofouling from the rule risks leaving most states without any program to control such discharges. Additionally, the VIDA has a particular focus on ANS, as evidenced by the numerous specific references and provisions relating to ANS in the statutory text. *See, e.g.,* CWA sections 312(p)(1)(A), (2)(B), (4)(B)(i), (4)(E), & 6(E); 33 U.S.C. 1322(p)(1)(A), (2)(B), (4)(B)(i), (4)(E), & 6(E). Because passive biofouling is a significant vector for the spread of ANS, it is likely that Congress would have expected the VIDA to control this discharge.

With respect to the regulatory history, the VGP drew no distinction between active and passive discharges of biofouling. Thus, EPA regulated biofouling under the VGP by including management requirements to minimize the transport of biofouling organisms from vessel equipment and systems, primarily by requiring use and maintenance of an appropriate anti-fouling management system, including inspection, cleaning, and maintenance of the hull and associated niche areas. With limited exceptions, the VIDA requires that the standards be at least as stringent as the 2013 VGP requirements established under CWA section 402. *See* CWA section 312(p)(4)(B)(iii), 33 U.S.C. 1322(p)(4)(B)(iii) (EPA standards); *id.* (5)(A)(ii) (USCG requirements). EPA's consideration of a supplemental option clarifying inclusion of the regulation of passive biofouling is consistent with the VGP and this VIDA requirement.

For the above reasons, EPA is considering whether to regulate the passive discharge of biofouling from vessel equipment and systems as an incidental discharge in the final rule.

2. Application of Requirements to Cleaning of Macrofouling and Microfouling

EPA received comments on the proposed rule that the Agency should promulgate biofouling standards that are as specific as possible to ensure compliance and enforcement. Commenters also requested that EPA make a distinction between macroscopic and microscopic biofouling and include definitions based on scientific literature.

Commenters also stated that the U.S. Navy's FR scale was inappropriate for assessing risk of introducing ANS, recommending that the terms ''macrofouling'' and ''microfouling'' be used instead to delineate applicable requirements. In consideration of these comments, EPA is considering defining and using the terms ''macrofouling'' and ''microfouling'' and dispensing with use of the U.S. Navy's FR scale as a tool for assigning level and extent of vessel biofouling.

3. Applicability of Regulations to In-Water Cleaning Discharges

In the proposed rule, EPA did not discuss in detail the differences between in-water cleaning without capture and IWCC as it related to the proposed standards for the discharge of biofouling from vessels. Based on comments received, EPA is considering: (a) prohibiting any discharge from in-water cleaning of macrofouling without capture; and (b) establishing discharge requirements for in-water cleaning of microfouling of vessel hulls and associated niche areas. Also, EPA is considering requiring that hulls and associated niche areas be managed to minimize macrofouling, such as through cleaning of microfouling, and that any hull and associated niche area cleaning must minimize damage to the anti-fouling coating and follow applicable cleaning requirements found on the coating manufacturers' instructions and any applicable Federal Insecticide, Fungicide, and Rodenticide Act label. To facilitate these new options, EPA is considering several new and revised definitions for inclusion in the final rule. New definitions include ''active discharge of biofouling,'' ''anti-fouling coating,'' ''anti-fouling system,'' and ''passive discharge of biofouling.'' New definitions for ''biofouling,'' ''macrofouling,'' ''microfouling,'' and ''niche areas'' are also being considered and are based largely on definitions in the IMO's 2023 ''Revised Guidelines for the Control and Management of Ships' Biofouling to Minimize the Transfer of Invasive Aquatic Species.''

4. Discharges From In-Water Cleaning and Capture (IWCC) Systems

IWCC discharges are the result of the use and operation of systems that are designed to capture coatings and biofouling organisms, filter biofouling organisms from the effluent, and minimize the release of biocides. These systems produce waste streams of captured debris that is transported topside by umbilical and pumped to an adjacent barge or dockside. The waste stream is then typically processed by a commercial in-water cleaning system service provider and then discharged into the receiving water or collected for disposal.

EPA received comments on the proposed rule arguing that IWCC discharges did not fall within the scope of the VIDA definition of discharge incidental to the normal operation of a vessel, and therefore should not be included in the final standard. Specifically, commenters argued that discharges associated with IWCC came from sources associated with the third-party cleaning service rather than from the vessel itself, and that IWCC thus more resembled the shore-side discharge of treated ballast water that is exempted from the VIDA. These commenters urged that IWCC discharges should instead be regulated through appropriate National Pollutant Discharge Elimination System (NPDES) permitting authorities (*e.g.,* state regulatory agencies), consistent with how the VIDA excludes discharges of ballast water to a reception facility from the uniform national standards of performance. Additionally, the VIDA instructed EPA to be generally consistent with the VGP in promulgating new standards (CWA section 312(p)(4)(B)(iii)), and the VGP did not interpret an IWCC discharge to be a discharge incidental to the normal operation of a vessel. This new approach being considered is analogous to the approach used for ballast water discharges to a reception facility, which EPA is explicitly instructed not to regulate under the VIDA. As such, EPA is now considering not including the discharge of effluent from IWCC systems as an incidental discharge in the final rule.

Additionally, EPA acknowledges that this approach would differ from how IWCC discharges from vessels of the Armed Forces are regulated under the Uniform National Discharge Standards (UNDS; *see* 40 CFR 1700.37). However, such differences are to be expected where there are different legal and factual circumstances attending the vessels regulated under each authority. Indeed, there are additional inconsistences that exist across the UNDS, the VGP, and the proposed rule for other discharges.

Based on the comments and EPA's understanding that there are no permanent onboard IWCC systems commercially available for use, EPA is considering not including the discharge of treated effluent from IWCC technologies as a discharge incidental to the normal operation of a vessel. As such, these discharges would not be exempt from regulation under CWA section 312(p)(9)(C) and, therefore would require NPDES permit coverage akin to the discharge of treated ballast water from a barge-based or shore-based treatment facility. This would include any materials not captured and discharged as part of IWCC usage. Also, consistent with the proposal to exclude discharges from IWCC systems from these standards, EPA is considering removing the reference to IWCC systems from the prohibition of in-water cleaning of any copper-based hull coatings in any copper-impaired waterbody within the first 365 days after application of that coating. Rather, the revision would prohibit any discharge from in-water cleaning without capture of any copper-based hull coatings in a copper-impaired waterbody within the first 365 days after application of that coating.

Given that the approach considered here to exclude IWCC discharges from the final standard differs from what was initially proposed, EPA is seeking additional input to inform the final rule. Specifically, EPA is interested in feedback regarding the State-level technical, administrative, and resource capacity to implement such a NPDES permitting program for discharges or additional state regulatory options associated with IWCC systems.

5. Terms To Describe Cleaning

EPA received comments that the terms ''frequent,'' ''gentle,'' ''minimal,'' ''local in origin,'' ''plume or cloud of paint,'' and ''minimize release of biocides'' with regards to hull and associated niche area cleaning are not well-defined and open for broad interpretation. Along these same lines, EPA received comments that the standards for cleaning in the proposed rule were vague, and as such, not protective against the discharge of organisms and water quality impacts. EPA considers the approach used in the proposed rule (*i.e.,* describing cleaning as frequent and gentle with a goal of minimizing impacts to the coating) to be consistent with how cleaning is regulated in the VGP, and a best practice that would ensure the longevity and effectiveness of the coating while minimizing pollutant loading into the surrounding environment. EPA understands, however, that use of the terms ''local in origin'' and ''plume or cloud of paint'' may be challenging to implement and enforce, and as such, EPA is considering removing these concepts.

D. Graywater Systems

Graywater is water drained or collected from showers, baths, sinks,

and laundry facilities. Graywater discharges can contain bacteria, pathogens, oil and grease, detergent and soap residue, metals (*e.g.,* cadmium, chromium, lead, copper, zinc, silver, nickel, mercury), solids, and nutrients. To the extent that graywater is commingled with sewage, the VIDA subjects such discharge to all applicable requirements for both graywater and sewage. *See* CWA section 312(p)(2)(A)(ii), 33 U.S.C. 1322(p)(2)(A)(ii).

1. Summary of Proposed Rule and Relevant Comments Received on Graywater Systems

Among other graywater system requirements, EPA proposed that graywater discharges from certain vessels, including any new vessel of 400 gross tons as measured under the Convention Measurement System of the International Convention on Tonnage Measurement of Ships (GT ITC) (400 GRT if GT ITC is not assigned) and above, would be prohibited unless the discharge meets numeric discharge standards for fecal coliform, biochemical oxygen demand, suspended solids, pH, and residual chlorine. EPA received comments from several industry stakeholders (American Petroleum Institute, American Waterways Operators, Crowley Maritime Corporation, and Offshore Marine Services Association) requesting that EPA consider exempting vessels that carry only a relatively small number of persons. Commenters reasoned that such vessels produce small volumes of graywater discharge and that the pollution reductions would be too negligible to justify the costs of treating graywater discharge. Commenters also asserted that requiring such vessels to comply with the numeric discharge standard is not supported by VGP data and that the requirement should be based on total personnel rather than tonnage, similar to the graywater monitoring requirements found in Section 2.2.15.2 of the 2013 VGP. Specifically, commenters argued that vessels that have a maximum crew capacity and overnight accommodations for fewer than 15 persons should be exempt from the rule's numeric discharge standard for graywater. Commenters also argued that the pollution reductions to be achieved from storage and pump out of graywater were negligible in comparison to the other environmental impacts that would result from the installation, maintenance, and operation of such systems, including increased energy usage and increased carbon emissions from burning fuel. Commenters also noted that the installation and use of graywater storage tanks could increase the need for ballasting operations, thereby increasing the discharge of pollutants through ballast water.

EPA understands that vessels that carry fewer than 15 persons, regardless of vessel tonnage, would produce a lower volume of graywater discharges. The proposed rule noted that the volume of graywater generated and discharged by a vessel depends on the number of persons onboard and several proposed requirements are tied directly to that number. For example, under the proposed rule, the discharge of graywater from any new ferry authorized by the USCG to carry 250 or more persons would be required to meet the numeric discharge requirements. Additionally, graywater generation rates vary based on the types of activities onboard the vessel. For example, cruise ship passengers and crew are expected to generate higher volumes of graywater than the crew onboard cargo ships, towing vessels, or similar vessels. This is because passengers on cruise ships engaged in leisure activities tend to use galleys and accommodations (sinks and showers) to a greater extent for bathing, food preparation, and other such activities.

2. Supplemental Regulatory Option for Graywater Systems

Due to the comments received, EPA is considering a supplemental option that changes the eligibility criteria to track the number of persons onboard a vessel more closely, in line with commenters' recommendation to limit the applicability only to new vessels of 400 GT and above that have a maximum capacity of 15 or more persons and provide overnight accommodations to those persons. Based on an assumed production rate of 30 to 85 gallons of graywater per person per day, the largest commercial vessels with 14 persons would produce between 420 and 1,190 gallons of graywater per day. EPA expects that 400 GT vessels that have a maximum capacity and overnight accommodations for fewer than 15 persons, such as towing vessels, are likely generating graywater on the lower end of this estimate. Based on the comments received, EPA is considering whether exempting graywater discharges from these less populated vessels without overnight accommodations from meeting the otherwise applicable standard would be reasonable considering the relevant statutory factors for a technology-based standard. EPA projects that this exemption would result in increased cost savings to the vessel community compared to the initial Regulatory Impact Analysis of the proposed rule.

EPA is aware of two technologies for reducing the discharge of pollutants through graywater: treatment and storage. As explained in the proposed rule, EPA recognizes that the option to install advanced wastewater treatment systems (AWTS) or sufficient storage may be unavailable for certain vessels for such reasons as cost, stability of the vessel, or space constraints. Additionally, treatment systems require a minimum number of persons onboard, as identified by the manufacturer, to generate a sufficient volume of wastewater for proper operation. As such, vessels carrying fewer persons may have fewer device options available. In the process of developing a 2011 EPA report titled ''Graywater Discharges from Vessels'' (Docket No. EPA–HQ–OW–2019–0482–0368), contractors acting on EPA's behalf contacted several vessel operators representing a range of vessel classes to understand current graywater handling practices. Only the operator with the largest vessel—a medium cruise ship typically carrying 740 passengers—reported treatment of graywater using an AWTS. In considering these factors, EPA did not propose that all vessels be required to treat graywater discharges according to the numeric discharge standards. Information on current graywater handling practices, device availability, and minimum number of persons required for operation is also available in the ''Graywater Discharges from Vessels'' report.

Given the apparent unavailability of technologically practicable treatment options, EPA is considering whether it would be reasonable to require vessels of this type to install holding tanks (as needed) to store graywater. Commenters expressed concerns regarding the operational and logistical challenges associated with equipping holding tanks onboard minimally crewed vessels greater than 400 GT, such as towing vessels. Specific concerns included impacts to vessel stability, inadequate space for installation, and the need to regularly pump out the tanks despite limited availability of suitable facilities for offloading wastewater from commercial vessels. EPA understands that for vessels with multi-day voyages that primarily operate in nearshore waters, the required holding tanks would be large. Assuming a towing vessel with an average crew of six, generating 30 gallons per person per day, with a 14-day pumpout interval, a 2,520-gallon tank would be required. In the proposed rule, EPA solicited data and comments on the availability of

pumpout facilities for graywater. While few specifics were provided, commenters identified general deficiencies in the availability of suitable facilities for non-recreational vessels.

Several commenters argued that installing holding capacity, with the ongoing costs of pumping out, could be economically burdensome. EPA's recent analysis of a mandatory sewage storage requirement for tugboats and similar vessels in Puget Sound amounted to an estimated 6.8 percent increase in annual baseline operating costs for such vessels, not including the additional costs to purchase and install the tanks. This increase is due to the costs associated with facility use (pumpout fees), travel to access facilities (lost revenue and fuel costs), and time to pump out (lost revenue). Because graywater is generated in greater volumes on a per person per day basis than sewage, EPA would expect a greater increase in operating costs should tugboats and similar vessels be required to equip storage capacity to prevent overboard discharges.

As part of this supplemental regulatory option, EPA modified the applicability criteria from ''400 GT ITC (400 GRT if GT ITC is not assigned)'' to ''400 GT.'' This modification is intended to align the language with existing regulations and the IMO.

V. Solicitation of Comments

In this document, EPA solicits public comment on new data received since the proposed rule and a small number of supplemental options for specific discharges and/or systems.

For the numeric ballast water discharge standard, EPA is not proposing a different standard than that in the proposed rule; however, EPA is seeking input on this issue and on the analysis of the new data.

For ballast water uptake, EPA is considering a supplemental option to require vessel operators to address and identify their uptake practices as part of their ballast water management plan.

For ballast water discharges from Lakers, EPA is considering a supplemental option to require an equipment standard for New Lakers. These vessels would be required to install and operate a BWMS that has been type-approved by the USCG. EPA proposes to define a New Laker as a bulk carrier that operates exclusively on the Great Lakes and that is constructed after the effective date of USCG regulations promulgated pursuit to CWA section 312(p)(5)(A)(i).

For hulls and associated niche areas, EPA is considering whether to: (a) define the terms ''active discharge of biofouling,'' ''microfouling,'' ''macrofouling,'' and ''passive discharge of biofouling;'' (b) prohibit any discharges from in-water cleaning without capture of macrofouling; (c) exclude discharges from IWCC activities from these regulations; and (d) eliminate use of terms such as ''local in origin'' and ''plume or cloud of paint'' when referring to cleaning activities and ''fouling rating'' to identify applicable cleaning requirements. Of note, a number of the revisions under consideration align with the recently adopted (July 2023) ''Revised Guidelines for the Control and Management of Ships' Biofouling to Minimize the Transfer of Invasive Aquatic Species.''

For graywater systems, EPA is considering a supplemental option to limit the applicability of the requirement that discharges of graywater meet the numeric discharge standard to only those new vessels of 400 GT and above that have a maximum capacity of 15 or more persons and provide overnight accommodations to those persons, instead of all new vessels of 400 GT and above.

EPA solicits public comments exclusively on the topics raised in this document and not on any other provisions of the proposed rule.

VI. 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 a ''significant regulatory action'' as defined in Executive Order 12866, as amended by Executive Order 14094. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for Executive Order 12866 review. Documentation of any changes made in response to Executive Order 12866 review is available in the docket. EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, ''Regulatory Impact Analysis of the Proposed Rulemaking'' (EPA–HQ–OW–2019–0482–0589), is available in the docket. For each section of this supplemental notice of proposed rulemaking, EPA forecasted the anticipated effect on cost to the regulatory community, as compared to that identified in the Regulatory Impact Analysis and based on the supplemental regulatory option presented. The Regulatory Impact Analysis will be updated and finalized alongside the final rule.

B. Paperwork Reduction Act (PRA)

This supplemental notice of proposed rulemaking does not impose any new information collection burden under the PRA. The information collection activities associated with EPA's 2020 notice of proposed rulemaking (85 FR 67818) were submitted for approval to the Office of Management and Budget (OMB) under the PRA and assigned OMB control number 2040–0303. You can find a copy of the Information Collection Request (ICR) in the docket for this rule. This supplemental notice of proposed rulemaking does not address the previously identified information collection activities nor would it result in changes to the previously submitted ICR.

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. Although this action will impose requirements on any small entity that operates a vessel subject to the standards, EPA determined that the projected cost burden would not be significant. As described in this document, EPA has determined that, when compared to the Regulatory Impact Analysis of the 2020 proposed rule (EPA–OW–2019–0482–0589), the supplemental regulatory options being considered would result in no cost impact or a cost savings to the regulated community with the exception of the ballast water standard being considered for New Lakers. For New Lakers, EPA determined that the majority of companies potentially subject to the ballast water requirement qualify as small entities; however, EPA cannot predict under whose ownership a New Laker might be constructed or converted and subject to these requirements. However, the cost to comply with this new requirement is relatively small compared to the cost of building/converting and operating a New Laker. Details of the screening analysis for the new ballast water discharge standard being considered for New Lakers are presented in the ''Economic Analysis of New Lakers for the Supplemental Notice of Proposed Rulemaking for the Vessel Incidental National Standards of Performance'' available in the public docket for this rulemaking.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

EPA has concluded that this action has federalism implications because it preempts state law. The VIDA added a new CWA section 312(p)(9)(A) that specifies that, beginning on the effective date of the requirements promulgated by the Secretary established under CWA section 312(p)(5), no state, political subdivision of a state, or interstate agency may adopt or enforce any law, regulation, or other requirement with respect to an incidental discharge subject to regulation under the VIDA except insofar as such law, regulation, or other requirement is identical to or less stringent than the Federal regulations under the VIDA. Accordingly, EPA and the USCG conducted a Federalism consultation briefing on July 9, 2019, in Washington, DC to allow states and local officials to have meaningful and timely input into the development of the rulemaking (85 FR 67818).

EPA provided an overview of the VIDA, described the interim requirements and the framework of future regulations, identified state provisions associated with the VIDA, and received comments and questions. The briefing was attended by representatives from the National Governors Association, the National Conference of State Legislatures, the U.S. Conference of Mayors, the County Executives of America, the National Association of Counties, the National League of Cities, Environmental Council of the States, the Association of Clean Water Administrators, the National Water Resources Association, the Association of Fish and Wildlife Agencies, the National Association of State Boating Law Administrators, the Western Governors Association, and the Western States Water Council. Pre-proposal comments were accepted from July 9, 2019 to September 9, 2019 and are described in conjunction with the Governors' Consultation comments. After the public comment period concluded for the proposed rule, EPA met with state representatives to discuss topics of interest between June and October 2021 to inform this supplemental notice of proposed rulemaking.

Additionally, pursuant to the terms of Executive Order 13132 and Agency policy, a federalism summary impact statement is required in the final rule. This will summarize not only the issues and concerns raised by state and local government commenters during the proposed rule's development, but also describe how and the extent to which the agency addressed those concerns. Further, as required by Section 8(a) of Executive Order 13132, EPA in the final rule will include a certification from its Federalism Official stating that EPA met the Executive Order's requirements in a meaningful and timely manner. A copy of this certification will be included in the public version of the official record once the action is finalized.

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

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. Tribes may be interested in this action because commercial vessels may operate in or near tribal waters. Additionally, EPA may be authorized to treat eligible federally recognized Tribes as a state (TAS) under section 309 of the CWA.

EPA consulted with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to permit them to have meaningful and timely input into its development. A summary of that consultation and coordination follows.

EPA initiated a tribal consultation and coordination process for EPA's 2020 notice of proposed rulemaking (85 FR 67818) by sending a ''Notice of Consultation and Coordination'' letter on June 18, 2019, to all 573 tribes that were federally recognized at the time.[11] The letter invited tribal leaders and designated consultation representatives to participate in the tribal consultation and coordination process that lasted from July 11 to September 11, 2019. EPA held an informational webinar for tribal representatives on July 11, 2019, to obtain meaningful and timely input during the development of the proposed rule. During the webinar, EPA provided an overview of the VIDA, described the interim requirements and the framework of future regulations, and identified tribal provisions associated with the VIDA. A total of nine tribal representatives participated in the webinar. EPA also provided an informational presentation on the VIDA during the Region 10 Regional Tribal Operations Committee (RTOC) call on July 18, 2019, as requested by the RTOC. During the consultation period, tribes and tribal organizations sent two pre-proposal comment letters to EPA as part of the consultation process. In addition, EPA held one consultation meeting with the leadership of a tribe, at the tribe's request, to obtain pre-proposal input and answer questions regarding the forthcoming rule.

EPA incorporated the feedback it received from tribal representatives in the proposed rule. Records of the tribal informational webinar, and a consultation summary of the written and verbal comments submitted by tribes are included in the public docket for this proposed rule. Several tribes requested additional consultation in comments submitted during the public comment period of the proposed rule. EPA offered additional consultation opportunities and met with tribal representatives of the Gun Lake Tribe and Chippewa Ottawa Resource Authority in September and October 2021, respectively.

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

EPA interprets Executive Order 13045 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 does not concern an environmental health risk or safety risk. Since this action does not concern human health, EPA's Policy on Children's Health also does not apply.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. EPA believes that any additional energy usage would be insignificant compared to the total energy usage of vessels and the total annual U.S. energy consumption.

[11] In December 2019, the Little Shell Tribe of Chippewa Indians became the 574th federally recognized tribe.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

EPA believes that it is not practicable to assess whether the human health or environmental conditions that exist prior to this action result in disproportionate and adverse effects on communities with environmental justice concerns. While EPA was unable to perform a detailed environmental justice analysis because it lacks data on the exact location of vessels and their associated discharges, the rulemaking would increase the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. The Agency recognizes that the burdens of environmental pollution disproportionately fall on certain communities with environmental justice concerns. Overall, the Agency believes this rule would reduce the amount of pollution entering waterbodies from vessels through the minimization and control of discharges entering the waters of the U.S. and the contiguous zone that may contain pollutants such as aquatic nuisance species, nutrients, bacteria or pathogens, oil and grease, metals, as well as other toxic, nonconventional, and conventional pollutants (*e.g.,* organic matter, bicarbonate, and suspended solids). This would yield human health benefits due to decreased exposure to these pollutants and improve the recreational utility of waterbodies where vessels would be subject to the proposed standards.

VII. References

Choice Ballast Solutions (CBS). (2017). Technical Engineering Analysis & Economic Feasibility for Ballast Water Management System (BWMS) Installation and Operation on board U.S. Flag Great Lakes Fleet (Lakers). Project Number 014766.

Bailey, S. A., Casas-Monroy, O., Kydd, J., Ogilvie, D., Rozon, R. M., and Yardley, S. (2023). Efficacy of ballast water management systems operating within the Great Lakes and St. Lawrence River (2017–2022). Can. Data Rep. Fish. Aquat. Sci. 1376: vi + 24 p.

First MR, Robbins-Wamsley SH, Riley SC, Grant JF, Molina V and Wier TP. (2022). None detected: What ''zero'' indicates in direct counts of aquatic microorganisms in treated ballast water. Front. Mar. Sci. 9:1034386. doi: 10.3389/fmars.2022.1034386.

Great Ships Initiative (GSI). (2011). Final Report of the Land-Based, Freshwater Testing of the Alfa Laval AB PureBallast® Ballast Water Treatment System. GSI/LB/F/A/2, pp 1–94.

Great Ships Initiative (GSI). (2015). Technical Report Land-Based Status Test of the JFE BallastAce ® Ballast Water Management System and Components at the GSI Testing Facility. GSI/LB/QAQC/TR/JFE, pp 1—146.

International Maritime Organization (IMO). (2004). International Convention for the Control and Management of Ships' Ballast Water and Sediments. BWM/CONF/36.

International Maritime Organization (IMO). (2018). Code for Approval of Ballast Water Management Systems, Resolution MEPC.300(72), April 13, 2018.

King, D.M., M. Riggio, and P.T. Hagan. (2009). Preliminary Cost Analysis of Ballast Water Treatment Systems. Maritime Environmental Resource Center.

Kuznetsova, A., P.B. Brockhoff, and R.H.B. Christensen. (2017). R package, version 3.1–3. ''lmerTest Package: Tests in Linear Mixed Effects Models.'' Journal of Statistical Software 82.13:1–26. doi:10.18637/jss.v082.i13 *https://doi.org/10.18637/jss.v082.i13*.

MARAD. (2013). Status of the U.S.-Flag Great Lakes Water Transportation Industry.

National Research Council (NRC). (2011). Assessing the Relationship Between Propagule Pressure and Invasion Risk in Ballast Water. Washington, DC: The National Academies Press. *https://doi.org/10.17226/13184*.

R Core Team. (2023). R: A language and environment for statistical computing. Version 4.3.0. R Foundation for Statistical Computing, Vienna, Austria. *https://www.R-project.org/*.

Stasinopoulos, M.D., R.A. Rigby, and N. Mortan. (2018). ''gamlss.cens: Fitting an interval response variable using 'gamlss.family' distributions.'' R package version 5.0–1. *https://CRAN.R-project.org/package=gamlss.cens*.

Stasinopoulos, M.D. and R.A. Rigby. (2022). ''gamlss.dist: Distributions for generalized additive models for location scale and shape.'' R package version 6.0–5. *https://CRAN.R-project.org/package=gamlss.dist*.

StataCorp. (2021). Stata Statistical Software: Release 17. College Station, TX: StataCorp LLC.

U.S. Coast Guard (USCG). (2012). Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters. 36 CFR part 151 and 46 CFR part 162 Docket No. USCG–2001–10486. RIN 1625–AA32. Final Rule Regulatory Analysis and Final Regulatory Flexibility Analysis.

U.S. Coast Guard (USCG). (2013a). Ballast Water Treatment, U.S. Great Lakes Bulk Carrier Engineering and Cost Study, Volume II: Analysis of On-Board Treatment Methods, Alternative Ballast Water Management Practices, and Implementation Costs. Acquisition Directorate. Report No. CG–D–12–13.

U.S. Coast Guard (USCG). (2013b). Investigation of Ballast Water Treatment's Effect on Corrosion. Acquisition Directorate. Report No. CG–D–03–15.

U.S. EPA. (2000). Development document for effluent limitations guidelines and standards for the centralized waste treatment industry. EPA–821–R–00–020. Washington, DC (August). *https://www.epa.gov/sites/default/files/2015-06/documents/cwt_dd_2000.pdf*.

U.S. EPA. (2002). Development document for final effluent imitations guidelines and standards for the iron and steel manufacturing point source category. EPA–821–R–02–004. Washington, DC (April). *https://www.epa.gov/sites/default/files/2015-10/documents/ironsteel_dd_2002.pdf*.

U.S. EPA. (2010). Generic protocol for the verification of ballast water treatment technology. U.S. Environmental Protection Agency, Washington, DC EPA–600–R–10–146.

U.S. EPA. (2011). Efficacy of Ballast Water Treatment Systems: A Report by the EPA Science Advisory Board. EPA–SAB–11–009.

U.S. EPA. (2013). Enforcement Response Policy for EPA's 2013 Vessel General Permit: Ballast Water Discharges and U.S. Coast Guard Extensions under 33 CFR part 151. *https://www.epa.gov/sites/default/files/2015-08/documents/vesselgeneralpermit-erp.pdf*.

U.S. EPA. (2015). Technical development document for the effluent limitations guidelines and standards for the steam electric power generating point source category. EPA–821–R–15–007. Washington, DC (September). *https://www.epa.gov/sites/default/files/2015-10/documents/steam-electric-tdd_10-21-15.pdf*.

U.S. EPA. (2023). Ballast Water BAT Data Analysis: Analysis of Newly Acquired U.S. Coast Guard Ballast Water Management System Type-Approval Data to Assess System Performance. U.S. Environmental Protection Agency, Washington, DC. August 2023.

U.S. Navy. (2006). Naval Ships' Technical Manual. Chapter 81. Waterborne Underwater Hull Cleaning of Navy Ships, Revision 5. S9086–CQ–STM–010.

List of Subjects in 40 CFR Part 139

Environmental protection, Commercial vessels, Coastal zone, Incidental discharges

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 139, as proposed to be added at 85 FR 67818 (October 26, 2020), is proposed to be amended as follows:

PART 139—DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF VESSELS

■ 1. The authority citation for part 139 is added to read as follows:

Authority: 33 U.S.C. 1322, as amended.

■ 2. Amend § 139.2 by:
■ a. Adding the definitions for ''*Active discharge of biofouling*'', ''*Anti-fouling coating*'', and ''*Anti-fouling system*'' in alphabetical order;
■ b. Revising the definitions for ''*Biofouling*'', and ''*Constructed*'';
■ c. Adding the definitions for ''*Macrofouling*'', ''*Microfouling*'', and ''*New Laker*'';
■ d. Revising the definition for ''*Niche areas*''; and
■ e. Adding the definition for ''*Passive discharge of biofouling*'' in alphabetical order.

The additions and revisions read as follows:

§ 139.2 Definitions.

Active discharge of biofouling means the discharge of biofouling from a vessel resulting from in-water cleaning activities.

* * * * *

Anti-fouling coating means a coating or paint designed to prevent, repel, or facilitate the detachment of biofouling from hull and niche areas that are typically or occasionally submerged.

Anti-fouling system means a coating, paint, surface treatment, surface, or device that is used on a vessel to control or prevent attachment of organisms.

* * * * *

Biofouling means the accumulation of aquatic organisms, such as microorganisms, plants, and animals on surfaces and structures immersed in or exposed to the aquatic environment. Biofouling can include pathogens in addition to microfouling and macrofouling.

* * * * *

Constructed with respect to a vessel has the same meaning as defined at 33 CFR 151.2005 and means a stage of construction when one of the following occurs:

(1) The keel of a vessel is laid;

(2) Construction identifiable with the specific vessel begins;

(3) Assembly of the vessel has commenced and comprises at least 50 tons or 1 percent of the estimated mass of all structural material, whichever is less; or

(4) The vessel undergoes a major conversion.

* * * * *

Macrofouling means biofouling caused by the attachment and subsequent growth of visible plants and animals on structures and vessels immersed in or exposed to water. Macrofouling is large, distinct multicellular individual or colonial organisms visible to the human eye such as barnacles, tubeworms, mussels, fronds/filaments of algae, bryozoans, sea squirts and other large attached, encrusting, or mobile organisms.

* * * * *

Microfouling means biofouling caused by bacteria, fungi, microalgae, protozoans, and other microscopic organisms that creates a biofilm, also called a slime layer.

* * * * *

New Laker means a vessel that is 3,000 GT and above and that operates exclusively in the Great Lakes and the St. Lawrence River west of a rhumb line drawn from Cap des Rosiers to Point-Sud-Oeste (West Point), Anticosti Island, and west of a line along 63 W. longitude from Anticosti Island to the north shore of the St. Lawrence River and that is constructed after the effective date of USCG regulations promulgated pursuant to CWA section 312(p)(5)(A)(i).

Niche areas means a subset of the submerged surface area on a vessel that may be more susceptible to biofouling than the main hull due to structural complexity, different or variable hydrodynamic forces, susceptibility to anti-fouling coating wear or damage, or inadequate or no protection by an anti-fouling system.

* * * * *

Passive discharge of biofouling means the discharge of biofouling from a vessel (for example, sloughing) during a period in which the vessel is not undergoing active cleaning activities.

* * * * *

■ 3. Amend § 139.10 by revising paragraph (c)(4) and by adding paragraph (c)(5) to read as follows:

§ 139.10 Ballast tanks.

* * * * *

(c) * * *

(4) A ballast water management plan must be developed and followed to minimize the uptake and discharge of harmful aquatic organisms and pathogens. The plan must describe the vessel-specific ballast water management systems and practices necessary to comply with requirements in this section.

(5) A New Laker that discharges ballast water must install, operate, and maintain a ballast water management system (BWMS) that has been type-approved by the USCG.

* * * * *

■ 4. Amend § 139.21 by revising paragraph (e)(1) to read as follows:

§ 139.21 Graywater systems.

* * * * *

(e) * * *

(1) Any new vessel of 400 GT and above that is certificated to carry 15 or more persons and provides overnight accommodations to those persons;

* * * * *

■ 5. Amend § 139.22 by:
■ a. Revising paragraph (a);
■ b. Redesignating paragraphs (b) and (c) as paragraphs (c) and (d);
■ c. Adding a new paragraph (b); and
■ d. Revising newly designated paragraph (d).

The revisions and additions read as follows:

§ 139.22 Hulls and associated niche areas.

(a) *Applicability.* The requirements in paragraphs (b) through (d) of this section apply to the discharge of anti-fouling coatings, biofouling organisms, and other materials from vessel hull surfaces and niche areas. Propeller cleaning or polishing is excluded from the requirements.

(b) *Transport and passive discharge.* The transport of attached living organisms and passive discharge of biofouling must be minimized when traveling into waters of the U.S. or waters of the contiguous zone from outside the EEZ or between COTP zones. Management measures to minimize the transport of attached living organisms and the passive discharge of biofouling are described in paragraphs (c) and (d) of this section.

* * * * *

(d) *In-water cleaning.* (1) Hulls and niche areas must be managed to minimize macrofouling, such as through cleaning of microfouling.

(2) Any hull and niche area cleaning must minimize damage to the anti-fouling coating, minimize release of biocides, and follow applicable cleaning requirements found on the coating manufacturers' instructions and any applicable Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) label.

(3) Any discharge from in-water cleaning without capture of macrofouling is prohibited.

(4) Any discharge from in-water cleaning without capture of any copper-based hull coating in a copper-impaired water body within the first 365 days after application of that coating is prohibited.

(5) In-water cleaning must not be conducted on any section of an anti-fouling coating that shows excessive cleaning actions (*e.g.,* brush marks) or

blistering due to the internal failure of the paint system.

(6) Any soap, cleaner, or detergent used on vessel surfaces, such as a scum line of the hull, must be minimally toxic, phosphate-free, and biodegradable.

(7) Additional standards applicable to discharges from hulls and associated niche areas when a vessel is operating in federally protected waters are contained in § 139.40(i).

[FR Doc. 2023–22879 Filed 10–17–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BM46

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Amendment 56

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

ACTION: Announcement of availability of a fishery management plan amendment; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 56 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf) for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce, Amendment 56 would revise stock status determination criteria for Gulf gag, establish a rebuilding plan, and revise catch limits. Amendment 56 would also revise the sector allocations of the annual catch limit, revise recreational accountability measures (AMs), and revise the recreational fishing season. The purpose of this action is to implement a rebuilding plan for gag and to implement revised management measures to end overfishing and rebuild the stock.

DATES: Written comments on Amendment 56 must be received no later than December 18, 2023.

ADDRESSES: You may submit comments on Amendment 56 identified by ''NOAA–NMFS–2023–0103'' by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter ''NOAA–NMFS–2023–0103'' in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit all written comments to Dan Luers, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

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

An electronic copy of Amendment 56, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-56-modifications-catch-limits-sector-allocation-and-recreational-fishing-seasons.*

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

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery, which includes gag, under the FMP in Federal waters of the Gulf. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

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

Unless otherwise noted, all weights in this notice are in gutted weight.

Gag in the Gulf exclusive economic zone (EEZ) are found primarily in the eastern Gulf. Juvenile gag are estuarine dependent and are often found in shallow seagrass beds. As gag mature, they move to deeper offshore waters to live and spawn. Gag is managed as a single stock with commercial and recreational catch limits. The allocation of the stock annual catch limit (ACL) between the commercial and recreational sectors established in Amendment 30B to the FMP is currently 39 percent commercial and 61 percent recreational.

Commercial fishing for gag is managed under the individual fishing quota (IFQ) program for groupers and tilefishes (GT–IFQ program), which began January 1, 2010, upon implementation of the final rule for Amendment 29 to the FMP (74 FR 44732, August 31, 2009; 75 FR 9116, March 1, 2010). Under the GT–IFQ program, the commercial quota for gag is set 23 percent below the gag commercial ACL, and NMFS distributes allocation (in pounds) of gag on January 1 each year to those who hold shares (in percent) of the gag total commercial quota. Both gag and red grouper, another grouper species managed under the GT–IFQ program, have a commercial multi-use provision that allows a portion of the gag quota to be harvested under the red grouper allocation, and vice versa. As explained further in Amendment 56, the multi-use provision is based on the difference between the respective red grouper and gag ACLs and quotas. However, if gag is under a rebuilding plan, as would occur under Amendment 56, the percentage of red grouper multi-use allocation is equal to zero. Commercial harvest of gag is also restricted by area closures and a minimum size limit.

NMFS and the Council manage the recreational harvest of gag with an ACL an annual catch target (ACT) set approximately 10 percent below the ACL, in-season and post-season AMs, seasonal and area closures, a minimum size limit, and daily bag and possession limits.

The most recent stock assessment for gag was completed in 2021 through Southeast Data, Assessment, and Review 72 (SEDAR 72), and concluded that the gag stock is overfished is undergoing overfishing as of 2019. Compared to the previous assessment for gag, SEDAR 72 used several improved data sources, including corrections for the potential misidentification between black grouper and gag, which are similar looking species, to better quantify estimates of commercial discards. SEDAR 72 also utilized updated recreational catch and effort data from the Marine Recreational

Information Program (MRIP) Access Point Angler Intercept Survey and Fishing Effort Survey (FES) through 2019. MRIP–FES replaced the MRIP Coastal Household Telephone Survey (CHTS) in 2018. Prior to the implementation of MRIP in 2008, recreational landings estimates were generated using the Marine Recreational Fisheries Statistics Survey (MRFSS). Because MRIP–FES is designed to more accurately measure fishing activity, total recreational fishing effort estimates generated from MRIP–FES are generally higher than both the MRFSS and MRIP–CHTS estimates. Prior to SEDAR 72, the most recent stock assessment for gag was SEDAR 33 Update (2016), which indicated that gag was not subject to overfishing and was not overfished. The SEDAR 33 Update included recreational catch and effort data generated by the MRIP–CHTS.

SEDAR 72 also accounted for observations of red tide mortality directly within the stock assessment model. Gag is vulnerable to red tide events and was negatively affected by these disturbances in 2005, 2014, 2018, and projected for 2021. Modeling changes were also made in SEDAR 72 to improve size estimates of gag retained by commercial and for-hire (charter vessels and headboats) fishermen, and private anglers.

The Council's Scientific and Statistical Committee (SSC) reviewed the results of SEDAR 72 in November 2021 and concluded that the assessment was consistent with the best scientific information available and suitable for informing fisheries management. On January 26, 2022, NMFS notified the Council that gag was overfished and undergoing overfishing. The Magnuson-Stevens Act requires that a rebuilding plan be developed and implemented within 2 years from when NMFS notifies the appropriate fishery management council that a stock is overfished. The Council developed Amendment 56 to comply with this mandate.

At its January 2022 meeting, the Council requested that the NMFS Southeast Fisheries Science Center update the SEDAR 72 base model by replacing MRIP–FES calibrated landing estimates with private mode recreational landings estimates calibrated to the Florida Fish and Wildlife Commission's State Reef Fish Survey (SRFS). Historically, SRFS estimates a slightly larger harvest of gag by private anglers and state charter vessels (in Florida) than MRIP–CHTS, but estimates a substantially smaller harvest of gag by private anglers and state charter vessels than MRIP–FES. This alternative model run of SEDAR 72 (''SRFS Run'') also used MRIP–FES data for the federal permitted charter vessel and shore modes, and Southeast Region Headboat Survey (SRHS) data for federally permitted headboats.

The results of the SRFS Run were presented to the Council's SSC at its July 2022 meeting. The SSC found the SEDAR 72 SRFS Run to be consistent with the best scientific information available. The SSC determined that SRFS is a comprehensive survey for the gag private angling component of the recreational sector given that greater than 95 percent of private angling landings of gag are captured by the SRFS sampling frame and that the SRFS program's collection protocol had been certified by NMFS as scientifically rigorous. NMFS worked in conjunction with the State of Florida to develop a calibration model to adjust historic effort estimates so that they could be compared to new estimates from SRFS. The calibration of SRFS to historical gag landings was reviewed and approved by peer-review through the NOAA Office of Science and Technology in May 2022. Information about the calibration and the SSC's review of the SEDAR 72 SRFS Run can be found here: *https://gulfcouncil.org/meetings/scientific-and-statistical-meetings/july-2022/*. The results of the SEDAR 72 SRFS Run were consistent with the results of the SEDAR 72 base model in that both concluded that the gag stock is overfished and is undergoing overfishing.

Because Amendment 56 would not likely be implemented until 2024, and the Council recognized that maintaining the 2023 catch limits for gag would continue to allow overfishing, the Council sent a letter to NMFS, dated July 18, 2022 (Appendix A in Amendment 56), requesting interim measures that would reduce the gag stock ACL from 3.12 million lb (1.415 million kg) to 661,901 lb (300,233 kg). The Council determined, and NMFS agreed, that for this short-term reduction in harvest it was appropriate to maintain the current sector allocations of 39 percent commercial and 61 percent recreational, and the availability of red grouper multi-use and gag multi-use under the IFQ program. In addition to the reduction in the catch limits, the Council requested that the recreational fishing season for 2023 begin on September 1 and close on November 10, rather than the existing open season of June 1 through December 31. NMFS implemented these interim measures through a temporary rule effective on May 3, 2023 (88 FR 27701, May 3, 2023). The measures in the temporary rule are effective for 180 days (through October 30, 2023), and NMFS expects to extend them for up to 186 additional days while NMFS reviews public comments on this proposed rule and Amendment 56, and prepares any final regulations. Because the SSC's review of the SEDAR 72 SRFS Run occurred after the Council's request for interim measures for gag, the recreational catch limits in the temporary rule are consistent with MRIP–FES calibrated landings and are not directly comparable to the catch limits in Amendment 56. Based on the results of the SEDAR 72 SRFS Run and the SSC recommendations, the Council is recommending management changes for gag through Amendment 56.

Actions Contained in Amendment 56

If approved by the Secretary of Commerce, Amendment 56 would make several changes to the management of gag in the Gulf:

- Revise the maximum sustainable yield (MSY) proxy, OY, and stock status determination criteria (SDC);
- Establish a rebuilding plan for the stock, and revise the overfishing limit (OFL), acceptable biological catch (ABC), and stock ACL consistent with the rebuilding plan;
- Revise the commercial and recreational allocation of the stock ACL and set new commercial and recreational sector ACLs, sector ACTs and commercial quota;
- Modify the recreational AMs; and
- Modify the recreational fishing season.

Status Determination Criteria

Based on the results of SEDAR 72, Amendment 56 would revise the SDC, which can be used to determine whether overfishing is occurring or the stock is overfished. The proxy for maximum sustainable yield (MSY) would be defined as the yield when fishing at the fishing mortality rate (F) associated with a 40 percent spawning potential ratio (SPR), where SPR is the ratio of the spawning stock biomass to its unfished state. The maximum fishing mortality threshold (MFMT) would be equal to $F_{40\%SPR}$. The minimum stock size threshold (MSST) would be defined as 50 percent of the biomass at the new MSY proxy. The OY would be conditional on the rebuilding plan, such that if the stock is under a rebuilding plan, OY would be equal to the stock ACL; and if the stock is not under a rebuilding plan, OY would be equal to 90 percent of MSY or its proxy. Currently, MSY is defined in the FMP as F assuming the maximum yield per recruit (F_{MAX}), and the MFMT is F_{MAX}. The MSST is defined as 50 percent of

the biomass at F_{MAX}. The OY is defined as 75 percent of the yield at F_{MAX}. The proposed change in SDC represents a more conservative approach to management that would rebuild the gag stock to a more robust size, which should be more resilient to episodic mortality from red tide, harmful algal blooms, and sustainable levels of fishing mortality.

Stock Rebuilding Plan Timeline, Sector Allocations, and Catch Limits

Amendment 56 would set the rebuilding timeline for gag at 18 years based on the amount of time the stock is expected to take to rebuild if fished at 75 percent of the MSY proxy (yield at $F_{40\%SPR}$). The OFLs and ABCs for 2024 through 2028 are based on the yield when fishing at $F_{40\%SPR}$ and the yield when fishing at 75 percent of $F_{40\%SPR}$, respectively.

Amendment 56 evaluated two other rebuilding times: 11 years, which is the minimum time to rebuild in the absence of fishing mortality; and 22 years, which is twice the minimum time. In addition, the Council initially considered an alternative rebuilding time of 19 years, which is based on the minimum rebuilding time plus one generation time (8 years for gag). Because this option resulted in a rebuilding time similar to fishing at 75 percent of the MSY proxy, the Council moved this alternative Considered but Rejected (Appendix C in Amendment 56). The Council also discussed whether to consider in more detail a rebuilding time between 11 years and 18 years. The Council decided not to add an additional alternative because a slightly shorter rebuilding time would provide minimal benefits to the stock but increase the negative impacts to fishing communities.

In addition, Amendment 56 would revise sector allocations of the stock ACL from 39 percent commercial and 61 percent recreational to 35 percent commercial and 65 percent recreational, using recreational data from the SEDAR 72 SRFS Run. The Council considered two alternatives to allocate the stock ACL to the commercial and recreational sectors: (1) maintain the current allocation of 39 percent commercial and 61 percent recreational, which was based on MRFSS data from 1986 through 2005, and (2) update historical recreational landings using the SEDAR 72 SRFS Run calibrated data from the same 1986 through 2005 period, which would result in an allocation of the stock ACL of 35 percent to the commercial sector and 65 percent to the recreational sector. During the development of these two allocation alternatives, the Council also reviewed allocation options based on five additional historical reference periods from 1986 to 2019. These options differed by less than 1 percent up to less than 4 percent. Because the options were so similar, the Council decided to move forward with detailed analysis of only the two alternatives described above. The Council determined that the second option would best represent the historic landings for each sector while accounting for the change from MRFSS to SRFS Run data in the recreational sector.

The commercial-recreational sector allocation impacts the catch level projections produced by SEDAR 72. As more of the stock ACL is allocated to the recreational sector, the proportion of recreational discards and associated mortality increases. Recreational discard mortality rates are assumed to be less than commercial discard mortality rates but the total amount of recreational discards is considerably greater than commercial discards. Generally, a gag caught and released by a recreational fisherman has a greater likelihood of survival than by a commercial fisherman because of how and where they fish. However, because of the much higher numbers of gag that are released by the recreational sector compared to the commercial sector, the total number of discarded fish that die from recreational fishing exceeds dead discards from commercial fishing. This results in additional mortality for the stock and a lower projected annual yield, which means a lower OFL, ABC, and stock ACL. However, the higher number of dead discards is not due to any change in how the recreational sector prosecutes the fishery but occurs because the SEDAR 72 SRFS Run data estimates greater fishing effort, and consequently a greater number of fish being caught, which includes discards and the associated mortality of discarded fish.

Consistent with the Councils' recommended rebuilding time and commercial-recreational allocation, Amendment 56 would revise the OFL and ABC. The Council also recommended the stock ACL be set equal to the ABC. The current OFL and ABC, and the OFLs and ABCs for 2024 through 2028, which increase over the time series as projected for the rebuilding plan, are shown in Table 1. However, the current OLF and ABC are not directly comparable to the proposed OFLs and ABCs because they are based, in part, on recreational landings estimates produced by the different surveys discussed above. Note that in Amendment 56, all of the catch levels were rounded down to the nearest thousand pounds. Values in 2028 would continue for subsequent fishing years unless modified through another action.

TABLE 1—CURRENT AND PROPOSED OFLS AND ABCS FOR GAG

Year	OFL in pounds (kg)	ABC in pounds (kg)
2023	4,180,000 (1,896,016)	3,120,000 (1,415,208)
2024	591,000 (268,073)	444,000 (201,395)
2025	805,000 (365,142)	615,000 (278,959)
2026	991,000 (449,510)	769,000 (348,813)
2027	1,200,000 (544,311)	943,000 (427,738)
2028	1,454,000 (659,523)	1,156,000 (524,353)

Note: Values are displayed in gutted weight. Kg is kilograms.

Prior to the implementation of the 2023 temporary rule, the stock ACL was 3.120 million lb (1.415 million kg) and was allocated 39 percent to the commercial sector and 61 percent to the recreational sector. The resulting commercial ACL and quota were 1.217 million lb (0.552 million kg) and 0.939 million lb (0.426 million kg) respectively, and the recreational ACL and ACT were 1.903 million lb (0.863 million kg) and 1.708 million lb (0.775 million kg) respectively. The commercial ACT is not codified. These catch limits are based on the results of the 2016 SEDAR 33 Update (2016), which included recreational landings estimates generated from MRIP–CHTS.

The 2023 temporary rule reduced these catch limits consistent with the Council's request. Therefore, the current commercial ACL and commercial quota as implemented by the 2023 temporary rule are 258,000 lb (117,027 kg) and 199,000 lb (90,265 kg), respectively, and the recreational ACL and ACT are 403,759 lb (183,142 kg) and 362,374 lb (164,370 kg), respectively. These catch limits are based on the results of the initial SEDAR 72 base model run, which included recreational landings estimates generated using MRIP–FES.

Amendment 56 would set the stock ACL for gag at 444,000 lb (201,395 kg) in 2024, and would allocate approximately 35 percent to the commercial sector and approximately 65 percent to the recreational sector. This results in a 155,000-lb (70,307-kg) commercial ACL, and a 288,000-lb (130,635-kg) recreational ACL. These catch limits are based on the results of the SEDAR 72 SRFS Run, which included recreational landings estimates generated using SRFS. Amendment 56 would set catch levels from 2024 through 2028. However, the 2028 catch levels would continue after 2028 until modified by subsequent action. As noted above, all of the catch levels from were rounded down to the nearest thousand pounds. Therefore, the sum of the sector ACLs does not equal the stock ACL. In addition, because of the different recreational landings estimates used to determine the catch limits described above, those catch limits are not directly comparable. However, the proposed catch limits are a significant reduction compared to the catch limits that would go back into effect after the 2023 temporary rule expires.

Based on the Council's recommendation, Amendment 56 would modify the commercial quota such that it would be set equal to the ACT, and would be approximately 5 percent below the commercial ACL. The current buffer between the commercial ACL and commercial quota is 23 percent. The Council recommended reducing this buffer between the commercial ACL and ACT in Amendment 56 because there have been considerable improvements in the estimation of commercial landings and discards of gag since the buffer was put in place through Amendment 32 to the FMP. Further, the fraction of gag discarded compared to the total number of gag caught has remained low. NMFS does not expect the actions in Amendment 56 to significantly increase commercial discards of gag. Therefore, the commercial quota would be approximately 95 percent of the commercial ACL.

For the recreational sector, the current buffer between the ACL and ACT is approximately 10 percent. The Council elected to choose a more conservative ACT than if they had applied the ACL and ACT control rule, which would have resulted in the same 10 percent buffer between the recreational ACL and ACT. Instead, the Council decided to double that buffer to increase the probability of rebuilding gag by accounting for uncertainty in managing recreational harvest and further reducing fishing mortality and discards that result from directed harvest. Thus, Amendment 56 would establish a recreational ACT that is approximately 20 percent below the recreational ACL. Table 2 shows the proposed catch levels recommended for gag in Amendment 56.

TABLE 2—PROPOSED STOCK ACL AND SECTOR CATCH LEVELS

Year	Stock ACL lb (kg)	Com ACL lb (kg)	Rec ACL lb (kg)	Com ACT & Quota lb (kg)	Rec ACT lb (kg)
2024	444,000 (201,395)	155,000 (70,307)	288,000 (130,635)	147,000 (66,678)	230,000 (104,326)
2025	615,000 (278,959)	215,000 (97,522)	399,000 (180,983)	204,000 (92,533)	319,000 (144,696)
2026	769,000 (348,813)	269,000 (122,016)	499,000 (226,343)	255,000 (115,666)	399,000 (180,983)
2027	943,000 (427,738)	330,000 (149,685)	613,000 (278,052)	313,000 (141,974)	490,000 (222,260)
2028	1,156,000 (524,353)	404,000 (183,251)	751,000 (340,648)	383,000 (173,726)	600,000 (272,155)

Note: Values are displayed in gutted weight.
Abbreviations used in this table: Com means commercial and Rec means recreational. Lb is pounds and kg is kilograms.

Recreational Accountability Measures

For the recreational sector, the current AMs require NMFS to prohibit harvest of gag for the rest of the fishing year when the recreational ACL is projected to be met. The AMs also state that if the recreational ACL for gag is exceeded in a fishing year, then in the following fishing year, NMFS will maintain the prior year's ACT at the same level, unless the best scientific information available determines that is unnecessary, and the fishing season duration will be set based on the recreational ACT. In addition to the previous measures, if gag is overfished and the recreational ACL is exceeded in a fishing year, NMFS will reduce the ACL and ACT in the following fishing year by the amount of the ACL overage, unless the best scientific information available determines that is unnecessary. Amendment 56 would change the AMs to require that NMFS prohibit harvest when the recreational ACT is projected to be met regardless of whether there was an overage of the ACL in the prior year. NMFS and the Council expect this change, in combination with the increased buffer between the recreational ACL and ACT, to decrease the likelihood of recreational harvest exceeding the recreational ACL. The larger buffer between the recreational ACL and ACT would also reduce the level of discards associated with directed harvest, increasing the probability of meeting the 18 years rebuilding time.

Amendment 56 would also remove the provision that requires the previous year's ACT to be maintained in the year following an overage of the ACL. Because the stock is overfished and NMFS is required to reduce the ACL and ACT by any overage, an additional adjustment that retains the lower ACT is unnecessary.

Recreational Fishing Season

Before NMFS implemented the temporary recreational fishing season for gag in 2023, the season for Gulf gag began on June 1 and continued through December 31. During the effective period of the temporary rule, the recreational fishing season opened on September 1 and was to close on November 10, 2023, unless NMFS projected the recreational ACL would be harvested prior to that date. On October 4, 2023, NMFS published a temporary rule closing recreational harvest effective on October 19, 2023 (88 FR 68495).

Amendment 56 would modify the recreational fishing season for gag so the season would begin each year on September 1. Unlike the season duration implemented by the temporary rule,

Amendment 56 would not establish a predetermined season closure date. Consistent with the revised AMs, Amendment 56 would require NMFS to close the gag recreational season when landings are projected to reach the recreational ACT. NMFS would use the best data available to project the duration of the proposed recreational season in 2024 and in following years. NMFS expects to have better estimates of recreational fishing effort and catch of gag for a season beginning September 1 after data from 2023 are finalized. This should reduce the uncertainty in projecting an appropriate closure date for the 2024 recreational fishing season. Once the ACT for gag is projected to be met and is closed, recreational fishing for gag would not resume before the end of the year because data would not yet be available to determine whether landings did reach the ACT.

Proposed Rule for Amendment 56

NMFS has drafted a proposed rule to implement Amendment 56. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 56 for Secretarial review. Comments on Amendment 56 must be received by December 18, 2023. Comments received during the respective comment periods, whether specifically directed to Amendment 56 or the proposed rule will be considered by NMFS in the decision to approve, disapprove, or partially approve Amendment 56. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in any final rule.

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

Dated: October 13, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–22959 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 88, No. 200
Wednesday, October 18, 2023

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Partnership for Peace Fund Advisory Board; Notice of Meeting

AGENCY: United States Agency for International Development.

ACTION: Request for public comment and notice of public meeting.

SUMMARY: The United States Agency for International Development (USAID) announces a public meeting, and requests public comment for the third meeting of the Partnership for Peace Fund (PPF) Advisory Board to receive updates on programming and progress under MEPPA; receive information regarding ongoing efforts aiming to improve program implementation; and discuss and provide recommendations for peacebuilding programming at USAID.

DATES: Written comments and information are requested on or before November 9, 2023, at 5:00 p.m. EST.

The public meeting will take place on Tuesday, November 14, 2023, from 1:15 p.m. to 3:15 p.m. EST via the Zoom platform (*https://usaid.zoomgov.com/j/1600787082*).

The meeting does not require pre-registration.

ADDRESSES: You may submit comments regarding the work of the PPF Advisory Board by email to *MEPPA@usaid.gov.* Include ''Public Comment, PPF Advisory Board Meeting, November 14'' in the subject line. All public comments and questions will be included in the official record of the meeting and posted publicly on the USAID website.

Please email *MEPPA@usaid.gov* to request reasonable accommodations for the public meeting. Include ''Request for Reasonable Accommodation, PPF Advisory Board Meeting, November 14'' in the subject line.

FOR FURTHER INFORMATION CONTACT: Dan McDonald, 202–712–4965, *meppa@usaid.gov*

SUPPLEMENTARY INFORMATION: In December 2020, Congress passed the Nita M. Lowey Middle East Partnership for Peace Act (*https://www.usaid.gov/west-bank-and-gaza/documents/nita-m-lowey-middle-east-partnership-peace-act*), or MEPPA, with bipartisan support. The Act directs USAID and the U.S. International Development Finance Corporation (DFC), in coordination with the Department of State, to program $250 million over five years to build the foundation for peaceful coexistence between Israelis and Palestinians through a new PPF, managed by USAID, and a Joint Investment Initiative, managed by the DFC.

MEPPA serves as a recognition that economic, social, and political connections between Israelis and Palestinians are the best way to foster mutual understanding and provide the strongest basis for a sustainable, two-state solution. USAID's Middle East Bureau has been working with Congress, interagency colleagues, and partners in Israel, the West Bank, and Gaza to implement the Act. MEPPA also calls for the establishment of a board to advise USAID on the strategic direction of the PPF.

Composed of up to 15 members, the PPF Advisory Board includes development experts, private sector leaders and faith-based leaders who are appointed by members of Congress and the USAID Administrator. As stated in its charter (*https://www.usaid.gov/west-bank-and-gaza/documents/charter-partnership-peace-fund-advisory-board*), the Board's role is purely advisory and possesses no enforcement authority or power to bind USAID. Duties of the Board and individual members are restricted to providing information and making recommendations to USAID on matters and issues relating to the types of projects USAID should seek to support in order to further the purposes of the People-to-People Partnership for Peace Fund and partnerships with foreign governments and international organizations to leverage the impact of the People-to-People Partnership for Peace Fund.

The following are the current members of the Advisory Board:
Chair: The Honorable George R. Salem
The Honorable Elliott Abrams
Farah Bdour
Rabbi Angela Buchdahl
Rabbi Michael M. Cohen
Sander Gerber
Ambassador Mark Green (ret.)
Hiba Husseini
Heather Johnston
Harley Lippman
The Honorable Nita M. Lowey
Dina Powell McCormick
Nickolay Mladenov
Jen Stewart
The Honorable Robert Wexler

PPF Advisory Board meetings are held twice a year and are public. More information about how USAID is implementing MEPPA to increase people-to-people partnerships between Israelis and Palestinians is available at: *https://www.usaid.gov/west-bank-and-gaza/meppa.*

The purpose of this meeting is for the Advisory Board to gain a better understanding of the progress so far to program funds under the PPF to bring Israelis and Palestinians together to increase understanding and advance the goal of a two-state solution.

During this meeting, the Board will (1) receive updates on programming and progress under MEPPA; (2) receive information regarding ongoing efforts aiming to improve program implementation; and (3) discuss and provide recommendations for peacebuilding programming at USAID.

Request for Public Comment

To inform the direction and advice of the Board, USAID invites written comments from the public on areas for focus and strategies for people-to-people peacebuilding under the PPF.

Written comments and information are requested on or before Thursday, November 9, 2023, at 5:00 p.m. EDT. Include ''Public Comment, PPF Advisory Board Meeting, November 14'' in the subject line. Please submit comments and information as a Word or PDF attachment to your email. You are encouraged to submit written comments even if you plan to attend the public meeting. All public comments and questions will be included in the official record of the meeting and posted publicly on the USAID website.

Public Meeting

A public meeting will take place Tuesday, November 14, 2023, from 1:15

p.m. to 3:15 p.m. This meeting is free and open to the public. Persons wishing to attend the meeting should use the following link: (*https://usaid.zoomgov.com/j/1613820653*).

Requests for reasonable accommodations should be directed to Daniel McDonald at *MEPPA@usaid.gov.* Please include ''Request for Reasonable Accommodation, PPF Advisory Board Meeting, November 14'' in the subject line.

Daniel McDonald,

USAID Designated Federal Officer for the PPF Advisory Board, Bureau for the Middle East, U.S. Agency for International Development.

[FR Doc. 2023–22912 Filed 10–17–23; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 17, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Foreign Agricultural Service

Title: Export Sales of U.S. Agricultural Commodities.

OMB Control Number: 0551–0007.

Summary of Collection: The Export Sales of U.S. Agricultural Commodities is authorized by § 602 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. 5712). The Export Sales of U.S. Agricultural Commodities requires the reporting of information pertaining to contracts for export sale of certain specified agricultural commodities that may be designated by the Secretary of Agriculture. U.S. exporters are required to report information on: (1) the quantity of a reportable commodity to be sold to a foreign buyer; (2) the country of destination; and (3) the marketing year of shipment. Data reported is aggregated and published in compilation form to protect business confidential information submitted.

The Export Sales Reporting and Maintenance System (ESRMS) was created after the large, unexpected purchase of U.S. wheat and corn by the Soviet Union in 1972. U.S. exporters are required to regularly report specific information on commodity shipments using ESRMS. The information reported is maintained by the exporters during the normal course of conducting business and is not an additional recordkeeping requirement for respondents.

Need and Use of the Information: The information collected under the Export Sales of U.S. Agricultural Commodities provides commodity market participants with information about commodity export commitments, and is one means by which USDA seeks to insure transparency, fairness, and soundness in commodity marketing. The information will be collected using FAS forms 97, 98,99, and 100. If the information were collected less frequently or not at all, the Department would not be in compliance with the statutes and not fulfilling the objectives of the export sales reporting program.

Description of Respondents: All exporters of wheat and wheat flour, feed grains, oilseeds, cotton, rice, cattle hides and skins, beef, pork, and any products thereof, and other commodities that the Secretary may designate as produced in the United States.

Number of Respondents: 414.

Frequency of Responses: Reporting: Other: Varies.

Total Burden Hours: 62,355.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–22916 Filed 10–17–23; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2022–0001]

Notice of Request for a New Information Collection: Salmonella Control Strategies Pilot Projects

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, FSIS is announcing its intention to request a new information collection for pilot projects that test different control strategies for *Salmonella* contamination in poultry products. This is a new information collection with an estimated annual burden of 620 hours. On April 8, 2022, FSIS published a notice announcing this new information collection with an estimated annual burden of 310 hours. However, since publication, FSIS received an increased number of requests for participation in the pilot projects program. Therefore, FSIS is republishing the notice to increase the estimated annual burden by 310 hours for a total of 620 hours.

DATES: Submit comments on or before December 18, 2023.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *https://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Jamie L.

Whitten Building, Room 350–E, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2022–0001. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 937–4272 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 937–4272.

SUPPLEMENTARY INFORMATION:

Title: Salmonella Control Strategies Pilot Projects.

OMB Number: 0583–NEW.

Type of Request: Request for a new information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). This statute mandates that FSIS protect the public by verifying that poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting a new information collection for pilot projects that test different control strategies for *Salmonella* contamination in poultry products. This is a new information collection with an estimated annual burden of 620 hours. On April 8, 2022, FSIS published a notice announcing this new information collection with an estimated annual burden of 310 hours. However, since publication, FSIS received an increased number of requests for participation in the pilot projects program. Therefore, FSIS is republishing the notice to increase the estimated annual burden by 310 hours for a total of 620 hours.

On October 19, 2021, USDA announced that FSIS would mobilize a stronger and more comprehensive effort to reduce *Salmonella* illnesses associated with poultry products.[1] A key component of this effort is identifying ways to incentivize the use of preharvest controls to reduce *Salmonella* contamination coming into the slaughterhouse. Under the pilot projects program, establishments will experiment with new or existing pathogen control and measurement strategies and share data with FSIS. Associations may also submit aggregate data. The data will be analyzed by FSIS to determine whether they support changes to FSIS existing *Salmonella* control strategies.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of burden: FSIS estimates that it will take each respondent an average of 15.5 hours per year for this collection of information.

Estimated total number of respondents: 40.

Estimated average number of responses per respondent: 7.

Estimated annual number of responses: 260.

Estimated annual burden on respondents: 620 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 937–4272.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *https://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.usda.gov/forms/electronic-*

[1] The announcement can be found at *https://www.fsis.usda.gov/inspection/compliance-guidance/microbial-risk/salmonella/pilot-projects-salmonella-control.*

forms, from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

(1) *Mail:* U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (833) 256–1665 or (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Theresa Nintemann,

Deputy Administrator, FSIS.

[FR Doc. 2023–22978 Filed 10–17–23; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Greater Rocky Mountain Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Solicitation for members.

SUMMARY: The Forest Service, United States Department of Agriculture (USDA), is seeking nominations for the Greater Rocky Mountain Resource Advisory Committee (GRM RAC) pursuant to the Secure Rural Schools Act (the Act) and the Federal Advisory Committee Act (FACA). Additional information on the Greater Rocky Mountain Resource Advisory Committee can be found by visiting the Committee website at *https://www.fs.usda.gov/detail/r2/home/?cid=fseprd972168.*

DATES: Written nominations must be received by December 1, 2023. Nominations must contain a completed application packet that includes the nominee's name, resume, and completed *Form AD–755 (Advisory Committee or Research and Promotion Background Information).* The package must be sent to the address below.

ADDRESSES: Karley O'Connor, Partnership Coordinator, Grand Mesa, Uncompahgre, and Gunnison National Forests, 2250 South Main Street, Delta, CO 81416 or by email at *karley.o'connor@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Karley O'Connor, Partnership Coordinator, Grand Mesa, Uncompahgre, and Gunnison National Forests, 2250 South Main Street, Delta, CO 81416, by email at *karley.o'connor@usda.gov,* or by phone at 970–712–0930.

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of FACA, the Secretary of Agriculture is seeking nominations for the purpose of improving collaborative relationships among people who use and care for National Forests and providing advice and recommendations to the Forest Service concerning projects and funding consistent with Title II. The duties of Secure Rural Schools (SRS) RACs include monitoring projects, advising the Secretary on the progress and results of monitoring efforts, and making recommendations to the Forest Service for any appropriate changes or adjustments to the projects being monitored by the SRS RACs.

Membership Balance

The GRM RAC will be comprised of 15 members approved by the Secretary of Agriculture where each will serve a 4-year term. Memberships shall include representation from the following interest areas:

(1) Five persons who represent:
- (a) Organized Labor or Non-Timber Forest Product Harvester Groups;
- (b) Developed Outdoor Recreation, Off-Highway Vehicle Users, or Commercial Recreation Activities;
- (c) Energy and Mineral Development, or Commercial or Recreational Fishing Groups;
- (d) Commercial Timber Industry; and
- (e) Federal Grazing Permit or Other Land Use Permit Holders, or Representative of Non-Industrial Private Forest Land Owners, within the area for which the Committee is organized.

(2) Five persons who represent:
- (a) Nationally or Regionally Recognized Environmental Organizations;
- (b) Regionally or Locally Recognized Environmental Organizations;
- (c) Dispersed Recreational Activities;
- (d) Archaeology and History; and
- (e) Nationally or Regionally Recognized Wild Horse and Burro Interest, Wildlife Hunting Organizations, or Watershed Associations.

(3) Five persons who represent:
- (a) State Elected Office holder;
- (b) County or Local Elected Office holder;
- (c) American Indian Tribes within or adjacent to the area for which the Committee is organized;
- (d) Area School Officials or Teachers; and
- (e) Affected Public-at-Large.

Nomination and Application Information

The appointment of members to the GRM RAC will be made by the Secretary of Agriculture, or their designee.

The public is invited to submit nominations for membership either as a self-nomination or a nomination of any qualified and interested person. Any individual or organization may nominate one or more qualified persons to represent the interest areas listed above. To be considered for membership, nominees must:

1. Be a resident of the State in which the SRS RAC has jurisdiction (Colorado or Wyoming);

2. Identify what interest group they would represent and how they are qualified to represent that interest group;

3. Provide a cover letter stating why they want to serve on the SRS RAC and what they can contribute;

4. Provide a resume showing their past experience in working successfully as part of a group working on forest management activities; and

5. Complete *Form AD–755, Advisory Committee or Research and Promotion Background Information.* The Form AD–755 may be obtained from the Greater Rocky Mountain RAC Coordinator, Karley O'Connor, at *karley.o'connor@usda.gov* or from the following USDA website: *https://www.usda.gov/sites/default/files/documents/ad-755.pdf.* All nominations will be vetted by USDA.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age,

marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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

Dated: October 12, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–22907 Filed 10–17–23; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Government in Sunshine Act (5 U.S.C. 552b), the Commission on Civil Rights is holding a meeting to discuss the Commission's business for the month of October.

DATES: Friday, October 20, 2023, 10 a.m. EST.

ADDRESSES: Meeting to take place virtually and is open to the public via livestream on the Commission's YouTube page: *https://www.youtube.com/user/USCCR/videos.*

FOR FURTHER INFORMATION CONTACT: Angelia Rorison: 202–376–8371; *publicaffairs@usccr.gov*.

SUPPLEMENTARY INFORMATION: This business meeting is open to the public. Computer assisted real-time transcription (CART) will be provided. The web link to access CART (in English) on October 20, 2023, is *https://www.streamtext.net/player?event=USCCR.* Please note that CART is text-only translation that occurs in real time during the meeting and is not an exact transcript.

Meeting Agenda

I. Approval of Agenda
II. Business Meeting
III. Discussion and Vote on 2024 USCCR Business Meeting Calendar
IV. Presentation by the Texas Advisory Committee Chair on interim report, Mental Healthcare in the Texas Juvenile Justice System
V. Management and Operations
- Staff Director's Report

VI. Adjourn Meeting

Dated: October 16, 2023.

Angelia Rorison,

USCCR Media and Communications Director.

[FR Doc. 2023–23092 Filed 10–16–23; 4:15 pm]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the New York Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Notice of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the New York Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom. The purpose of the meeting is to vote on findings and begin to discuss draft recommendations in the Committee's draft report on the New York child welfare system and its impact on Black children and families.

DATES: Friday, November 17, 2023, from 1:00 p.m.–3:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held via Zoom.

Registration Link (Audio/Visual): https://bit.ly/3PbvgdX.

Join by Phone (Audio Only): 1–833–435–1820 USA Toll Free; Webinar ID: 161 785 2445#.

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg, DFO, at *mtrachtenberg@usccr.gov* or 1–202–809–9618.

SUPPLEMENTARY INFORMATION: This Committee meeting is available to the public through the registration link above. Any interested member of the public may attend this meeting. An open comment period will be provided to allow members of the public to make oral statements as time allows. Pursuant to the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning is available by selecting ''CC'' in the meeting platform. To request additional accommodations, please email *svillanueva@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the scheduled meeting. Written comments may be emailed to Mallory Trachtenberg at *mtrachtenberg@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at 1–202–809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, New York Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *svillanueva@usccr.gov.*

Agenda

I. Welcome and Roll Call
II. Approval of Minutes
III. Vote: Findings
IV. Discussion: Recommendations
V. Public Comment
VI. Next Steps
VII. Adjournment

Dated: October 12, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–22909 Filed 10–17–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 84–34A12]

Export Trade Certificate of Review

ACTION: Notice of application for an amended Export Trade Certificate of Review for Northwest Fruit Exporters, Application No. 84–34A12.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (OTEA) of the

International Trade Administration, has received an application for an amended Export Trade Certificate of Review (Certificate). This notice summarizes the proposed application and seeks public comments on whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, OTEA, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325. OTEA is issuing this notice pursuant to 15 CFR 325.6(a), which requires the Secretary of Commerce to publish a summary of the application in the **Federal Register**, identifying the applicant and each member and summarizing the proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

Written comments should be sent to *ETCA@trade.gov.* An original and two (2) copies should also be submitted no later than 20 days after the date of this notice to: Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 84–34A12.''

Summary of the Application

Applicant: Northwest Fruit Exporters, 105 South 18th Street, Suite 105, Yakima, WA 98901.

Contact: Fred Scarlett, Manager, Northwest Fruit Exporters.

Application No.: 84–34A12.

Date Deemed Submitted: October 5, 2023.

Proposed Amendment: Northwest Fruit Exporters seeks to amend its Certificate as follows:

1. Add the following entity as a Member of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)):

- New Columbia Fruit Packers, LLC, Wenatchee, WA
  - Export Product coverage: fresh apples and fresh sweet cherries.

2. Remove the following companies as Members of the Certificate:

- Columbia Fruit Packers, Inc., Wenatchee, WA
- Frosty Packing Co., LLC, Yakima, WA
- Highland Fruit Growers, Inc., Yakima, WA
- Stadelman Fruit, L.L.C., Zillah/Hood River & Milton-Freewater, WA/OR

3. Change the names of the following Members of the Certificate:

- Crane & Crane, Inc. (Brewster, WA) changes to Crane Ranch (Brewster, WA)
- Brewster Heights Packing & Orchards, LP (Brewster, WA) changes to Brewster Heights Packing & Orchards, LP dba Gebbers Farms (Brewster, WA)
- Monson Fruit Co. (Selah, WA) changes to Monson Fruit Co., LLC (Selah, WA)
- Roche Fruit, Ltd. (Yakima, WA) changes to Roche Fruit, LLC (Yakima, WA)

4. Change the Export Product coverage of the following Members of the Certificate:

- Diamond Fruit Growers, Inc. changes Export Product coverage from fresh pears and fresh sweet cherries to fresh pears (dropping fresh sweet cherries).
- FirstFruits Farms, LLC changes Export Product coverage from fresh apples to fresh apples and fresh sweet cherries (adding fresh sweet cherries).
- River Valley Fruit, LLC changes Export Product coverage from fresh apples, fresh sweet cherries and fresh pears to fresh apples and fresh sweet cherries (dropping fresh pears).

Northwest Fruit Exporter's Proposed Amendment of Its Certificate Would Result in the Following Membership List

1. Allan Bros., Naches, WA
2. AltaFresh L.L.C. dba Chelan Fresh Marketing, Chelan, WA
3. Apple House Warehouse & Storage, Inc., Brewster, WA
4. Apple King, L.L.C., Yakima, WA
5. Auvil Fruit Co., Inc. dba Gee Whiz II, LLC, Orondo, WA
6. Baker Produce, Inc., Kennewick, WA
7. Blue Bird, Inc., Peshastin, WA
8. Blue Star Growers, Inc., Cashmere, WA
9. Borton & Sons, Inc., Yakima, WA
10. Brewster Heights Packing & Orchards, LP dba Gebbers Farms, Brewster, WA
11. Chelan Fruit, Chelan, WA
12. Chiawana, Inc. dba Columbia Reach Pack, Yakima, WA
13. Chuy's Cherries LLC, Mattawa, WA
14. CMI Orchards LLC, Wenatchee, WA
15. Columbia Fresh Packing LLC, Kennewick, WA
16. Columbia Valley Fruit, L.L.C., Yakima, WA
17. Congdon Packing Co. L.L.C., Yakima, WA
18. Cowiche Growers, Inc., Cowiche, WA
19. CPC International Apple Company, Tieton, WA
20. Crane Ranch, Brewster, WA
21. Custom Apple Packers, Inc., Quincy, and Wenatchee, WA
22. Diamond Fruit Growers, Inc., Odell, OR (for fresh pears only)
23. Domex Superfresh Growers LLC, Yakima, WA
24. Douglas Fruit Company, Inc., Pasco, WA
25. Dovex Export Company, Wenatchee, WA
26. Duckwall Fruit, Odell, OR
27. E. Brown & Sons, Inc., Milton-Freewater, OR
28. Evans Fruit Co., Inc., Yakima, WA
29. E.W. Brandt & Sons, Inc., Parker, WA
30. FirstFruits Farms, LLC, Prescott, WA (for fresh apples and fresh sweet cherries)
31. G&G Orchards, Inc., Yakima, WA
32. Gilbert Orchards, Inc., Yakima, WA
33. Hansen Fruit & Cold Storage Co., Inc., Yakima, WA
34. Henggeler Packing Co., Inc., Fruitland, ID
35. HoneyBear Growers LLC, Brewster, WA
36. Honey Bear Tree Fruit Co LLC, Wenatchee, WA
37. Hood River Cherry Company, Hood River, OR
38. JackAss Mt. Ranch, Pasco, WA
39. Jenks Bros Cold Storage & Packing, Royal City, WA
40. Kershaw Fruit & Cold Storage, Co., Yakima, WA
41. L & M Companies, Union Gap, WA
42. Lateral Roots Farm, LLC, Wapato, WA
43. Legacy Fruit Packers LLC, Wapato, WA
44. Manson Growers, Manson, WA
45. Matson Fruit Company, Selah, WA
46. McDougall & Sons, Inc., Wenatchee, WA
47. Monson Fruit Co., LLC, Selah, WA
48. Morgan's of Washington dba Double Diamond Fruit, Quincy, WA
49. New Columbia Fruit Packers, LLC, Wenatchee, WA (for fresh apples and fresh sweet cherries)
50. Northern Fruit Company, Inc., Wenatchee, WA
51. Olympic Fruit Co., Moxee, WA
52. Oneonta Trading Corp., Wenatchee, WA
53. Orchard View Farms, Inc., The Dalles, OR
54. Pacific Coast Cherry Packers, LLC, Yakima, WA

55. Piepel Premium Fruit Packing LLC, East Wenatchee, WA
56. Pine Canyon Growers LLC, Orondo, WA
57. Polehn Farms, Inc., The Dalles, OR
58. Price Cold Storage & Packing Co., Inc., Yakima, WA
59. Quincy Fresh Fruit Co., Quincy, WA
60. Rainier Fruit Company, Selah, WA
61. River Valley Fruit, LLC, Grandview, WA (for fresh apples and fresh sweet cherries only)
62. Roche Fruit, LLC, Yakima, WA
63. Sage Fruit Company, L.L.C., Yakima, WA
64. Smith & Nelson, Inc., Tonasket, WA
65. Stemilt Growers, LLC, Wenatchee, WA
66. Symms Fruit Ranch, Inc., Caldwell, ID
67. The Dalles Fruit Company, LLC, Dallesport, WA
68. Underwood Fruit & Warehouse Co., Bingen, WA
69. Valicoff Fruit Company Inc., Wapato, WA
70. Washington Cherry Growers, Peshastin, WA
71. Washington Fruit & Produce Co., Yakima, WA
72. Western Sweet Cherry Group, LLC, Yakima, WA
73. Whitby Farms, Inc. dba: Farm Boy Fruit Snacks LLC, Mesa, WA
74. WP Packing LLC, Wapato, WA
75. Yakima Fruit & Cold Storage Co., Yakima, WA
76. Zirkle Fruit Company, Selah, WA

Dated: October 13, 2023.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2023–22969 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–830]

Steel Concrete Reinforcing Bar From the Republic of Turkey: Rescission of Countervailing Duty Administrative Review; 2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty (CVD) order on steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey), covering the period January 1, 2022, through December 31, 2022.

DATES: Applicable October 18, 2023.

FOR FURTHER INFORMATION CONTACT: Peter Shaw, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0697.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the CVD order on rebar from Turkey.[1] On July 31, 2023, the Rebar Trade Coalition (the petitioner) timely requested that Commerce conduct an administrative review of Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S (Habas).[2] We received no other requests for review. On September 28, 2023, Commerce issued an intent to rescind memorandum notifying interested parties that import data issued by the U.S. Customs and Border Protection (CBP) indicated that Habas did not have reviewable entries of subject merchandise during the POR for which liquidation is suspended.[3] Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, Commerce intended to rescind this administrative review with respect to Habas. Commerce provided all parties an opportunity to comment. No parties submitted comments.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of a CVD order where it concludes that there were no reviewable entries of subject merchandise during the POR.[4] Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate for the review period.[5] Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the calculated CVD assessment rate for the review period.[6] As noted above, CBP confirmed that there were no entries of subject merchandise during the POR with respect to Habas, the only company subject to this review. Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we are rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Assessment

Commerce will instruct CBP to assess countervailing duties on all appropriate entries. Because Commerce is rescinding this review in its entirety, the entries to which this administrative review pertained shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of the APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with regulations and terms of an APO is a violation, which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(l) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 12, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–23003 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List,* 88 FR 42693 (July 3, 2023).

[2] *See* Petitioner's Letter, ''Request for Administrative Review,'' dated July 31, 2023.

[3] *See* Memorandum, ''Intent to Rescind Review,'' dated September 28, 2023.

[4] *See, e.g., Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Rescission of Review, in Part; 2017–2018,* 84 FR 54844, 54845 and n.8 (October 11, 2019) (citing *Lightweight Thermal Paper from the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review; 2015,* 82 FR 14349 (March 20, 2017)).

[5] *See* 19 CFR 351.212(b)(2).

[6] *See* 19 CFR 351.213(d)(3).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–919]

Electrolytic Manganese Dioxide From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from interested parties, the U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on electrolytic manganese dioxide (EMD) from the People's Republic of China (China) covering the period of review (POR) October 1, 2021, through September 30, 2022. Commerce preliminarily determines that Duracell (China) Limited (DCL), an exporter of EMD from China and the sole mandatory respondent, is not eligible for a separate rate and is part of the China-wide entity. Interested parties are invited to comment on these preliminary results.

DATES: Applicable October 18, 2023.

FOR FURTHER INFORMATION CONTACT: Krisha Hill or Luke Caruso, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4037 or (202) 482–2081, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 2022, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on EMD from China.[1] On October 31, 2022, DCL requested a review of itself; no other parties requested an administrative review.[2] After receiving the review request,[3] Commerce published the notice of initiation of this administrative review on December 5, 2022.[4] On December 8, 2022, we issued the initial questionnaire to DCL.[5] On June 30, 2023, DCL announced the withdrawal of its entry of appearance (EOA) and administrative protective order (APO) application.[6] On July 3, 2023, Commerce requested clarification from DCL on whether DCL's withdrawal of its EOA and APO application reflected its intent to cease participating in this review, which DCL confirmed affirmatively on the same day.[7] On August 15, 2023, Borman Specialty Materials and Vibrantz Specialty Products LLC (the petitioners) submitted pre-preliminary comments.[8]

Scope of the Order[9]

The merchandise covered by the *Order* includes all manganese dioxide (MnO2) that has been manufactured in an electrolysis process, whether in powder, chip, or plate form. Excluded from the scope are natural manganese dioxide (NMD) and chemical manganese dioxide (CMD). The merchandise subject to the *Order* is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2820.10.00.00. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213.

Separate Rate

In the *Initiation Notice,* we informed parties that all firms for which a non-market economy review was initiated that wished to qualify for separate rate status must complete, as appropriate, either a separate rate application or a separate rate certification.[10] We also informed parties that firms that submitted a separate rate application or a separate rate certification that are subsequently selected as mandatory respondents, would not be eligible for separate rate status unless they responded to all parts of the AD questionnaire that Commerce issued to them as mandatory respondents.[11] After DCL submitted a separate rate application,[12] Commerce selected DCL as the sole mandatory respondent in this review. DCL's announcement that it was no longer participating in the review prevented Commerce from requesting additional information regarding its separate rate application.[13] Furthermore, DCL did not respond to Commerce's supplemental questionnaire.[14] Consistent with Commerce's practice in such situations, as described in the *Initiation Notice,* and because DCL ceased responding to Commerce's request for information, Commerce has preliminarily determined that DCL did not establish its eligibility for separate rate status and is part of the China-wide entity.

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[15] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, the entity is not under review and the weighted-average dumping margin assigned to the China-wide entity is not subject to change as a result of this review.

Disclosure and Public Comment

Normally, Commerce will disclose the calculations performed in connection with the preliminary results of review to parties to the proceeding in accordance with 19 CFR 351.224(b). However, as there were no preliminary margin calculations performed in the instant review, there are no calculations to disclose. This satisfies our regulatory obligation. Additionally, we note that, given that the analysis underlying

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List,* 87 FR 59775 (October 3, 2022).

[2] *See* DCL's Letter, ''Electrolytic Manganese Dioxide from the People's Republic of China: Request for Administrative Review,'' dated October 31, 2022.

[3] *Id.*

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 74404 (December 5, 2022) (*Initiation Notice*).

[5] *See* Commerce's Letter, ''Administrative Review of the Antidumping Duty Order on Electrolytic Manganese Dioxide (EMD) from the People's Republic of China (China): Request for Information,'' dated December 8, 2022.

[6] *See* DCL's Letter, ''Electrolytic Manganese Dioxide from the People's Republic of China: Withdrawal of DCL's Entry of Appearance and APO Application,'' dated June 30, 2023.

[7] *See* Memorandum, ''Voicemail Messages,'' dated July 7, 2023.

[8] *See* Petitioners' Letter, ''Electrolytic Manganese Dioxide from the People's Republic of China: Borman's and Vibrantz's Comments in Advance of Commerce's Preliminary Results,'' dated August 15, 2023.

[9] *See Antidumping Duty Order: Electrolytic Manganese Dioxide From the People's Republic of China,* 73 FR 58537 (October 7, 2008) (*Order*).

[10] *See Initiation Notice,* 87 FR at 74405–74406.

[11] *Id.*

[12] *See* DCL's Letter, ''Electrolytic Manganese Dioxide From the People's Republic of China: DCL's Separate Rate Application,'' dated February 22, 2023.

[13] *See* Memorandum, ''Voicemail Messages,'' dated July 7, 2023.

[14] *See* Commerce's Letter, ''2021–2022 Administrative Review of the Antidumping Duty Order on Electrolytic Manganese Dioxide (EMD) from the People's Republic of China (China): Section A Supplemental Questionnaire,'' dated June 29, 2023.

[15] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

Commerce's preliminary decisions is contained herein, no decision memorandum accompanies this **Federal Register** notice.

Interested parties are invited to comment on these preliminary results of review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs and rebuttal briefs no later than 30 days after the date of publication of this notice in the **Federal Register**. Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. A table of contents, list of authorities used, and an executive summary of issues should accompany any brief submitted to Commerce. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the case briefs are filed.[16]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any of those individuals is a foreign national; and (3) a list of issues parties intend to discuss. Oral arguments at the hearing will be limited to issues raised in the case and rebuttal briefs.[17] If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[18] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions to Commerce, with limited exceptions, must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) [19] and must also be served on interested parties.[20] An electronically filed document must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Time (ET) on the date that the document is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[21]

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this review no later than 120 days after the date these preliminary results of review are published in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[22] If we do not alter these preliminary results of review, we intend to instruct CBP to liquidate entries of subject merchandise exported by DCL at the China-wide rate (*i.e.,* 149.92 percent).[23]

Commerce intends to issue assessment instructions regarding DCL to CBP 35 days after the publication date of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, including DCL, the cash deposit rate will be the rate for the China-wide entity, which is 149.92 percent; and (3) for all non-Chinese exporters of subject merchandise, which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter(s) that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, 19 CFR 351.213, and 19 CFR 351.221(b)(4).

Dated: October 12, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–23004 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–DS–P

[16] *See* 19 CFR 351.309(d); *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[17] *See* 19 CFR 351.310(c).

[18] *See* 19 CFR 351.310(d).

[19] *See* 19 CFR 351.303(b)(2)(i).

[20] *See* 19 CFR 351.303(f).

[21] *See Temporary Rule.*

[22] *See* 19 CFR 351.212(b)(1).

[23] *See Order,* 73 FR at 58538.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Certain Frozen Warmwater Shrimp From India: Notice of Final Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 30, 2023, the U.S. Department of Commerce (Commerce) published the notice of initiation and preliminary results of a changed circumstances review (CCR) of the antidumping duty (AD) order on certain frozen warmwater shrimp from India. For these final results, Commerce continues to find that Highland Agro Food Private Limited (HA Food) is the successor-in-interest to Highland Agro.

DATES: Applicable October 18, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher Viers, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0519.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 2023, HA Food requested that Commerce conduct an expedited CCR, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216, and 19 CFR 351.221(c)(3), to confirm that HA Food is the successor-in-interest to Highland Agro for purposes of determining AD cash deposits and liabilities.[1] In its submission, HA Food stated that, in 2022, Highland Agro undertook a name change to HA Food and changed its corporate structure to become a limited liability company.[2]

On August 30, 2023, pursuant to 19 CFR 351.221(c)(3)(ii), Commerce initiated this CCR and published the *Preliminary Results,* preliminarily determining that HA Food is the successor-in-interest to Highland Agro.[3] In the *Preliminary Results,* we provided all interested parties with an opportunity to comment.[4] However, we received no comments.

Scope of the Order [5]

The merchandise subject to the order is certain frozen warmwater shrimp. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 0306.17.00.03, 0306.17.00.04, 0306.17.00.05, 0306.17.00.06, 0306.17.00.07, 0306.17.00.08, 0306.17.00.09, 0306.17.00.10, 0306.17.00.11, 0306.17.00.12, 0306.17.00.13, 0306.17.00.14, 0306.17.00.15, 0306.17.00.16, 0306.17.00.17, 0306.17.00.18, 0306.17.00.19, 0306.17.00.20, 0306.17.00.21, 0306.17.00.22, 0306.17.00.23, 0306.17.00.24, 0306.17.00.25, 0306.17.00.26, 0306.17.00.27, 0306.17.00.28, 0306.17.00.29, 0306.17.00.40, 0306.17.00.41, 0306.17.00.42, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

Final Results of CCR

For the reasons stated in the *Preliminary Results,* Commerce continues to find that HA Food is the successor-in-interest to Highland Agro. As a result of this determination, and consistent with our established practice, we find that HA Food should receive the AD cash deposit rate previously assigned to Highland Agro. Because there are no changes from the *Preliminary Results,* there is no decision memorandum accompanying this notice and the *Preliminary Results* are hereby adopted as the final results of this CCR.

Consequently, Commerce will instruct U.S. Customs and Border Protection to suspend liquidation of all shipments of subject merchandise produced and/or exported by HA Food and entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register** at 3.88 percent, which is the current AD cash deposit rate for Highland Agro.[6] This cash deposit requirement shall remain in effect until further notice.

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)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing this determination and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act, and 19 CFR 351.216(e), 351.221(b), and 351.221(c)(3).

Dated: October 11, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–22945 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See* HA Food's Letter, ''Request for Expedited Changed Circumstances Review,'' dated July 6, 2023.

[2] *Id.*

[3] *See Certain Frozen Warmwater Shrimp from India: Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review,* 88 FR 59868 (August 30, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[4] *Id.*

[5] For a complete description of the scope of the order, *see* the *Preliminary Results* PDM at 2.

[6] *See Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review; 2021–2022*, 88 FR 60431 (September 1, 2023).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–897]

Large Diameter Welded Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that HiSteel Co., Ltd. (HiSteel) and the 21 non-examined companies, for which a review was requested, made sales of large diameter welded pipe (welded pipe) from the Republic of Korea (Korea) at prices below normal value (NV), while Hyundai Steel Company (Hyundai Steel) did not make sales of the subject merchandise at prices below NV, during the period of review (POR) May 1, 2021, through April 30, 2022.

DATES: Applicable October 18, 2023.

FOR FURTHER INFORMATION CONTACT: Alexis Cherry or Samantha Kinney, 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) 482–0607 or (202) 482–5305, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 2023, Commerce published its preliminary results in the 2021–2022 administrative review of the antidumping duty order on welded pipe from Korea and invited interested parties to comment.[1] A summary of the events that occurred since publication of the Preliminary Results, as well as a full discussion of the issues raised by parties for these final results, are discussed in the Issues and Decision Memorandum.[2] Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

[1] *See Large Diameter Welded Pipe from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2021–2022,* 88 FR 32729 (May 22, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review; 2021–2022: Large Diameter Welded Pipe from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Scope of the Order [3]

The merchandise covered by the *Order* is welded carbon and alloy steel pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Imports of the product are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in parties' case and rebuttal briefs are addressed in the Issues and Decision Memorandum and are listed in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade/gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our analysis of the comments received from interested parties, Commerce made certain changes to the margin calculations for HiSteel. The Issues and Decision Memorandum contains descriptions of these changes.

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be determined for companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when determining the weighted-average dumping margin for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted- average dumping margins established for exporters and producers individually investigated, excluding rates that are zero, *de minimis* or determined entirely on the basis of facts available. For these final results of review, we calculated a weighted-average dumping margin for Hyundai Steel of zero and a weighted-average dumping margin for HiSteel that is not zero, *de minimis,* or based entirely on facts available. Consistent with Commerce's practice, we assigned HiSteel's weighted-average dumping margin to the non-examined companies.[4]

Final Results of the Administrative Review

We determine that the following weighted-average dumping margins exist for the period May 1, 2021, through April 30, 2022:

Producer or exporter	Weighted-average dumping margin (percent)
HiSteel Co., Ltd	6.17
Hyundai Steel Company	0.00
Non-Examined Companies [5]	6.17

Disclosure

We intend to disclose the calculations performed for HiSteel within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b). Because we made no changes to our preliminary weighted-average dumping margin calculations for Hyundai Steel there are no calculations to disclose for this company.

Assessment Rates

Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries in this review, in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Pursuant to 19 CFR 351.212(b)(1), because HiSteel reported entered value for all of their U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those sales. Where an importer-specific assessment rate is zero or *de minimis* (*i.e.,* less than 0.5 percent), the entries by that importer will be liquidated without regard to antidumping duties. Because the weighted-average dumping margin for Hyundai Steel is zero percent, we intend to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[6]

Consistent with Commerce's clarification of its assessment practice, for entries of subject merchandise during the POR produced by any of the above-referenced respondents for which they did not know the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate established in the less-than-fair-value (LTFV) investigation of 7.08 percent *ad valorem* [7] if there is no rate for the intermediate company(ies) involved in the transaction.[8]

For the non-examined companies subject to review, we will instruct CBP to liquidate all applicable entries of subject merchandise during the POR at the rate listed in the table above, which is equal to the weighted-average dumping margin calculated for HiSteel.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies

[3] *See Large Diameter Welded Pipe from the Republic of Korea: Amended Final Affirmative Antidumping Determination and Antidumping Duty Order,* 84 FR 18767 (May 2, 2019) (*Order*).

[4] *See, e.g., Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2020–2021,* 88 FR 7406 (February 3, 2023).

[5] *See* Appendix II.

[6] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012).

[7] *See Order,* 84 FR at 18769.

[8] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

listed above will be equal to the weighted-average dumping margin established in the final results of the review; (2) for subject merchandise exported by a company not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review or the original LTFV investigation, but the producer is, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the subject merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 7.08 percent *ad valorem,* the all-others rate established in the LTFV investigation.[9]

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing these results of administrative review in accordance with sections 751(a) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

[9] *See Order,* 84 FR at 18768.

Dated: October 12, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

Appendix II

Review-Specific Average Rate Applicable to Companies Not Selected for Individual Examination

1. AJU Besteel Co., Ltd.
2. Chang Won Bending Co., Ltd.
3. Daiduck Piping Co., Ltd.
4. Dong Yang Steel Pipe Co., Ltd.
5. Dongbu Incheon Steel Co., Ltd.
6. EEW KHPC Co., Ltd.
7. EEW Korea Co., Ltd.
8. Geumok Tech. Co. Ltd.
9. Hansol Metal Co. Ltd.
10. Husteel Co., Ltd.
11. Hyundai RB Co., Ltd.
12. Il Jin Nts Co. Ltd.
13. Kiduck Industries Co., Ltd.
14. Kum Kang Kind. Co., Ltd.
15. Kumsoo Connecting Co., Ltd.
16. Nexteel Co., Ltd.
17. SeAH Steel Corporation
18. Seonghwa Industrial Co., Ltd.
19. SIN–E B&P Co., Ltd.
20. Steel Flower Co., Ltd.
21. WELTECH Co., Ltd.

[FR Doc. 2023–23005 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 03–6A008]

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review to California Pistachio Export Council, LLC (CPEC), Application No. 03–6A008.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (OTEA), issued an Export Trade Certificate of Review to CPEC on September 29, 2023.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, OTEA, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011–21) (the Act) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325. OTEA is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

CPEC amended its Certificate as follows:

1. Added the following entity as a Member of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)):

a. Nichols Pistachio

List of Members, as amended:

1. Horizon Nut, LLC
2. Keenan Farms, Inc.
3. Meridian Nut Growers, LLC
4. Monarch Nut Company
5. Nichols Pistachio
6. Primex Farms, LLC
7. Setton Pistachio of Terra Bella, Inc.
8. Zymex Industries, Inc.

The effective date of the amended certificate is July 10, 2023, the date on which CPEC's application to amend was deemed submitted.

Dated: October 12, 2023.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2023–22938 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders with August anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable October 18, 2023.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders with August anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

With respect to AD administrative reviews, if a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *https://access.trade.gov,* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of the review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating AD rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of the review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of the AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to the review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of the proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information, pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single AD deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a Separate Rate Application or Certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for individual examination. Furthermore, exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than August 30, 2024.

	Period to be reviewed
AD Proceedings	
INDIA: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel,[5] A–533–873	6/1/22–5/31/23
INDIA: Finished Carbon Steel Flanges, A–533–871	8/1/22–7/31/23
Adinath International.	
Aditya Forge Limited.	
Allena Group.	
Alloyed Steel.	
Balkrishna Steel Forge Pvt. Ltd.	
Bansidhar Chiranjilal.	
Bebitz Flanges Works Private Limited.	
C. D. Industries.	
Cetus Engineering Private Limited.	
CHW Forge.	
CHW Forge Pvt. Ltd.	
Citizen Metal Depot.	
Corum Flange.	
DN Forge Industries.	
Echjay Forgings Limited.	
Echjay Industries Pvt. Ltd.	
Falcon Valves and Flanges Private Limited.	
Heubach International.	

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

[5] In the initiation notice that published on August 3, 2023 (88 FR 51271), Commerce inadvertently listed Salem Steel N.A., LLC., a U.S. importer of subject merchandise, as a company under administrative review. Commerce hereby clarifies that Salem Steel N.A., LLC. is not subject to the review.

	Period to be reviewed
Hindon Forge Pvt. Ltd.	
JAI Auto Pvt Ltd.	
Jiten Steel Industries.	
Kinnari Steel Corporation.	
Mascot Metal Manufacturers.	
M F Rings and Bearing Races Ltd.	
Munish Forge Private Limited.	
Norma (India) Ltd.	
OM Exports.	
Punjab Steel Works.	
Raaj Sagar Steels.	
Ravi Ratan Metal Industries.	
R. D. Forge.	
Renin Piping Products[6].	
R.N. Gupta & Co. Ltd.	
Rolex Fittings India Pvt. Ltd.	
Rollwell Forge Engineering Components And Flanges.	
Rollwell Forge Pvt. Ltd.	
SHM (ShinHeung Machinery).	
Siddhagiri Metal & Tubes.	
Sizer India.	
Steel Shape India.	
Sudhir Forgings Pvt. Ltd.	
Tirupati Forge Pvt. Ltd.; Tirupati Forge.	
Uma Shanker Khandelwal & Co.[7].	
Umashanker Khandelwal Forging Limited.	
USK Exports Private Limited[8].	
INDONESIA: Utility Scale Wind Towers, A–560–833	8/1/22–7/31/23
GE Indonesia.	
GE Renewable Energy.	
General Electric Indonesia.	
Korindo Wind.	
Nordex SE.	
PT. Kenertec Power System.	
PT. Siemens Gamesa Renewable Energy.	
Siemens Gamesa Renewable Energy.	
JAPAN: Stainless Steel Sheet and Strip in Coils,[9] A–588–845	7/1/22–6/30/23
MALAYSIA: Polyethylene Retail Carrier Bags, A–557–813	8/1/22–7/31/23
Euro SME Sdn. Bhd.; Euro Nature Green Sdn. Bhd.	
MALAYSIA: Silicon Metal, A–557–820	8/1/22–7/31/23
PMB Silicon Sdn. Bhd.	
MEXICO: Light-Walled Rectangular Pipe and Tube, A–201–836	8/1/22–7/31/23
Aceros Cuatro Caminos S.A. de C.V., Productos Laminados de Monterrey S.A. de C.V.	
Arco Metal S.A. de C.V.	
Fabricaciones y Servicios de Mexico.	
Galvak, S.A. de C.V.	
Grupo Estructuras y Perfiles.	
Industrias Monterrey S.A. de C.V.	
Internacional de Aceros, S.A. de C.V.	
Maquilacero S.A. de C.V.; Tecnicas de Fluidos S.A. de C.V.	
Nacional de Acero S.A. de C.V.	
PEASA-Productos Especializados de Acero.	
Perfiles LM, S.A. de C.V.	
Regiomontana de Perfiles y Tubos S. de R.L. de C.V.[10].	
Talleres Acero Rey S.A. de C.V.	
Ternium Mexico S.A. de C.V.	
Tuberias Aspe S.A. de C.V.	
Tuberia Laguna, S.A. de C.V.	
Tuberias y Derivados S.A. de C.V.	
REPUBLIC OF KOREA: Large Power Transformers, A–580–867	8/1/22–7/31/23
HD Hyundai Electric Co., Ltd.	
Hyosung Heavy Industries Corporation.	
Hyundai Electric & Energy Systems Co., Ltd.	
Iljin Electric Co., Ltd.	
LS Electric Co., Ltd.	
REPUBLIC OF KOREA: Light-Walled Rectangular Pipe and Tube, A–580–859	8/1/22–7/31/23
Hoa Phat Steel Pipe Company Limited.	
REPUBLIC OF KOREA: Low Melt Polyester Staple Fiber, A–580–895	8/1/22–7/31/23
Toray Advanced Materials Korea, Inc.	
REPUBLIC OF KOREA: Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe, A–580–909	8/1/22–7/31/23
ILJIN Steel Corporation.	
REPUBLIC OF KOREA: Utility Scale Wind Towers, A–580–902	8/1/22–7/31/23
CS Wind China Co., Ltd.	

	Period to be reviewed
CS Wind Corporation.	
CS Wind Malaysia Sdn. Bhd.	
CS Wind Taiwan Ltd.	
CS Wind Turkey Kule Imalati A.S.	
CS Wind UK Limited.	
CS Wind Vietnam Co., Ltd.	
CS Wind Portugal, S. A.	
Dongkuk S&C Co., Ltd.	
Enercon Korea Inc.	
GE Renewable Energy.	
Hyosung Heavy Industries.	
Nordex SE.	
Siemens Gamesa Renewable Energy Limited.	
Vestas Korea.	
Vestas Korea Wind Technology Ltd.	
SPAIN: Ripe Olives, A–469–817	8/1/22–7/31/23
Aceitunera del Norte de Cáceres, S.Coop.Ltda. de 2° Grado Agro Sevilla Aceitunas S.COOP (And.); Agro Sevilla Aceitunas S.COOP Andalusia; Agro Sevilla Aceitunas S.Coop. And. Angel Camacho Alimentacion S.L.	
Alimentary Group Dcoop S.Coop. And.	
Plasoliva, S.L.	
SPAIN: Utility Scale Wind Towers, A–469–823	8/1/22–7/31/23
Acciona Energia.	
Acciona Windpower S.A.	
Industrial Barranquesa S.A.	
Gamesa Energy Transmission S.A.	
GE Renewable Energy.	
GRI Renewable Industries S.L.	
Haizea Wind Group.	
Iberdrola, S.A.	
Iberdrola Renovables Energia S.A.	
Nordex SE.	
Nordex Energy Spain S.A.	
Siemens Gamesa Renewable Energy Inc.	
Vestas Eolica S.A.U.	
Vestas Eolica, S.A.	
Vestas Manufacturing Spain S.L.U.	
Vestas Control Systems Spain S.L.U.	
Vestas Wind Systems A/S.	
Windar Renovables, S.A.	
SOCIALIST REPUBLIC OF VIETNAM: Frozen Fish Fillets, A–552–801	8/1/22–7/31/23
An Chau Co., Ltd.	
An Giang Agriculture and Food Import-Export Joint Stock Company (also known as Afiex or An Giang Agriculture and Foods Import-Export Joint Stock Company).	
An Hai Fishery Ltd. Co.	
An My Fish Joint Stock Company (also known as Anmyfish, Anmyfishco or An My Fish Joint Stock).	
An Phat Import-Export Seafood Co., Ltd. (also known as An Phat Seafood Co. Ltd. or An Phat Seafood, Co., Ltd.).	
An Phu Seafood Corp. (also known as ASEAFOOD or An Phu Seafood Corp.).	
Anchor Seafood Corp.	
Anh Vu Seafoods Corporation.	
Anvifish Joint Stock Company (also known as Anvifish, Anvifish JSC, or Anvifish Co., Ltd.).	
Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC or Acomfish).	
Basa Joint Stock Company (also known as BASACO).	
Ben Tre Aquaproduct Import and Export Joint Stock Company (also known as Bentre Aquaproduct, Bentre Aquaproduct Import & Export Joint Stock Company or Aquatex Bentre).	
Bentre Forestry and Aquaproduct Import Export Joint Stock Company (also known as Bentre Forestry and Aquaproduct Import and Export Joint Stock Company, Ben Tre Forestry and Aquaproduct Import-Export Company, Ben Tre Forestry Aquaproduct Import-Export Company, Ben Tre Frozen Aquaproduct Export Company or Faquimex).	
Bentre Seafood Jsc.	
Bien Dong Hau Giang Seafood Joint Stock Company (also known as Bien Dong HG or Bien Dong Hau Giang Seafood Joint Stock Co.).	
Bien Dong Seafood Company Ltd. (also known as Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., Biendong Seafood Co., Ltd., Bien Dong Seafood Limited Liability Company or Bien Dong Seafoods Co., Ltd.).	
Binh An Seafood Joint Stock Company (also known as Binh An or Binh An Seafood Joint Stock Co.).	
Binh Dinh Fisheries Joint Stock.	
Binh Dinh Garment Joint Stock Co.	
Binh Dinh Import Export Company (also known as Binh Dinh Import Export Joint Stock Company, or Binh Dinh).	
Binh Phu Seafood Co. Ltd.	
C.P. Vietnam Corporation.	
Ca Mau Frozen Seafood Processing Import Export Corporation.	
Cadovimex II Seafood Import-Export and Processing Joint Stock Company (also known as Cadovimex II, Cadovimex II Seafood Import Export and Processing Joint Stock Company, or Cadovimex II Seafood Import-Export).	
Can Tho Animal Fishery Products Processing Export Enterprise (also known as Cafatex Corporation, or Cafatex).	
Cantho Imp. Exp. Seafood.	

	Period to be reviewed
Cantho Import Export Fishery Limited. Cantho Import-Export Seafood Joint Stock Company (also known as CASEAMEX, Cantho Import Export Seafood Joint Stock Company, Cantho Import-Export Joint Stock Company, Can Tho Import Export Seafood Joint Stock Company, Can Tho Import-Export Seafood Joint Stock Company, or Can Tho Import-Export Joint Stock Company). Cavina Seafood Joint Stock Company (also known as Cavina Fish or Cavina Seafood Jsc). Cds Overseas Vietnam Co., Ltd. Co May Imp. Exp. Co. Colorado Boxed Beef Company (also known as CBBC). Coral Triangle Processors (dba Mowi Vietnam Co., Limited (Dong Nai)). Cuu Long Fish Import-Export Corporation (also known as CL Panga Fish or Cuu Long Fish Imp. Exp. Corporation). Cuu Long Fish Joint Stock Company (also known as CL-Fish, CL-FISH CORP, or Cuu Long Fish Joint Stock Company). Cuu Long Seapro. Da Nang Seaproducts Import-Export Corporation (also known as SEADANANG, Da Nang or Da Nang Seaproducts Import/Export Corp.). Dai Thanh Seafoods Company Limited (also known as DATHACO, Dai Thanh Seafoods or Dai Thanh Seafoods Co., Ltd.). Dai Tien Vinh Co., Ltd. Dong A Seafood One Member Company Limited (also known as Dong A Seafood Co.). Dong Phuong Co., Ltd. Dong Phuong Import Export Seafood Company Limited (also known as Dong Phuong Export Seafood Limited, Dong Phuong Seafood Company Limited, or aFishDeal). Dragonwaves Frozen Food Factory Co., Ltd. East Sea Seafoods LLC (also known as East Sea Seafoods Limited Liability Company, ESS LLC, ESS, ESS JVC, or East Sea Seafoods Joint Venture Co., Ltd.). Europe Trading Co., Ltd. Fatifish Company Limited (also known as FATIFISH or FATIFISHCO or Fatfish Co., Ltd.). GF Seafood Corp. Gia Minh Co. Ltd. Go Dang An Hiep One Member Limited Company. Go Dang Ben Tre One Member Limited Liability Company. GODACO Seafood Joint Stock Company (also known as GODACO, GODACO Seafood, GODACO SEAFOOD, GODACO_SEAFOOD, or GODACO Seafood J.S.C.). Gold Future Imp. Exp. Gold Future Imp. Exp. Development Co. Ltd. Golden Quality Seafood Corporation (also known as Golden Quality, GoldenQuality, GOLDENQUALITY, or GoldenQuality Seafood Corporation). Green Farms Seafood Joint Stock Company (also known as Green Farms, Green Farms Seafood JSC, GreenFarm SeaFoods Joint Stock Company, or Green Farms Seafoods Joint Stock Company). GreenFeed Vietnam Corporation. Ha Noi Can Tho Seafood Jsc. Hai Huong Seafood Joint Stock Company (also known as HHFish, HH Fish, or Hai Huong Seafood). Hai Thuan Nam Co Ltd. Hai Trieu Co., Ltd. Hapag Lloyd (America) Inc. Hasa Seafood Corp. (Hasaco). Hiep Thanh Seafood Joint Stock Company (also known as Hiep Thanh or Hiep Thanh Seafood Joint Stock Co.). Hoa Phat Seafood Import-Export and Processing J.S.C. (also known as HOPAFISH, Hoa Phat Seafood Import-Export and Processing Joint Stock Company, Hoa Phat Seafood Import-Export and Processing JSC, or Hoa Phat Seafood Imp. Exp. And Processing). Hoang Long Seafood Processing Company Limited (also known as HLS, Hoang Long, Hoang Long Seafood, HoangLong Seafood, or Hoang Long Seafood Processing Co., Ltd.). Hogiya Seafoods Inc. Hong Hai International. Hong Ngoc Seafood Co., Ltd. Hung Phuc Thinh Food Jsc. Hung Vuong. Hung Vuong Corporation; Hung Vuong Joint Stock Company, HVC or HV Corp.; An Giang Fisheries Import and Export Joint Stock Company (also known as Agifish, An Giang Fisheries Import and Export, An Giang Fisheries Import & Export Joint Stock Company); Asia Pangasius Company Limited (also known as ASIA); Europe Joint Stock Company (also known as Europe, Europe JSC or EJS CO.); Hung Vuong Ben Tre Seafood Processing Company Limited (also known as Ben Tre, HVBT, or HVBT Seafood Processing); Hung Vuong Mascato Company Limited (also known as Mascato); Hung Vuong—Sa Dec Co., Ltd. (also known as Sa Dec or Hung Vuong Sa Dec Company Limited); Hung Vuong—Vinh Long Co., Ltd. (also known as Vinh Long or Hung Vuong Vinh Long Company Limited). Hung Vuong—Mien Tay Aquaculture Corporation (HVMT or Hung Vuong Mien Tay Aquaculture Joint Stock Company). Hung Vuong Seafood Joint Stock Company. HungCa 6 Corporation. Hungca Co., Ltd. I.D.I International Development And. I.D.I International Development and Investment Corporation (also known as IDI, International Development & Investment Corporation, International Development and Investment Corporation, or IDI International Development & Investment Corporation). Indian Ocean One Member Company Limited (also known as Indian Ocean Co., Ltd.).	

	Period to be reviewed
Jk Fish Jsc.	
Lian Heng Trading Co. Ltd. (also known as Lian Heng, Lian Heng Trading, Lian Heng Investment Co. Ltd., or Lian Heng Investment).	
Loc Kim Chi Seafood Joint Stock Company (also known as Loc Kim Chi).	
Mechanics Construction And Foodstuff.	
Mekong Seafood Connection Co., Ltd.	
Minh Phu Hau Giang Seafood Corp.	
Minh Phu Seafood Corp.	
Minh Qui Seafood Co., Ltd.	
Nam Phuong Seafood Co., Ltd. (also known as Nam Phuong, NAFISHCO, Nam Phuong Seafood, or Nam Phuong Seafood Company Ltd.).	
Nam Viet Corporation (also known as NAVICO).	
New Food Import, Inc.	
Ngoc Ha Co. Ltd. Food Processing and Trading (also known as Ngoc Ha or Ngoc Ha Co., Ltd. Foods Processing and Trading).	
Ngoc Tri Seafood Joint Stock.	
Nguyen Tran Seafood Company (also known as Nguyen Tran J–S Co).	
Nha Trang Seafoods, Inc. (also known as Nha Trang Seafoods–F89, Nha Trang Seafoods, or Nha Trang Seaproduct Company).	
NTACO Corporation (also known as NTACO or NTACO Corp.).	
NTSF Seafoods Joint Stock Company (also known as NTSF, NTSF Seafoods or Ntsf Seafoods Jsc).	
Pecheries Oceanic Fisheries Inc.	
Phi Long Food Manufacturing Co. Ltd.	
Phu Thanh Co., Ltd.	
Phu Thanh Hai Co. Ltd. (also known as PTH Seafood).	
Phuc Tam Loi Fisheries Imp.	
Phuong Ngoc Cai Be Ltd. Liability.	
PREFCO Distribution, LLC.	
Pufong Trading And Service Co.	
QMC Foods, Inc.	
Qn Seafood Co., Ltd.	
Quang Minh Seafood Company Limited (also known as Quang Minh, Quang Minh Seafood Co., Ltd., or Quang Minh Seafood Co.).	
Quirch Foods, LLC.	
QVD Food Co., Ltd.; QVD Dong Thap Food Co., Ltd. (also known as Dong Thap or QVD DT); Thuan Hung Co., Ltd. (also known as THUFICO).	
Riptide Foods.	
Saigon-Mekong Fishery Co., Ltd. (also known as SAMEFICO or Saigon Mekong Fishery Co., Ltd.).	
Seafood Joint Stock Company No. 4 (also known as SEAPRIEXCO No. 4).	
Seafood Joint Stock Company No. 4 Branch Dongtam Fisheries Processing Company (also known as DOTASEAFOODCO or Seafood Joint Stock Company No. 4—Branch Dong Tam Fisheries Processing Company).	
Seagate Logistics Co., Ltd.	
Seavina Joint Stock Company (also known as Seavina).	
Sobi Co., Ltd.	
Song Bien Co., Ltd.	
Southern Fishery Industries Company, Ltd. (also known as South Vina, South Vina Co., Ltd., Southern Fishery Industries Co., Ltd., Southern Fisheries Industries Company, Ltd., or Southern Fisheries Industries Company Limited).	
Sunrise Corporation.	
Tam Le Food Co., Ltd.	
Tan Thanh Loi Frozen Food Co., Ltd.	
TG Fishery Holdings Corporation (also known as TG or Tg Fishery Holdings Corp.).	
Thanh Binh Dong Thap One Member Company Limited (also known as Thanh Binh Dong Thap or Thanh Binh Dong Thap Ltd.).	
Thanh Dat Food Service And Trading.	
Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung).	
Thanh Phong Fisheries Corp.	
The Great Fish Company, LLC.	
Thien Ma Seafood Co., Ltd. (also known as THIMACO, Thien Ma, Thien Ma Seafood Company, Ltd., or Thien Ma Seafoods Co., Ltd.).	
Thinh Hung Co., Ltd.	
Thuan An Production Trading and Service Co., Ltd. (also known as TAFISHCO, Thuan An Production Trading and Services Co., Ltd., or Thuan An Production Trading & Service Co., Ltd.).	
Thuan Nhan Phat Co., Ltd.	
Thuan Phuoc Seafoods and Trading Corporation.	
To Chau Joint Stock Company (also known as TOCHAU, TOCHAU JSC, or TOCHAU Joint Stock Company).	
Tran Thai Food Joint Stock.	
Trang Thuy Seafood Co., Ltd.	
Trinity Vietnam Co., Ltd.	
Trong Nhan Seafood Co., Ltd.	
Truong Phat Seafood Jsc.	
Van.	
Van Y Corp.	

	Period to be reviewed
Viet Hai Seafood Company Limited (also known as Viet Hai, Viet Hai Seafood Co., Ltd., Viet Hai Seafood Co., Vietnam Fish-One Co., Ltd., or Fish One).	
Viet Long Seafood Co., Ltd.	
Viet Phat Aquatic Products Co., Ltd.	
Viet Phu Foods & Fish Co., Ltd.	
Viet Phu Foods and Fish Corporation (also known as Vietphu, Viet Phu, Viet Phu Food and Fish Corporation, or Viet Phu Food & Fish Corporation).	
Viet World Co., Ltd.	
Vietnam Seaproducts Joint Stock Company (also known as Seaprodex or Vietnam Seafood Corporation—Joint Stock Company).	
Vif Seafood Factory.	
Vinh Hoan Corporation [11].	
Vinh Long Import-Export Company (also known as Vinh Long, Imex Cuu Long, Vinh Long Import/Export Company).	
Vinh Quang Fisheries Corporation (also known as Vinh Quang, Vinh Quang Fisheries Corp., Vinh Quang Fisheries Joint Stock Company, or Vinh Quang Fisheries Co., Ltd.).	
Vietnam-wide Entity.	
SOCIALIST REPUBLIC OF VIETNAM: Seamless Refined Copper Pipe and Tube, A–552–831	8/1/22–7/31/23
Daikin Air Conditioning (Vietnam) Joint Stock Company.	
Hailiang (Vietnam) Copper Manufacturing Company Ltd.	
Hong Kong Hailiang Metal Trading Ltd.	
ICOOL USA Incorporated.	
Jintian Copper Industrial (Vietnam) Company Ltd.	
Kami Industry Joint Stock Company.	
KBS Taisei Refrigeration Electric Co., Ltd.	
KP Resources Inc.	
LS Metal Vina Limited Liability Company.	
THAILAND: Steel Propane Cylinders, A–549–839	8/1/22–7/31/23
Sahamitr Pressure Container Public Company Limited.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Metal Lockers and Parts Thereof, A–570–133	8/1/22–7/31/23
Hangzhou Evernew Machinery & Equipment Company Limited.	
Jiangsu Wanlong Special Containers Co., Ltd.	
Kunshan Dongchu Precision Machinery Co., Ltd.	
Ningbo Safewell Group Smart Security Products Co., Ltd.	
Ningbo Safewell Safes.	
Safewell Group Holdings, Ltd.	
Tianjin Jia Mei Metal Furniture Ltd.	
Xingyi Metalworking Technology (Zhejiang) Co., Ltd.; Zhejiang Xingyi Metal Products Co., Ltd.	
Xpedition LLC DBA Safewell Gr.	
Zhejiang Safewell Security Technology Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Hydrofluorocarbon Blends and Components Thereof, A–570–028	8/1/22–7/31/23
Changzhou Vista Chemical Co., Ltd.	
Daikin Fluorochemicals (China) Co., Ltd.	
Dongyang Weihua Refrigerants Co., Ltd.	
Hangzhou Icetop Refrigeration Co., Ltd.	
ICOOL Chemical Co., Ltd.	
Jiangsu Sanmei Chemicals Co., Ltd.	
Oasis Chemical Co., Limited.	
Puremann, Inc.	
Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.	
Superfy Industrial Limited.	
Tianjin Synergy Gases Products, Co., Ltd.	
Weitron International Refrigeration Equipment (Kunshan) Co., Ltd.	
Weitron International Refrigeration Equipment Co., Ltd.	
Yangfar Industry Co., Ltd.	
Zhejiang Lantian Environmental Protection Fluoro Material Co. Ltd.	
Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd.	
Zhejiang Sanmei Chemical Ind. Co., Ltd.; Zhejiang Sanmei Chemical Industry Co., Ltd.	
Zhejiang Yonghe Refrigerant Co., Ltd.	
Zhejiang Zhonglan Refrigeration Technology Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Light-Walled Rectangular Pipe and Tube, A–570–914	8/1/22–7/31/23
Hangzhou Ailong Metal Product Co., Ltd.	
Hoa Phat Steel Pipe Company Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Passenger Vehicle and Light Truck Tires, A–570–016	8/1/22–7/31/23
Anhui Jichi Tire Co., Ltd.	
Giti Radial Tire (Anhui) Company, Ltd.; Giti Tire (Anhui) Company, Ltd.; Giti Tire (Chongqing) Company, Ltd.; Giti Tire (Fujian) Company, Ltd.; Giti Tire Global Trading Pte. Ltd.; Giti Tire Greatwall Company, Ltd.; Giti Tire (Hualin) Company, Ltd.; Giti Tire (Yinchuan) Company, Ltd.	
Hankook Tire China Co., Ltd.	
Jiangsu General Science Technology Co., Ltd.	
Jiangsu Hankook Tire Co., Ltd.	
Kinforest Tyre Co., Ltd.	
Prinx Chengshan (Shandong) Tire Co., Ltd.	
Qingdao Fullrun Tech Tyre Corp., Ltd.	

	Period to be reviewed
Qingdao Fullrun Tyre Corp., Ltd.	
Qingdao Keter International Co., Limited.	
Qingdao Lakesea Tyre Co., Ltd.	
Qingdao Nexen Tire Corporation.	
Qingdao Powerich Tyre Co., Ltd.	
Qingdao Sunfulcess Tyre Co., Ltd.	
Qingdao Transamerica Tire Industrial Co., Ltd.	
Qingdao Vitour United Corp.	
Dynamic Tire Corp.; Shandong Jinyu Industrial Co.; Sailun Tire International Corp.; Husky Tire Corp.; Seatex PTE. Ltd.; Seatex International Inc.; Sailun Group (HongKong) Co., Limited; Sailun HK; Sailun Jinyu HK; Sailun Group Co., Ltd.; Sailun Group; Sailun Jinyu Group Co., Ltd.; Sailun Jinyu.	
Sailun Tire Americas Inc.	
Shandong Changfeng Tyres Co., Ltd.	
Shandong Haohua Tire Co., Ltd.	
Shandong Hongsheng Rubber Technology Co., Ltd.	
Shandong Linglong Tyre Co., Ltd.	
Shandong New Continent Tire Co., Ltd.	
Shandong Province Sanli Tire Manufacture Co., Ltd.	
Shandong Qilun Rubber Co., Ltd.	
Shandong Transtone Tyre Co., Ltd.	
Shandong Wanda Boto Tyre Co., Ltd.	
Sumitomo Rubber (Changshu) Co., Ltd.; Sumitomo Rubber (Hunan) Co., Ltd.; Sumitomo Rubber Industries, Ltd.	
Tianjin Wanda Tyre Group Co., Ltd.	
Triangle Tyre Co., Ltd.	
Winrun Tyre Co., Ltd.	
Zhaoqing Junhong Co., Ltd.	
Zhongce Rubber Group Company, Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Polyethylene Retail Carrier Bags, A–570–886	8/1/22–7/31/23
Dong Guan (Dong Wan) Nozawa Plastic Co., Ltd.; Dongguan Huang Jiang United Wah Plastic Bag; Dongguan Huang Jiang United Wah Plastic Bag Factory; Dongguan Nozawa Plastic Co., Ltd.; Dongguan Nozawa Plastic Products Co., Ltd; Dongguan Nozawa Plastics; Dongwan Nozawa Plastics; NOZAWA; United Power Packaging; United Power Packaging Limited; United Power Packaging Ltd.; UNITED POWER PACKAGING, LTD.; DONGGUAN NOZAWA PLASTICS PRODUCTS CO., LTD.	
Crown Polyethylene Products (International) Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Steel Nails, A–570–909	8/1/22–7/31/23
Hebei Minmetals Co., Ltd.	
Nanjing Caiqing Hardware Co., Ltd.	
Nanjing Yuechang Hardware Co., Ltd.	
Shandong Qingyun Hongyi Hardware Products Co., Ltd.	
Shanghai Yueda Nail Co., Ltd.	
Shanghai Yueda Nails Industry Co., Ltd.	
Shanxi Hairui Trade Co., Ltd.	
S-Mart (Tianjin) Technology Development Co., Ltd.	
Suntec Industries Co., Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
Xi'an Metals and Minerals Import & Export Co., Ltd.	
UKRAINE: Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe, A–823–819	8/1/22–7/31/23
Interpipe Europe S.A.	
Interpipe Ukraine LLC/LLC Interpipe Niko Tube/PJSC Interpipe Niznedneprovksy Tube Rolling Plant.	
UKRAINE: Silicomanganese, A–823–805	8/1/22–7/31/23
Joint Stock Company Zaporozhsky Ferroalloy Plant.	
Nikopol Ferroalloy Plant.	
CVD Proceedings	
INDIA: Finished Carbon Steel Flanges, C–533–872	1/1/22–12/31/22
Adinath International.	
Aditya Forge Limited.	
Allena Group.	
Alloyed Steel.	
Balkrishna Steel Forge Pvt. Ltd.	
Bansidhar Chiranjilal.	
Bebitz Flanges Works Private Limited.	
C. D. Industries.	
Cetus Engineering Private Limited.	
CHW Forge.	
CHW Forge Pvt. Ltd.	
Citizen Metal Depot.	
Corum Flange.	
DN Forge Industries.	
Echjay Forgings Limited.	
Echjay Industries Pvt. Ltd.	
Falcon Valves and Flanges Private Limited.	
Heubach International.	

	Period to be reviewed
Hindon Forge Pvt. Ltd.	
JAI Auto Pvt Ltd.	
Jiten Steel Industries.	
Kinnari Steel Corporation.	
M F Rings and Bearing Races Ltd.	
Mascot Metal Manufacturers.	
Munish Forge Private Limited.	
Norma (India) LimitedOM Exports.	
Punjab Steel Works.	
R. D. Forge.	
R. N. Gupta & Company Limited.	
Raaj Sagar Steels.	
Ravi Ratan Metal Industries.	
Renin Piping Products.	
Rolex Fittings India Pvt. Ltd.	
Rollwell Forge Engineering Components And Flanges.	
Rollwell Forge Pvt. Ltd.	
SHM (ShinHeung Machinery).	
Siddhagiri Metal & Tubes.	
Sizer India.	
Steel Shape India.	
Sudhir Forgings Pvt. Ltd.	
Tirupati Forge Pvt. Ltd.	
Uma Shanker Khandelwal & Co.	
Umashanker Khandelwal Forging Limited.	
USK Exports Private Limited.	
MALAYSIA: Utility Scale Wind Towers, C–557–822	1/1/22–12/31/22
CS Wind Corporation.	
CS Wind China Co., Ltd.	
CS Wind Malaysia Sdn. Bhd.	
CS Wind Taiwan Ltd.	
CS Wind Turkey Kule İmalatı A.Ş.	
CS Wind UK Limited.	
CS Wind Vietnam Co., Ltd.	
CS Wind Portugal, S.A.	
GE Renewable Energy.	
GE Renewable Malaysia Sdn. Bhd.	
Nordex SE.	
Siemens Gamesa Renewable Energy, S.A.	
REPUBLIC OF KOREA: Stainless Steel Sheet and Strip in Coils, C–580–835	1/1/22–12/31/22
Geumok Tech. Co., Ltd.	
Hyundai BNG Steel.	
Hyundai Steel Co., Ltd.	
Samsung STS Co., Ltd.	
SOCIALIST REPUBLIC OF VIETNAM: Steel Nails,[12] C–552–819	1/1/22–12/31/22
SPAIN: Ripe Olives, C–469–818	1/1/22–12/31/22
Aceitunera del Norte de Cáceres, S.Coop.Ltda. de 2° Grado.	
Agro Sevilla Aceitunas S.COOP.AND.	
Alimentary Group DCoop S.Coop. And.	
Angel Camacho Alimentacion, S.L.; Cuarterola S.L.; Cucanoche S.L.; Grupo Angel.	
Camacho, S.L.	
Plasoliva, S.L.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Metal Lockers and Parts Thereof, C–570–134	1/1/22–12/31/22
Hangzhou Evernew Machinery & Equipment Company Limited.	
Hangzhou Xline Machinery.	
Hangzhou Xline Machinery & Equipment Co., Ltd.	
Jiangsu Wanlong Special Containers Co., Ltd.	
Kunshan Dongchu Precision Machinery Co., Ltd.	
Pinghu Chenda Storage Office Co., Ltd.	
Tianjin Jia Mei Metal Furniture Ltd.	
Xingyi Metalworking Technology (Zhejiang) Co., Ltd.	
Zhejiang Xingyi Metal Products Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Light-Walled Rectangular Pipe and Tube, C–570–915	1/1/22–12/31/22
Hoa Phat Steel Pipe Company Limited.	
THE PEOPLE'S REPUBLIC OF CHINA: Passenger Vehicle and Light Truck Tires, C–570–017	1/1/22–12/31/22
Anhui Jichi Tire Co., Ltd.	
Anhui Prime Cord Fabrics Company Ltd.; GITI Radial Tire (Anhui) Company Ltd.	
GITI Steel Cord (Hubei) Company Ltd.; GITI Tire (China) Investment Company Ltd.	
GITI Tire (Hualin) Company Ltd.; GITI Tire (USA) Ltd.; GITI Tire Global Trading Pte. Ltd.; GITI Tire (Fujian) Co., Ltd.	
Jiangsu General Science Technology Co., Ltd.	
Qingdao Fullrun Tyre Corp., Ltd.	
Qingdao Keter International Co., Limited.	
Qingdao Lakesea Tyre Co., Ltd.	

	Period to be reviewed
Qingdao Sentury Tire Co., Ltd. Qingdao Sunfulcess Tyre Co., Ltd. Sailun Group Co., Ltd. Sailun Group (Hong Kong) Co., Limited. Shandong Haohua Tire Co., Ltd. Shandong Hongsheng Rubber Technology Co., Ltd. Shandong New Continent Tire Co., Ltd. Shandong Province Sanli Tire Manufacture Co., Ltd. Shandong Transtone Tyre Co., Ltd. Shandong Qilun Rubber Co., Ltd. Sumitomo Rubber (Changshu) Co. Ltd.; Sumitomo Rubber (China) Co., Ltd.; Sumitomo. Rubber (Hunan) Co., Ltd. Sumitomo Rubber Industries, Ltd. Winrun Tyre Co., Ltd. Zhaoqing Junhong Co., Ltd.	

Suspension Agreements

None.

[6] Renin Piping Products (Renin) filed a letter clarifying that the name of the company for which it intended to request a review was ''Renin Piping Products,'' and not the originally requested name ''Renin Piping Product.'' *See* Renin's letter, ''Clarification for name of the company in request letter for {Antidumping Duty} Administrative Review for August 1, 2022 to July 31, 2023 of finished carbon steel flanges from India,'' dated September 12, 2023.

[7] Norma (India) Limited (Norma), a foreign exporter of finished carbon steel flanges, filed a letter clarifying that the correct name of the company for which it intended to request a review is ''Uma Shanker Khandelwal & Co.,'' not the originally requested name ''Umashanker Khandelwal and Co.'' *See* Norma's letter, ''Clarification for name in request for review in {antidumping duty} review request,'' dated September 12, 2023 (Norma AD Clarification Letter).

[8] Weldbend Corporation (Weldbend) initially requested a review for ''USK Export Private Limited.'' Weldbend later clarified that it intended to request a review for ''USK Exports Private Limited.'' *See* Memorandum, ''Phone Conversation with an Interested Party,'' dated September 29, 2023. Additionally, Norma filed a letter clarifying that the correct name of the company for which it intended to request a review is ''USK Exports Private Limited,'' not the originally requested name ''USK Export Private Limited.'' *See* Norma AD Clarification Letter.

[9] In the initiation notice that published on September 11, 2023 (88 FR 62322), Commerce incorrectly listed the period of review for this administrative review and hereby corrects that notice.

[10] We also received a request for review of Regiomontana de Perfiles y Tubos S.A. de C.V. However, Commerce determined that Regiomontana de Perfiles y Tubos S. de R.L. de C.V. is the successor-in-interest to Regiomontana de Perfiles y Tubos S.A. de C.V. *See Light-Walled Rectangular Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 33646 (June 25, 2021). Thus, we are not initiating a review of Regiomontana de Perfiles y Tubos S.A. de C.V.

[11] Vinh Hoan Corporation is part of a single entity with: (1) Van Duc Food Export Joint Stock Company (also known as Van Duc); (2) Van Duc Tien Giang Food Export Company (also known as VDTG or Van Duc Tien Giang Food Exp. Co.); (3) Thanh Binh Dong Thap One Member Company Limited (also known as Thanh Binh Dong Thap or Thanh Binh Dong Thap Ltd.); and (4) Vinh Phuoc Food Company Limited (also known as Vinh Phuoc or VP Food).

[12] In the initiation notice that published on September 11, 2023 (88 FR 62322), Commerce incorrectly listed the period of review for this administrative review and hereby corrects that notice.

[13] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether AD duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of ADs or CVDs on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant ''gap'' period of the order (*i.e.,* the period following the expiry of provisional measures and before definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Review the *Final Rule,*[13] available at *www.govinfo.gov/content/pkg/FR-2013-07-17/pdf/2013-17045.pdf,* prior to

submitting factual information in these segments. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[14]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule.*[15] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[16] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

Notification to Interested Parties

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: October 12, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–22946 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Streamlined Supply Chain Information Collection Request (ICR)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on 07/24/2023 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Institute of Standards and Technology (NIST).

Title: Streamlined Supply Chain Information Collection Request (ICR).

OMB Control Number 0693–XXXX.

Form Number(s): None.

Type of Request: Regular.

Number of Respondents: 210.

Average Hours per Response: 42 hours.

Burden Hours: 8,820 hours.

Needs and Uses: The CHIPS Program Office (CPO) intends to release a notice of funding opportunity (NOFO) to solicit applications for CHIPS Incentives that will support investments in the construction, expansion, and modernization of commercial facilities in the United States for semiconductor materials and semiconductor manufacturing equipment for which the capital investment falls below $300 million.

Information collected as part of the application process may include but is not limited to project descriptions, project timelines, narrative justifications for incentives, applicant financial information, and relevant project environmental and workforce information.

Affected Public: Business or other for-profit organizations.

Frequency: Once.

Respondent's Obligation: Mandatory to be eligible for CHIPS Act funding.

Legal Authority: CHIPS Act of 2022 (Division A of Pub. L. 117–167) (the Act).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–23001 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Boundary Expansion for the South Slough National Estuarine Research Reserve

AGENCY: Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of proposed boundary expansion and availability of a draft environmental assessment; request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is considering a request to expand the boundary of the South Slough National

[14] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

[15] *See* section 782(b) of the Act; *see also Final Rule;* and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[16] *See* 19 CFR 351.302.

Estuarine Research Reserve (SSNERR or the Reserve) and is soliciting comments from the public on the proposed boundary expansion. The public is also invited to comment on the draft environmental assessment for the proposed boundary expansion.

DATES: Comments must be received at the appropriate address (see **ADDRESSES**) on or before November 17, 2023.

ADDRESSES: The draft environmental assessment describing the proposed boundary expansion can be downloaded or viewed at *coast.noaa.gov/czm/compliance/*. The document is also available by sending a written request to the point of contact identified below (see **FOR FURTHER INFORMATION CONTACT**).

Comments may be submitted by the following method:

Federal eRulemaking Portal: https://www.regulations.gov. Submit electronic comments via the Federal eRulemaking Portal and search for Docket Number NOAA–NOS–2023–0132. Enter N/A in the required fields to remain anonymous).

Mail: Submit written comments to John King, Office for Coastal Management, 1305 East-West Highway, N/ORM, 10th Floor, Silver Spring, MD 20910.

Comments submitted by any other method or after the comment period may not be considered. NOAA will accept anonymous comments; however, the written comments NOAA receives are a part of the public record, and the entirety of the comment, including the name of the commenter, email address, attachments, and other supporting materials, will be publicly accessible. Sensitive personally identifiable information, such as account numbers and Social Security numbers, should not be included with the comment. Comments that are not related to the proposed boundary expansion of the South Slough National Estuarine Research Reserve or that contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

FOR FURTHER INFORMATION CONTACT: Brian Bloodworth, NOAA Office for Coastal Management, 1305 East West Highway, Silver Spring MD 20910, or *brian.bloodworth@noaa.gov,* 1–304–279–1460.

SUPPLEMENTARY INFORMATION:

I. Background

The Oregon Department of State Lands, as lead agency for managing the South Slough National Estuarine Research Reserve, has requested approval to modify the Reserve's geographic boundary by adding eight new parcels, including 1,771 acres (approximately 7.17 square km), which comprises the addition of: 30 acres (0.12 sq. km) to correct for the use of current GIS-based technology in calculating updated acreage for the boundary area since it was established in 1974; 1,541 acres (6.24 sq. km) of lands acquired since 2008 that are owned and managed by the Reserve outside of the SSNERR boundary; and 200 acres (0.81 sq.km) of State-owned waters in South Slough that connect the lands acquired since 2008. In addition, SSNERR is also exploring two proposed future acquisitions totaling 105 acres (0.42 sq. km), and a land-swap for an entrance parcel expansion. Pursuant to 15 CFR 921.33(a), NOAA may require public notice, including notice in the **Federal Register** and an opportunity for public comment, before approving a boundary or management plan change. In addition, boundary changes involving the acquisition of properties not listed in the Reserve's management plan or final environmental impact statement require public notice and the opportunity for comment. Since the new parcels were not evaluated in the Reserve's original environmental impact statement, NOAA has developed an environmental assessment pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.,* and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508), to analyze the effects of the requested change, and is publishing notice of the availability of this draft environmental assessment for public review and comment on the proposed boundary change and associated environmental assessment.

II. NOAA Proposed Action and Alternatives

In accordance with NEPA and the Council on Environmental Quality Regulations, NOAA is releasing a draft environmental assessment. NOAA's proposed action would be to approve a change in the boundary of the SSNERR to add 1,771 acres (7.17 sq. km) to the current boundary.

The draft environmental assessment identifies and assesses potential environmental impacts associated with the proposed boundary expansion, and identifies a preferred alternative and a no action alternative. The preferred alternative would add 1,771 acres (7.17 sq. km) to the SSNERR's boundary, which would result in a net increase in size to 6,542 acres (26.47 sq. km), and 6,647 acres (26.90 sq. km) if all proposed future land acquisitions are made. As a result, NOAA believes the proposed boundary expansion would formally incorporate land parcels within the SSNERR, which would protect lands of biological importance, allow the SSNERR to further its research and stewardship mission, provide additional lands/uses for public use, and provide an opportunity for more integrated ecosystem management. Therefore, NOAA prefers the proposed boundary expansion over the no action alternative.

Authority: 16 U.S.C.1451 *et seq.;* 15 CFR 921.33.

Keelin S. Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2023–22583 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD429]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Geophysical Survey in the Ross Sea, Antarctica

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 United States National Science Foundation (NSF) for the renewal of their currently active incidental harassment authorization (IHA) (hereinafter, the ''initial IHA'') to take marine mammals incidental to a geophysical survey in the Ross Sea, Antarctica because NSF's activities 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 November 2, 2023.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources (OPR), NMFS, and should be submitted via email to *ITP.harlacher@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/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Jenna Harlacher, 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 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: *https://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

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA renewal) with respect to potential impacts on the human environment.

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 December 15, 2022, NMFS issued an IHA to NSF to take marine mammals incidental to conducting a low energy seismic survey and icebreaking in the Ross Sea (87 FR 77,796, December 20, 2022), effective from December 15, 2022 through December 14, 2023. On September 7, 2023, 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 authorization is requested consist of activities that are covered by the initial authorization but will not be completed prior to its expiration. As required, the applicant also provided a preliminary monitoring report, which confirms that the applicant has implemented the required mitigation and monitoring and which also shows 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

NSF initially described their activities as including two main survey areas (*i.e.,* the Ross Bank and the Drygalski Trough). The purpose of the survey was to collect low energy 2D seismic reflection data, along with oceanographic and sediment samples to understand if, how, when, and why the Ross Ice Shelf unpinned from the Ross Bank in the recent geologic past.

The initial planned survey involved one source vessel, RVIB *Palmer,* using an airgun array cluster consisting of two 105 cubic inches (in^3) GI guns, with a total discharge volume of 210 in^3, deployed at a depth of approximately 1–4 meters (m) below the surface to conduct both of the survey segments. During the Ross Bank survey, ~1920 kilometers (km) of seismic data was planned to be collected and during the Drygalski Trough survey, ~1800 km of seismic acquisition was planned to occur, for a total of 3720 line km. During the Drygalski Trough survey portion, 2 deployments of 10 Ocean Bottom Seismometers (OBS) were planned to occur along 2 different seismic refraction lines.

The seismic surveys would occur within the Ross Sea in water depths ranging from ~150 to 1100 m. The initial survey was expected to consist of 31 days at sea, including approximately 19 days of seismic operations (including 2 days of sea trials and/or contingency), 1 day of OBS deployment/recovery, and approximately 11 days of transit.

Due to logistical challenges, the initial survey was not successfully completed. There was a long delay in leaving New Zealand due to an enforced quarantine after survey members tested positive for COVID–19 and only a subset of the survey activities in the initial IHA were completed. Specifically, under the initial IHA, the NSF completed surveys within the Ross Bank Area but not the Drygalski Trough area.

This renewal request is to cover a subset of the activities covered in the initial IHA that will not be completed during the effective period of the initial IHA due to the aforementioned logistical challenges. The remaining survey activities would include the survey within the Dygalski Trough area and icebreaking and are expected to occur during February 2024 (11 days of transit, 9 days of seismic surveys, and 1 day of OBS deployment and retrieval).

The potential impacts of the NSF's proposed activity on marine mammals could involve acoustic stressors and are unchanged from the impacts described in the initial IHA. Acoustic stressors include effects of the airgun array from the low-energy seismic surveys and icebreaking. The effects of underwater disturbance from the NSF's proposed activities have the potential to result in Level B harassment of marine mammals in the specified geographic region.

Detailed Description of the Activity

A detailed description of the survey activities for which incidental take is proposed here may be found in the notices of the proposed and final IHAs for the initial authorization (87 FR 59204, September 29, 2022; 87 FR 77796, December 20, 2022). As previously mentioned, this request is for a subset of the activities analyzed for the initial IHA that would not be completed prior to its expiration due to logistical challenges. The timing, and nature of the activities, including the types of equipment planned for use, are identical to those described in the previous notice for the initial IHA. The proposed renewal IHA would be effective from December 15, 2023 through December 14, 2024.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which renewal authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the notice of the proposed IHA for the initial authorization (87 FR 59204, September 29, 2022). NMFS has reviewed the monitoring data from the initial IHA, recent 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 (87 FR 59204, September 29, 2022).

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 notice of the proposed IHA for the initial authorization (87 FR 59204, September 29, 2022). NMFS has reviewed the monitoring data from the initial IHA, recent Stock Assessment Reports, 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 (87 FR 59204, September 29, 2022; 87 FR 77796, December 20, 2022). Specifically, the number of survey days, specified geographic region, specified activities and marine mammal occurrence data applicable to this authorization remain unchanged from the previously issued IHA. Similarly, the stocks taken, methods of take, take estimates and type of take (*i.e.,* Level B harassment) remain unchanged from the previously issued IHA. The number of takes proposed for authorization in this renewal IHA are a subset of the initial authorized takes that better represent the amount of activity NSF has left to complete. These estimated takes, which reflect the remaining survey days and icebreaking

activities, are indicated below in Table 1.

TABLE 1—PROPOSED NUMBER OF TAKES BY LEVEL B HARASSMENT BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK

Species	Level B Take		Total take proposed	Population abundance	Percent of population
	Drygalski survey	Icebreaking			
Humpback whale	159	266	425	42,000	1.0
Fin whale	152	254	405	38,200	1.1
Blue whale	32	54	86	1,700	5.1
Sei whale	23	38	61	10,000	0.6
Antarctic minke whale	418	700	1,118	515,000	0.2
Sperm whale	49	82	131	12,069	1.1
Southern bottlenose whale	58	98	156	599,300	<0.1
Arnoux's beaked whale	66	111	178	599,300	<0.1
Strap-toothed beaked whale	22	37	59	599,300	<0.1
Killer whale	103	173	276	25,000	1.1
Long-finned pilot whale	198	331	529	200,000	0.3
Hourglass dolphin	94	157	251	144,300	0.2
Crabeater seal	3,361	5,629	8,990	1,700,000	0.5
Leopard seal	132	221	353	220,000	0.2
Ross seal	82	138	220	250,000	0.1
Weddell seal	527	883	1,410	1,000,000	0.1
Southern elephant seal	1	1	2	750,000	<0.1

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the initial IHA and the discussion of the least practicable adverse impact determination included in **Federal Register** notice announcing the issuance of the initial IHA remains applicable and accurate (87 FR 77796, December 20, 2022). The following mitigation, monitoring, and reporting measures are proposed for this renewal:

- Mitigation measures that would be adopted during the planned survey include, but are not limited to: (1) Vessel speed or course alteration, provided that doing so would not compromise operation safety requirements. (2) GI-airgun shut down within shutdown zones, and (3) ramp-up procedures;
- During survey operations (*e.g.,* any day on which use of the acoustic source is planned to occur, and whenever the acoustic source is in the water, whether activated or not), a minimum of one protected species observer (PSO) must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) and 30 minutes prior to and during ramp-up of the airgun array. Visual monitoring of the exclusion and buffer zones must begin no less than 30 minutes prior to ramp-up and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset. Visual PSOs must coordinate to ensure 360 degree visual coverage around the vessel from the most appropriate observation posts, and must conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner;
- The PSOs would establish a minimum exclusion zone (EZ) with a 100 m radius with an additional 100 m buffer zone (total of 200 m). The 200 m zone would be based on radial distance from the edge of the airgun array (rather than being based on the center of the array or around the vessel itself);
- An extended 500 m EZ must be established for beaked whales, large whales with a calf (defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult), and an aggregation of six or more whales during all survey effort. No buffer zone is required;
- Ramp-up is the gradual and systematic increase of emitted sound levels from an airgun array. Ramp-up would begin with one GI airgun 45 cu in first being activated, followed by the second after 5 minutes. The intent of pre-clearance observation (30 minutes) is to ensure no marine mammals are observed within the buffer zone prior to the beginning of ramp-up. During pre-clearance is the only time observations of marine mammals in the buffer zone would prevent operations (*i.e.,* the beginning of ramp-up). The intent of ramp-up is to warn protected species of pending seismic operations and to allow sufficient time for those animals to leave the immediate vicinity. A ramp-up procedure, involving a stepwise increase in the number of airguns are activated and the full volume is achieve, is required at all times as part of the activation of the acoustic source;
- The shutdown of an airgun array requires the immediate de-activation of all individual airgun elements of the array. Any PSO on duty will have the authority to delay the start of survey operations or to call for shutdown of the acoustic source if a marine mammal is detected within the applicable exclusion zone. The operator must also establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. When the airgun array is active (*i.e.,* anytime one or more airguns is active, including during ramp-up) and a marine mammal appears within or enters the applicable EZ, the acoustic source will be shut down. When shutdown is called for by a PSO, the acoustic source will be immediately deactivated and any dispute resolved only following deactivation;
- Following a shutdown, airgun activity would not resume until the marine mammal has cleared the EZ. The animal would be considered to have cleared the EZ if it is visually observed to have departed the EZ, or it has not been seen within the EZ for 15 minutes in the case of small odontocetes and pinnipeds, and 30 minutes for

mysticetes and all other odontocetes, including sperm and beaked whales, with no further observation of the marine mammal(s);

- The NSF must deploy vessel strike avoidance measures;
- The NSF must submit a draft report detailing all activities and monitoring results within 90 calendar days of the completion of the survey or expiration of the IHA, whichever comes sooner;
- The NSF must submit a final report within 30 days following resolution of comments on the draft report from NMFS; and
- The NSF must report injured or dead marine mammals.

Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA (87 FR 59204, September 29, 2022) and solicited public comments on both our proposal to issue the initial IHA for geophysical survey in the Ross Sea and on the potential for a renewal IHA, should certain requirements be met. During the 30-day public comment period, NMFS received no substantive comments on either the proposal to issue the initial IHA for the NSF's survey activities or on the potential for a renewal IHA.

Preliminary Determinations

NSF's proposed activities consist of a subset of activities analyzed in the initial IHA. In analyzing the effects of the activities for the initial IHA, NMFS determined that NSF's activities would have a negligible impact on the affected species or stocks and that authorized take numbers of each species or stock were small relative to the relevant stocks (*e.g.,* less than one-third the abundance of all stocks). The mitigation measures and monitoring and reporting requirements as described above are 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. 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) NSF'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

The NMFS OPR Endangered Species Act (ESA) Interagency Cooperation Division issued a Biological Opinion under section 7 of the ESA (16 U.S.C. 1531 *et seq.*) on the issuance of an IHA and potential renewal IHA to NSF under section 101(a)(5)(D) of the MMPA by the NMFS OPR Permits and Conservation Division. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of ESA-listed blue whales, fin whales, sei whales, and sperm whales.

Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a renewal IHA to NSF for conducting geophysical survey and icebreaking activities in the Ross Sea in the February 2024, 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/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* 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 12, 2023.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–22913 Filed 10–17–23; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Global Markets Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; revision to meeting date.

SUMMARY: The Commodity Futures Trading Commission (CFTC) published a notice in the **Federal Register** on September 8, 2023, concerning a meeting of the Global Markets Advisory Committee (GMAC or Committee) that was scheduled to occur on October 5, 2023, from 1:00 p.m. to 5:00 p.m. (Eastern Daylight Time). The September 8, 2023 notice is hereby amended to announce that the GMAC meeting has been rescheduled to November 6, 2023, from 9:00 a.m. to 12:00 p.m. (Eastern Time). The meeting will remain open to the public with options to attend in-person and virtually. The agenda for the meeting remains unchanged. At this meeting, the GMAC will hear a presentation from the GMAC's Global Market Structure Subcommittee on the Subcommittee's workstreams involving U.S. Treasury market reforms, global standards and best practices for market volatility controls and circuit breakers, improving liquidity across asset classes, and international alignment of trading and clearing obligations to address market fragmentation, and consider recommendations from the Subcommittee on such workstreams.

At this meeting, the GMAC will also hear a presentation from the GMAC's Technical Issues Subcommittee on the Subcommittee's workstreams involving international standardization and amalgamation of trade reporting for swaps market oversight, global coordination of market events, and improving efficiencies in post-trade processes, and consider recommendations from the Subcommittee on such workstreams. Additionally, the GMAC will hear a presentation from the GMAC's Digital Asset Markets Subcommittee on the Subcommittee's workstreams involving industry standards and best practices for tokenized asset markets, the regulation of non-fungible tokens (NFTs) and utility tokens, and identification of other issues to address in digital finance and tokenization of assets, non-financial activities and Web3, and blockchain technology and consider recommendations from the Subcommittee on such workstreams. Finally, the GMAC will also address procedural matters, including topics of discussion on a forward-looking basis.

DATES: The meeting date announced in the **Federal Register** at 88 FR 62068 on September 8, 2023 is amended. The rescheduled meeting will be held on November 6, 2023, from 9:00 a.m. to 12:00 p.m. (Eastern Time). Members of the public who wish to submit written statements in connection with the meeting should submit them by November 13, 2023.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 for GMAC members and the public. Members of the public may also attend the meeting virtually via teleconference or live webcast. You may submit public comments, identified by

Global Markets Advisory Committee, through the CFTC website at *https://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the website. If you are unable to submit comments online, contact Brigitte Weyls, Designated Federal Officer, via the contact information listed below to discuss alternate means of submitting your comments. Any statements submitted in connection with the committee meeting will be made available to the public, including publication on the CFTC website, *https://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Brigitte Weyls, GMAC Designated Federal Officer, Commodity Futures Trading Commission, 77 West Jackson Blvd., Suite 800, Chicago, IL 60604, (312) 596–0700; or Philip Raimondi, GMAC Alternate Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC, (202) 418–5000.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating on a first-come, first-served basis. Members of the public may also listen to the meeting by telephone by calling a domestic or international toll or toll-free number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation. The meeting will also be open to the public via teleconference.

Domestic Toll and Toll Free Numbers:

833 435 1820 U.S. Toll Free
833 568 8864 U.S. Toll Free
+1 669 254 5252 U.S. (San Jose)
+1 646 828 7666 U.S. (New York)
+1 646 964 1167 U.S. (U.S. Spanish Line)
+1 415 449 4000 U.S. (U.S. Spanish Line)
+1 551 285 1373 U.S.
+1 669 216 1590 US (San Jose)

International Numbers are available here: *https://cftc-gov.zoomgov.com/u/acVfb58GDz* and will also be posted on the CFTC's website, *https://www.cftc.gov,* on the page for the meeting, under Related Links.

Call-In/Webinar ID: 161 832 1892.

Passcode/Pin Code: 566144.

Members of the public may also view a live webcast of the meeting via the *www.cftc.gov* website. The meeting agenda may change to accommodate other Committee priorities. For agenda updates, please visit *https://www.cftc.gov/About/AdvisoryCommittees/GMAC.*

After the meeting, a transcript of the meeting will be published through a link on the CFTC's website, *https://www.cftc.gov.* Persons requiring special accommodations to attend the meeting because of a disability should notify the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Authority: 5 U.S.C. 1001 *et seq.*

Dated: October 12, 2023.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2023–22944 Filed 10–17–23; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER FINANCIAL PROTECTION BUREAU

Joint Statement on Fair Lending and Credit Opportunities for Noncitizen Borrowers Under the Equal Credit Opportunity Act

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice of joint statement.

SUMMARY: The Consumer Financial Protection Bureau (CFPB) and the Department of Justice (DOJ) have released a joint statement to assist creditors and borrowers in understanding the potential civil rights implications of a creditor's consideration of an individual's immigration status under the Equal Credit Opportunity Act (ECOA).

DATES: This information is current as of October 12, 2023.

FOR FURTHER INFORMATION CONTACT: Sonia Lin, Office of Consumer Populations, *sonia.lin@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: The Consumer Financial Protection Bureau (CFPB) and Department of Justice (DOJ) (collectively, the agencies) jointly issue this statement [1] to assist creditors and borrowers in understanding the potential civil rights implications of a creditor's consideration of an individual's immigration status under the Equal Credit Opportunity Act (ECOA). ECOA does not expressly prohibit consideration of immigration status, and, as explained further below, a creditor may consider an applicant's immigration status when necessary to ascertain the creditor's rights regarding repayment. However, creditors should be aware that unnecessary or overbroad reliance on immigration status in the credit decisioning process, including when that reliance is based on bias, may run afoul of ECOA's antidiscrimination provisions, and could also violate other laws.

I. ECOA and Regulation B

The agencies are charged with enforcing the antidiscrimination provisions of ECOA, requirements that are essential for ensuring fair, competitive and nondiscriminatory lending markets.[2] ECOA prohibits discrimination by a creditor in any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), marital status, age, an applicant's receipt of public assistance, or the good faith exercise of an applicant's rights under the Consumer Credit Protection Act. 15 U.S.C. 1691. Discouraging applications for credit on a prohibited basis is also prohibited.

ECOA is implemented by regulations found at 12 CFR part 1002, commonly known as ''Regulation B.'' ECOA and Regulation B apply to all types of credit, including both personal credit and business credit. Among other things, Regulation B sets forth ''[r]ules concerning evaluation of applications'' for credit. 12 CFR 1002.6. Under Regulation B, creditors shall not consider race, color, religion, national origin, or sex in any aspect of a credit transaction. 12 CFR 1002.6(b)(9).[3] Subject to that restriction, ''a creditor may consider any information obtained, so long as the information is not used to discriminate against an applicant on a prohibited basis.'' 12 CFR 1002.6(a).

Thus, while ECOA and Regulation B do not expressly prohibit consideration of immigration status, they do prohibit creditors from using immigration status to discriminate on the basis of national origin, race, or any other protected characteristic.[4] Regulation B notably

[1] This document is for informational purposes only. It does not impose any legal requirements, nor does it restrict the agencies' exercise of their authorities or confer rights of any kind, and it is not enforceable.

[2] The CFPB enforces ECOA with respect to any person subject to ECOA's coverage, with limited exclusions under the Consumer Financial Protection Act. 15 U.S.C. 1691c(a)(9). The DOJ enforces ECOA where there is evidence of a ''pattern or practice'' of discrimination. 15 U.S.C. 1691e(h).

[3] The list of prohibited bases in 12 CFR 1002.6(b)(9) does not include all characteristics protected under ECOA. The limited circumstances for considering certain other prohibited bases, such as age and marital status, are discussed elsewhere in 12 CFR 1002.6(b).

[4] *See Espinoza* v. *Farah Mfg. Co.,* 414 U.S. 86, 92, 94 (1973) (noting that title VII, which prohibits employment discrimination, ''prohibits discrimination on the basis of citizenship whenever it has the purpose or effect of discriminating on the basis of national origin''). Courts have generally

Continued

provides that a ''creditor may consider [an] applicant's immigration status or status as a permanent resident of the United States, and any additional information that may be necessary to ascertain the creditor's rights and remedies regarding repayment.'' 12 CFR 1002.6(b)(7). Regulation B does not, however, provide a safe harbor for all consideration of immigration status.

II. Issues Related to ECOA, Regulation B and Noncitizen Borrowers

While Regulation B describes certain conditions under which creditors may consider immigration status, creditors should remain cognizant that ECOA and Regulation B expressly forbid discrimination on the basis of certain protected characteristics, including race and national origin. Immigration status may broadly overlap with or, in certain circumstances, serve as a proxy for these protected characteristics. Creditors should therefore be aware that if their consideration of immigration status is not ''necessary to ascertain the creditor's rights and remedies regarding repayment'' and it results in discrimination on a prohibited basis, it violates ECOA and Regulation B.

Accordingly, creditors must ensure that they do not run afoul of ECOA's nondiscrimination provisions when considering immigration status. As a general matter, creditors should evaluate whether their reliance on immigration status, citizenship status, or ''alienage'' (*i.e.,* an individual's status as a non-citizen) is necessary or unnecessary to ascertain their rights or remedies regarding repayment. To the extent that a creditor is relying on immigration status for a reason other than determining its rights or remedies for repayment, and the creditor cannot show that such reliance is necessary to meet other binding legal obligations, such as restrictions on dealings with citizens of particular countries, 12 CFR part 1002, supp I. ¶ 2(z)–2, the creditor may risk engaging in unlawful discrimination, including on the basis of race or national origin, in violation of ECOA and Regulation B.

For example, if a creditor has a blanket policy of refusing to consider applications from certain groups of noncitizens regardless of the credit qualifications of individual borrowers within that group, that policy may risk violating ECOA and Regulation B. This risk could arise because some individuals within those groups may have sufficient credit scores or other individual circumstances that may resolve concerns about the creditor's rights and remedies regarding repayment.

In addition, the overbroad consideration of certain criteria—such as how long a consumer has had a Social Security Number—may implicate or serve as a proxy for citizenship or immigration status, which in turn, may implicate a protected characteristic under ECOA like national origin or race. Such overbroad policies may harm applicants with these protected characteristics without being necessary to ascertain the creditor's rights and remedies for repayment or to meet other binding legal obligations. 12 CFR 1002.6(b)(7); 12 CFR part 1002, supp I. ¶ 2(z)–2. Any claims that such policies are necessary to preserve the creditor's rights and remedies regarding repayment or to meet other binding legal obligations should be supported by evidence and cannot be a pretext for discrimination.

Similarly, if a creditor requires documentation, identification, or in-person applications only from certain groups of noncitizens, and this requirement is not necessary for assessing the creditor's ability to obtain repayment or fulfilling the creditors' legal obligations, that policy may violate ECOA and Regulation B by harming applicants on the basis of national origin or race.

In addition to potential violations of ECOA and Regulation B, creditors should be mindful of their obligations under 42 U.S.C. 1981 (section 1981).[5] Section 1981 provides, in relevant part, that ''[a]ll persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts . . . as is enjoyed by white citizens[,]'' 42 U.S.C. 1981(a), and has long been construed to prohibit discrimination based on alienage.[6] To the extent that a creditor's consideration of immigration status would violate Section 1981, courts have made clear that the limited consideration of immigration status that is permissible under ECOA and Regulation B does not conflict with Section 1981, creditors must therefore comply with both statutes.[7] Indeed, far from conflicting, courts have observed that ECOA's prohibition of national origin discrimination and Section 1981's prohibitions complement one another[8] and that discrimination that arises from overbroad restrictions on lending to noncitizens may violate either or both statutes.[9]

Conclusion

ECOA and other laws protect consumers and help ensure fair lending and credit opportunities for qualified borrowers. Creditors should be mindful of those obligations as they relate to noncitizen borrowers and ensure that

interpreted prohibitions under title VII and ECOA consistently. *See, e.g., Garcia* v. *Johanns,* 444 F.3d 625, 632 (D.C. Cir. 2006); *Mays* v. *Buckeye Rural Elec. Coop., Inc.,* 277 F.3d 873, 876 (6th Cir. 2002).

[5] Neither the CFPB nor the DOJ has enforcement or regulatory authority with regards to section 1981, and therefore discussion of this statute is limited to discussing its interaction with ECOA and relevant court decisions.

[6] *See, e.g., Anderson* v. *Conboy,* 156 F.3d 167, 173 (2d Cir. 1998) (explaining that ''use of 'persons' rather than 'citizens' was deliberate'' as Congress changed a previous version of the statute that mentioned ''all citizens'' to ''all persons'' in order to ''alleviate the plight of Chinese immigrants . . . burdened by state laws'' in addition to African Americans); *Duane* v. *GEICO,* 37 F.3d 1036, 1043 (4th Cir. 1994) (''under the plain language of the provision, 'all persons,' blacks and aliens, receive the same protection against discrimination''); *Sagana* v. *Tenorio,* 384 F.3d 731, 739 (9th Cir. 2004), *as amended* (Oct. 18, 2004) (''§ 1981 prohibits alienage discrimination''); *but see Resendiz* v. *Exxon Mobil Corp.,* 72 F.4th 623, 627 (4th Cir. 2023) (explaining that, although the Supreme Court has not said that Section 1981 protects against alienage-based discrimination, ''the Fourth Circuit has squarely done so'' in *Duane*).

[7] *See, e.g., Perez* v. *Wells Fargo & Co.,* No. 17–CV–00454–MMC, 2017 WL 3314797, at *3 (N.D. Cal. Aug. 3, 2017) (denying motion to dismiss for Section 1981 claim and rejecting contention that ECOA superseded Section 1981, noting that, although ECOA was a more specific statute, ECOA did not conflict with the section 1981 claims because ''[a] creditor can comply with § 1981 and the ECOA by not discriminating on the basis of any of the categories listed in the two statutes''); *Juarez* v. *Soc. Fin., Inc.,* No. 20–CV–03386–HSG, 2021 WL 1375868, at *7 (N.D. Cal. Apr. 12, 2021) (same) (also explaining that Regulation B ''does not empower a creditor to decline credit *solely* on the basis of immigration status''); *Garcia* v. *Harborstone Credit Union,* No. C21–5148 BHS, 2021 WL 3491745, at *3 (W.D. Wash. Aug. 9, 2021) (ECOA does not preclude Section 1981 claim for alienage discrimination); *Maystrenko* v. *Wells Fargo, N.A.,* No. 21–CV–00133–JD, 2021 WL 5232221, at *4 (N.D. Cal. Nov. 10, 2021) (same); *Camacho* v. *Alliant Credit Union,* No. 22–CV–01690–BLF, 2023 WL 149999, at *3 (N.D. Cal. Jan. 10, 2023) (same).

[8] *See, e.g., Juarez,* 2021 WL 1375868, at *7 (ECOA was ''not intended to limit any of the broad protections afforded by § 1981[,]'' but rather to ''expand protections against credit discrimination.'') (citing *Perez,* 2017 WL 3314797, at *2–4); *Maystrenko,* at *4 (noting that ECOA prohibits discrimination in lending on the basis of race, color, religion, national origin, and other grounds, 15 U.S.C. 1691(a), and section 1981 prohibits alienage discrimination).

[9] Supreme Court precedent makes clear that ''when two statutes are capable of co-existence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective.'' *Morton* v. *Mancari,* 417 U.S. 535, 551 (1974); *Radzanower* v. *Touche Ross & Co.,* 426 U.S. 148, 155 (1976) (explaining that unless there is an '''irreconcilable conflict' in the sense that there is a positive repugnancy between [statutes]'' both are regarded as effective).

credit decisions are based on non-discriminatory criteria.

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2023–22968 Filed 10–17–23; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0147]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Consolidated State Plan

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before November 17, 2023.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Melissa Siry, (202) 260–0926.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Consolidated State Plan.

OMB Control Number: 1810–0576.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 52.

Total Estimated Number of Annual Burden Hours: 108,155.

Abstract: This collection, currently approved by OMB under control number 1810–0576, covers the consolidated State plan (previously known as the consolidated State application), as well as assessment peer review guidance. Section 8302 of the ESEA, as amended by the ESSA, permits each SEA, in consultation with the Governor, to apply for program funds through submission of a consolidated State plan (in lieu of individual program State plans). The purpose of consolidated State plans as defined in ESEA is to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery; to enhance program integration; and to provide greater flexibility and less burden for State educational agencies. This is a request for extension without change for this collection.

Dated: October 12, 2023.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–22939 Filed 10–17–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER23–2334–003.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 2198R34 Kansas Power Pool NITSA NOA to be effective 9/1/2023.

Filed Date: 10/12/23.

Accession Number: 20231012–5008.

Comment Date: 5 p.m. ET 11/2/23.

Docket Numbers: ER23–2407–000.

Applicants: Strauss Wind, LLC.

Description: Second Supplement to July 14, 2023, Strauss Wind, LLC tariff filing.

Filed Date: 10/2/23.

Accession Number: 20231002–5387.

Comment Date: 5 p.m. ET 10/19/23.

Docket Numbers: ER23–2443–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2023–10–12_SA 4126 Deficiency Response METC-Wolverine-MPPA-Eagle GIA (J1389) to be effective 9/19/2023.

Filed Date: 10/12/23.

Accession Number: 20231012–5100.

Comment Date: 5 p.m. ET 11/2/23.

Docket Numbers: ER23–2749–000.

Applicants: AEUG Union Solar, LLC.

Description: Supplement to August 31, 2023 AEUG Union Solar, LLC tariff filing.

Filed Date: 10/10/23.

Accession Number: 20231010–5398.

Comment Date: 5 p.m. ET 10/31/23.

Docket Numbers: ER24–76–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revised SA No. 1313 NITSA Among PJM and Central Virginia Electric Cooperative to be effective 12/1/2023.

Filed Date: 10/12/23.

Accession Number: 20231012–5000.

Comment Date: 5 p.m. ET 11/2/23.

Docket Numbers: ER24–77–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2023–10–12_SA 2523 ITC-Pheasant Run 5th Rev GIA (J075 J466) to be effective 10/6/2023.

Filed Date: 10/12/23.

Accession Number: 20231012–5055.

Comment Date: 5 p.m. ET 11/2/23.

Docket Numbers: ER24–79–000.

Applicants: New York State Electric & Gas Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: New York State Electric & Gas Corporation submits tariff filing per 35.13(a)(2)(iii: NYISO–NYSEG Joint 205: Amended SGIA for Scipio Solar Project SA2527 (CEII) to be effective 9/27/2023.

Filed Date: 10/12/23.

Accession Number: 20231012–5075.

Comment Date: 5 p.m. ET 11/2/23.

Docket Numbers: ER24–80–000.

Applicants: Essential Power Newington, LLC.

Description: § 205(d) Rate Filing: IROL–CIP Rate Schedule to be effective 12/11/2023.

Filed Date: 10/12/23.

Accession Number: 20231012–5085.

Comment Date: 5 p.m. ET 11/2/23.

Docket Numbers: ER24–81–000.

Applicants: Shady Oaks Wind 2, LLC.

Description: § 205(d) Rate Filing: Rate Schedule FERC No. 2—Reactive Supply Service—Expedited to be effective 10/13/2023.

Filed Date: 10/12/23.

Accession Number: 20231012–5102.

Comment Date: 5 p.m. ET 11/2/23.

Docket Numbers: ER24–82–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Tariff Clean-up of Tri-State—Effective 20210202, 20210601, 20210615 to be effective 2/2/2021.

Filed Date: 10/12/23.

Accession Number: 20231012–5109.

Comment Date: 5 p.m. ET 11/2/23.

Docket Numbers: ER24–83–000.

Applicants: Robison Energy (Commercial) LLC.

Description: Tariff Amendment: Notice of Cancellation of Market Based Rate Tariff to be effective 10/13/2023.

Filed Date: 10/12/23.

Accession Number: 20231012–5116.

Comment Date: 5 p.m. ET 11/2/23.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES24–6–000; ES24–7–000; ES24–8–000.

Applicants: AEP Texas Inc., Southwestern Electric Power Company, Wheeling Power Company, AEP Texas Inc., Southwestern Electric Power Company, Wheeling Power Company, AEP Texas Inc., Southwestern Electric Power Company, Wheeling Power Company.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of AEP Texas Inc., et al.

Filed Date: 10/10/23.

Accession Number: 20231010–5400.

Comment Date: 5 p.m. ET 10/31/23.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC24–1–000.

Applicants: Windpark Duben Süd GmbH & Co. KG, Windpark Karche Zwei GmbH & Co. KG.

Description: Windpark Duben Süd GmbH & Co. KG, et al. submits Notice of Self-Certification of Foreign Utility Company Status.

Filed Date: 10/12/23.

Accession Number: 20231012–5054.

Comment Date: 5 p.m. ET 11/2/23.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: October 12, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–22990 Filed 10–17–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3240–040]

Briar Hydro Associates, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* 3240–040.

c. *Date Filed:* November 30, 2022.

d. *Applicant:* Briar Hydro Associates, LLC.

e. *Name of Project:* Rolfe Canal Hydroelectric Project.

f. *Location:* On the Contoocook River, in the City of Concord, Merrimack County New Hampshire. No federal lands are located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Andrew J. Locke, Essex Hydro Associates, LLC, 55 Union Street, Boston, MA 02108; (617) 357–0032; email: *alocke@essexhydro.com.*

i. *FERC Contact:* Jeanne Edwards at (202) 502–6181; or *jeanne.edwards@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Rolfe Canal Hydroelectric Project (P–3240–040).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted but is not ready for environmental analysis.

l. The Rolfe Canal Project diverts water from the York Dam into the Rolfe Canal and consists of the following existing facilities: (1) York impoundment with a surface area of 50-acres, at elevation of 342.5 feet National Geodetic Vertical Datum 1929 (NGVD29); (2) a 300-foot-long, 10-foot-high diversion dam (York Dam); (3) a 50-foot-wide concrete gated intake structure; (4) a 7,000-foot-long, 75-foot-

wide, and 9-foot-deep power canal; (5) an additional impoundment (created by York Dam at the end of the power canal) with surface area of 3-acres, at elevation of 342.5 feet NGVD29, and a negligible storage capacity; (6) a 130-foot-long, 17-foot-high granite block intake dam; (7) a 950-foot-long underground penstock; (8) a 32-foot-wide by 90-foot-long, concrete powerhouse containing one Kaplan turbine-generating unit with a capacity of 4.285 megawatts; (9) a 1,200-foot-long tailrace; (10) transmission facilities consisting of a three-phase 4.16/34.5-kilovolt (kV) transformer, and a 34.5-kV, 650-foot-long transmission line; and (11) other appurtenances. The project has a 4,000-foot-long bypassed reach.

The project operates in a run-of-river mode with a minimum flow of 338 cubic feet per second (cfs), or inflow, whichever is less, into the York impoundment, a minimum flow of 50 cfs into the York bypass, and a minimum flow of 5 cfs into a historic channel that bypasses the penstock. The project had an average annual generation of 19,585,884 kilowatt-hours between 2014 and 2018. Briar Hydro proposes to increase the minimum flow into the York bypass to 100 cfs.

m. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* or call (886) 208–3676 (toll free) or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595, or *OPP@ferc.gov.*

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR. 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Issue Scoping Document 1 for comments.	November 2023.
Request Additional Information (if necessary).	November 2023.
Issue Scoping Document 2.	December 2023.
Issue Notice of Ready for Environmental Analysis.	December 2023.

Dated: October 12, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–22979 Filed 10–17–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3342–025]

Briar Hydro Associates, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* 3342–025.

c. *Date Filed:* November 30, 2022.

d. *Applicant:* Briar Hydro Associates, LLC.

e. *Name of Project:* Penacook Lower Falls Hydroelectric Project.

f. *Location:* On the Contoocook River, in the City of Concord, and Town of Boscawen, Merrimack County, New Hampshire. No Federal lands are located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Andrew J. Locke, Essex Hydro Associates, LLC, 55 Union Street, Boston, MA 02108; (617) 357–0032; email—*alocke@essexhydro.com.*

i. *FERC Contact:* Jeanne Edwards at (202) 502–6181; or *jeanne.edwards@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Penacook Lower Falls Project (P–3342–025).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the

official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted but is not ready for environmental analysis.

l. *The Penacook Lower Falls Project consists of the following existing facilities:*

(1) an impoundment with a surface area of 8.4-acres at an elevation of 278.6 feet National Geodetic Vertical Datum 1929; (2) a concrete dam with a 15-foot-long, 70-foot-wide forebay, a 106-foot-long, gated spillway, a 316-foot-long auxiliary spillway, and a 140-foot-long, gated diversion structure; (3) a 23.3-foot-long, 46.1-foot-high trash rack with 3.625-inch clear spacing; (4) a 35-foot-wide by 97.5-foot-long concrete powerhouse, integral with the spillway, containing one Kaplan style turbine-generator unit with a capacity of 4.6 megawatts; (5) a 700-foot-long, 45-foot-wide tailrace; (6) transmission facilities consisting of a 4.16/34.5 kilovolt (kV) transformer and 200-foot-long, 34.5-kV transmission line; and (7) other appurtenances.

The project operates in a run-of-river mode. The project had an average annual generation of 20,198,820 kilowatt-hours between 2012 and 2021. No changes in the project operation are proposed.

m. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* or call (886) 208–3676 (toll free) or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595, or *OPP@ferc.gov.*

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Issue Scoping Document 1 for comments—November 2023

Request Additional Information (if necessary)—November 2023

Issue Scoping Document 2—December 2023

Issue Notice of Ready for Environmental Analysis—December 2023

Dated: October 12, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–22985 Filed 10–17–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To Prepare Environmental Assessments

Central Rivers Power NH, LLC	Project No. 2287–053.
Great Lakes Hydro America, LLC	Project No. 2300–052.
	Project No. 2311–067.
	Project No. 2326–054.
	Project No. 2327–047.
	Project No. 2422–058.
	Project No. 2423–031.

On July 29, 2022, Central Rivers Power, NH LLC filed applications for new major licenses for the 15-megawatt (MW) J. Brodie Smith Hydroelectric Project and the 2.2–MW Gorham Hydroelectric Project. On August 1, 2022, Great Lakes Hydro America, LLC filed applications for new major licenses for the 3.7–MW Shelburne Hydroelectric Project, the 4.8–MW Upper Gorham Hydroelectric Project, the 3.2–MW Cross Power Hydroelectric Project, the 7.9–MW Cascade Hydroelectric Project, the 3.2–MW Sawmill Hydroelectric Project, and the 7.9–MW Riverside Hydroelectric Project. The projects are located on the Androscoggin River in Coos County, New Hampshire. No Federal or Tribal lands occur within or adjacent to the project boundaries.

In accordance with the Commission's regulations, on July 26, 2023, Commission staff issued a notice that the projects were ready for environmental analysis (REA Notice). Based on the information in the record, including comments filed on the REA Notice, staff does not anticipate that licensing the projects would constitute a major Federal action significantly affecting the quality of the human environment. Therefore, staff will prepare a draft and final Environmental Assessment (EA) for each of the eight projects.

The EAs will be issued and circulated for review by all interested parties. All comments filed on the EAs will be analyzed by staff and considered in the Commission's final licensing decision.

The applications will be processed according to the following schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues draft EAs.	February 2024.
Comments on draft EAs.	April 2024.
Commission issues final EAs.	September 2024.[1]

Any questions regarding this notice may be directed to Ryan Hansen at (202) 502–8074 or *ryan.hansen@ferc.gov.*

Dated: October 12, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–22981 Filed 10–17–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6689–018]

Briar Hydro Associates, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* 6689–018.

c. *Date Filed:* November 30, 2022.

d. *Applicant:* Briar Hydro Associates, LLC.

e. *Name of Project:* Penacook Upper Falls Hydroelectric Project.

f. *Location:* On the Contoocook River, in the City of Concord, and Town of Boscawen, Merrimack County, New Hampshire. No Federal lands are located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Andrew J. Locke, Essex Hydro Associates, LLC, 55 Union Street, Boston, MA 02108; (617) 357–0032; email—*alocke@essexhydro.com.*

i. *FERC Contact:* Jeanne Edwards at (202) 502–6181; or *jeanne.edwards@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Penacook Upper Falls Project (P–6689–018).

k. The application is not ready for environmental analysis at this time.

l. The Penacook Upper Falls Project consists of the following existing facilities: (1) an impoundment with a surface area of 11.4-acres at an elevation of 306.0 feet above National Geodetic Vertical Datum 1929; (2) a 21-foot-high, 187-foot-long timber stoplog dam with a gated concrete spillway; (3) a 58-foot-wide, 15-foot-long forebay; (4) a 12.5-foot-wide, 39.3-foot-high trash rack with 3.5-inch clear spacing; (5) a 44-foot-wide by 81-foot-long, concrete powerhouse, integral to the dam, containing one Kaplan turbine generating unit with a capacity of 3.02 megawatts; (6) a 350-foot-long, 47-foot-wide tailrace; (7) transmission facilities consisting of a 4.16/34.5-kilovolt (kV) transformer and a 50-foot-long, 34.5-kV transmission line; and (8) other appurtenances.

The project operates in a run-of-river mode and had an average annual generation of 13,825,011 kilowatt-hours between 2012 and 2021. No changes to the project are proposed.

m. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* or call (886) 208–3676 (toll free) or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595, or *OPP@ferc.gov.*

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Issue Scoping Document 1 for comments—November 2023

Request Additional Information (if necessary)—November 2023

Issue Scoping Document 2—December 2023

Issue Notice of Ready for Environmental Analysis—December 2023

[1] The Council on Environmental Quality's (CEQ) regulations under 40 CFR 1501.10(b)(1) require that EAs be completed within 1 year of the Federal action agency's decision to prepare an EA. This notice establishes the Commission's intent to prepare a draft and final EA for each of the eight projects. Therefore, in accordance with CEQ's regulations, the final EAs must be issued within 1 year of the issuance date of this notice.

Dated: October 12, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–22984 Filed 10–17–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7883–020]

Powerhouse Systems, Inc.; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project No.:* 7883–020.

c. *Date filed:* October 2, 2023.

d. *Applicant:* Powerhouse Systems, Inc.

e. *Name of Project:* Weston Dam Project.

f. *Location:* On the Upper Ammonoosuc River, Coos County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Jonathon DiCesare, Regulatory Manager, Powerhouse Systems, Inc., 230 Park Avenue, Suite 307, New York, New York 10017; Phone at (518) 657–9012 or email at *jd@elevatepower.com;* or Ian Clark, CCO, Powerhouse Systems, Inc., 230 Park Avenue, Suite 307, New York, New York 10017; Phone at (518) 657–9012 or email at *ic@elevatepower.com.*

i. *FERC Contact:* John Baummer at (202) 502–6837, or *john.baummer@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* December 1, 2023.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

m. The application is not ready for environmental analysis at this time.

n. *The existing Weston Dam Project consists of the following:* (1) a 220-foot-long, 15.5-foot-high concrete-covered stone and timber crib dam (Weston Dam) with four hydraulic sluice gates and a concrete cap spillway topped with 4.5-foot-high wooden flashboards with a crest elevation of 867.7 feet National Geodetic Vertical Datum of 1929 (NGVD 29) at the top of the flashboards; (2) an impoundment with a surface area of 30 acres and a storage capacity of 115 acre-feet at an elevation of 867.7 feet; (3) an intake structure; (4) a powerhouse with two Kaplan turbine-generator units with an authorized installed capacity of 540 kilowatts; (5) two 0.48 kilovolt (kV) generator leads; (6) three 0.48/34.5-kV transformers; (7) a 34.5-kV, 300-foot-long transmission line; and (8) appurtenant facilities.

The project operates in a run-of-river mode with a minimum flow of 132 cubic feet per second, or inflow, whichever is less. The project has an average annual generation of 2,357 megawatt-hours between 2013 and 2022.

Powerhouse Systems, Inc. is not proposing any changes to project facilities or operation.

o. Copies of the application may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–7883). For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call tollfree, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—December 2023

Request Additional Information—January 2024

Issue Acceptance Letter—March 2024

Issue Scoping Document 1 for comments—March 2024

Request Additional Information (if necessary)—April 2024

Issue Scoping Document 2 (if necessary)—May 2024.

Issue Notice of Ready for Environmental Analysis—May 2024

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: October 12, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–22986 Filed 10–17–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1971–079]

Idaho Power Company; Notice of Revised Procedural Schedule for the Supplemental Environmental Impact Statement for the Hells Canyon Project

On July 21, 2003, Idaho Power Company (Idaho Power) filed an application for a new license to continue to operate and maintain the

Hells Canyon Project No. 1971.[1] On August 31, 2007, the Commission issued a final Environmental Impact Statement (EIS) for the Hells Canyon Project. On December 30, 2019, Idaho Power filed an Offer of Settlement (settlement) with the Commission for the Hells Canyon Project.[2] The settlement, which was executed on April 22, 2019, includes, among other items, spring Chinook salmon and summer steelhead fish passage measures. In addition, the Oregon and Idaho Departments of Environmental Quality each issued a water quality certification under section 401 of the Clean Water Act for the Hells Canyon Project on May 24, 2019.

On July 1, 2020, Idaho Power supplemented the final license application for the project with additional information on its proposal, including an analysis of the new and revised fish-related protection, mitigation, and enhancement measures proposed under the settlement, and updated information on project resources. Additionally, Idaho Power filed on October 14, 2020, draft biological assessments for species managed by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, which included an analysis of the effects of the new and revised measures on fish and wildlife listed under the Endangered Species Act.

On June 13, 2022, Commission staff issued a notice of intent to prepare a draft and final EIS to assess the new and revised fish-related protection, mitigation, and enhancement measures proposed under the settlement, the Oregon and Idaho water quality certifications, and the draft biological assessments. The notice of intent included a schedule for preparing a draft and final supplemental EIS.

By this notice, Commission staff is updating the procedural schedule for completing the draft and final supplemental EIS. Further revisions to the schedule may be made as appropriate.

Milestone	Target date
Issue Draft EIS	February 2024.
Comments on Draft EIS due.	April 2024.
Commission issues Final EIS.	November 2024.

Any questions regarding this notice may be directed to Aaron Liberty at (202) 502–6862 or *aaron.liberty@ferc.gov.*

Dated: October 12, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–22982 Filed 10–17–23; 8:45 am]

BILLING CODE 6717–01–P

[1] The current license expired on July 31, 2005, and the project is operating under an annual license.

[2] On January 7, 2020, the Commission issued notice of the offer of settlement's filing.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0720; FRL–11374–01–OCSPP]

Pesticide Registration Review; Pesticide Dockets Opened for Review and Comment; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the EPA's preliminary work plans for the following chemicals: *Aureobasidium pullulans* and cyflumetofen. With this document, the EPA is opening the public comment period for registration review for these chemicals.

DATES: Comments must be received on or before December 18, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2017–0720, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in Table 1 in Unit IV.

For general questions on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0701; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager identified in Table 1 in Unit IV.

B. What should I consider as I prepare my comments for the EPA?

1. *Submitting CBI.* Do not submit this information to the EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Background

Registration review is the EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its

intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the agency may consider during registration reviews. As part of the registration review process, the Agency has completed preliminary workplans for all pesticides listed in Table 1 in Unit IV. EPA initiates a registration review by establishing a public docket for a pesticide registration review case. The docket contains a Preliminary Work Plan (PWP) summarizing information EPA has on the pesticide and the anticipated path forward. Through this program, the EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

The EPA is conducting its registration review of the chemicals listed in Table 1 in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. Registration Reviews

A. What action is the agency taking?

Pursuant to 40 CFR 155.50, this notice announces the availability of the EPA's preliminary work plans for the pesticides shown in Table 1 and opens a 60-day public comment period on the work plans.

TABLE 1—PRELIMINARY WORK PLANS BEING MADE AVAILABLE FOR PUBLIC COMMENT

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Aureobasidium pullulans Case No. 6521	EPA–HQ–OPP–2023–0064	Susanne Cerrelli, *cerrelli.susanne@epa.gov* (202) 566–1516.
Cyflumetofen Case No. 7463	EPA–HQ–OPP–2022–0194	Susan Bartow, *bartow.susan@epa.gov* (202) 566–2280.

B. Docket Content

The registration review docket contains information that the agency may consider in the course of the registration review. The agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the agency is asking that interested persons identify any additional information they believe the agency should consider during the registration reviews of these pesticides. The agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

The registration review final rule at 40 CFR 155.50(b) provides for a minimum 60-day public comment period on all preliminary registration review work plans. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary changes to a pesticide's workplan. All comments should be submitted using the methods in **ADDRESSES** and must be received by the EPA on or before the closing date. These comments will become part of the docket for the pesticides included in Table 1 in Unit IV. Comments received after the close of the comment period will be marked ''late.'' The EPA is not required to consider these late comments.

The agency will carefully consider all comments received by the closing date and may provide a ''Response to Comments Memorandum'' in the docket. The final registration review work plan will explain the effect that any comments had on the final work plan and provide the agency's response to significant comments.

Background on the registration review program is provided at: *https://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 13, 2023.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2023–22996 Filed 10–17–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0765; FRL–11440–01–ORD]

Executive Committee under the Board of Scientific Counselors (BOSC)—October 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA), Office of Research and Development (ORD), gives notice of a virtual meeting of the Board of Scientific Counselors (BOSC) Executive Committee (EC) to review and finalize the reports of the following panels: EPA Transcriptomic Assessment Product (ETAP) Panel and Value of Information (VOI) Panel.

DATES: The meeting will be held on Thursday, October 26, 2023, from 1 p.m. to 5 p.m. All times noted are Eastern Time and approximate. The meeting may adjourn early if all business is finished. Attendees should register by Monday, October 23, 2023, at *https://us-epa-bosc-ec-meeting.eventbrite.com.* Requests for making oral presentations at the meeting will be accepted through October 23, 2023. Comments may be submitted through October 23, 2023. Due to unforeseen administrative circumstances, EPA is announcing this

meeting with less than 15 calendar days' notice.

ADDRESSES: Instructions on how to connect to the videoconference will be provided upon registration at: *https://us-epa-bosc-ec-meeting.eventbrite.com.* Submit your comments to Docket ID No. EPA–HQ–ORD–2015–0765 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email:* Send comments by electronic mail (email) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2015–0765.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2015–0765.
- *Mail:* Send comments by mail to: Board of Scientific Counselors (BOSC) Executive Committee Docket, Mail Code: 2822T, 1301 Constitution Ave. NW, Washington, DC 20004, Attention Docket ID No. EPA–HQ–ORD–2015–0765.
- *Hand Delivery or Courier:* Deliver comments to: EPA Docket Center (EPA/DC), Room 3334, William Jefferson Clinton West Building, 1301 Constitution Ave. NW, Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2015–0765. Note: This is not a mailing address. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *www.regulations.gov* or email. The *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 *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets/.*

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer (DFO), Tom Tracy, via phone/voicemail at: 919–541–4334; or via email at: *tracy.tom@epa.gov.*

SUPPLEMENTARY INFORMATION: *General Information:* The meeting is open to the public. Any member of the public interested in receiving a draft agenda, attending the meeting, or making a presentation at the meeting may contact Tom Tracy, the Designated Federal (DFO), via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. Individuals making an oral presentation will be limited to a total of three minutes. Attendees are encouraged to join at least 5 minutes prior to the start of the meeting. Proposed agenda items for the meeting include but are not limited to the following: Review of charge questions, overview of the report outlining scientific studies supporting the development of transcriptomic-based reference values, overview of the report outlining implementation of the proposed EPA Transcriptomic Assessment Product, and overview of the report provided by the Value of Information Panel.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Tom Tracy (202) 564–6518 or *tracy.tom@epa.gov.* To request accommodation of a disability, please contact Tom Tracy, preferably at least ten days prior to the meeting, to give the EPA as much time as possible to process your request.

Mary Ross,

Director, Office of Science Advisor, Policy, and Engagement.

[FR Doc. 2023–22917 Filed 10–17–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0751; FRL–11376–01–OCSPP]

Pesticide Registration Review; Decisions and Case Closures for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's final registration review decisions for the following chemicals: Citric acid and salts, and linalool. In addition, this notice announces the closure of the registration review case for triadimenol because the last U.S. registrations for this pesticide has been canceled.

DATES: Comments must be received on or before December 18, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2017–0751, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in Table 1 in Unit IV.

For general information on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0701; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all

the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed final decisions for all pesticides listed in Table 1 in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in Table 1 in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's final registration review decisions for the pesticides shown in Table 1. The registration review decisions are supported by rationales included in the docket established for each chemical.

TABLE 1—REGISTRATION REVIEW FINAL DECISIONS BEING ISSUED

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Citric Acid and Salts, Case Number 4024	EPA–HQ–OPP–2020–0558	Areej Jahangir, *jahangir.areej@epa.gov,* (202) 566–1577.
Linalool, Case Number 6058	EPA–HQ–OPP–2021–0423	Hannah Dean,*dean.hannah@epa.gov,* (202) 566–2969.

The proposed registration review decisions for the chemicals in the table above were posted to the docket and the public was invited to submit any comments or new information. EPA addressed the comments or information received during the 60-day comment period for the proposed decisions in the discussion for each pesticide listed in the table. Comments from the 60-day comment period that were received may or may not have affected the Agency's interim or final decision. Pursuant to 40 CFR 155.58(c), the registration review case docket for the chemicals listed in the Table will remain open until all actions required in the decision have been completed.

This document also announces the closure of the registration review case for triadimenol (Case Number 7008, Docket ID Number EPA–HQ–OPP–2016–0114) because the last U.S. registrations for this pesticide has been canceled.

Background on the registration review program is provided at: *https://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 13, 2023.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2023–22994 Filed 10–17–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0750; FRL–11375–01–OCSPP]

Pesticide Registration Review; Proposed Decisions for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's proposed interim registration review decisions for bromine, chlorothalonil and triadimefon, and the proposed final registration review decisions for *Agrobacterium rodiobacter,* and porcine zona pellucida (PZP). This notice also opens a 60-day public comment period on the proposed decisions.

DATES: Comments must be received on or before December 18, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2017–0750, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in Table 1 in Unit IV.

For general information on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0701; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for the pesticide of interest identified in Table 1 in Unit IV.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at: *https://www.epa.gov/dockets/commenting-epa-dockets.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed proposed interim or proposed final decisions for all pesticides listed in Table 1 in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table 1 in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's proposed interim or proposed final registration review decisions for the pesticides shown in Table 1 and opens a 60-day public comment period on the proposed interim and proposed final registration review decisions.

TABLE 1—PROPOSED INTERIM AND FINAL DECISIONS

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Agrobacterium radiobacter Case Number 4101	EPA–HQ–OPP–2022–0860	Joseph Mabon, *mabon.joseph@epa.gov* (202) 566–1535.
Bromine Case Number 4015	EPA–HQ–OPP–2021–0034	Megan Snyderman, *snyderman.megan@epa.gov* (202) 566–0639.
Chlorothalonil Case Number 0097	EPA–HQ–OPP–2011–0840	Natalie Bray, *bray.natalie@epa.gov* (202) 566–2222.
Porcine Zona Pellucida (PZP) Case Number 7801–2	EPA–HQ–OPP–2022–0153	Ben Tweed, *tweed.benjamin@epa.gov* (202) 566–2274.
Triadimefon Case Number 2700	EPA–HQ–OPP–2016–0114	Matthew Khan, *khan.matthew@epa.gov* (202) 566–2212.

The registration review docket for a pesticide includes earlier documents related to the registration review case. For example, the review opened with a Preliminary Work Plan, for public comment. A Final Work Plan was placed in the docket following public comment on the Preliminary Work Plan.

The documents in the dockets describe EPA's rationales for conducting additional risk assessments for the registration review of the pesticides included in Table 1 in Unit IV, as well as the Agency's subsequent risk findings and consideration of possible risk mitigation measures. These proposed interim and proposed final registration review decisions are supported by the rationales included in those documents. Following public comment, the Agency will issue interim or final registration review decisions for the pesticides listed in Table 1 in Unit IV.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed decision. All comments should be submitted using the methods in **ADDRESSES** and must be received by EPA on or before the closing date. These comments will become part of the docket for the pesticides included in Table 1 in Unit IV. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and may provide a ''Response to Comments Memorandum'' in the docket. The interim or final registration review decision will explain the effect that any comments had on the interim or final decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: *https://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 13, 2023.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2023–22995 Filed 10–17–23; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2023–3040]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Annual Competitiveness Report Survey of Exporters and Lenders

AGENCY: Export-Import Bank of the United States.

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Export-Import Bank of the United States (EXIM) has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to announce the initiation of a 30-day period for public comment.

DATES: Comments should be received on or before November 17, 2023 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 00–02) or by email *Jessica.Ernst@exim.gov* or by mail to Jessica Ernst, Export-Import Bank of the United States, 811 Vermont Ave. NW, Washington, DC 20571 Attn: OMB 3048–14–01.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jessica Ernst, *Jessica.Ernst@exim.gov,* 202–565–3711.

SUPPLEMENTARY INFORMATION: As required by Export-Import Bank Act of 1945 (see section 8A(a)(1) of EXIM's charter), EXIM will survey U.S. exporters and commercial lending institutions to understand their experience with EXIM ''meeting financial competition from other countries whose exporters compete with United States exporters.'' EXIM plans to survey exporters and lenders that have engaged with EXIM on medium- and long-term support over the previous calendar year or responded to at least one of EXIM's last two surveys. The potential respondents will be sent an electronic invitation to participate in the online survey.

The proposed survey will ask participants about their potential or completed deals involving EXIM, their opinion of EXIM's policies and procedures, their interaction and perceptions of other export credit agencies, and impacts of overall market conditions on their businesses.

The survey can be reviewed at: *https://img.exim.gov/s3fs-public/EXIM+Competitiveness+Report+Exporter+and+Lender+Survey+2023.pdf.*

Titles and Form Number: EIB 00–02 Annual Competitiveness Report Survey of Exporters and Lenders.

OMB Number: 3048–0004.

Type of Review: Renewal.

Need and Use: The information requested is required by the Export-Import Bank Act of 1945, as amended, 12 U.S.C. 635g–1 (see section 8A(a)(1) of EXIM's charter) and enables EXIM to evaluate and assess its competitiveness with the programs and activities of official export credit agencies and to report on the Bank's status in this regard.

Affected Public:

The number of respondents: 112.

Estimated time per respondent: 15 minutes.

The frequency of response: Annually.

Annual hour burden: 28 total hours.

Dated: October 13, 2023.

Kalesha Malloy,

IT Specialist and Privacy Officer.

[FR Doc. 2023–22991 Filed 10–17–23; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 177970]

Open Commission Meeting Thursday, October 19, 2023

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, October 19, 2023, which is scheduled to commence at 10:30 a.m. in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC.

While attendance at the Open Meeting is available to the public, the FCC headquarters building is not open access and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees at the Open Meeting will not be required to have an appointment but must otherwise comply with protocols outlined at: *www.fcc.gov/visit.* Open Meetings are streamed live at: *www.fcc.gov/live* and on the FCC's YouTube channel.

Item No.	Bureau	Subject
1	Wireline Competition	*Title:* Safeguarding and Securing the Open Internet (WC Docket No. 23–320). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that proposes to reestablish the Commission's authority over broadband Internet access service by classifying it as a telecommunications service under Title II of the Communications Act, which would allow the Commission to protect consumers by issuing straightforward, clear rules to prevent Internet service providers from engaging in practices harmful to consumers, competition, and public safety; establish a uniform, national regulatory approach rather than disparate requirements that vary state-by-state; strengthen the Commission's ability to secure communications networks and critical infrastructure against national security threats; and enable the Commission to protect public safety during natural disasters and other emergencies.
2	Wireline Competition	*Title:* Modernizing the E-Rate Program for Schools and Libraries (WC Docket No. 13–184). *Summary:* The Commission will consider a Declaratory Ruling that would clarify that the use of Wi-Fi on school buses is an educational purpose and the provision of such service is therefore eligible for E-Rate funding.
3	Office of General Counsel	*Title:* Broadband Connectivity and Maternal Health—Implementation of the Data Mapping to Save Moms' Lives Act (GN Docket No. 23–309).

Item No.	Bureau	Subject
		Summary: The Commission will consider a Notice of Inquiry that will seek comment on its proposed plan to improve and enhance maternal health data in the Mapping Broadband Health in America platform, in order to ensure that future updates to the platform reflect input from stakeholders and other interested parties and improves the user experience. The platform was updated in June 2023 to incorporate publicly available data on maternal mortality and severe maternal morbidity pursuant to the Data Mapping to Save Moms' Lives Act.
4	Office of Engineering and Technology	*Title:* Unlicensed Use of the 6 GHz Band (ET Docket No. 18–295); Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz (GN Docket No. 17–183). *Summary:* The Commission will consider a Second Report and Order that would expand unlicensed use of the 6 GHz band by permitting very low power devices to operate in two sub-bands, a Second Further Notice of Proposed Rulemaking that would propose to expand very low power device operations to the remainder of the band, and a Memorandum Opinion and Order that would address a remand from a court challenge of a previous decision in the docket.
5	Wireline Competition	*Title:* Connect America Fund (WC Docket No. 10–90); Connect America Fund—Alaska Plan (16–271); Universal Service Reform—Mobility Fund (WT Docket No. 10–208); ETC Annual Reports and Certifications (WC Docket No. 14–58); Telecommunications Carriers Eligible To Receive Universal Service Support (WC Docket No. 09–197). *Summary:* The Commission will consider a Notice of Proposed Rulemaking seeking comment on the use of high-cost program funding to continue supporting fixed and mobile services in Alaska. The accompanying Report and Order makes administrative changes to streamline high-cost program rules.
6	Public Safety and Homeland Security	*Title:* Wireless Emergency Alerts (PS Docket No. 15–91); Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System (PS Docket No. 15–94). *Summary:* The Commission will consider a Report and Order that would improve Wireless Emergency Alerts by making WEA messages available in additional languages, including American Sign Language (ASL); supporting maps that show the location of an emergency; making it easier to conduct public-facing WEA performance and public awareness tests; and providing alert originators and members of the public with access to information about where and how WEA is available within their communities.
7	Media	*Title:* Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010 (MB Docket No. 11–43). *Summary:* The Commission will consider a Second Report and Order that will enhance support for individuals who are blind or visually impaired by expanding audio description requirements to additional market areas. The Order would help ensure that a greater number of individuals who are blind or visually impaired can be connected, informed, and entertained by television programming.

* * * * *

The meeting will be webcast at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

Press Access—Members of the news media are welcome to attend the meeting and will be provided reserved seating on a first-come, first-served basis. Following the meeting, the Chairwoman may hold a news conference in which she will take questions from credentialed members of the press in attendance. Also, senior policy and legal staff will be made available to the press in attendance for questions related to the items on the meeting agenda. Commissioners may also choose to hold press conferences. Press may also direct questions to the Office of Media Relations (OMR): *MediaRelations@fcc.gov.* Questions about credentialing should be directed to OMR.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Federal Communications Commission.

Dated: October 12, 2023.

Marlene Dortch,

Secretary.

[FR Doc. 2023–22937 Filed 10–17–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0800, OMB 3060–1070; FR ID 178025]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information

collection burden for small business concerns with fewer than 25 employees.''

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before November 17, 2023.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0800.

Title: FCC Application for Assignments of Authorization and Transfers of Control: Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau.

Form Number: FCC Form 603.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, Individuals or households, not-for-profit institutions, and State, Local or Tribal Governments.

Number of Respondents and Responses: 2,567 respondents; 2,567 responses.

Estimated Time per Response: 0.05 hours–1.80 hours.

Frequency of Response: Recordkeeping requirement, on occasion reporting requirement and periodic reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154, 155, 158, 161, 301, 303(r), 308, 309, 310 and 332.

Total Annual Burden: 2,957 hours.

Annual Cost Burden: $532,728.

Needs and Uses: On July 18, 2022, the Commission adopted the Partition, Disaggregation and Leasing of Spectrum Report and Order and Second Further Notice of Proposed Rulemaking that modifies partitioning, disaggregation, and leasing rules to provide specific incentives for small carriers and Tribal Nations, and entities in rural areas, to voluntarily participate in ECIP (ECIP Report and Order in WT Docket No. 19–38, FCC 22–53). The ECIP proceeding is in response to Congressional direction in the Making Opportunities for Broadband Investment and Limiting Excessive and Needless Obstacles to Wireless Act (MOBILE NOW Act) to consider steps to increase the diversity of spectrum access and the availability of advanced telecommunications services in rural areas. The ECIP will promote greater competition in the provision of wireless services, facilitate increased availability of advanced wireless services in rural areas, facilitate new opportunities for small carriers and Tribal Nations to increase access to spectrum, and bring more advanced wireless service including 5G to underserved communities.

The Commission seeks approval for revisions to its currently approved collection of information under OMB Control Number 3060–0800 to permit the collection of the additional information and changes in connection with assignments of authorizations pursuant to the rules adopted by the Commission's ECIP Report and Order. Specifically, in the ECIP Report and Order, the Commission revised its rules to allow partition and/or disaggregation assignment applications pursuant to § 1.950 or full assignments pursuant to § 1.948, to designate a Qualifying Transaction identified in the application as seeking consideration under the ECIP. Respondents are also required to select the applicable ECIP prong to its Qualifying Transaction, pursuant to either § 1.60003 or § 1.60004.

OMB Control Number: 3060–1070.

Title: Allocation and Service Rules for the 71–76 GHz, 81–86 GHz, and 92–95 GHz Bands.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; and State, local, or Tribal Government.

Number of Respondents: 317 respondents; 8,205 responses.

Estimated Time per Response: 1.5 to 5.35 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement, and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 303(f) and (r), 309, 316, and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 5,677 hours.

Total Annual Cost: $200,000.

Needs and Uses: The Commission is seeking an extension of this information collection in order to obtain the full three-year approval from OMB. There are no program changes to the reporting, recordkeeping and/or third-party disclosure requirements, but we are revising estimates based on the reduction of database managers, and the

increase of renewals of the nationwide licensees. The recordkeeping, reporting, and third-party disclosure requirements will be used by the Commission to verify licensee compliance with the Commission rules and regulations, and to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934. The Commission's rules promote the private sector development and use of 71–76 GHz, 81–86 GHz, and 92–95 GHz bands (70/80/90 GHz bands). Such information has been used in the past and will continue to be used to minimize interference, verify that applicants are legally and technically qualified to hold license, and to determine compliance with Commission rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–22942 Filed 10–17–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 9:30 a.m. on Tuesday, October 24, 2023.

PLACE: Martin Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW, Washington, DC 20551.

STATUS: Open.

On the day of the meeting, you will be able to view the meeting via webcast from a link available on the Board's website. You do not need to register to view the webcast of the meeting. A link to the meeting documentation will also be available approximately 20 minutes before the start of the meeting. Both links may be accessed from the Board's website at *www.federalreserve.gov.*

If you plan to attend the open meeting in person, we ask that you notify us in advance and provide your name, date of birth, and social security number (SSN) or passport number. You may provide this information by calling 202–452–2474 or you may register online at *www.federalreserve.gov.* You may pre-register until close of business on October 23, 2023. You also will be asked to provide identifying information, including a photo ID, before being admitted to the Board meeting. The Public Affairs Office must approve the use of cameras; please email *media@frb.gov* for further information. If you need an accommodation for a disability, please contact Penelope Beattie on 202–452–3982. For users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services (TRS), please call 202–263–4869 or dial 7–1–1 from any telephone, anywhere in the United States.

Privacy Act Notice: The information you provide will be used to assist us in prescreening you to ensure the security of the Board's premises and personnel. In order to do this, we may disclose your information consistent with the routine uses listed in the Privacy Act Notice for BGFRS–32, including to appropriate Federal, State, local, or foreign agencies where disclosure is reasonably necessary to determine whether you pose a security risk or where the security or confidentiality of your information has been compromised. We are authorized to collect your information by 12 U.S.C. 243 and 248, and Executive Order 9397. In accordance with Executive Order 9397, we collect your SSN so that we can keep accurate records, because other people may have the same name and birth date. In addition, we use your SSN when we make requests for information about you from law enforcement and other regulatory agency databases. Furnishing the information requested is voluntary; however, your failure to provide any of the information requested may result in disapproval of your request for access to the Board's premises. You may be subject to a fine or imprisonment under 18 U.S.C. 1001 for any false statements you make in your request to enter the Board's premises.

MATTERS TO BE CONSIDERED:

Discussion Agenda

1. Final Rule To Revise the Regulation Implementing the Community Reinvestment Act

Notes: 1. For those attending in person, the staff memo will be available to attendees on the day of the meeting in paper. Meeting documentation will be available on the Board's website about 20 minutes before the start of the meeting.

2. This meeting will be recorded for the benefit of those unable to attend. The webcast recording and a transcript of the meeting will be available after the meeting on the Board's website *http://www.federalreserve.gov/aboutthefed/boardmeetings/.*

FOR QUESTIONS PLEASE CONTACT: Public Affairs Office at *media@frb.gov.*

SUPPLEMENTARY INFORMATION: You may access the Board's website at *www.federalreserve.gov* for an electronic announcement. (The website also includes procedural and other information about the open meeting.)

Dated: October 13, 2023.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2023–22992 Filed 10–17–23; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to extend for an additional three years the Office of Management and Budget clearance for information collection requirements in the Privacy of Consumer Financial Information Rule (Privacy Rule or Rule). This clearance expires on January 31, 2024.

DATES: Comments must be filed by December 18, 2023.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Privacy Rule, PRA Comment, P085405,'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Jennifer Rimm, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, (202) 326–2277, *jrimm@ftc.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Privacy of Consumer Financial Information (Gramm-Leach-Bliley Act Privacy Rule), 16 CFR part 313.

OMB Control Number: 3084–0121.

Type of Review: Extension without change of currently approved collection.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 1,454,850.

Estimated Annual Labor Costs: $35,820,366.

Abstract: The Privacy Rule is designed to ensure that customers and consumers, subject to certain exceptions, will have access to the privacy policies of the covered financial institutions with which they conduct business—namely, motor vehicle dealers that do not routinely extend credit to consumers directly without assigning the credit to unaffiliated third parties (hereafter, ''motor vehicle dealers''). As mandated by the Gramm-Leach-Bliley Act (''GLBA''), 15 U.S.C. 6801–6809, the Rule requires motor vehicle dealers to disclose to consumers: (1) initial notice of the financial institution's privacy policy when establishing a customer relationship with a consumer and/or before sharing a consumer's nonpublic personal information with certain nonaffiliated third parties; (2) notice of the consumer's right to opt out of information sharing with such parties; (3) annual notice of the institution's privacy policy to any continuing customer; [1] and (4) notice of changes in the institution's practices on information sharing. These requirements are subject to the PRA. The Rule does not require recordkeeping. For PRA burden calculations, the FTC shares the PRA burden with the CFPB for financial institutions over which both agencies have enforcement authority under the CFPB's regulation corresponding to the Privacy Rule, titled Privacy of Consumer Financial Information (Regulation P), 12 CFR part 1016, and attributes to itself the burden for all motor vehicle dealers. *See* 12 U.S.C. 5519.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Rule.

Burden Estimates: FTC staff estimates that approximately 29,500 non-motor vehicle dealer financial institutions are subject to FTC jurisdiction under Regulation P, consisting of approximately 29,000 established entities and 500 new entrants annually during the renewal period. The complete burden estimates for new entrants and established entities are detailed in the charts below.

1. Established Financial Institutions

For established entities, staff believes that the model privacy form and the Online Form Builder reduce the time associated with providing required initial and annual notices. Businesses who have not changed their privacy notice since the last notice sent and who do not share information with non-affiliated third parties outside of certain statutory exceptions are not required to issue annual notices to their customers under the Rule. FTC staff thus estimates that at least 80% of businesses covered by Regulation P that have continuing relationships with customers exceeding one year will not be required to issue annual notices because they do not make changes to their policies or share nonpublic information outside of the statutory exceptions. Finally, staff estimates that no more than 1% of the estimated 29,000 established-entity respondents would make additional changes to privacy policies at any time other than the occasion of the annual notice.

2. New Entrant Financial Institutions

Activity	Hours per respondent	Approx. number of respondents [2]	Approx. total annual hrs.	FTC portion	Hourly wage and labor category [3]	Approx. total labor costs
Reviewing internal policies and developing GLB Act-implementing instructions [4].	4	29,000	116,000	58,000	$39.52 Professional/Technical	$2,292,160
Disseminating initial notices to new customers	15	29,000	435,000	217,500	$19.67 Clerical	4,278,225
Disseminating annual disclosure to pre-existing customers.	15	4,060	60,900	30,450	$19.67 Clerical	598,952
Updating privacy policies and related disclosures	5	4,060	20,300	10,150	$39.52 Professional/Technical	401,128
	7	290	2,030	1,015	$19.67 Clerical	19,965
	3	290	870	435	$39.52 Professional/Technical	17,191
Totals	.....	.....	635,100	317,550	.....	7,607,621

New entrant financial institutions subject to FTC jurisdiction under Regulation P must provide initial disclosure notices to their consumers, including taking the time to develop implementing policies and procedures and create disclosure documents to effectuate the disclosure requirements. Staff's estimates of annual burden for established entities are as follows:

[1] On December 4, 2015, Congress amended the GLBA as part of the Fixing America's Surface Transportation Act (''FAST Act''). The FAST Act included a subsection titled Eliminate Privacy Notice Confusion (FAST Act, Pub. L. 114-094, section 75001) that added new GLBA section 503(f). This subsection provides an exception under which financial institutions that meet certain conditions are not required to provide annual privacy notices to customers. Section 503(f) requires that to qualify for this exception, a financial institution must not share nonpublic personal information about customers except as described in certain statutory exceptions, under which sharing does not trigger a customer's statutory right to opt out of the sharing. In addition, section 503(f)(2) requires that the financial institution must not have changed its policies and practices with regard to disclosing nonpublic personal information from those that the institution disclosed in the most recent privacy notice the customer received. On December 9, 2021, the Privacy Rule was amended at 16 CFR 313.5(e) to incorporate this exception. The amendments were effective January 10, 2022. 86 FR 70020 (Dec. 9, 2021).

[2] The estimate of respondents which are required to disseminate annual notices is based on the following assumptions: (1) 29,000 established respondents; (2) of those, approximately 70% maintain customer relationships exceeding one year (20,300), and no more than 20% of those (together, 4,060) make changes to their policies and share nonpublic information outside of the statutory exceptions, and therefore are required to provide annual notices under the Rule (this is consistent with the main text above that at least 80% of businesses covered by Regulation P that have continuing relationships with customers exceeding one year will not be required to issue annual notices because they do not make changes to their policies or share nonpublic information outside of the statutory exceptions); (3) and no more than 1% (290) of established respondents make additional changes to privacy policies at any time other than the occasion of the annual notice; and (4) such changes will occur no more often than once per year.

[3] Staff calculated labor costs by applying appropriate hourly cost figures to burden hours. The hourly rates used were based on median wages for Financial Examiners and for Office and Administrative Support, corresponding to professional/technical time (*e.g.,* compliance evaluation and planning, designing and producing notices, reviewing and updating information systems), and clerical time (*e.g.,* reproduction tasks, filing, and, where applicable to the given event, typing or mailing) respectively. See U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2022, at *https://www.bls.gov/oes/tables.htm.*

[4] This includes all efforts performed by or for the respondent to determine whether and to what extent the respondent is covered by an agency collection of information, understand the nature of the request, and determine the appropriate response (including the creation and dissemination of documents and/or electronic disclosures).

Activity	Hours per respondent	Approx. number of respondents	Approx. total annual hrs.	FTC portion	Hourly wage and labor category [5]	Approx. total labor costs
Reviewing internal policies and developing GLB Act-implementing instructions.	20	500	10,000	5,000	$39.52 Professional/Technical	$197,600
Creating disclosure document or electronic disclosure (including initial, annual, and opt-out disclosures).	1	500	500	250	$19.67 Clerical	4,918
	2	500	1,000	500	$39.52 Professional/Technical	19,760
Disseminating initial disclosure (including opt-out notices).	15	500	7,500	3,750	$19.67 Clerical	73,763
	10	500	5,000	2,500	$39.52 Professional/Technical	98,800
Totals			24,000	12,000		394,841

3. Established Motor Vehicle Dealers

FTC has sole authority over motor vehicle dealers subject to the Rule. Staff estimates that approximately 49,000 auto dealers are subject to the Rule's requirements, consisting of 47,000 established dealers and 2,000 new entrants annually during the renewal period. FTC staff provides the following burden estimates for established motor vehicle dealers:

Activity	Hours per respondent	Approx. number of respondents [6]	Approx. total annual hrs.	Hourly wage and labor category [7]	Approx. total labor costs
Reviewing internal policies and developing GLB Act-implementing instructions.	4	47,000	188,000	$39.52 Professional/Technical	$7,429,760
Disseminating initial notices to new customers	15	47,000	705,000	$19.67 Clerical	13,867,350
Disseminating annual disclosure	15	6,580	98,700	$19.67 Clerical	1,941,429
	5	6,580	32,900	$39.52 Professional/Technical	1,300,208
Updating privacy policies and related disclosures	7	470	3,290	$19.67 Clerical	64,714
	3	470	1,410	$39.52 Professional/Technical	55,723
Totals			1,029,300		24,659,184

4. New Entrant Motor Vehicle Dealers

FTC staff provides the following burden estimates for new entrant motor vehicle dealers:

Activity	Hours per respondent	Approx. number of respondents	Approx. total annual hrs.	Hourly wage and labor category	Approx. total labor costs
Reviewing internal policies and developing GLB Act-implementing instructions.	20	2,000	40,000	$39.52 Professional/Technical	$1,580,800
Creating disclosure document or electronic disclosure (including initial, annual, and opt-out disclosures).	1	2,000	2,000	$19.67 Clerical	39,340
	2	2,000	4,000	$39.52 Professional/Technical	158,080
Disseminating initial disclosure (including opt-out notices)	15	2,000	30,000	$19.67 Clerical	590,100
	10	2,000	20,000	$39.52 Professional/Technical	790,400
Totals			96,000		3,158,720

Estimated Non-Labor Costs: Staff believes that capital or other non-labor costs associated with these information collection requirements are minimal. Staff anticipates that covered entities are already equipped to provide written notices (*e.g.,* computers with word processing programs, copying machines, mailing capabilities). In addition, staff anticipates that entities that offer consumers the choice to receive notices via electronic format will already have an online presence to support this option. As such, these entities will already be equipped with the computer equipment and software necessary to disseminate the required disclosures via electronic means.

Request for Comment

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

For the FTC to consider a comment, we must receive it on or before December 18, 2023. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the *https://www.regulations.gov* website.

[5] Staff calculated labor costs by applying appropriate hourly cost figures to burden hours, as described in footnote 3 above.

[6] Commission staff relies on industry estimates of the total number of motor vehicle dealers in the United States, based on Census data and Bureau of Labor Statistics data. Commission staff did not separately estimate the number of such dealers who may be covered by the Rule because they do not routinely extend credit to consumers directly without assigning the credit to unaffiliated third parties.

[7] Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. *See* BLS Occupational Employment and Wages, May 2022, at *https://www.bls.gov/oes/tables.htm.*

If you file your comment on paper, write ''Privacy Rule, PRA Comment, P085405,'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580. If possible, submit your paper comment to the Commission by overnight service.

Because your comment will become publicly available at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must (1) be filed in paper form, (2) be clearly labeled ''Confidential,'' and (3) comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov,* we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 18, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2023–22965 Filed 10–17–23; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[MV–2023–02; Docket No. 2023–0053; Sequence No. 12]

Improvements to the Federal Acquisition Regulation Standard Forms in the GSA Forms Library

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

ACTION: Notice.

SUMMARY: DoD, GSA, and NASA announce improvements to the Federal Acquisition Regulation (FAR) standard forms found in the GSA Forms Library.

DATES: The updated forms will begin to be available on the GSA's Forms Library at *https://www.gsa.gov/forms* following the publication of this notice, October 18, 2023.

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, *zenaida.delgado@gsa.gov* or call 202–969–4075. Please cite ''FAR standard forms'' in the subject line.

SUPPLEMENTARY INFORMATION: In support of Executive Order 13985 of January 20, 2021, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, a review of the standard forms covered by the FAR was conducted. The review focused on equity issues to remove barriers to access for underserved communities by identifying ways to improve the usability of the FAR standard forms. An organizational psychologist with over 20 years of consulting experience supporting commercial and federal organizations was part of the review team.

The review resulted in the identification of potential changes to improve the accessibility of the FAR forms. The changes are considered best practices to support readability for a variety of individuals (visual disabilities and/or learning difficulties). Adopting these changes has the advantage of making the forms easier to read for everyone.

DoD, GSA, and NASA agreed to apply a set of uniform visual improvements to the FAR standard forms. The six improvements are as follows:

1. Replace text in all CAPS with standard title form text (*i.e.,* for each word capitalize the first letter). Use bold text to identify titles.
2. Use consistent font size; adjust form to 12-point text.
3. Replace centered text with left justified.
4. Replace italicized text with standard text.
5. Increase the space between lines of text throughout the form.
6. Move the Paperwork Reduction Act (PRA) statement to the end of the form for forms subject to the PRA.

Other changes made to the FAR standard forms include updated citations, and editorial corrections.

DoD, GSA, and NASA expect these changes, all of which comport with section 508 of the Rehabilitation Act, will improve the forms usability and will be received well by members of the public and Government alike.

William F. Clark,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2023–22920 Filed 10–17–23; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0205; Docket No. 2023–0053; Sequence No. 11]

Information Collection; Implementation of Federal Acquisition Supply Chain Security Act (FASCSA) Orders

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

ACTION: Notice and request for comments.

SUMMARY: DoD, GSA, and NASA invite public comment on a proposed emergency information collection that will be submitted to the Office of

Management and Budget (OMB) for clearance, pursuant to the Paperwork Reduction Act of 1995. Comments are invited on: whether the proposed collection of information is necessary for proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and; ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: DoD, GSA, and NASA will consider all comments regarding this emergency information collection received by November 17, 2023.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this emergency information collection through *https://www.regulations.gov.* Follow the instructions on the website. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

Instructions: All items submitted must cite OMB Control No. 9000–0205, Implementation of Federal Acquisition Supply Chain Security Act (FASCSA) Orders. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Marissa Ryba, Procurement Analyst, at telephone 314–586–1280, or *marissa.ryba@gsa.gov.*

SUPPLEMENTARY INFORMATION: This proposed emergency information collection request contains:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0205, Implementation of Federal Acquisition Supply Chain Security Act (FASCSA) Orders

B. Need and Uses

The DoD, GSA, and NASA provided notification of the applicability of the Paperwork Reduction Act. Agency and public comments were solicited through an interim rule under FAR Case 2020–011, Implementation of FASCSA Orders. This clearance covers the information that offerors/contractors must submit to comply with the following interim Federal Acquisition Regulation (FAR) rule requirements:

a. FAR 52.204–29, Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures. This provision prohibits contractors from providing or using as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the covered article or the source is subject to an applicable FASCSA order identified in the clause at FAR 52.204–30(b)(1).

By submitting an offer, offerors are representing compliance with the prohibition. If an offeror cannot represent compliance with the prohibition, then the offeror must disclose the following information in accordance with 52.204–29(e):

(1) Name of the product or service provided to the Government.

(2) Name of the covered article or source subject to a FASCA order.

(3) If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied the covered article or the product or service to the Offeror.

(4) Brand.

(5) Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number).

(6) Item description.

(7) Reason why the applicable covered article or the product or service is being provided or used.

b. FAR 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. This clause requires contractors to provide a report to the Government within 3 business days if the contractor identifies that the contractor or any-tier subcontractor, delivered or used a covered article or product or service subject to a FASCSA order. The report requires the following information:

(A) Contract number.

(B) Order number(s), if applicable.

(C) Name of the product or service provided to the Government or used during performance of the contract.

(D) Name of the covered article or source subject to a FASCSA order.

(E) If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied the covered article or the product or service to the Contractor.

(F) Brand.

(G) Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number).

(H) Item description.

(I) Any readily available information about mitigation actions undertaken or recommended.

The contractor must also submit additional information within 10 business days of submitting the first report identifying any further available information about mitigation actions undertaken or recommended. Additionally, the contractor shall describe the efforts it undertook to prevent submission or use and any additional efforts to prevent future submission or use of the covered article or the product or service produced or provided by a source subject to an applicable FASCSA order.

Information collected under the provision FAR 52.204–29 will be used by the government to determine whether to seek a waiver from a FASCSA order issued under the authority of the Federal Acquisition Supply Chain Security Act of 2018.

Information collected under the clause at FAR 52.204–30 will consist of reports from contractors who have identified, post-award, that a covered article or product or service produced or provided by a source subject to a FASCSA order was provided or used as part of the performance of the contract to the Government during contract performance.

C. Annual Burden

Respondents/Recordkeepers: 6,113.

Total Annual Responses: 1.

Total Burden Hours: 12,226.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0205, Implementation of Federal Acquisition Supply Chain Security Act (FASCSA) Orders.

Janet Fry,

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

[FR Doc. 2023–22940 Filed 10–17–23; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Updating the Framework for AHRQ's National Healthcare Quality and Disparities Report (NHQDR)

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Supplemental Evidence and Data Submission.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Updating the Framework for AHRQ's National Healthcare Quality and Disparities Report (NHQDR),* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before November 17, 2023.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kelly Carper, Telephone: 301–427–1656 or Email: *epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Updating the Framework for AHRQ's National Healthcare Quality and Disparities Report (NHQDR).* AHRQ is conducting this review pursuant to Section 902 of the Public Health Service Act, 42 U.S.C. 299a.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Updating the Framework for AHRQ's National Healthcare Quality and Disparities Report (NHQDR).* The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/products/updating-framework/protocol.*

This is to notify the public that the EPC Program would find the following information on *Updating the Framework for AHRQ's National Healthcare Quality and Disparities Report (NHQDR)* helpful:

- A list of completed studies that your organization has sponsored for this topic. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* a summary, including the following elements, if relevant: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this topic.* In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including, if relevant, a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your organization for this topic and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on topics not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates.*

The review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

Guiding Questions (GQ)

GQ1. Which frameworks have been developed or are used for quality of care?

- What settings, populations, and intended use were the frameworks developed for?
- How are the framework domains defined?
- In what context have these frameworks been used?
- How do these frameworks intersect with levers and tools available to federal and state governments?
- How are the frameworks and domains similar or different from the 2010 NASEM framework?

GQ2. How should the 2010 NASEM framework and its domains be updated?

- How would existing AHRQ NHQDR measures be reorganized in the updated framework and domains?
- Are there available measures for new framework domains?
  - Describe measures in terms of their definition, population, years available, geographic representation, data sources, and supporting evidence.

CRITERIA FOR INCLUSION/EXCLUSION OF STUDIES IN THE REVIEW

Domain	Inclusion	Exclusion
Population	• Publications that address quality of care indicators, criteria, or benchmarks. We will accept the authors' definition of quality of care. Quality indicators may include care processes-related measures (*e.g.,* follow-up post discharge, continuity of care, medication errors), heath services utilization measures (*e.g.,* hospital readmission, emergency department visit), care satisfaction (*e.g.,* patient satisfaction, care needs met, trust in care provider), or health outcomes (*e.g.,* mortality, physical functional status, mental functioning, quality of life) used as quality indicators. Publications that do not address quality of care in detail but include quality of care and health equity in a framework will also be eligible. Care disparities may either address differences in provided health services, focus on care services or health outcomes of priority populations.	• Publications not addressing quality of care and publications not mentioning quality of care nor health equity as a central feature of a framework.
Concept	• Publications that include a figure or detailed description of a framework of quality of care or care disparities; frameworks may use the format of a logic model, analytic framework, conceptual model, or other conceptualizations of quality of care.	• Publications citing existing frameworks without further conceptual contribution to the framework and publications describing only the need of quality of care measures.
Context	• Healthcare, specifically healthcare delivery organizations	• Studies in contexts outside of healthcare or not specific to healthcare.
Other limiters	• Reports published in English-language, journal manuscripts, trial records, and gray literature in the public domain from the outlined sources.	• Data reported in abbreviated format (*e.g.,* conference abstracts) will be excluded; studies not published in English • Systematic reviews will be retained for reference mining.

Dated: October 12, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023–22915 Filed 10–17–23; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 5 U.S.C. Section1009(d), 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, and the Determination of the Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)-CE24–013, Research Grants to Identify Effective Community-Based Strategies for Overdose Prevention (R01).

Date: March 12–13, 2024.

Time: 8:30 a.m.–5 p.m., EDT.

Place: Web Conference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Aisha L. Wilkes, M.P.H., Scientific Review Officer, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway NE, Mailstop S106–9, Atlanta, Georgia 30341, Telephone: (404)639–6473; Email: *AWilkes@cdc.gov*.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2023–23006 Filed 10–17–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to 5 U.S.C. 1009(d), 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, and the Determination of the Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—CE24–029, Grants to Support New Investigators in Conducting Research Related to Preventing Interpersonal Violence Impacting Children and Youth.

Date: March 19, 2024.

Time: 8:30 a.m.–5 p.m., EDT.

Place: Web Conference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Carlisha Gentles, PharmD, BCPS, CDCES, Scientific Review Officer, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, Georgia 30341, Telephone: (770)488–1504; Email: *CGentles@cdc.gov*.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2023–23007 Filed 10–17–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1815–N]

Medicare Program; Public Meeting for New Revisions to the Healthcare Common Procedure Coding System (HCPCS) Coding—November 28–30, 2023

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services.

ACTION: Notice.

SUMMARY: This notice announces the dates and times of the virtual Healthcare Common Procedure Coding System (HCPCS) public meeting to be held November 28, 2023 through November 30, 2023 to discuss our preliminary coding, Medicare benefit category, and payment determinations for new revisions to the HCPCS Level II code set for non-drug and non-biological products, as well as how to register for those meetings.

DATES: *Virtual Meeting Dates:* Tuesday, November 28, 2023, 9 a.m. to 5 p.m., eastern standard time (EST); Wednesday, November 29, 2023, 9 a.m. to 5 p.m., EST; and Thursday, November 30, 2023, 9 a.m. to 5 p.m., EST.

ADDRESSES: *Virtual Meeting Location:* The HCPCS public meetings will be held virtually via Zoom only.

FOR FURTHER INFORMATION CONTACT: Sundus Ashar, (410) 786–0750, *Sundus.ashar1@cms.hhs.gov*, or *HCPCS@cms.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, Congress enacted the Medicare, Medicaid, and the Children's Health Insurance Program (CHIP) Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106–554). Section 531(b) of BIPA mandated that the Secretary establish procedures that permit public consultation for coding and payment determinations for new durable medical equipment (DME) under Medicare Part B of title XVIII of the Social Security Act (the Act). In the November 23, 2001 **Federal Register** (66 FR 58743), we published a notice providing information regarding the establishment of the annual public meeting process for DME.

In 2020, we implemented changes to our HCPCS coding procedures, including the establishment of quarterly coding cycles for drugs and biological products and biannual coding cycles for non-drug and non-biological items and services.

In the December 28, 2021 **Federal Register** (86 FR 73860), we published a final rule that established procedures for making Medicare benefit category and payment determinations for new items and services that are DME, prosthetic devices, orthotics and prosthetics, therapeutic shoes and inserts, surgical dressings, or splints, casts, and other devices used for reductions of fractures and dislocations under Medicare Part B.

II. Public Meeting Agendas

Prior to registering to attend a virtual public meeting, all potential participants and other stakeholders are advised to review the public meeting agendas at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCSPublicMeetings* which identify our preliminary coding, Medicare benefit category, and payment determinations, and the date each item will be discussed. In establishing the public meeting agendas, we may group multiple, related code applications under the same agenda item.

III. Virtual Meeting Registration

The November 28, 2023 through November 30, 2023 HCPCS public meetings will be virtual and available for remote audio attendance and participation only via Zoom. The registration link will be posted in the Guidelines for Participation in HCPCS Public Meetings document on the CMS website at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCSPublicMeetings* and in an announcement on the HCPCS General Information page at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo.* The same website also contains detailed information on how attendees can join the virtual public meetings using Zoom, including dial-in information. All individuals who plan to speak (15 or 5 minutes) at the virtual public meetings must register to attend. All other attendees can access the virtual public meeting through the Zoom link which will be posted on the HCPCS website after the speaker registration closes on Tuesday, November 14, 2023. Attendees can attend more than one day of the public meeting.

A. Required Information for Registration

The following information must be provided when registering to be a speaker:

- Name;
- Company name (if applicable);
- Email address;
- Any special assistance requests (will be considered if the registration is submitted by 5 p.m. EST, Tuesday, November 14, 2023);
- Whether the registrant is a primary speaker or a 5-minute speaker for an agenda item;
- Agenda item and Application number;
- Whether the primary speaker will use a PowerPoint presentation; and
- Whether the registrant will participate in a practice Zoom session, to be held on Monday, November 27, 2023.

B. Speakers and Attendees

1. Primary Speakers

Each applicant that submitted a HCPCS code application that will be discussed at the virtual public meetings is permitted to designate a primary speaker. Fifteen minutes is the total time interval for a primary speaker per agenda item. The deadline for primary speakers to register and submit any supporting PowerPoint presentation is 5 p.m., EST, Tuesday, November 14, 2023. We will accept PowerPoint presentations if those materials are emailed to: *HCPCS@cms.hhs.gov* by the stated deadline. Due to the timeframe needed for the planning and coordination of the HCPCS virtual public meetings, materials that are not submitted in accordance with this deadline cannot be accommodated.

All PowerPoint presentation materials must not exceed 10 slides and should be

in PowerPoint presentation format, not PDF. We will not play videos or animations during the public meeting sessions and request the speakers to exclude these materials from their PowerPoint presentation and instead submit any relevant video or animation materials along with the written comments. We request the speakers to ensure that the presentation does not include any inappropriate content before submission.

Every primary speaker must declare at the beginning of their presentation at the meeting, as well as in their written summary, whether they have any financial involvement with the manufacturer of the item that is the subject of the HCPCS application that the primary speaker presented, or any competitors of that manufacturer with respect to the item. This includes any payment, salary, remuneration, or benefit provided to that speaker by the applicant.

2. 5-Minute Speakers

Any individual related to the public meeting agenda item, including but not limited to, an employee, stakeholder, competitor, insurer, public consumer, etc., may register and speak as a 5-minute speaker. The deadline for registering to be a 5-minute speaker is 5 p.m., EST, Tuesday, November 14, 2023.

Every 5-minute speaker must declare at the beginning of their presentation at the meeting, as well as in their written summary, whether they have any financial involvement with the manufacturer of the item that is the subject of the HCPCS code application or agenda item that the 5-minute speaker presented, or any competitors of that manufacturer with respect to the item. This includes any payment, salary, remuneration, or benefit provided to that speaker by the applicant. We will not accept any other written materials, outside of the written comments, from a 5-minute speaker.

3. All Other Attendees

All individuals who plan to attend the virtual public meetings to listen and do not plan to speak, may access the virtual public meeting using the Zoom link posted on the HCPCS website at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo* after the speaker registration closes on Tuesday, November 14, 2023.

Individuals who require special assistance must register and request special assistance services by 5 p.m. EST, Tuesday, November 14, 2023.

IV. Written Comments

The primary and 5-minute speaker(s) must email a brief, written summary (one paragraph) of their comments and conclusions. Written comments from anyone, including the primary and 5-minute speaker(s), will only be accepted when emailed to: *HCPCS@cms.hhs.gov* before 5 p.m., EST on the date of the virtual public meeting at which the HCPCS code application that is the subject of the comments is discussed.

V. Additional Information

The HCPCS section of the CMS website also *includes* details regarding the public meeting process for new revisions to the HCPCS code set, including information on how to join the meeting remotely, and guidelines for an effective presentation. The HCPCS section of the CMS website also contains a document titled ''Healthcare Common Procedure Coding System (HCPCS) Level II Coding Procedures,'' which is a description of the HCPCS coding process, including a detailed explanation of the procedures CMS uses to make HCPCS coding determinations.

When CMS refers to HCPCS code or HCPCS coding application above, CMS may also be referring to circumstances when a HCPCS code has already been issued, but a Medicare benefit category and/or payment has not been determined. CMS is working diligently to address Medicare benefit category and payment determinations for new items and services that may be DME, prosthetic devices, orthotics and prosthetics, therapeutic shoes and inserts, surgical dressings, or splints, casts, and other devices used for reductions of fractures and dislocations under Medicare Part B. Please check the CMS website listed above for the final agenda.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of CMS, Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Chyana Woodyard, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Chyana Woodyard,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2023–22953 Filed 10–17–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities: Proposed Collection; Public Comment Request; ACL Generic for Administration on Aging Formula Grant Programs OMB Control Number 0985–New

AGENCY: Administration for Community Living, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This new information collection solicits comments on the information collection requirements relating to the ACL Generic for Administration on Aging Formula Grant Programs.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by December 18, 2023.

ADDRESSES: Submit electronic comments on the collection of information to: Adam Mosey, *Adam.Mosey@acl.hhs.gov.* Submit written comments on the collection of information to Administration for Community Living, 330 C Street SW, Washington, DC 20201, Attention: Adam Mosey.

FOR FURTHER INFORMATION CONTACT: Adam Mosey (202) 795–7631 or *Adam.Mosey@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: 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. ''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. The PRA 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, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, ACL invites comments on our burden estimates or any other aspect of this collection of information, including:

(1) whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

(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 using automated collection techniques when appropriate, and other forms of information technology;

(5) ACL issued a Notice of Proposed Rulemaking (NPRM) to modify the implementing regulations of the Older Americans Act of 1965 (''the Act'' or OAA) to add a new subpart (Subpart D) related to Adult Protective Services (APS) RIN 0985–AA18. 0985–New is referenced in 88 FR 62503 pages 62503–62522 published on September 12, 2023. Comments associated with this proposed Generic Information Collection (Gen IC) should be submitted separately to the above listed program contact.

As a unit of the Administration for Community Living, the Administration on Aging (AoA) provides expertise on program development, advocacy, and initiatives for older Americans and their caregivers and families. Working with State agencies, local agencies, grantees, and community providers, AoA directs programs authorized by the OAA, Elder Justice Act (EJA), and other legislation that supports older adults. Through these programs multi-year State Plans and assurances, and other financial forms are needed to provide approval and oversight of grant recipients.

ACL is seeking OMB approval to add a new Gen IC to ACL's Paperwork inventory. This Gen IC will cover AoA formula grant programs for State Plans on Aging and assurances, State Plans on Adult Protective Services and assurances, and other financial forms associated with Aging formula grant management. Adding a Gen IC will allow for the collection of data across programmatic and financial management of the Aging and APS formula grants.

Statutory Background

In 1965, Congress originally passed the Older Americans Act (OAA) in response to concerns by policymakers about a lack of community social services for older adults. The original legislation established authority for grants to States for community planning and social services, research and development projects, and personnel training in the field of aging. Changes to the OAA were made through the Supporting Older Americans Act of 2020 (Pub. L. 116–131). This legislation reauthorized the OAA and its programs from Federal fiscal year (FFY) 2020 through 2024. The OAA provides the foundation for the National aging Network, which includes the Administration on Aging (AoA), State Units on Aging (SUA), Area Agencies on Aging (AAA), tribal organizations, service providers, and volunteers. SUAs are an integral part of the network responsible for developing and administering a multi-year State plan that advocates for and aids older residents, their families, their caregivers, and, in many States, for adults with disabilities.

The Elder Justice Act, passed in 2010, is the first comprehensive legislation to address the abuse, neglect, and exploitation of older adults at the Federal level. The law authorized a variety of programs and initiatives to better coordinate Federal responses to elder abuse, promote elder justice research and innovation, support Adult Protective Services systems, and provide additional protections for residents of long-term care facilities. The importance of these services at the State-level and local-level is demonstrated by the fact that States significantly leverage OAA funds to obtain other funding for these activities.

The Coronavirus Response and Relief Supplemental Appropriations Act of 2021 and the American Rescue Plan Act provided two years of Federal funding ($188 million in each year) to support, for the first time, the nationwide APS formula grant program authorized by the Elder Justice Act of 2010. That funding was used by States to expand or develop a variety of capabilities that were necessary to meet increased needs due to the public health pandemic, and ongoing funding is necessary to maintain the improved reach and effectiveness of APS systems beyond the pandemic.

The FY 2023 Omnibus Appropriations Bill provided, for the first time, an annual appropriation of $15 million to continue providing Federal formula grants to State APS programs. This will be the first time State entities are required to develop and submit State plans on Adult Protective Services under Section 2042 of the Elder Justice Act, 42 U.S.C. 1397m–1(b). However, States have developed spending plans for the formula funding received to date, consistent with 45 CFR 75.206(d), and to update those every three to five years.

This new Gen IC is for programmatic and financial management of the Aging and APS formula grants. The purpose of the State Plans and assurances is to document and provide the opportunity for public comment of achievements and planned activities for the multi-year plan period. A wide range of constituents use or will use the State Plans to coordinate, monitor, evaluate, and improve Aging Network and APS support services by using the State Plans as a blueprint for service planning and delivery.

Additionally, ACL leverages State Plans to understand the numerous services older adults use, and to utilize the information for advocating for the needs of older adults and those who use APS and for requesting additional funding. The purpose of the other financial forms that are a part of this Gen IC is to facilitate OAA formula grant management.

Financial forms provide statutorily required information regarding each State's contribution to programs to ensure compliance with legislative requirements, pertinent Federal regulations, and other applicable instructions and guidelines issued by ACL. This information will be used for Federal oversight of the Aging Programs. Based on ACL's extensive experience working with APS systems and OAA grantees on their State plans, ACL does not anticipate a significantly greater level of detail for the development of State plans for APS.

Since a new Gen IC does not permit the public to examine the details of each individual collection, the ACL Generic for Administration on Aging Formula Grant Programs 0985–New Proposed Gen IC Plan can be found on the ACL website for review and comment at:

https://www.acl.gov/about-acl/public-input.

In accordance with the PRA 44 U.S.C. 3506(c)(2)(A); 44 U.S.C. 3507(a)(1)(D) ACL details the proposed Gen IC pertaining to:

- the method of collection;
- the category (or categories) of respondents;
- the estimated maximum number of burden hours (per year) for the specific information collections, and against which burden will be charged for each collection actually used;
- ACL's plans for how it will use the information collected; and
- ACL's internal procedures to ensure that the specific collections comply with the PRA, applicable regulations, and the terms of the generic clearance.

Estimated Program Burden: ACL estimates the burden of this collection of information as follows:

ESTIMATED ANNUALIZED BURDEN TABLE

Respondent/data collection activity	Form	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Unit on Aging (SUA)	State Plan on Aging	14.7	1	80	1,176
State Entity for APS	State Plan on APS	56	1	6	336
State Entity for APS	Required Assurances for APS (4)	56	3	10	1,680
State Unit on Aging (SUA)	Financial Forms	56	5	1	280
Total Estimated Burden					3,472

Dated: October 12, 2023.

Alison Barkoff,

Senior official performing the duties of the Administrator and the Assistant Secretary for Aging.

[FR Doc. 2023–22956 Filed 10–17–23; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–P–1323]

Determination That NAROPIN (Ropivacaine Hydrochloride) Solution, 50 Milligrams/10 Milliliters and 75 Milligrams/10 Milliliters, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) has determined that Naropin (ropivacaine hydrochloride) solution, 50 milligrams (mg)/10 milliliters (mL) and 75mg/10mL, were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to these drug products as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Alexander Poonai, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6213, Silver Spring, MD 20993–0002, 301–796–3600, *Alexander.Poonai@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

Naropin (ropivacaine hydrochloride) solution, 50mg/10mL and 75mg/10mL, are the subject of NDA 020533, held by Fresenius Kabi USA LLC, and initially approved on May 1, 1998. Naropin is indicated for the production of local or regional anesthesia for surgery and for acute pain management.

Naropin (ropivacaine hydrochloride) solution, 50mg/10mL and 75mg/10mL, are currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

Lachman Consultant Services, Inc., submitted a citizen petition dated December 15, 2021 (Docket No. FDA–2021–P–1323), under 21 CFR 10.30, requesting that the Agency determine whether Naropin (ropivacaine hydrochloride) solution, 50mg/10mL and 75mg/10mL, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that Naropin (ropivacaine hydrochloride) solution, 50mg/10mL and 75mg/10mL, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that these drug products were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of Naropin (ropivacaine hydrochloride) solution, 50mg/10mL and 75mg/10mL, from sale. We have also independently

evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that these drug products were not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list Naropin (ropivacaine hydrochloride) solution, 50mg/10mL and 75mg/10mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to Naropin (ropivacaine hydrochloride) solution, 50mg/10mL and 75mg/10mL, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: October 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–22960 Filed 10–17–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–2986]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Color Additive Certification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by November 17, 2023.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0216. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rachel Showalter, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–994–7399, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Color Additive Certification

OMB Control Number 0910–0216—Extension

This information collection supports FDA regulations governing certification for color additives used in foods, drugs, cosmetics, and medical devices. All color additives must have FDA-approval for their intended use and be listed in the color additive regulations before they are permitted for use in food, drugs, cosmetics, and many medical devices. Some color additives have an additional requirement: they are permitted only if they are from batches that FDA has certified under section 721(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379e(a)). This means that FDA chemists have analyzed a sample from the batch and have found that it meets the requirements for composition and purity stated in the regulation, called a ''listing regulation,'' for that color additive. We list color additives that have been shown to be safe for their intended uses in Title 21 of the Code of Federal Regulations (CFR). We require batch certification for all color additives listed in 21 CFR part 74 and for all color additives provisionally listed in 21 CFR part 82. Color additives listed in 21 CFR part 73 are exempted from certification.

The requirements for color additive certification are established in 21 CFR part 80. Procedures for color additive certification are set forth in part 80, subpart B (§§ 80.21 through 80.39) and communicate required data elements for requests for certification, limitations of certificates, exemptions from certification for color additive mixtures, treatment of batches pending and after certification, and recordkeeping requirements for respondents to whom a certificate is issued. During the batch certification procedure, a manufacturer of color additives must submit a ''request for certification'' that provides information about the batch, accompanied by a representative sample of a new batch of color additive, to FDA's Office of Cosmetics and Colors. FDA personnel perform chemical and other analyses of the representative sample and, providing the sample satisfies all certification requirements, issue a certificate that contains a certification lot number for the batch. The batch can then be used in FDA-regulated products marketed in the United States, in compliance with the uses and restrictions in that color additive's listing regulation. If the sample does not meet the requirements, the batch will be rejected. We require manufacturers to keep complete records showing disposal of all of the color additive covered by the certification.

FDA's web-based color certification information system is available for respondents to request color certification online, track their submissions, and obtain account status information. Prior to submitting a request for certification, the manufacturer must open a color certification account by sending a letter, as an email attachment, signed by responsible company representative, to FDA's Office of Cosmetics and Colors at *color.cert@fda.hhs.gov.* System certification results are returned electronically, allowing submitters to sell their certified color before receiving hard copy certificates.

We charge a fee for certification based on the batch weight and require manufacturers to keep records of the batch pending and after certification. The user fees support FDA's color certification program. Additional information about color additive certification is available at: *https://www.fda.gov/industry/color-additives/color-certification.*

The purpose for collecting this information is to help the Agency assure that only safe color additives will be used in foods, drugs, cosmetics, and medical devices sold in the United States.

Description of Respondents: The respondents include businesses engaged in the manufacture of color additives used in FDA-regulated foods, drugs, cosmetics, and medical devices. Respondents are from the private sector (for-profit businesses).

In the **Federal Register** of August 10, 2023 (88 FR 54329), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
80.21 and 80.22; Request for certification accompanied by sample.	67	112	7,504	0.22 (13 minutes)	1,651

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
80.39; Record of distribution	67	112	7,504	0.25 (15 minutes)	1,876

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We base our estimate on our review of the certification requests received over the past 3 years. Using information from industry personnel, we estimate that an average of 0.22 hour per response is required for reporting (preparing certification requests and accompanying samples) and an average of 0.25 hour per response is required for recordkeeping.

Based on a review of the information collection since our last request for OMB approval, we have slightly decreased our burden estimate based on our experience with this program. As a result, although the number of respondents increased, the number of responses per respondent decreased.

Dated: October 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–22971 Filed 10–17–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–4128]

Guidance Documents Referencing Pre-Existing Tobacco Products; Guidance for Industry; Availability; Withdrawal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of revised final guidances for industry entitled ''Demonstrating the Substantial Equivalence of a New Tobacco Product: Responses to Frequently Asked Questions,'' and ''Establishing That a Tobacco Product Was Commercially Marketed in the United States as of February 15, 2007.'' Following the issuance of the final rules entitled ''Content and Format of Substantial Equivalence Reports; Food and Drug Administration Actions on Substantial Equivalence Reports'' (SE) and ''Premarket Tobacco Product Applications and Recordkeeping Requirements'' (PMTA), FDA has made minor updates to these guidances for consistency with the terminology used in those rules. FDA is also announcing the withdrawal of the final guidances entitled ''Section 905(j) Reports: Demonstrating Substantial Equivalence for Tobacco Products,'' and ''Investigational Use of Deemed, Finished Tobacco Products That Were on the U.S. Market on August 8, 2016, During the Deeming Compliance Periods,'' and a draft guidance entitled ''Substantial Equivalence Reports: Manufacturer Requests for Extensions or to Change the Predicate Tobacco Product,'' which are obsolete due to the issuance of the SE final rule or the end of the compliance period for deemed, finished tobacco products that were on the U.S. market on August 8, 2016.

DATES: The announcement of the guidance is published in the **Federal Register** on October 18, 2023.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked, and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–D–4128 for ''Guidance Documents Referencing Pre-Existing Tobacco Products.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential

Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of these guidances to the Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a Fax number to which the guidances may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance documents.

FOR FURTHER INFORMATION CONTACT: Natalie Gibson, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 877–287–1373, email: *CTPRegulations@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 22, 2009, the Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31) (Tobacco Control Act) was signed into law. The Tobacco Control Act grants FDA authority to regulate the manufacture, marketing, and distribution of tobacco products to protect public health generally and to reduce tobacco use by youth. FDA is announcing the availability of revised final guidances for industry, collectively entitled ''Guidance Documents Referencing Pre-Existing Tobacco Products.''

In the PMTA final rule (86 FR 55300, October 5, 2021) and the SE final rule (86 FR 55224, October 5, 2021), FDA has changed the term ''grandfathered tobacco product'' to ''pre-existing tobacco product'' because it more appropriately describes these products. Specifically, FDA considers a ''pre-existing tobacco product'' to mean a tobacco product that was commercially marketed in the United States as of February 15, 2007. FDA also made other minor changes to the revised guidances to reflect updated terminology used in the SE final rule, when appropriate. Details of the changes are described in the revision history page included with each guidance.

FDA is also withdrawing three guidances that are obsolete due to the issuance of the SE final rule or due to the end of the compliance period for deemed, finished tobacco products that were on the U.S. market on August 8, 2016. The guidances along with their docket numbers and status are listed in table 1.

TABLE 1—REVISED AND WITHDRAWN GUIDANCES

Title	Docket No.	Status
Demonstrating the Substantial Equivalence of a New Tobacco Product: Responses to Frequently Asked Questions.	FDA–2011–D–0147	Revised.
Establishing That a Tobacco Product Was Commercially Marketed in the United States as of February 15, 2007.	FDA–2011–D–0125	Revised.
Investigational Use of Deemed, Finished Tobacco Products That Were on the U.S. Market on August 8, 2016, During the Deeming Compliance Periods.	FDA–2016–D–3276	Withdrawn.
Section 905(j) Reports: Demonstrating Substantial Equivalence for Tobacco Products	FDA–2010–D–0635	Withdrawn.
Substantial Equivalence Reports: Manufacturer Requests for Extensions or to Change the Predicate Tobacco Product, Draft Guidance.	FDA–2014–D–0800	Withdrawn.

The revised final guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115) and represent the current thinking of FDA on, among other things, the incorporation of the term ''pre-existing tobacco product.'' They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While these guidances contain no collections of information, they do refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in FDA's guidance entitled ''Establishing That a Tobacco Product Was Commercially Marketed in the United States as of February 15, 2007'' have been approved under OMB control number 0910–0775.

III. Electronic Access

Persons with access to the internet may obtain an electronic version of the guidances at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents, https://www.fda.gov/TobaccoProducts/*

Labeling/RulesRegulationsGuidance/default.htm, or *https://www.regulations.gov.*

Dated: October 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–22976 Filed 10–17–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–3595]

Agency Information Collection Activities; Proposed Collection; Comment Request; Improving the Quality and Representativeness of the Treatment Center Program Data—Data Modifications to the Current Survey Instrument Format to Minimize Misclassification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed information collection entitled ''Improving the Quality and Representativeness of the Treatment Center Program Data—Data Modifications to the Current Survey Instrument Format to Minimize Misclassification.''

DATES: Either electronic or written comments on the collection of information must be submitted by December 18, 2023.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. eastern time at the end of December 18, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–N–3595 for ''Improving the Quality and Representativeness of the Treatment Center Program Data—Data Modifications to the Current Survey Instrument Format to Minimize Misclassification.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this

requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Improving the Quality and Representativeness of the Treatment Center Program Data—Data Modifications to the Current Survey Instrument Format To Minimize Misclassification

OMB Control Number 0910–NEW

FDA has a need for valid, high-quality surveillance data on misuse of pharmaceutical products and use of other substances in the United States. FDA is funding the evaluation and improvement of the data validity and reliability of the Researched Abuse, Diversion and Addiction-Related Surveillance (RADARS®) Substance Abuse Treatment Center Programs Combined (TCPC) survey. The RADARS TCPC is comprised of two unique programs, the Opioid Treatment Program and the Survey of Key Informants' Patients Program. These two programs use the same core paper data collection form and complement each other by providing information from patients entering both private and public opioid addiction treatment programs. Patients enrolling in the study complete a self-administered anonymous questionnaire, within the first week of admission. The objective of these programs is to provide timely prevalence estimates of abuse of legal and illegal opioids and other substances, within the past month, among patients enrolling in treatment primarily for opioid use disorders. Surveillance data collected by these programs are used by FDA as well as researchers, industry, and other public health stakeholders to inform policy and regulatory decisions. FDA will be providing public health expertise on the survey validity and reliability questions before implementation to ensure that they generate quality data. FDA will also be providing its expert input on the results, analysis, and interpretation, as well as how the survey may be improved in light of the results.

This FDA-funded information collection will include three survey arms, two arms focused on survey validity (is the survey measuring what it is intended to measure) and the third arm focused on survey reliability (do the questions consistently produce the same results when asked at different time points and in a different format). For both survey validity arms—a digital survey only and digital survey plus interview arm—volunteer participants will be asked to pause after answering each survey question to answer a series of content validation questions concerning comprehension and quality of survey items. Items assessed will include survey instructions, active pharmaceutical ingredient and product content, reason for use, and route of administration. For the survey reliability arm, TCPC paper survey participants at selected sites will be invited to voluntarily participate in a second, digital survey, and the results of the two survey formats will be compared. The data collected through the three arms of this information collection will be analyzed to validate the content of a modified TCPC survey and to then determine the reliability among a proxy population for the target population. Results from the three arms will inform the format, structure, and wording of the modified digital TCPC survey, prior to its launch.

The annual participant burden hours requested are based on the number of collections FDA expects the contractor to conduct over the requested time frame for this clearance. FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent/interview	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Content Validity—Digital Survey Arm	175	1	175	0.25 (15 minutes)	44
Content Validity—Digital Survey and Cognitive Interview Arm.	25	1	25	1.5 (90 minutes)	38
Reliability Survey Arm—Digital Survey	250	1	250	0.33 (20 minutes)	83
Total	450		450		165

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–22966 Filed 10–17–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0465; FDA–2023–N–1529; FDA–2010–N–0583; FDA–2020–N–0145; FDA–2023–N–0918; FDA–2014–N–1721]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD

20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The following is a list of FDA information collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the internet at *https://www.reginfo.gov/public/do/PRAMain.* 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.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control No.	Date approval expires
Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002	0910–0520	9/30/2026
Voluntary Qualified Importer Program	0910–0840	9/30/2026
Radioactive Drug Research Committees	0910–0053	9/30/2026
Animal Drug and Animal Generic Drug User Fee Submissions	0910–0540	9/30/2026
Food Labeling Requirements	0910–0381	9/30/2026
Investigational New Drug Application Requirements	0910–0014	9/30/2026

Dated: October 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–23002 Filed 10–17–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Strategic Preparedness and Response

Request for Information (RFI): HHS Initiative To Enhance National All Hazards Hospital Situational Awareness

AGENCY: Administration for Strategic Preparedness and Response (ASPR), HHS.

ACTION: Notice of request for information.

SUMMARY: The Administration for Strategic Preparedness and Response (ASPR), Centers for Disease Control and Prevention (CDC), Centers for Medicare & Medicaid Services (CMS), and the Office of the National Coordinator for Health Information Technology (ONC) are seeking broad public input from entities across the health care readiness community on a national, all-hazards standardized set of essential elements of information (EEIs) and vendor-neutral data collection mechanisms for hospital data that drive action for emergency preparedness and response. This input will inform efforts to provide recommendations for a standardized lens into the readiness of, stress on, and resources available in hospitals before, during, and after emergencies

DATES: To be assured consideration, comments on the RFI must be received on or before December 18, 2023. HHS will not reply individually to responders but will consider all comments submitted by the deadline.

ADDRESSES: Please submit all responses via email to *AllHazards@hhs.gov* within 60 days of publication of this notice as a Word document attachment or in the body of an email. Include ''All Hazards Hospital Situational Awareness RFI'' in the subject line of the email.

FOR FURTHER INFORMATION CONTACT: For additional information, direct questions to Sayeedha Uddin at (202) 699–1874 or *Sayeedha.Uddin@hhs.gov.*

When submitting comments or requesting information, please include ''All Hazards Hospital Situational Awareness RFI'' in the subject line of the email.

When submitting comments or requesting information, please include ''All Hazards Hospital Situational Awareness RFI'' in the subject line of the email.

SUPPLEMENTARY INFORMATION: Respondents may provide information for one or more of the questions or topic areas listed below, as desired.

Outside of the federal COVID–19 hospital data collection, what essential elements of information does your entity report or collect (or plan to report/collect in the future) related to health care capacity, facility status, stress, supplies, staffing, infrastructure, and/or other information that is needed to inform hospital emergency preparedness and response?

What information do you collect internally, including key areas your leadership monitors for preparedness and response purposes?

What information do you report to other entities, and to whom? Specifically, consider regular reporting that is required by regulatory agencies, notifiable disease reporting, payors, as well as time-limited or voluntary reporting efforts to trade groups and professional associations.

On what cadence does your entity collect and report these essential elements of information?

How is information used for driving action in areas such as patient placement, patient movement, load balancing, equipment/supply procurement, or other preparedness and response areas? If you are a reporting entity (ex. hospital), do you know how your data is being used to create value for your community?

What electronic systems are used to collect the essential elements of information (*e.g.,* electronic health record systems (EHRs), hospital operations systems, etc.)? Who are the primary vendors/developers?

What is your expectation for federal government situational awareness of hospital status, capacity, stress, etc. before, during, and after a crisis?

Please share any potentially relevant clinical and/or situational awareness measures, efforts, and/or definitions that might be helpful to inform this effort (ex. National Emergency Department Overcrowding Scale (NEDOCS) scores, International Organization for Standards (ISO) Health informatics—Interoperability of public health emergency preparedness and response information systems, the Situational Awareness Network for Emergencies (SANER) Project, etc.).

We are interested in promising practices in specific areas:

Decreasing burden is a core goal of this initiative. Please share any promising practices related to data automation and/or other ways to reduce burden of data collection and reporting.

We recognize data often are sourced from multiple systems. Please share any promising practices in aggregating and assessing data from multiple source systems in a cohesive and standard way.

During response incidents, immediate patient care needs, power outages, and competing priorities can be significant challenges in maintaining shared situational awareness. Please share any promising practices for continued reporting during incidents.

We recognize that some healthcare partners have more advanced data and situational awareness programs while others may have minimal resources. Please share any promising practices for effectively leveraging minimal resources.

Please share any ongoing or anticipated challenges with reporting or collecting data related to hospital capacity, facility status, hospital stress, supply inventory, or other information that is needed to inform hospital emergency preparedness and response.

Please share any non-financial resources that would be useful to improve your reporting capability.

Title: Request for Information on All-Hazards Hospital Data.

Abstract: The Administration for Strategic Preparedness and Response (ASPR), Centers for Disease Control and Prevention (CDC), Centers for Medicare & Medicaid Services (CMS), and the Office of the National Coordinator for Health Information Technology (ONC) are co-leading an effort to define the vendor-agnostic technical and policy infrastructure, standards, and capabilities necessary to support all-hazard data reporting by all hospitals nationally including rehabilitation, psychiatric, and long-term care acute care hospitals as well as those providing acute medical care. This effort will gather information to provide recommendations for a standardized lens into the readiness of, stress on, and resources available in hospitals before, during, and after emergencies (including all-hazard incidents such as public health emergencies, hurricanes, mass casualty incidents, infectious disease outbreaks, etc.) for needs across the country. While this effort is led by federal partners, it is intended to also support local response efforts. For example, standardized essential elements of information (EEIs) may help to facilitate coordination across jurisdictions when load balancing or medical operations coordination centers are needed. The effort will leverage past efforts and collaborate with ongoing initiatives across the healthcare situational awareness sphere, such as the National Biodefense Strategy.

Importantly, this is a nationwide effort for which partner input across the healthcare readiness community is essential. The healthcare community rose to increased demands during the COVID–19 public health emergency, reinforcing their commitment to always providing the highest quality level of safe care to patients. ASPR, CDC, CMS, and ONC are committed to working together with partners to help shape the path forward towards efficient information sharing, minimizing burden and increasing transparency on how information is used to drive action. Partners such as jurisdictions, hospital associations, hospitals, healthcare coalitions, medical operations coordination centers, transfer centers, nurses, emergency medical services, health information technology, and more will help to inform the project. ASPR, CDC, CMS, and ONC will be co-hosting a series of listening sessions in addition to seeking comments through this RFI.

To date there has been a limited unified, all-hazards understanding of national level hospital-facility status, capacity, resources, and capabilities. An all-hazards approach addresses capabilities-based preparedness to prevent, protect against, respond to, and recover from terrorist attacks, major disasters, and other emergencies. Existing efforts have included the COVID–19 hospital data collection, ad-hoc surveys performed after incidents such as hurricanes, targeted surveillance systems for specific communicable diseases and/or specific types of care (ex. Emergency Department (ED) visits), and individual efforts within jurisdictions. While each existing effort has been important, data collection efforts are patchwork, crisis-driven, and not standardized with respect to how EEIs are defined and operationalized. As a result, the nation continues to lack a comprehensive, standardized view of the state of the healthcare system that can be shared across partners at all levels to inform coordinated action.

In addition to informing nationwide EEIs, input provided will also be used for related initiatives such as the National Healthcare Safety Network (NHSN) hospital bed capacity data pilot project, the Health Level 7 (HL7) Helios Fast Healthcare Interoperability Resources (FHIR) Accelerator, the Medical Countermeasures and Data Information Technology Ecosystem, and CDC data modernization efforts. Nationwide EEIs identified through this effort will directly inform updates to the USCDI+ for Public Health, Situational Awareness, and Emergency Response dataset, where additional input will be solicited on how to represent concepts for data exchange purposes. The effort also aligns with programs across the ASPR Health Care Readiness Portfolio and the CDC Public Health Emergency Program.

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2023–22931 Filed 10–17–23; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer at (240) 276–0361.

Project: SAMHSA Generic Clearance for the Collection of Qualitative Research and Assessment

SAMHSA is requesting approval from the Office of Management and Budget (OMB) for their Generic clearance for purposes of conducting qualitative research. SAMHSA conducts qualitative research to gain a better understanding of emerging substance use and mental health policy issues, improve the development and quality of instruments, and to ensure SAMHSA leadership, centers and offices have recent data and information to inform program and policy decision-making. SAMHSA is requesting approval for at least four types of qualitative research: (a) interviews, (b) focus groups, (c) questionnaires, and (d) other qualitative methods.

SAMHSA is the agency within the U.S. Department of Health and Human Services (HHS) that leads public health efforts to advance the behavioral health of the nation and to improve the lives of individuals living with mental and substance use disorders, and their families. It's mission is to lead public health and service delivery efforts that promote mental health, prevent substance misuse, and provide treatments and supports to foster recovery while ensuring equitable access and better outcomes. SAMHSA pursues this mission by providing grant

funding opportunities and guidance to states and territories, as well as tribal and local communities; technical assistance to grantees and practitioners; publishing and sharing resources for individuals and family members seeking information on prevention, harm reduction, treatment and recovery; collecting, analyzing, and sharing behavioral health data; collaborating with other Federal agencies to evaluate programs and improve policies; and raising awareness of available resources through educational messaging campaigns and events. Integral to this role, SAMHSA conducts qualitative research and evaluation studies, develops policy analyses, and estimates the cost and benefits of policy alternatives for SAMHSA related programs.

The goal of establishing the SAMHSA Generic Clearance for the Collection of Qualitative Research and Assessmentis to help public health officials, policymakers, community practitioners, and the public to understand mental health and substance use trends and how they are evolving; inform the development and implementation of targeted evidence-based interventions; focus resources where they are needed most; and evaluate the success of programs and policies. A key objective is to decrease the burden on stakeholders while expanding and improving data collection, analysis, evaluation, and dissemination. To achieve this objective, SAMHSA is streamlining and modernizing data collection efforts, while also coordinating evaluation across the agency to ensure funding and policies are data driven. Additionally, the agency is utilizing rigorous evaluation and analytical processes that are in alignment with the Foundations for Evidence-Based Policymaking Act of 2018. SAMHSA, using robust methods to collect, analyze, and report valid, reliable, trustworthy, and protected data, is key to improving and impacting behavioral health treatment, prevention, and recovery for communities most in need. By using rigorous methods, and improving the quality and completeness of program data, data can be disaggregated across different population groups to assess disparities within the behavioral health care system. SAMHSA's vision will be accomplished by better leveraging optimal data to inform the agency's policies and programs.

The qualitative research participants will include grant recipients; policy experts; national, state, and local public health representatives; human service, and healthcare providers; and representatives of other health organizations. A variety of instruments and platforms will be used to collect information from respondents. The annual burden hours requested (15,000) are based on the number of collections we expect to conduct over the requested period for this clearance. The burden estimates were calculated based on the amount of IC submissions to the 0930–0393 Fast Track Generic Clearance for the Collection of Qualitative Feedback on the Substance Abuse and Mental Health Services Administration (SAMHSA) Service Delivery that are ineligible for OMB approval under it. This Generic information collection will provide a viable replacement option. Internal assessments of projected IC submission over the next three years estimate the burden hours for this information collection to be approximately half that of the 0930–0393 Fast Track Generic Clearance for the Collection of Qualitative Feedback on the Substance Abuse and Mental Health Services Administration (SAMHSA) Service Delivery.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Form	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
SAMHSA internal and external stakeholders.	Qualitative Research	15,000	1	1	15,000

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.

Alicia Broadus,

Public Health Advisor.

[FR Doc. 2023–22972 Filed 10–17–23; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–NWRS–2023–N071; FXRS12630700000–234–FF07R08000; OMB Control Number 1018–0141]

Agency Information Collection Activities; Alaska Guide Service Evaluation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before November 17, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference ''1018–0141'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. 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: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

On April 19, 2023, we published in the **Federal Register** (88 FR 24207) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on June 20, 2023. The Service also published the **Federal Register** notice (and both forms) on *Regulations.gov* (Docket No. FWS–R7–NWRS–2023–0005) to provide the public with an additional method to submit comments (in addition to the typical *Info_Coll@fws.gov* email and U.S. mail submission methods). We received the following comments in response to that notice:

Comment 1: Anonymous electronic comment received May 6, 2023, via *Regulations.gov* (FWS–R7–NWRS–2023–0005–0004): ''I recommend prohibiting commercial guiding on public lands. It is not necessary or appropriate. Many of them do something illegal [because] they have a client paying money and that alone pressures them to same day airborne, herd animals, bait, and the list goes on and on.

There are plenty of hunters in Alaska if some rich fancy pants from Germany wants a trophy well he can afford to spend the time and money to learn the skill.''

Agency Response to Comment 1: This comment does not address the information collection requirements. No response required.

Comment 2: Electronic comment received May 16, 2023, via *Regulations.gov* (FWS–R7–NWRS–2023–0005–0005) from Josh Hayes: ''Data collection is necessary in order to properly understand guide/client/public interaction within the Refuges. In the high use areas, and in competitive permitted areas of Refuges in Alaska I feel it is paramount that commercial operators are regularly evaluated. Modern data collection is often electronic via phones, apps, internet based reporting etc. Due to limited internet/cell phone access and connectivity in many areas of Alaska—these collection methods are convenient only when allowing the Client to respond/reply within a fairly broad timeframe.

As a commercial operator collecting in depth personal information from every client/guest is not necessarily convenient. Often due to inclement weather, written documentation is nearly impossible, and phones/devices often prove difficult to operate in rain, snow, or colder climates. Many clients/guests are invitees of an individual or entity that has booked the trip on the client/guests behalf. For the commercial operators it would streamline data collection processes if only the individuals booking the trip provided their personal data—FWS could then solicit those individuals directly. Often times commercial operators only have the information of the point of contact for trip bookings and are not in contact with the other invitees until the day of the trip. Data Collection/Evaluation Comments;

I believe that the following questions should be asked to individual clients being hosted by the guides and outfitters within all refuges:

1. Did the guide/outfitter create and express accurate expectations prior to booking?

2. Was the guide/outfitter honest regarding trip opportunities prior to booking? On the web, social media platforms, advertisements etc...?

3. What was the level of public access and participation within the Refuge?''

Agency Response to Comment 2 (by numbered recommendation):

1. Did the guide/outfitter create and express accurate expectations prior to booking? Section 2 Question 4 asks the respondent to rate their level of agreement with the following statement ''My guided experience was what I expected based on the guide's advertisement''. We believe this question captures what is being expressed by the commenter. We recommend no change.

2. Was the guide/outfitter honest regarding trip opportunities prior to booking? On the web, social media platforms, advertisements etc...? Section 2 Question 4 asks the respondent to rate their level of agreement with the following statement ''My guided experience was what I expected based on the guide's advertisement''. We believe this question captures what is being expressed by the commenter. We recommend no change.

3. What was the level of public access and participation within the Refuge? It is unclear what the commenter is requesting clients be asked about ''level of public access'' and ''participation''. We recommend no change.

Comment 3: Electronic comment received May 18, 2023, via *Regulations.gov* (FWS–R7–NWRS–2023–0005–0006) from Michael Zweng:

''Section #1—New form question #1. Although I explain to my clients in detail where we hunt, I think the question should have some specifics to guide the clients such as: name the bay where you hunted, the river you hunted, the mountain range where you hunted.

I would eliminate question #5. This is going to guided hunting clients so we already know the answer.

Section #2—New for question #1. I provide detailed client handbook to all my clients that explain everything on question #1. However, some clients are not necessarily interested in this aspect of the refuge and it goes in one ear and out the other. They may not absorb it and a guide may get a poor score just because the client did not absorb the information. This may reflect poorly on the guide and I think this question should be removed.

Section #3—New form question #2. This question should be removed.

Section #4—New form Question #1. This question implies the guide did some things poorly. The client may feel obligated to fill in this section even if it was the best outdoor experience they ever had. Maybe ask the question ''Please list anything your guide could have done to make your experience better''. You will probably get feedback about better food and better accommodations but my hunts are sold as adventurous backpack style hunting so it was explained what we eat and how we hunt.

Section #5—This entire section should be eliminated. It has no bearing on the quality of guide services provided and adds no value to the intended purpose of this questionnaire. I feel a lot of my clients would fail to complete this entire questionnaire if they were asked these questions.''

Agency Response to Comment 3 (by section):

Section #1: We believe this open-ended style question allows for the respondent to have maximum flexibility in describing where on the refuge their guided trip occurred. We recommend no

change. This Form is not specific to competitively awarded guide service evaluations, but rather to all guided services on refuges (including noncompetitive guided activities as well as nonconsumptive uses). We recommend no change.

Section #2: The question asks the respondent to rate their level of agreement with the statement ''Your guide(s) provided information about . . .'' not how well the client understood the information. The information gathered from this question is of interest to the National Wildlife Refuge System as it pertains to education and interpretation opportunities for guided clients. We recommend no change.

Section #3: Understanding accessibility accommodations on National Wildlife Refuges is important to ensuring visitors of different physical abilities can experience Refuges. We recommend no change.

Section #4: We do not believe this question make any implications about the guides' services. By asking how a guide might ''have made your experience better'' (as asked in the Form), the Service may learn valuable feedback about visitor preferences. This initial effort (*i.e.,* revision of the Form) is necessary to conduct a 2-year pilot of the revised Guide Service Evaluation Form. What we learn will help the Service determine whether further Form revision is needed. We recommend no change.

Section #5: The National Wildlife Refuge System is interested in who visits Refuges to inform Visitor Services outreach activities. We recommend no change.

Comment 4: Anonymous electronic comment received June 4, 2023, via *Regulations.gov* (FWS–R7–NWRS–2023–0005–0007): ''Please don't allow hunting, fishing, and trapping on any of these wildlife refuge locations anymore. Please protect the animals. These killings don't benefit these animals in any way and this killing business is unnecessary.''

Agency Response to Comment 4: This comment does not address the information collection; no response required.

Comment 5: Electronic comment received June 19, 2023, via *Regulations.gov* (FWS–R7–NWRS–2023–0005–0008) from Jon M. DeVore, Attorney, on behalf of the Alaska Professional Hunters Association (APHA). Excerpts from the letter that express perspectives about the AK Guide Evaluation Form are below:

''1. So, the proposed Alaska Guide Service Evaluation form should set a specific goal of how best to gather the information it seeks in a manner that is most likely to obtain the greatest number of respondents.

2. APHA recommends that the FWS should be more transparent about how the Alaska Guide Service Evaluations may be used by the FWS.

3. This is not a suggestion that client evaluations be the only tool used to evaluate guides, but we do recommend that evaluations be available as a reference for the ranking panel and then used as a decision factor by the refuge manager.

4. However, if it is the intent that the name and operations of individual guides are to be made public, the FWS should notify in advance the guide and operations.

5. For example, bad weather may have caused a less than optimal experience, so we recommend that the FWS take any such factors into consideration when utilizing client feedback that might be pre-disposed to be negative for reasons unrelated to the guide personally.

6. It is critical to ask, up front, if the hunter was successful in harvesting their target species then bifurcate the evaluations into two broad categories: successful harvest and unsuccessful harvest.

7. Once harvest and weather are controlled for, clients should evaluate their trip first and foremost on safety.

8. However, the **Federal Register** is not transparent on how the information will be ultimately used.''

Agency Response to Comment 5: Comment responses by response number:

1. This comment addresses post-data collection decision making but does not address the content of the Guide Service Evaluation Form; no response required.

2. This comment addresses post-data collection decision making but does not address the content of the Guide Service Evaluation Form; no response required. This initial effort (*i.e.,* revision of the Form) is necessary to conduct a 2-year pilot of the revised Guide Service Evaluation Form. What we learn will help the Service determine whether further Form revision is needed and how we will use this information.

3. This comment addresses post-data collection decision making but does not address the content of the Guide Service Evaluation Form; no response required. This initial effort (*i.e.,* revision of the Form) is not specific to competitively awarded guide service evaluations, but rather to all guided services on refuges (including noncompetitive guided activities as well as nonconsumptive uses).

4. This comment addresses data management but does not address the content of the Guide Service Evaluation Form; no response required. All survey respondent names and responses will remain anonymous to the public.

5. There are many factors that may impact the guided client experience on refuges. It is not possible for the Guide Service Evaluation Form to analyze all factors that are outside of the control of the guide service provider or the Service. This initial effort (*i.e.,* revision of the Form) is necessary to conduct a 2-year pilot of the revised Guide Service Evaluation Form. What we learn will help the Service determine whether further Form revision is needed.

6. This Form is not specific to competitively awarded guide service evaluations, but rather to all guided services on refuges (including noncompetitive guided activities as well as nonconsumptive uses). This initial effort (*i.e.,* revision of the Form) is necessary to conduct a 2-year pilot of the revised Guide Service Evaluation Form. What we learn will help the Service determine whether further Form revision is needed.

7. Safety concerns are captured in Section 2 Question 2 of the Guide Survey Evaluation Form, ''Please rate your level of agreement with the following statement: your guide used skills that kept you safe''.

8. This comment addresses post-data collection decision-making but does not address the content of the Guide Service Evaluation Form; no response required. This initial effort (*i.e.,* revision of the Form) is necessary to conduct a 2-year pilot of the revised Guide Service Evaluation Form. What we learn will help the Service determine whether further Form revision is needed and how we will use this information.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of

information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this information collection request (ICR). Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: We collect information via Form 3–2349 (Alaska Guide Service Evaluation) to help us evaluate commercial guide services on our national wildlife refuges in the State of Alaska (State). The National Wildlife Refuge Administration Act of 1966, as amended (16 U.S.C. 668dd–ee), authorizes us to permit uses, including commercial visitor services, on national wildlife refuges when we find the activity to be compatible with the purposes for which the refuge was established. With the objective of making available a variety of quality visitor services for wildlife-dependent recreation on National Wildlife Refuge System lands, we issue permits for commercial guide services, including big game hunting, sport fishing, wildlife viewing, river trips, and other guided activities. We use FWS Form 3–2349 as a method to:

- Monitor the quality of services provided by commercial guides.
- Gauge client satisfaction with the services.
- Assess the impacts of the activity on refuge resources.

The client is the best source of information on the quality of commercial guiding services. We collect:

- Client name.
- Guide name(s).
- Type of guided activity.
- Dates and location of guided activity.
- Information on the services received, such as the client's expectations, safety, environmental impacts, and client's overall satisfaction.

We encourage respondents to provide any additional comments that they wish regarding the guide service or refuge experience, and ask whether or not they wish to be contacted for additional information.

The above information, in combination with State-required guide activity reports and contacts with guides and clients in the field, provides a comprehensive method for monitoring permitted commercial guide activities. A regular program of client evaluation helps refuge managers detect potential problems with guide services so that we can take corrective actions promptly. In addition, we use this information during the competitive selection process for big game and sport fishing guide permits to evaluate a renewing applicant's ability to provide a quality guiding service.

The Service is actively reviewing the current evaluation form to identify ways to improve the information collected to:

- Provide more quantifiable and defensible data;
- Provide statistical data for each completed and submitted form; and
- Translate the client responses into useful information, so refuge management can make better informed decisions.

Proposed Revisions

Alaska Guide Service Evaluation (Form 3–2538) *(NEW)*—With this submission, the Service will propose a new form (Form 3–2538, ''Alaska Guide Service Evaluation'') to OMB for approval. The Service initially proposed this form for viability testing under OMB Control No. 1090–0011, ''DOI Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery,'' in our December 22, 2020, **Federal Register** notice (85 FR 83604). However, the pandemic significantly limited the number of guide trips during the 2020 through 2022 seasons. In addition, changes to Control No. 1090–0011 now prohibit testing of new forms. We are now proposing the form to be approved under this collection (Control No. 1018–0141) rather than for usability testing under Control No. 1090–0011.

In order to effectively adapt visitor services programming in the Alaska Region, we need to understand visitor satisfaction. To that end, the Alaska Guide Service Evaluation team, comprised of representatives from across the Region, with the assistance of the Human Dimensions Branch and the Service Information Collection Clearance Officer, has revised the current guide evaluation form. The revised form provides the region's refuges with a useful and quantitative tool that reflects social science survey design best practices, and that is standardized for use across refuges in the region. Form 3–2538 would collect the following information from participants in the Alaska guide program:

- Details regarding the guided trip—name of the person(s) or outfitters guiding the trip and top three purposes for visiting the refuge.
- Experiences with guided trip.
- Level of satisfaction with guided trip and details regarding purpose of visit to refuge.
- Suggestions for improvements.
- Details about visitor—gender; State and/or country of residence; year of birth; race or ethnicity; details regarding formal schooling; and approximate household income.
- Contact information for followup questions (optional).

Upon approval of the new Form 3–2538, the Service will review the form after two seasons to determine what, if any, changes need to be made prior to the next renewal of this collection. Individual refuge programs within Alaska will use the information collected to determine baseline guide-supported visitor experience conditions and be able to adapt management over time to continue to achieve desired guide-supported visitor experience opportunities on Alaska's refuges.

Alaska Guide Service Evaluation (Form 3–2349) *(DISCONTINUE)*—With this submission, and upon approval of Form 3–2538, the Service requests to discontinue the original Alaska Guide Service Evaluation (Form 3–2349).

The public may request copies of any form contained in this information collection by sending a request to the Service Information Collection Clearance Officer (see **ADDRESSES**).

Title of Collection: Alaska Guide Service Evaluation.

OMB Control Number: 1018–0141.

Form Number: Forms 3–2349 and 3–2538.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Clients of permitted commercial guide service providers.

Total Estimated Number of Annual Respondents: 300.

Total Estimated Number of Annual Responses: 300.

Estimated Completion Time per Response: 20 minutes.

Total Estimated Number of Annual Burden Hours: 100.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time, following use of commercial guide services.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2023–22963 Filed 10–17–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520; OMB Control Number 1029–0118]

Agency Information Collection Activities; Federal Inspections and Monitoring

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before November 17, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0118 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at (202) 208–2716. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on June 12, 2023 (88 FR 38094). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This part establishes the procedures for any person to notify the Office of Surface Mining Reclamation and Enforcement in writing of any violation that may exist at a surface coal mining operation and to request a Federal inspection. The information will be used to investigate potential violations of the Act or applicable State regulations.

Title of Collection: Federal Inspections and Monitoring.

OMB Control Number: 1029–0118.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 11.

Total Estimated Number of Annual Responses: 11.

Estimated Completion Time per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: 11.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2023–22998 Filed 10–17–23; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint *Certain Electronic Devices, Including Mobile Phones, Tablets, Laptops, Components Thereof, and Products Containing the Same, DN 3699;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Ericsson AB and Telefonaktiebolaget LM Ericsson on October 12, 2023. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices, including mobile phones, tablets, laptops, components thereof, and products containing the same. The complaint names as respondents: Motorola Mobility LLC of Chicago, IL; Lenovo (United States) Inc. of Morrisville, NC; Lenovo Group Limited of Hong Kong; Lenovo (Shanghai) Electronics Technology Co., Ltd. of China; Lenovo Beijing Co., Limited of China; Lenovo PC HK Limited of Hong Kong; Lenovo Information Products (Shenzhen) Co. Ltd. of China; and Motorola (Wuhan) Mobility Technologies Communication Company Limited of China. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3699'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

By order of the Commission.

Issued: October 12, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–22941 Filed 10–17–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1598 (Final)]

Gas Powered Pressure Washers From Vietnam

Determinations

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of gas powered pressure washers from Vietnam, provided for in subheadings 8424.30.90 and 8424.90.90 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV'').[2] [3] [4]

Background

The Commission instituted this investigation effective December 30, 2022, following receipt of a petitions filed with the Commission and Commerce by FNA Group, Inc., Pleasant Prairie, Wisconsin. The Commission scheduled the final phase of the investigation following notification of a preliminary determination by Commerce that imports of gas powered pressure washers from Vietnam were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on June 22, 2023 (88 FR 40865). The Commission conducted its hearing on August 24, 2023. All persons who requested the opportunity were permitted to participate.

The Commission made this determination pursuant to § 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determination in this investigation on October 13, 2023. The views of the Commission are contained in USITC Publication 5465 (October 2023), entitled *Gas Powered Pressure Washers from Vietnam: Investigation No. 731–TA–1598 (Final).*

By order of the Commission.

Issued: October 13, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–23008 Filed 10–17–23; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 88 FR 59503 (August 29, 2023).

[3] Commissioner Randolph J. Stayin not participating.

[4] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order on Vietnam.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1283]

Importer of Controlled Substances Application: Fresenius Kabi USA, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Fresenius Kabi USA, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 17, 2023. Such persons may also file a written request for a hearing on the application on or before November 17, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on, August 2, 2023, Fresenius Kabi USA, LLC, 3159 Staley Road, Grand Island, New York 14072–2028, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Remifentanil	9739	II.

The company plans to import the listed controlled substance(s) as the bulk active pharmaceutical ingredient in order to manufacture Food and Drug Administration-approved dosage forms. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA-approved or non-approved finished dosage forms for commercial sale.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2023–22955 Filed 10–17–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1281]

Bulk Manufacturer of Controlled Substances Application: Cayman Chemical Company

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Cayman Chemical Company has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and

applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 18, 2023. Such persons may also file a written request for a hearing on the application on or before December 18, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on July 25, 2023, Cayman Chemical Company, 1180 East Ellsworth Road, Ann Arbor, Michigan 48108–2419, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3–FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4–FMC) 1238 I N flephedrone; 1-(4-fluorophenyl)-2-(methylamino)propan-1- one) (Positional isomer: 2–FMC).	1238	I
Para-Methoxymethamphetamine (PMMA), 1-(4- 1245 I N methoxyphenyl)-N-methylpropan-2-amine	1245	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4–MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
Methiopropamine (N-methyl-1-(thiophen-2-yl)propan-2-amine)	1478	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
4,4′-Dimethylaminorex (4,4′-DMAR; 4,5-dihydro-4- 1595 I N methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine).	1595	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine	2780	I
Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4Hbenzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine)	2785	I
Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4Hbenzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2786	I
Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2788	I
Diclazepam (7-chloro-5-(2-chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2H-benzo[e][1,4]diazepin-2-one	2789	I
JWH–250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR–18 (Also known as RCS–8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB–FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Fluoro-UR–144 and XLR11 [1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	7011	I
AB–FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
FUB–144 (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)	7014	I
JWH–019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
MDMB–FUBINACA (Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
FUB–AMB, MMB- FUBINACA, AMB–FUBINACA (2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate).	7021	I
AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ–2201 ([1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone)	7024	I
5F–AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluropentyl)-1H-indazole-3-carboximide)	7025	I
AB–CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7031	I
MAB–CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F–AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F–ADB, 5F–MDMB–PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
5F–EDMB–PINACA (ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7036	I
5F–MDMB–PICA (methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate)	7041	I
MDMB–CHMICA, MMB–CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate).	7042	I
4F–MDMB–BINACA (4F–MDMB–BUTINACA or methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate).	7043	I
MMB–CHMICA, AMB–CHMICA (methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate)	7044	I
FUB–AKB48, FUB–APINACA, AKB48 N-(4–FLUOROBENZYL) (N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboximide).	7047	I
APINACA and AKB48 (N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide)	7048	I
5F–APINACA, 5F–AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH–081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
5F–CUMYL–PINACA, 5GT–25 (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide)	7083	I
5F–CUMYL–P7AICA (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide)	7085	I
4–CN–CUML–BUTINACA, 4-cyano-CUMYL–BUTINACA, 4–CN–CUMYL BINACA, CUMYL–4CN–BINACA, SGT–78 (1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide).	7089	I

Controlled substance	Drug code	Schedule
SR–19 (Also known as RCS–4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole)	7104	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH–122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR–144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH–073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH–200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH–203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
NM2201, CBL2201 (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate	7221	I
PB–22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F–PB–22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
4-methyl-alpha-ethylaminopentiophenone (4–MEAP) 7245 I N 4–MEAP	7245	I
N-ethylhexedrone 7246 I N	7246	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
2-(ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one (methoxetamine)	7286	I
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP–47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2C–T–7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine	7348	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
2C–T–2 (2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH–398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N–N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
4-chloro-alpha-pyrrolidinovalerophenone (4-chloro-aPV	7443	I
4′-methyl-alpha-pyrrolidinohexiophenone (MPHP	7446	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Benzylpiperazine	7493	I
2C–D (2-(2,5-Dimethoxy-4-methylphenyl) ethanamine)	7508	I
2C–E (2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine)	7509	I
2C–H 2-(2,5-Dimethoxyphenyl) ethanamine)	7517	I
2C–I 2-(4-iodo-2,5-dimethoxyphenyl) ethanamine)	7518	I
2C–C 2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine)	7519	I
2C–N (2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine)	7521	I
2C–P (2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine)	7524	I
2C–T–4 (2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
25B–NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7536	I
25C–NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7537	I
25I–NBOMe (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
alpha-pyrrolidinohexanophenone (a-PHP)	7544	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
alpha-pyrrolidinobutiophenone (α-PBP)	7546	I
Ethylone	7547	I
alpha-pyrrolidinoheptaphenone (PV8)	7548	I
Eutylone	7549	I
AM–694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I

Controlled substance	Drug code	Schedule
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I
Codeine methylbromide	9070	I
Brorphine (1-(1-(1-(4-bromophenyl)ethyl)piperidin-4–4l)1,3-dihydro-2H-benzo[d]imidazol-2-one)	9098	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Heroin	9200	I
Hydromorphinol	9301	I
Morphine-N-oxide	9307	I
Normorphine	9313	I
Thebacon	9315	I
U–47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
AH–7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
MT–45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine))	9560	I
Clonitazene	9612	I
Isotonotazene (N,N-diethyl-2-(2-(4 isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine)	9614	I
Dipipanone	9622	I
Etonitazene	9624	I
Ketobemidone	9628	I
Trimeperidine	9646	I
Tilidine	9750	I
Butonitazene (2-(2-(4-butoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine)	9751	I
lunitazene (N,N-diethyl-2-(2-(4-fluorobenzyl)-5- nitro1H-benzimidazol-1-yl)ethan-1- amine)	9756	I
Metonitazene (N,N-diethyl-2-(2-(4- methoxybenzyl)-5- nitro-1Hbenzimidazol-1-yl)ethan-1-amine	9757	I
N-pyrrolidino etonitazene; etonitazepyne (2-(4-ethoxybenzyl)-5-nitro-1-(2- (pyrrolidin-1-yl)ethyl)- 1Hbenzimidazole)	9758	I
Protonitazene (N,N-diethyl-2-(5-nitro-2-(4- propoxybenzyl)-1H-benzimidazol-1- yl)ethan-1-amine)	9759	I
Metodesnitazene (N,N-diethyl-2-(2-(4- methoxybenzyl)- 1H-benzimidazol-1- yl)ethan-1-amine)	9764	I
Etodesnitazene; etazene (2-(2-(4-ethoxybenzyl)- 1Hbenzimidazol-1-yl)-N,N-diethylethan-1- amine)	9765	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide	9816	I
Para-Methylfentanyl (N-(4-methylphenyl)-N-(1- phenethylpiperidin-4-yl)propionamide; also known as 4-methylfentanyl).	9817	I
4'-Methyl acetyl fentanyl (N-(1-(4- methylphenethyl)piperidin-4-yl)-N-phenylacetamide)	9819	I
ortho-Methyl methoxyacetyl fentanyl (2-methoxy-N-(2- methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide)	9820	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Para-fluorobutyryl fentanyl	9823	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Para-chloroisobutyryl fentanyl	9826	I
Isobutyryl fentanyl	9827	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Para-methoxybutyryl fentanyl	9837	I
Ocfentanil	9838	I
Thiofuranyl fentanyl (N-(1-phenethylpiperidin-4-yl)-Nphenylthiophene-2-carboxamide; also known as 2- thiofuranyl fentanyl; thiophene fentanyl).	9839	I
Valeryl fentanyl	9840	I
Phenyl fentanyl (N-(1-phenethylpiperidin-4-yl)-Nphenylbenzamide; also known as benzoyl fentanyl)	9841	I
beta′-Phenyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N,3- diphenylpropanamide; also known as β′-phenyl fentanyl; 3-phenylpropanoyl fentanyl).	9842	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide	9843	I
Crotonyl fentanyl ((E–N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide)	9844	I
Cyclopropyl Fentanyl	9845	I
ortho-Fluorobutyryl fentanyl (N-(2-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)butyramide; also known as 2-fluorobutyryl fentanyl).	9846	I
Cyclopentyl fentanyl	9847	I
ortho-Methyl acetylfentanyl (N-(2-methylphenyl)-N-(1- phenethylpiperidin-4-yl)acetamide; also known as 2- methyl acetylfentanyl).	9848	I
Fentanyl related-compounds as defined in 21 CFR 1308.11(h)	9850	I
Fentanyl carbamate (ethyl (1-phenethylpiperidin-4- yl)(phenyl)carbamate)	9851	I
ortho-Fluoroacryl fentanyl (N-(2-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)acrylamide)	9852	I

Controlled substance	Drug code	Schedule
ortho-Fluoroisobutyryl fentanyl (N-(2-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)isobutyramide)	9853	I
Para-Fluoro furanyl fentanyl (N-(4-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)furan-2-carboxamide)	9854	I
2′-Fluoro ortho-fluorofentanyl (N-(1-(2- fluorophenethyl)piperidin-4-yl)-N-(2- fluorophenyl)propionamide; also known as 2′-fluoro 2- fluorofentanyl).	9855	I
beta-Methyl fentanyl (N-phenyl-N-(1-(2- phenylpropyl)piperidin-4-yl)propionamide; also known as β-methyl fentanyl)	9856	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
ANPP (4-Anilino-N-phenethyl-4-piperidine)	8333	II
Norfentanyl (N-phenyl-N-(piperidin-4-yl) propionamide)	8366	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine intermediate-B	9233	II
Oliceridine (N-[(3-methoxythiophen-2yl)methyl] ({2-[9r)-9-(pyridin-2-yl)-6-oxaspiro[4.5] decan-9-yl] ethyl {time})amine fumarate).	9245	II
Methadone	9250	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Thebaine	9333	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Thiafentanil	9729	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to bulk manufacture the listed controlled substances for forensic purposes, to research analytical reference standards and as Active Pharmaceutical Ingredients for Phase 1 trials. In reference to drug codes 7360 (Marihuana), and 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2023–22954 Filed 10–17–23; 8:45 am]

BILLING CODE P

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Notice of Meeting: National Intelligence University Board of Visitors

AGENCY: National Intelligence University (NIU), Office of the Director of National Intelligence (ODNI).

ACTION: Notice of Federal advisory committee meeting of the National Intelligence University Board of Visitors.

SUMMARY: ODNI is publishing this notice to announce that the following Federal advisory committee meeting of the NIU Board of Visitors (BoV) will take place. This meeting is closed to the public.

DATES: Wednesday, 25 October, 2023, 8:30 a.m. to 3:00 p.m., and Thursday, 26 October, 8:30 a.m. to 1 p.m., Bethesda, MD.

ADDRESSES: National Intelligence University, 4600 Sangamore Road, Bethesda, MD 20816.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia ''Patty'' Larsen, Designated Federal Officer, (301) 243–2118 (Voice), *excom@odni.gov* (email). Mailing address is National Intelligence University, Roberdeau Hall, Washington, DC 20511. Website: *http://ni-u.edu/wp/about-niu/leadership-2/board-of-visitors/.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory

Committee Act of 1972 (5 U.S.C. 1001–1014), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.140 and 102–3.150. The meeting includes the discussion of classified information and classified materials regarding intelligence education issues, internal personnel rules and practices of NIU, and pre-decisional strategic planning matters; and the Director of National Intelligence, or her designee, in consultation with the ODNI Office of General Counsel, has determined the meeting will be closed to the public under the exemptions set forth in 5 U.S.C. 552b(c)(1),552b(c)(2), and 552b(c)(9)(B).

I. *Purpose of the Meeting:* The Board will discuss and provide written observations and recommendations on matters relating to NIU personnel, budget, facilities, strategic planning, information technology, intelligence programs, subcommittee read-outs, and whole of institution assessment data, as well as discuss current classified intelligence education issues.

II. *Agenda:* Welcome and Call to Order; President State of the University; Resources—Strategic Planning; Break for Lunch; Resources—Budget, Information Technology, Personnel, Whole of Institution Assessment Data (End of Day 1). Welcome and Call to Order; Subcommittee Preparatory and Administrative Meetings; Governance and Strategic Planning Subcommittee Meeting; NIU Board of Visitors Executive Session (End of Day 2).

III. *Meeting Accessibility:* The public or interested organizations may submit written statements to the NIU BoV about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of a planned meeting of the NIU BoV.

IV. *Written Statements:* All written statements shall be submitted to the Designated Federal Officer for the NIU BoV, and this individual will ensure that the written statements are provided to the membership for their consideration.

Robert A. Newton,

Committee Management Officer and Deputy Chief Operating Officer.

[FR Doc. 2023–22967 Filed 10–17–23; 8:45 am]

BILLING CODE P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings

TIME AND DATE: 2 p.m., Thursday, October 19, 2023.

PLACE: 1255 Union Street NE, Suite 500, Washington, DC 20002.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Regular Board of Directors meeting.

The Interim General Counsel of the Corporation has certified that in her opinion, one or more of the exemptions set forth in the Government in the Sunshine Act, 5 U.S.C. 552b(c)(2) and (4) permit closure of the following portion(s) of this meeting:

- Executive (Closed) Session

Agenda

I. Call to Order
II. Sunshine Act Approval of Executive (Closed) Session
III. Executive Session: Report from CEO
IV. Executive Session: Report from CFO
V. Executive Session: GAO Workplan Update
VI. Executive Session: Report from Interim General Counsel
VII. Executive Session: Report from CIO
VIII. Executive Session: NeighborWorks Compass Update
IX. Action Item: Approval of Meeting Minutes—August 3 Special Audit Committee Meeting and August 17 Annual Board of Directors Meeting
X. Action Item: Professional Learning and Event Management System (PLEMS)
XI. Action Item: Atlanta Office Lease
XII. Discussion Item: October 2 Audit Committee Meeting
XIII. Discussion Item: National NeighborWorks Association Presentation
XIV. Discussion Item: Capital Corporations Leadership
  a. Community Housing Capital
  b. NeighborWorks Capital
XV. Inflation Reduction Act Update
XVI. FY2024 Corporate Scorecard
XVII. Management Program Background and Updates Other Reports
  a. 2023 Board Calendar
  b. 2023 Board Agenda Planner
  c. CFO Report
  i. Financials (through 7/31/23)
  ii. Single Invoice Approvals $100K and over
  iii. Vendor Payments $350K and over
  iv. Exceptions
  d. Programs Dashboard
  e. Housing Stability Counseling Program (HSCP)
  f. Strategic Plan Scorecard—FY23 Q3 (Q3 Production)

PORTIONS OPEN TO THE PUBLIC: Everything except the Executive (Closed) Session.

PORTIONS CLOSED TO THE PUBLIC: Executive (Closed) Session.

CONTACT PERSON FOR MORE INFORMATION: Jenna Sylvester, Paralegal, (202) 568–2560; *jsylvester@nw.org.*

Jenna Sylvester,

Paralegal.

[FR Doc. 2023–23046 Filed 10–16–23; 11:15 am]

BILLING CODE P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–7 and CP2024–7; MC2024–8 and CP2024–8; MC2024–9 and CP2024–9; MC2024–10 and CP2024–10]

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 20, 2023.

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

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).:* MC2024–7 and CP2024–7; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 28 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 12, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* October 20, 2023.

2. *Docket No(s).:* MC2024–8 and CP2024–8; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 73 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 12, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* October 20, 2023.

3. *Docket No(s).:* MC2024–9 and CP2024–9; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 74 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 12, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* October 20, 2023.

4. *Docket No(s).:* MC2024–10 and CP2024–10; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 75 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 12, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* October 20, 2023.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–22974 Filed 10–17–23; 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

[Release No. 34–98731; File No. SR–BX–2023–024]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Transaction Fees at Equity 7, Section 118(e)

October 12, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on September 29, 2023, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Equity 7, Section 118(e), as described further below.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on October 1, 2023.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange operates on the ''taker-maker'' model, whereby it generally pays credits to members that take liquidity and charges fees to members that provide liquidity. Currently, the Exchange has a schedule, at Equity 7, Section 118(e), which consists of several different credits and fees for Retail Orders[3] and Retail Price Improvement Orders[4] under Rule 4780 (Retail Price Improvement Program).

The purpose of the proposed rule change is to amend the Exchange's schedule of fees at Equity 7, Section 118(e). Specifically, the Exchange proposes to amend the qualifying criteria for two existing fees for RPI Orders and update a related sunset date for one of the aforementioned fees.

Currently, the Exchange charges a $0.0018 per share executed fee for RPI Orders entered by a member that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Retail Orders shall mean an order type with a Non-Display Order Attribute submitted to the Exchange by a Retail Member Organization (as defined in Rule 4780). A Retail Order must be an agency Order, or riskless principal Order that satisfies the criteria of FINRA Rule 5320.03. The Retail Order must reflect trading interest of a natural person with no change made to the terms of the underlying order of the natural person with respect to price (except in the case of a market order that is changed to a marketable limit order) or side of market and that does not originate from a trading algorithm or any other computerized methodology. *See* Rule 4702(b)(6).

[4] Retail Price Improving (''RPI'') Orders shall mean an Order Type with a Non-Display Order Attribute that is held on the Exchange Book in order to provide liquidity at a price at least $0.001 better than the NBBO through a special execution process described in Rule 4780. A Retail Price Improving Order may be entered in price increments of $0.001. RPI Orders collectively may be referred to as ''RPI Interest.'' *See* Rule 4702(b)(5).

provides liquidity through RPI Orders equal to or exceeding an average daily volume of 2,500,000 shares. The Exchange proposes to amend the qualifying criteria for the $0.0018 fee. Under the proposed change, a member could qualify for the $0.0018 per share executed fee for RPI Orders if the member provides liquidity through RPI Orders equal to or exceeding 0.02% of total Consolidated Volume during a month (rather than an average daily volume of 2,500,000 shares, as the current Rule provides).

The Exchange believes that by modifying the qualifying criteria for the $0.0018 per share executed fee to require that a member provides liquidity through RPI Orders equal to or exceeding 0.02% of total Consolidated Volume during a month rather than an average daily volume of 2,500,000 shares in order to qualify, the criteria would be more representative of the overall volume trading in the market. In a fluctuating volume environment, the change to the qualifying criteria would ease the burden to qualify for the fee. The Exchange hopes that modifying the qualifying criteria for the $0.0018 fee as described above will encourage members to increase liquidity providing activity in RPI Orders on the Exchange. If the proposal is effective in achieving this purpose, then the quality of the Exchange's market will improve, particularly with respect to RPI and Retail Orders to the benefit of all participants, especially those who submit RPI and Retail Orders.

Currently, the Exchange charges a $0.0020 per share executed fee for RPI Orders entered by a member that (i) quotes RPI Orders in at least 1,200 symbols on average per day; (ii) provides liquidity through RPI Orders equal to or exceeding an average daily volume of 1,000,000 shares; and (iii) increases its average daily volume of liquidity provided in RPI Orders at least 10% relative to the month of March 2023. This fee is applicable through September 30, 2023. The Exchange proposes to amend the qualifying criteria for the $0.0020 fee. First, the Exchange proposes to revise the criteria to require that a member provides liquidity through RPI Orders equal to or exceeding 0.01% of total Consolidated Volume during a month instead of the current criteria that a member provides liquidity through RPI Orders equal to or exceeding an average daily volume of 1,000,000 shares. Second, the Exchange proposes to revise the criteria that a customer increases its average daily volume of liquidity provided in RPI Orders at least 10% relative to the month of March 2023 by modifying the reference month from March 2023 to April 2023. Additionally, the Exchange proposes to offer the fee through October 31, 2023. Specifically, the Exchange proposes to charge a $0.0020 per share executed fee for RPI Orders entered by a member that (i) quotes RPI Orders in at least 1,200 symbols on average per day; (ii) provides liquidity through RPI Orders equal to or exceeding 0.01% of total Consolidated Volume during a month (rather than an average daily volume of 1,000,000 shares); and (iii) increases its average daily volume of liquidity provided in RPI Orders at least 10% relative to the month of April 2023 (rather than March 2023). The proposed rule change provides that such fee is applicable through October 31, 2023.

The Exchange believes that by modifying the qualifying criteria for the $0.0020 per share executed fee to require that a member provides liquidity through RPI Orders equal to or exceeding 0.01% of total Consolidated Volume during a month rather than an average daily volume of 1,000,000 shares in order to qualify, the criteria would be more representative of the overall volume trading in the market. In a fluctuating volume environment, the change to the qualifying criteria would ease the burden to qualify for the fee. Additionally, the Exchange hopes that the proposed revision to the qualifying criteria to a more recent reference month, together with the change to require RPI Orders equal to or exceeding 0.01% of total Consolidated Volume, will encourage members to increase liquidity providing activity in RPI Orders on the Exchange relative to April 2023. If the proposal is effective in achieving this purpose, then the quality of the Exchange's market will improve, particularly with respect to RPI and Retail Orders to the benefit of all participants, especially those who submit RPI and Retail Orders.

At this time, the Exchange proposes to amend the sunset date for the proposed fee of $0.0020 per share executed. The fee will be available through October 31, 2023.[5] By revising the reference month in the qualifying criteria and extending the sunset date, the Exchange intends to continue to encourage members to earn lower fees by increasing liquidity providing activity in RPI Orders on the Exchange. The Exchange will continue to evaluate the appropriate parameters going forward to encourage increasing liquidity providing activity in RPI Orders on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[6] in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [8]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [9]

Numerous indicia demonstrate the competitive nature of this market. For

[5] The proposed $0.0020 per share executed fee would be available through October 31, 2023 but would not be available thereafter. For example, as of November 1, 2023, the Exchange would no longer offer the incentive as proposed.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[9] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

The Exchange believes it is reasonable and equitable to amend the qualifying criteria for the $0.0018 per share executed fee for RPI Orders by requiring that a member provides liquidity through RPI Orders equal to or exceeding 0.02% of total Consolidated Volume during a month rather than requiring an average daily volume of 2,500,000 shares. Similarly, the Exchange believes it is reasonable and equitable to amend the qualifying criteria for the $0.0020 per share executed fee for RPI Orders by requiring that a member provides liquidity through RPI Orders equal to or exceeding 0.01% of total Consolidated Volume rather than requiring an average daily volume of 1,000,000 shares. The Exchange's goal is to make the criteria more representative of the overall volume trading in the market and increase liquidity adding activity in RPI Orders on its platform. It is reasonable and equitable to address this need by modifying the qualification requirements as an incentive for members to increase their liquidity activity in RPI Orders on the Exchange. If the proposal is effective in achieving this purpose, then the quality of the Exchange's market will improve, particularly with respect to RPI and Retail Orders to the benefit of all participants, especially those who submit RPI and Retail Orders.

The Exchange also believes it is reasonable and equitable to amend the reference date in the qualifying criteria for the $0.0020 per share executed fee for RPI Orders, to provide, in part, that in order to qualify for such fee, a member must increase its average daily volume of liquidity provided in RPI Orders at least 10% relative to the month of April 2023 (instead of March 2023). The Exchange's goal is to continue to encourage an increase in liquidity adding activity in RPI Orders on its platform. It is reasonable and equitable to address this need by updating the requirement for a member to increase its average daily volume of liquidity provided in RPI Orders at least 10% relative to the month of April 2023, instead of March 2023, as an incentive for members to increase their liquidity activity in RPI Orders on the Exchange relative to a more current reference month. If the proposal is effective in achieving this purpose, then the quality of the Exchange's market will improve, particularly with respect to RPI and Retail Orders to the benefit of all participants, especially those who submit RPI and Retail Orders.

The Exchange's proposal to sunset the $0.0020 fee at the end of October 2023 is also reasonable because the Exchange is updating the reference month in the qualifying criteria as discussed above and the Exchange believes that despite only offering this fee for a limited time, the incentive may continue to encourage members to earn lower fees by increasing liquidity providing activity in RPI Orders on the Exchange.

The Exchange believes that the proposal is not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it incentivizes customer activity that increases liquidity, enhances price discovery, and improves the overall quality of the equity markets.

The Exchange intends for its proposal to improve market quality for all members that submit RPI and Retail Orders on the Exchange and by extension attract more liquidity to the market, improving market wide quality and price discovery. Although net adders of liquidity for RPI Orders will benefit most from the proposal, this result is fair insofar as increased liquidity adding activity in RPI Orders will help to improve market quality and the attractiveness of the Exchange to all existing and prospective retail participants. The Exchange's proposal to sunset the $0.0020 fee incentive at the end of October 2023 is equitable and not unfairly discriminatory because the fee will be available to all members during the month it is offered.

Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participant at a competitive disadvantage. As described above, the proposal modifies the qualification requirements for the $0.0018 per share executed fee and the $0.0020 per share executed fee for RPI Orders and revises the sunset date for the $0.0020 per share executed fee. Members may modify their businesses so that they can meet the required threshold and pay lower charges. As noted above, all members of the Exchange will benefit from any increase in market activity that the proposal effectuates. The Exchange's proposal to sunset the fee at the end of October does not impose an undue burden on competition because any member can qualify for the fee during the month it is offered. Moreover, members are free to trade on other venues to the extent they believe that the fees assessed, and credits provided, are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

The Exchange believes that its proposed modifications to its schedule of fees will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must

continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed change is reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume has less than 20% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises more than 40% of industry volume.

In sum, the Exchange intends for the proposed changes to its fees to increase member incentives to engage in the addition of liquidity on the Exchange. If the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–BX–2023–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–BX–2023–024. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–BX–2023–024 and should be submitted on or before November 8, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–22926 Filed 10–17–23; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98734; File No. SR–EMERALD–2023–26]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fee Schedule for Purge Ports

October 12, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 2023, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Emerald Options Exchange Fee Schedule (the ''Fee Schedule'') to amend fees for Purge Ports.[3]

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/emerald-options/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed fee change is based on a recent proposal by Nasdaq Phlx LLC (''Phlx'') to adopt fees for purge ports. *See* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

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 is proposing to amend the fees for Purge Ports, which is a function enabling Market Makers [4] to cancel all open quotes or a subset of open quotes through a single cancel message. The Exchange currently provides Market Makers the option to purchase Purge Ports to assist in their quoting activity. Purge Ports provide Market Makers with the ability to send purge messages to the Exchange System.[5] Purge Ports are not capable of sending or receiving any other type of messages or information. The use of Purge Ports is completely optional and no rule or regulation requires that a Market Maker utilize them.

Unlike other options exchanges that charge fees for Purge Ports on a per port basis,[6] the Exchange assesses a flat fee of $1,500 per month, regardless of the number of Purge Ports. Today, a Market Maker may request and be allocated two (2) Purge Ports per Matching Engine to which it connects and not all Market Makers connect to all Matching Engines. The Exchange now proposes to amend the fee for Purge Ports to align more with other exchanges who charge on a per port basis by providing two (2) Purge Ports per Matching Engine for a monthly flat fee of $600 per month per Matching Engine. The only difference with a per port structure being is that Market Makers receive two (2) Purge Ports per Matching Engine for the same proposed monthly fee, rather than be charged separate fee for each Purge Port. The Exchange proposes to charge the proposed fee for Purge Ports per Matching Engine, instead on a per Purge Port basis, due to its system architecture which provides two (2) Purge Ports per Matching Engine for redundancy purposes. In addition, the proposed fee would be lower than what other exchanges charge on a per port basis, notwithstanding that the Exchange is providing up to two (2) Purge Ports for that same low fee.[7]

Similar to a per port charge, Market Makers would be also able to elect the number of Matching Engines they connect to and pay the applicable fee. The Exchange believes the proposed fee provides Market Makers with flexibility to control their Purge Ports costs based on the number of Matching Engines it elects to connect to.

* * * * *

A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port grants a Member the ability to accomplish a specific function, such as order entry, order cancellation, access to execution reports, and other administrative information.

Purge Ports are designed to assist Market Makers [8] in the management of, and risk control over, their quotes, particularly if the firm is dealing with a large number of securities. For example, if a Market Maker detects market indications that may influence the execution potential of their quotes, the Market Maker may use Purge Ports to reduce uncertainty and to manage risk by purging all quotes in a number of securities. This allows Market Makers to seamlessly avoid unintended executions, while continuing to evaluate the market, their positions, and their risk levels. Purge Ports are used by Market Makers that conduct business activity that exposes them to a large amount of risk across a number of securities. Purge Ports enable Market Makers to cancel all open quotes, or a subset of open quotes through a single cancel message. The Exchange notes that Purge Ports increase efficiency of already existing functionality enabling the cancellation of quotes.

The Exchange operates highly performant systems with significant throughput and determinism which allows participants to enter, update and cancel quotes at high rates. Market Makers may currently cancel individual quotes through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations.[9] As a result, Market Makers can currently cancel quotes in rapid succession across their existing logical ports [10] or through a single cancel message, all open quotes or a subset of open quotes.

Similarly, Market Makers may also use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to automatically cancel all quotes, as configured or instructed by the Member or Market Maker.[11] In addition, the Exchange already provides similar ability to mass cancel quotes through the Exchange's risk controls, which are offered at no charge that enables Market Makers to establish pre-determined levels of risk exposure, and can be used to cancel all open quotes.[12] Accordingly, the Exchange believes that the Purge Ports provide an efficient option as an alternative to already available services and enhance the Participant's ability to manage their risk.

The Exchange believes that market participants benefit from a dedicated purge mechanism for specific Market Makers and to the market as a whole. Market Makers will have the benefit of efficient risk management and purge tools. The market will benefit from potential increased quoting and liquidity as Market Makers may use Purge Ports to manage their risk more robustly. Only Market Makers that request Purge Ports would be subject to the proposed fees, and other Market Makers can continue to operate in exactly the same manner as they do today without dedicated Purge Ports, but with the additional purging capabilities described above.

Implementation Date

The proposed fees will be effective October 1, 2023.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

[4] The term ''Market Makers'' refers to Lead Market Makers (''LMMs''), Primary Lead Market Makers (''PLMMs''), and Registered Market Makers (''RMMs'') collectively. *See* Exchange Rule 100.

[5] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[6] *See* Cboe BXZ Exchange, Inc. (''BZX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe EDGX Exchange, Inc. (''EDGX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe Exchange, Inc. (''Cboe'') Fee Schedule ($850 per purge port per month). *See also* Nasdaq GEMX, Options 7, Pricing Schedule, Section 6.C.(3). Nasdaq GEMX, LLC (''Nasdaq GEMX'') assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports, applicable to market makers. *See also* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[7] *Id.*

[8] Members seeking to become registered as a Market Maker must comply with the applicable requirements of Chapter VI of the Exchange's Rules.

[9] *See* Exchange Rule 519C(a) and (b).

[10] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain market participants rely on such functionality and at times utilize such cancelation rates.

[11] *See* Exchange Rule 516C(c).

[12] *See* Exchange Rule 532.

section 6(b) of the Act,[13] in general, and furthers the objectives of section 6(b)(5) of the Act,[14] in particular, in that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposed fee is consistent with section 6(b)(4) of the Act [15] because it represents an equitable allocation of reasonable dues, fees and other charges among market participants.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Market Makers optional service and flexible fee structures promotes choice, flexibility, efficiency, and competition. The Exchange believes Purge Ports enhance Market Makers' ability to manage quotes, which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that Purge Ports foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages may encourage better use of such ports. This may, concurrent with the ports that carry quotes and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers' resources. Similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges, and other equities exchanges.[16] The Exchange believes that proper risk management, including the ability to efficiently cancel multiple quotes quickly when necessary, is similarly valuable to firms that trade in the equities market, including Market Makers that have heightened quoting obligations that are not applicable to other market participants.

Purge Ports do not relieve Market Makers of their quoting obligations or firm quote obligations under Regulation NMS Rule 602.[17] Specifically, any interest that is executable against a Member's or Market Maker's quotes that is received by the Exchange prior to the time of the removal of quotes request will automatically execute. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two- sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.[18]

The Exchange is not the only exchange to offer this functionality and to charge associated fees.[19] The Exchange believes the proposed fee for Purge Ports is reasonable because it is lower than that currently charged by other exchanges. For example, BZX and EDGX charge a fee of $750 per purge port per month, Cboe charges $850 per purge port per month, Nasdaq GEMX assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports.[20]

The Exchange believes it is reasonable to charge $600 per month for Purge Ports as such ports represent targeted enhancement of technology and were specially developed to allow for the sending of a single message to cancel multiple quotes, thereby assisting firms in effectively managing risk. The Exchange also believes that a Member that chooses to utilize Purge Ports may, in the future, reduce their need for additional ports by consolidating cancel messages to the Purge Port and thus freeing up some capacity of the existing logical ports and, therefore, allowing for increased message traffic without paying for additional logical ports. Purge Ports provide the ability to cancel multiple quotes across multiple ports with less messaging from the firms using the ports and therefore may create efficiencies for firms and provide a more economical solution to their risk management needs. In addition, Purge Port requests may cancel quotes submitted over numerous ports and contain added functionality to purge only a subset of these quotes. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees for such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that its ability to set fees for Purge Ports is subject to significant substitution-based forces because Market Makers are able to rely on currently available services both free and those they receive when using existing trading protocols. If the value of the efficiency introduced through the Purge Port functionality is not worth the proposed fees, Market Makers will simply continue to rely on the existing functionality and not pay for Purge Ports. In that regard, Market Makers may currently cancel individual quotes through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations. Market Makers already can also cancel quotes individually and by utilizing Exchange protocols that allow them to develop proprietary systems that can send cancel messages at a high rate.[21] In addition, the Exchange already provides similar ability to mass cancel quotes through the Exchange's risk controls, which are offered at no charge that enables Market Makers to establish pre-determined levels of risk exposure, and can be used to cancel all open quotes.[22]

Similarly, Market Makers may use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to immediately cancel all pending Exchange.[23] Finally, this existing purging functionality will allow Participants to achieve essentially the same outcome in canceling quotes as they would by utilizing the Purge Ports. Accordingly, the Exchange believes that the proposed Purge Ports fee is reasonable because it is related to the efficiency of Purge Ports related to other means and services already available which are either free or already a part of a fee assessed to the Participant's for existing connectivity. Accordingly, because Purge Ports provide additional optional functionality, excessive fees would simply serve to reduce or eliminate demand for this optional product.

The Exchange also believes that offering Purge Ports at the Matching Engine level promotes risk management across the industry, and thereby facilitates investor protection. Some market participants, in particular the larger firms, could and do build similar risk functionality (as described above)

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(4).

[16] *See supra* notes 3 and 6. *See also* Securities Exchange Act Release No. 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016). *See* also Securities Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[17] *See* Exchange Rule 604. *See also generally* Chapter VI of the Exchange's Rules.

[18] *Id.*

[19] *See supra* notes 3 and 6.

[20] *See supra* note 6.

[21] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain Participants rely on such functionality and at times utilize such cancelation rates.

[22] *See* Exchange Rule 532.

[23] *See* Exchange Rule 516C(c).

in their trading systems that permit the flexible cancellation of quotes entered on the Exchange at a high rate. Offering Matching Engine level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

As noted above, the Exchange is not the only exchange to offer dedicated Purge Ports, and the proposed rate is lower than that charged by other exchanges for similar functionality. The Exchange also believes that moving to a per Matching Engine fee is reasonable due to the Exchange's architecture that provides it the ability to provide two (2) Purge Ports per Matching Engine for a fee that would still be lower than other exchanges that charge on a per port basis. Generally speaking, restricting the Exchange's ability to charge fees for these services discourages innovation and competition. Specifically in this case, the Exchange's inability to offer similar services to those offered by other exchanges, and charge reasonable and equitable fees for such services, would put the Exchange at a significant competitive disadvantage and, therefore, serve to restrict competition in the market—especially when other exchanges assess comparable fees higher than those proposed by the Exchange.

The Exchange believes that the proposed Purge Port fees are equitable because the proposed Purge Ports are completely voluntary as they relate solely to optional risk management functionality.

The Exchange also believes that the proposed amendments to its fee schedule are not unfairly discriminatory because they will apply uniformly to all Market Makers that choose to use the optional Purge Ports. Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Market Maker is required or under any regulatory obligation to utilize them. All Market Makers that voluntarily select this service option will be charged the same amount for the same services. All Market Makers have the option to select any connectivity option, and there is no differentiation among Market Makers with regard to the fees charged for the services offered by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Purge Ports are completely voluntary and are available to all Market Makers on an equal basis at the same cost. While the Exchange believes that Purge Ports provide a valuable service, Market Makers can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Market Makers is required or under any regulatory obligation to utilize Purge Ports. Accordingly, the Exchange believes that Purge Ports offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price the Purge Ports is constrained by competition among exchanges that offer similar functionality. As discussed, there are currently a number of similar offers available to market participants for higher fees at other exchanges. Proposing fees that are excessively higher than established fees for similar functionality would simply serve to reduce demand for the Purge Ports, which as discussed, market participants are under no obligation to utilize. It could also cause firms to shift trading to other exchanges that offer similar functionality at a lower costs, adversely impacting the overall trading on the Exchange and reducing market share. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for risk management. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposal would cause any unnecessary or in appropriate burden on intermarket competition as other exchanges are free to introduce their own purge port functionality and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposal would apply uniformly to any market participant, in that it does not differentiate between Market Makers. The proposal would allow any interested Market Makers to purchase Purge Port functionality based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act,[24] and Rule 19b–4(f)(2)[25] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–EMERALD–2023–26 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–EMERALD–2023–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

[25] 17 CFR 240.19b–4(f)(2).

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–EMERALD–2023–26 and should be submitted on or before November 8, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–22929 Filed 10–17–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98730; File No. SR–MEMX–2023–28]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Risk Settings Rules Applicable to Options Trading

October 12, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 2023, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule to amend the Exchange's risk settings rules applicable to Options trading. The Exchange has designated this proposal as ''non-controversial'' pursuant to section 19(b)(3)(A)(iii) of the Act and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) thereunder. The Exchange has commenced operations of MEMX Options on September 27, 2023. As such, the Exchange proposes to implement the changes to its options risk controls immediately. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide optional risk controls for Members[3] who participate in the Exchange's options market (such market, ''MEMX Options'' and such Members, ''Options Members''), under proposed Interpretation and Policies .01 and .02 of Exchange Rule 21.17, and to provide clarifying language in proposed Interpretation and Policy .03 of Exchange Rule 21.17. In order to help Options Users[4] to manage their risk, the Exchange proposes to add certain risk settings on MEMX Options which the Exchange already offers to Users in its market for equity securities (''MEMX Equities''). Under the proposed Interpretation and Policies .01 and .02 of Exchange Rule 21.17, Users will have the same ability to manage their risk with respect to orders on the MEMX Options platform as Users currently have on the MEMX Equities platform (as set forth in Interpretation and Policies .01 and .02 of Exchange Rule 11.10). Lastly, the Exchange proposes to add Interpretation and Policy .03 of Exchange Rule 21.17 to clarify that the risk controls described in Exchange Rule 21.17 are meant to supplement, and not replace, a User's internal risk monitoring and management systems.

The Exchange proposes to add controls which will be exercisable and configurable by individual Users, and the thresholds of the controls may be adjusted within certain limits away from the assigned default values. The Exchange notes that other national securities exchanges have similar risk settings rules in their rulebooks.[5] As previously noted, these risk settings will largely mirror the MEMX Equities settings rules in Interpretation and Policies .01 and .02 to Rule 11.10. The Exchange additionally proposes to add clarifying language in proposed Interpretation and Policy .03 of Exchange Rule 21.17.

Specifically, in proposed Interpretation and Policy .01 of Exchange Rule 21.17, the Exchange proposes to offer risk settings that will result in orders being cancelled on entry, including: (i) controls related to the maximum dollar amount for a single order and the maximum number of contracts that may be included in a single order; (ii) controls related to order types or modifiers that can be utilized as well as when the market is crossed; (iii) controls to restrict the options classes for which a User may enter orders or to restrict activity to test symbols only; (iv) controls prohibiting the entry of duplicative orders; (v) controls restricting the overall rate of order entry; and (vi) credit controls measuring both gross and net exposure that warn when approached, and when breached, prevent submission of either all new orders or Market Orders[6] only. The Exchange further proposes, in proposed Interpretation and Policy .02 of Exchange Rule 21.17, to offer (vii) risk functionality that permits a User to

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1.5(p).

[4] *See* Exchange Rule 1.5(jj).

[5] *See, e.g.,* Interpretations and Policies .01 and .02(a) of Rule 11.13 of the BYX Exchange Rulebook, available at *https://cdn.cboe.com/resources/regulation/rule_book/BYX_Rulebook.pdf;* Interpretations and Policies .01 and .02(a) of Rule 11.13 of the BZX Exchange Rulebook, available at *https://cdn.cboe.com/resources/regulation/rule_book/BZX_Exchange_Rulebook.pdf;* Interpretations and Policies .01 and .02(a) of Rule 11.10 the EDGA Exchange Rulebook, available at *https://cdn.cboe.com/resources/regulation/rule_book/EDGA_Rulebook.pdf;* and Interpretations and Policies .01 and .02(a) of Rule 11.10 the EDGX Exchange Rulebook, available at *https://cdn.cboe.com/resources/regulation/rule_book/EDGX_Rulebook.pdf.*

[6] *See* Exchange Rule 21.1(d)(2).

cancel all unexecuted orders and quotes in the MEMX Options Book, block the entry of any new orders or quotes, or both cancel all unexecuted orders and quotes and block the entry of any new orders and quotes; and (viii) batch cancel functionality. Each of these functionalities will be further described in the paragraphs below. Additionally, in proposed Interpretation and Policy .03 to Exchange Rule 21.17, the Exchange would provide clarifying language that the risk controls described in Exchange Rule 21.17 do not replace the User's own internal risk management systems, monitoring, and procedures and are not designed for compliance with Exchange Act Rule 15c3–5.[7]

Publication of Established Numeric Values

Current Rule 21.17 states that ''all numeric values established by the Exchange pursuant to this Rule will be maintained by the Exchange in publicly available specifications and/or published in a Regulatory Circular.'' As the proposed Interpretations and Policies described below would be contained in Rule 21.17, that language would also apply to such Interpretations and Policies. As a result, to the extent the Exchange establishes default values for certain risk settings, as described below, such default values would be readily ascertainable by Users and such Users will be able to determine whether they wish to maintain the default values established by the Exchange or to adopt different values in accordance with their overall risk mitigation strategy.

The Exchange notes that other national securities exchanges establish numeric values pursuant to the risk settings for their options platforms in publicly available specifications and regulatory circulars.[8]

Controls Related to Maximum Dollar Amount and Maximum Number of Contracts

Proposed paragraph (a) of proposed Interpretation and Policy .01 of Exchange Rule 21.17 would provide for order entry controls related to (i) the maximum dollar amount for a single order, and (ii) the maximum number of contracts that may be included in a single order. These controls on maximum notional value per order and the maximum number of contracts per order would each be User-configurable up to a maximum allowable limit. The Exchange would set default values on the maximum notional value per order and maximum number of contracts per order.[9] The System [10] will reject or cancel an order that exceeds the User-configured limits or which exceeds the default value if the User has not entered any configuration for these controls. This proposed paragraph (a) would provide Options Members with the same risk control functionality on maximum notional value per order and maximum number of contracts per order as is currently provided to Members of MEMX Equities under Interpretation and Policy .01(a) and .01(b) of Exchange Rule 11.10. The Exchange notes that at least one other options exchange provides similar functionality on its trading platform.[11] The Exchange also notes that other national securities exchanges, including the Exchange, include this functionality on their equities platforms.[12] The purpose of proposed paragraph (a) of Interpretation and Policy .01 of Exchange Rule 21.17 is to provide the same maximum notional value risk setting functionality and maximum share risk setting functionality for Users on MEMX Options, as is currently provided to Users on MEMX Equities.

Controls Related to Order Types or Modifiers and Specific Market Conditions

Proposed paragraph (b) of Interpretation and Policy .01 of Exchange Rule 21.17 would provide controls designed to prevent the entry of specific order types and modifiers, as well as the entry of orders when specific market conditions occur. The Exchange would provide a User-configurable on/off switch to allow or disallow the entry of specific types of orders or the entry of any orders upon the existence of certain market conditions. The default value would be to allow the entry of orders. Specifically, the Exchange at this time would provide an on/off switch for (i) orders marked as Intermarket Sweep Orders (''ISOs''), (ii) orders entered when the National Best Bid and Offer (''NBBO'') is crossed, and (iii) Market Orders. With respect to controls on ISOs, the proposal would provide MEMX Options Users with the same ability to allow or disallow ISOs as is currently available to Users of MEMX Equities under Interpretation and Policy .01(c) of Exchange Rule 11.10. With respect to controls to allow or cancel incoming orders when the market is crossed, the proposal would provide MEMX Options Users with the same ability to allow or disallow incoming orders during a crossed market as is currently available to Members of MEMX Equities under Exchange Rule 11.10(a)(2). To clarify, with respect to controls on ISO orders and orders during crossed markets, proposed paragraph (b) of Interpretation and Policy .01 of Exchange Rule 21.17 would provide the same ISO and crossed market functionalities for Users on MEMX Options, as are currently provided to Users on MEMX Equities. The Exchange notes that at least one other options exchange provides similar functionality on its trading platform.[13] The Exchange also notes that other national securities exchanges, including the Exchange, provide this functionality on their equities platforms.[14]

With respect to controls on Market Orders, the Exchange does not presently provide this functionality for MEMX Equities. The Exchange notes that other national securities exchanges provide functionality for Users to apply a risk

[7] 17 CFR 240.15c3–5.

[8] *See, e.g.,* Rule 21.17 of the BZX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BZX_Exchange_Rulebook.pdf;* and Rule 16.3 of the EDGX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGX_Rulebook.pdf.*

[9] *See* ''Publication of Established Numeric Values'' above for a description of how the Exchange will notify Members of default values applicable to risk settings.

[10] *See* Exchange Rule 1.5(gg).

[11] *See, e.g.,* Rule 6.40P–O(a)(2)(A)(i) of the NYSE Arca Exchange Rulebook, available at *https://nysearca.wolterskluwer.cloud/rules/b44a170e7ccd1000a69b90b11c2ac4f10127.*

[12] *See* Interpretations and Policies .01(a) and .01(b) of Rule 11.13 of the BYX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BYX_Rulebook.pdf;* Interpretations and Policies .01a and .01(b) of Rule 11.13 of the BZX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BZX_Exchange_Rulebook.pdf;* Interpretations and Policies .01(a) and .01(b) of Rule 11.10 of the EDGA Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGA_Rulebook.pdf;* and Interpretations and Policies .01(a) and .01(b) of Rule 11.10 of the EDGX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGX_Rulebook.pdf. See also* Interpretations and Policies 01(a) and .01(b) of Rule 11.10 of the MEMX Rulebook, available at: *https://info.memxtrading.com/regulation/memx-rules/.*

[13] *See, e.g.,* Rule 6.40P–O(a)(2)(A)(iii) of the NYSE Arca Exchange Rulebook, available at *https://nysearca.wolterskluwer.cloud/rules/b44a170e7ccd1000a69b90b11c2ac4f10127.*

[14] *See* Interpretations and Policy .01(c) of Rule 11.13 of the BYX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BYX_Rulebook.pdf*; Interpretations and Policy .01(c) of Rule 11.13 of the BZX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BZX_Exchange_Rulebook.pdf*; Interpretations and Policy .01(c) of Rule 11.10 the EDGA Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGA_Rulebook.pdf*; Interpretations and Policy .01(c) of Rule 11.10 the EDGX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGX_Rulebook.pdf. See also* Interpretations and Policy .01(c) of Rule 11.10 of the MEMX Rulebook, available at: *https://info.memxtrading.com/regulation/memx-rules/.*

setting that would reject market orders during continuous trading or auctions.[15] The Exchange proposes to apply the same functionality to MEMX Options. Using this functionality, a User of MEMX Options would be allowed to reject Market Orders; the default setting would be to allow Market Orders. The Exchange proposes to make the risk setting User-configurable and will not require Users to utilize the Market Order risk setting. The purpose of this proposed risk setting is designed to prevent the entry of orders that may cause undue market impact, and reduce the potential for disruptive, market-wide events.

Controls to Restrict Options Classes To Test Symbols

Proposed paragraph (c) of Interpretation and Policy .01 of Exchange Rule 21.17 would provide controls to restrict the options classes for which a User may enter orders to test symbols only, which would apply upon order entry. The Exchange would provide a User-configurable on/off switch to restrict orders entered to test symbols only if configured by the User. The default value of such on/off switch will be to allow all options classes. The proposal would provide MEMX Options Users with the same ability to restrict options classes as is currently available to Users of MEMX Equities under Interpretation and Policy .01(d) of Exchange Rule 11.10.

The Exchange notes that at least one other options exchange provides similar functionality on its trading platform.[16] The Exchange also notes that other national securities exchanges, including the Exchange, already have controls to restrict the entry of orders in specifically identified securities on their equities platforms.[17] The purpose of proposed paragraph (c) of Interpretation and Policy .01 of Exchange Rule 21.17 is to provide Users on MEMX Options the same functionality to restrict the types of options classes which can be traded, as is currently provided to Users on MEMX Equities to restrict the types of securities which can be traded to test symbols only.

Controls To Prohibit Duplicative Orders

Proposed paragraph (d) of Interpretation and Policy .01 of Exchange Rule 21.17 would provide controls to prohibit duplicative orders, which would apply upon order entry.[18] The Exchange would provide the User with the ability to set a duplicative order count and time window in seconds, subject to a maximum allowable limit of order count and time window. The Exchange would also provide default values for order count and time window in seconds, which would be the minimum values to be selected.[19] The control would be triggered when the duplicative order count is exceeded within the time window specified. When such control is triggered, the System would reject incoming orders. Order cancellations would be processed normally during the time when the control is triggered.

The Exchange notes that at least one other options exchange provides similar functionality to prevent duplicative orders on its trading platform.[20] The Exchange notes that other national securities exchanges, including the Exchange, include controls on duplicative orders in their risk settings for their equities platforms.[21] The proposal would provide Users of MEMX Options with the same ability to prohibit duplicative orders as is currently available to Users of MEMX Equities under Interpretation and Policy .01(e) of Exchange Rule 11.10. The purpose of proposed paragraph (d) of Interpretation and Policy .01 of Exchange Rule 21.17 is to provide the same functionality to prohibit duplicative orders for Users on MEMX Options, as is currently provided to Users on MEMX Equities.

Controls To Restrict the Overall Rate of Orders

Proposed paragraph (e) of Interpretation and Policy .01 of Exchange Rule 21.17 would provide controls to restrict the overall rate of orders, which would apply upon order entry. The control would include a default value for the time increment and a default value for the number of orders entered during that time increment.[22] The Exchange would provide the User with the ability to configure an order count and time window, subject to minimum and maximum values identified by the Exchange. The control would be triggered when the order count is exceeded within the time window specified. When such control is triggered, the System would reject incoming orders. Order cancellations would be processed normally during the time when the control is triggered. The proposal would provide Users of MEMX Options with the same ability to restrict the rate of orders as is currently available to Users of MEMX Equities under Interpretation and Policy .01(f) of Exchange Rule 11.10.

The Exchange also notes that other national securities exchanges, including the Exchange, already have risk settings for their Equities platform which allow Users to restrict the rate of orders.[23] The

[15] *See* Exchange Act Release Nos. 97988 (July 25, 2023), 88 FR 49513 (July 31, 2023)(SR–CboeEDGA–2023–012); 97986 (July 25, 2023), 88 FR 49540 (July 31, 2023) (SR–CboeBYX–2023–011); 97987 (July 25, 2023), 88 FR 49516 (July 31, 2023) (SR–CboeEDGX–2023–046); *see also* Nasdaq Rulebook Section 5(b), available at: *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/nasdaq-equity-6*.

[16] *See, e.g.,* Rule 6.40P–O(a)(2)(A)(iv) of the NYSE Arca Exchange Rulebook, available at *https://nysearca.wolterskluwer.cloud/rules/b44a170e7ccd1000a69b90b11c2ac4f10127*.

[17] *See* Interpretations and Policy .01(d) of Rule 11.13 of the BYX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BYX_Rulebook.pdf*; Interpretations and Policy .01(d) of Rule of Rule 11.13 of the BZX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BZX_Exchange_Rulebook.pdf*; Interpretations and Policy .01(d) of Rule 11.10 the EDGA Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGA_Rulebook.pdf*; Interpretations and Policy .01(d) of Rule 11.10 the EDGX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGX_Rulebook.pdf*. *See also* Interpretations and Policy .01(d) of Rule 11.10 of the MEMX Rulebook, available at: *https://info.memxtrading.com/regulation/memx-rules/*.

[18] A duplicative order is one with the same Executing Firm Identifier (''EFID''), side, price, size, and symbol.

[19] *See* ''Publication of Established Numeric Values'' above for a description of how the Exchange will notify Members of default values applicable to risk settings.

[20] *See, e.g.,* Rule 6.40P–O(a)(2)(A)(v) of the NYSE Arca Exchange Rulebook, available at *https://nysearca.wolterskluwer.cloud/rules/b44a170e7ccd1000a69b90b11c2ac4f10127*.

[21] *See* Interpretations and Policy .01(e) of Rule 11.13 of the BYX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BYX_Rulebook.pdf*; Interpretations and Policy .01(e) of Rule of Rule 11.13 of the BZX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BZX_Exchange_Rulebook.pdf*; Interpretations and Policy .01(f) of Rule 11.10 the EDGA Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGA_Rulebook.pdf*; Interpretations and Policy .01(e) of Rule 11.10 the EDGX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGX_Rulebook.pdf*. *See also* Interpretations and Policy .01(e) of Rule 11.10 of the MEMX Rulebook, available at: *https://info.memxtrading.com/regulation/memx-rules/*.

[22] *See* ''Publication of Established Numeric Values'' above for a description of how the Exchange will notify Members of default values applicable to risk settings.

[23] *See, e.g.,* Interpretations and Policy .01(f) of Rule 11.13 of the BYX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BYX_Rulebook.pdf*; Interpretations and Policy .01(f) of Rule of Rule 11.13 of the BZX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BZX_Exchange_Rulebook.pdf*; Interpretations and Policy .01(f) of Rule 11.10 the EDGA Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGA_Rulebook.pdf*; and Interpretations and Policy .01(f) of Rule 11.10 the EDGX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGX_Rulebook.pdf*. *See also* Interpretations and Policy .01(f) of Rule 11.10 of the MEMX Rulebook, available at: *https://info.memxtrading.com/regulation/memx-rules/*.

purpose of proposed paragraph (e) of Interpretation and Policy .01 of Exchange Rule 21.17 is to provide the same functionality to set the maximum overall rate of orders for Users on MEMX Options, as is currently provided to Users on MEMX Equities.

Credit Controls for Gross and Net Exposure

Proposed paragraph (f) of Interpretation and Policy .01 of Exchange Rule 21.17 would provide for credit controls on gross and net exposure, which would apply upon order entry. The default value for each such controls would be set to a maximum dollar amount.[24] Users would be able to configure the limit for each control, subject to a minimum limit amount. Users would be able to select configurable controls on daily gross notional exposure, either for (i) all orders or (ii) only Market Orders. For any bid or offer, the System will cancel or reject it if such bid or offer causes the User's daily gross notional exposure to exceed a User-configured limit. For any Market Order, the System will cancel or reject it if such Market Order causes the User's daily gross notional exposure to exceed a User-configured limit. Similarly, Users would be able to select configurable controls on daily net notional exposure, either for (i) all orders or (ii) only Market Orders. For any bid or offer, the System will cancel or reject it if such bid or offer causes the User's daily net notional exposure to exceed a User-configured limit. For any Market Order, the system will cancel or reject it if such Market Order causes the User's daily gross notional exposure to exceed a User-configured limit. In addition to blocking orders for each of the controls set forth above, the System will block either all new orders or Market Orders only once an applicable setting has been breached.

This proposal would provide Users of MEMX Options with the same ability to set configurable controls on daily net notional and daily gross notional exposure, for all orders or for Market Orders, as is currently available to Users of MEMX Equities under Interpretation and Policy .01(g) of Exchange Rule 11.10. The Exchange notes that other national securities exchanges, including the Exchange, already provide functionality to set configurable controls on daily net notional exposure and daily gross notional exposure that apply on order entry.[25]

The Exchange believes that credit controls on daily net notional and daily gross notional exposure are of importance in the options markets. The purpose of proposed paragraph (f) of Interpretation and Policy .01 of Exchange Rule 21.17 is to provide the same functionality to set configurable controls on daily net notional exposure and daily gross notional exposure for Users on MEMX Options, as is currently provided to Users on MEMX Equities.

Controls for Block and Cancel Functionality

Proposed paragraph (a) of Interpretation and Policy .02 of Exchange Rule 21.17 would provide functionality to (i) cancel all unexecuted orders and quotes in the MEMX Options Book, (ii) block the entry of any new orders and quotes, or (iii) both cancel all unexecuted orders and quotes in the MEMX Options Book and block the entry of any new orders and quotes. Additionally, in addition to functionality (i), (ii), and (iii) described in this paragraph, the Exchange will provide functionality to (iv) automatically cancel a User's orders to the extent the User loses its connection to the Exchange. This proposal would provide Users of MEMX Options with the same block and cancel functionality as is currently available to Users of MEMX Equities under Interpretation and Policy .02(a) of Exchange Rule 11.10. The Exchange notes that at least one other options exchange provides similar functionality on its trading platform.[26] The purpose of proposed paragraph (a) of Interpretation and Policy .02 of Exchange Rule 21.17 is to provide the same functionality to block new orders, cancel open orders, block new orders and cancel open orders, and cancel orders if a User loses connection to the Exchange for Users on MEMX Options, as is currently provided to Users on MEMX Equities.

Controls for Mass Cancellation of Trading Interest Functionality

Finally, the Exchange proposes paragraph (b) of Interpretation and Policy .02 of Exchange Rule 21.17, which would provide functionality to Users of MEMX Options for the mass cancellation of trading interest (*i.e.,* ''batch cancel'' functionality). Users would be able to cancel any orders in any series of options by requesting the Exchange to affect such cancellation as per the instructions of the User. A User initiating such a request may also request that the Exchange block new inbound orders in any series of options. The block will remain in effect until the User requests the Exchange remove the block. Proposed paragraph (b) of Interpretation and Policy .02 of Exchange Rule 21.17 would provide the same batch cancel functionality to Users of MEMX Options as is available to Users of MEMX Equities under Interpretation and Policy .02(b) of Exchange Rule 11.10. The Exchange notes that at least one other options exchange provides similar functionality on its trading platform.[27] The purpose of this proposed paragraph (b) is to provide the same batch cancel functionality to Users of MEMX Options as is currently provided to Users of MEMX Equities.

The purpose of these risk settings is to provide MEMX Options Users with functionality to assist in risk management, which will protect both the User as well as the Exchange from entering potentially erroneous orders that could have potential market impact. The Exchange proposes to make these risk settings available to all Users and will not require Users to use any of the risk settings provided. The Exchange will not provide any preferential treatment to Users based upon their use of any, all, or none of the risk settings.

Clarifying Language On Risk Controls

Pursuant to Rule 15c3–5 under the Act,[28] a broker-dealer with market access must perform appropriate due diligence to assure that its controls are reasonably designed to be effective, and otherwise consistent with the rule.[29]

[24] *See* ''Publication of Established Numeric Values'' above for a description of how the Exchange will notify Members of default values applicable to risk settings.

[25] *See, e.g.,* Interpretations and Policy .01(h) of Rule 11.13 of the BYX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BYX_Rulebook.pdf*; Interpretations and Policy .01(h) of Rule of Rule 11.13 of the BZX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/BZX_Exchange_Rulebook.pdf*; Interpretations and Policy .01(h) of Rule 11.10 the EDGA Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGA_Rulebook.pdf*; and Interpretations and Policy .01(h) of Rule 11.10 the EDGX Exchange Rulebook, available at: *https://cdn.cboe.com/resources/regulation/rule_book/EDGX_Rulebook.pdf. See also* Interpretations and Policy .01(h) of Rule 11.10 of the MEMX Rulebook, available at: *https://info.memxtrading.com/regulation/memx-rules/*.

[26] *See* Rule 6.40P–O(e)(3) and 6.40P–O(e)(4) of the NYSE Arca Exchange Rulebook, available at *https://nysearca.wolterskluwer.cloud/rules/b44a170e7ccd1000a69b90b11c2ac4f10127*.

[27] *See, e.g.,* Nasdaq Options Market Rulebook Chapter 3, Section 19, available at: *https://listingcenter.nasdaq.com/RuleBook/Nasdaq/rules/Nasdaq%20Options%203*.

[28] *See supra* note 7.

[29] *See* Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Risk Management Controls for Brokers or Dealers with Market Access, available at *https://*

Continued

Use of the Exchange's proposed risk settings for MEMX Options will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the User. In order to clarify that the risk controls proposed for MEMX Options are not a substitute for a User's 15c3–5 obligations, the Exchange proposes to provide clarifying language to this effect in proposed Interpretation and Policy .03 to Exchange Rule 21.17. The purpose of Interpretation and Policy .03 to Exchange Rule 21.17 is to make clear that the User, and not the Exchange, will have the full responsibility for ensuring that their orders comply with applicable securities rules, laws, and regulations, and may not rely on the risk settings for any such purpose. The Exchange notes that other exchanges have included similar clarifying language in their options rules.[30] The Exchange wishes to make clear that the use of the proposed risk settings can replace User-managed risk management solutions, and use of the proposed risk settings does not automatically constitute compliance with Exchange rules. Rather, the Exchange intends these controls to act as a complement to its Members' overall suite of controls designed to comply with Rule 15c3–5 and other applicable securities rules, laws and regulations.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6(b) of the Act,[31] in general, and furthers the objectives of sections and 6(b)(5) of the Act,[32] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed risk settings promote just and equitable principles of trade because the risk settings will be equally available to all Users who trade on MEMX Options and such Users can employ such risk settings as part of their overall risk management strategy. Three of the proposed risk settings will apply to orders from all Users and cannot be turned off, namely the duplicative order check, the order rate check and the maximum contracts and maximum notional check. However, the Exchange will establish default values for these risk settings that are made publicly available through a Regulatory Circular and/or publicly available specifications, as discussed above. Further, Users will be able to configure these settings to different levels that align with their overall risk mitigation strategy. The remaining risk settings are optional and Users will be able to select whether they would like to use any, all, or none of these risk settings. No preferential treatment will be provided to Users who have elected to use any, all, or none of the optional risk settings that are available. Use of the risk settings does not unfairly discriminate among the Users of MEMX Options because each risk setting is available to all Users.

The Exchange believes the proposed risk settings will remove impediments to and perfect the mechanism of a free and open market and national market system because it provides additional functionality for Users to manage risk. The proposed risk settings would provide Users with the means to manage and control their risk profile, helping to ensure the proper functioning of the market. The Exchange believes that these controls are designed to protect investors and the public interest because the proposed risk mitigation functionality will aid Users in minimizing their financial exposure and reducing the potential for market-disrupting events. The risk management functionality of the risk settings could, in turn, enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with section 6(b)(8) of the Act[33] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below. The Exchange believes the proposal will not impose a burden on intermarket competition because Users of MEMX Options will be able to decide how they wish to utilize the risk settings offered in the context of their overall risk mitigation strategy. Users of MEMX Options are free to include the risk settings available as part of their determination of where to trade, or in many cases, not to use them at all. The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the proposed risk settings will be available equally to all Users. As previously discussed, the proposed risk setting on MEMX Options which differs from the risk settings on MEMX Equities (namely, controls on Market Orders) has been implemented by other exchanges.[34] Users would be able to choose the settings best suited to their risk profile, potentially enabling them to better manage their risk while trading on the Exchange. The Exchange believes that the proposed risk setting will enable Users to strengthen their risk management capabilities, which, in turn, may enhance the integrity of trading on the options markets and help to assure the stability of the financial system.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[35] and Rule 19b–4(f)(6) thereunder[36] in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[37]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. In support of its

www.sec.gov/divisions/marketreg/faq-15c-5-riskmanagement-controls-bd.htm.

[30] *See, e.g.,* Commentary .01 to Rule 6.40P–O of the NYSE Arca Exchange Rulebook, available at *https://nysearca.wolterskluwer.cloud/rules/b44a170e7ccd1000a69b90b11c2ac4f10127.*

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(5).

[33] 15 U.S.C. 78f(b)(8).

[34] *See supra* note 15.

[35] 15 U.S.C. 78s(b)(3)(A)(iii).

[36] 17 CFR 240.19b–4(f)(6).

[37] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

waiver request, the Exchange states that the proposal will further the interests of investors and the public by making available a risk functionality by which Members (and each Member's Users) can manage their risk on the Exchange's options platform, MEMX Options. These risk settings will allow each User to configure a risk profile applicable to their risk tolerance and as necessary in the context of their overall risk management program, which the Exchange believes will assist in maintaining the Exchange as a fair and orderly market that better serves the interest of investors. Additionally, as discussed above, the proposed changes will not impose any significant or undue burden on competition because Options Members can decide how they wish to utilize the risk settings offered in the context of their overall risk mitigation strategy.

Further, the Exchange launched MEMX Options on September 27, 2023. Waiver of the 30-day operative delay would allow the Exchange to implement the proposed change to offer the proposed risk settings immediately, which would benefit Members and investors by enabling the Exchange to provide additional functionality for Options Members to manage their risk. The Exchange states that these controls are designed to protect investors and the public interest because the proposed risk mitigation functionality will aid Members in minimizing their financial exposure and reducing the potential for market-disrupting events. For these reasons, and because the proposal does not raise any new or novel issues that have not been previously considered by the Commission, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[38]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[38] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–MEMX–2023–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–MEMX–2023–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–MEMX–2023–28 and should be submitted on or before November 8, 2023.

[39] 17 CFR 200.30–3(a)(12) and (a)(59).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–22925 Filed 10–17–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–XXX, OMB Control No. 3235–0779]

Proposed Collection; Comment Request; Extension: Rule 2a–5

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget for extension and approval.

Section 2(a)(41) of the Investment Company Act of 1940 (''Investment Company Act'') [1] requires funds to value their portfolio investments using the market value of their portfolio securities when market quotations for those securities are ''readily available,'' and, when a market quotation for a portfolio security is not readily available, by using the fair value of that security, as determined in good faith by the fund's board.[2] The aggregate value of a fund's investments is the primary determinant of the fund's net asset value (''NAV''), which for many funds determines the price at which their shares are offered and redeemed (or repurchased).[3]

Rule 2a–5 provides requirements for determining in good faith the fair value of the investments of a registered investment company or companies that have elected to be treated as business development companies under the Investment Company Act (''BDCs'' and, collectively, ''funds'') for purposes of section 2(a)(41) of the Investment Company Act and rule 2a–4

[1] 15 U.S.C. 80a–1 *et seq.*

[2] 15 U.S.C. 80a–2(a)(41). *See also* 17 CFR 270.2a–4.

[3] *See* 15 U.S.C. 80a–22(c) and 23(c). *See also* 17 CFR 270.22c–1(a).

thereunder.[4] Under the rule, fair value as determined in good faith requires assessing and managing material risks associated with fair value determinations; selecting, applying, and testing fair value methodologies; and overseeing and evaluating any pricing services used. The rule also permits a fund's board to designate a ''valuation designee'' to perform fair value determinations. The valuation designee can be the adviser of the fund or an officer of an internally managed fund.[5] When a board designates the performance of determinations of fair value to a valuation designee for some or all of the fund's investments under the rule, the rule requires the board to oversee the valuation designee's performance of fair value determinations.

To facilitate the board's oversight, the rule also includes certain reporting and other requirements in the case of designation to a valuation designee.[6] As relevant here, the rule requires, if the board designates performance of fair value determinations to a valuation designee, that the valuation designee report to the board in both periodic and as needed reports on a per-fund basis.

Specifically, on a periodic basis, the valuation designee must provide to the board:

• Quarterly Reports. At least quarterly, in writing, (1) any reports or materials requested by the board related to the fair value of designated investments or the valuation designee's process for fair valuing fund investments and (2) a summary or description of material fair value matters that occurred in the prior quarter. This summary or description must include (1) any material changes in the assessment and management of valuation risks, including any material changes in conflicts of interest of the valuation designee (and any other service provider), (2) any material changes to, or material deviations from, the fair value methodologies, and (3) any material changes to the valuation designee's process for selecting and overseeing pricing services, as well as any material events related to the valuation designee's oversight of pricing services.

• Annual Reports. At least annually, in writing, an assessment of the adequacy and effectiveness of the valuation designee's process for determining the fair value of the designated portfolio of investments. At a minimum, this annual report must include a summary of the results of the testing of fair value methodologies required under the rule and an assessment of the adequacy of resources allocated to the process for determining the fair value of designated investments, including any material changes to the roles or functions of the persons responsible for determining fair value.

Further, the rule requires the valuation designee to provide a written notification to the board of the occurrence of matters that materially affect the fair value of the designated portfolio of investments (defined as ''material matters'') within a time period determined by the board, but in no event later than five business days after the valuation designee becomes aware of the material matter. Material matters in this instance include, as examples, a significant deficiency or material weakness in the design or effectiveness of the valuation designee's fair value determination process or of material errors in the calculation of net asset value. The valuation designee must also provide such timely follow-on reports as the board may reasonably determine are appropriate.[7]

The Commission staff estimates that 9,800 funds are subject to rule 2a–5. The internal annual burden estimate is 34 hours for a fund. Based on these estimates, the total annual burden hours associated with the rule is estimated to be 333,200 hours. The estimated burden hours associated with rule 2a–5 have increased by 15,810 hours from the current allocation of 317,390 hours. The external cost associated with this collection of information is approximately $3,674 per fund, and the total annual external cost burden is $36,005,200. The estimated external cost has increased by $6,319,900 from the current estimate of $29,685,300. These increases are due to an increase in the estimated number of affected entities, as well as in the estimated hourly burden and the external cost associated with the information collection requirements.

The estimate of average burden hours is made solely for purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study of the cost of Commission rules. The collection of information required by rule 2a–5 is necessary to obtain the benefits of the rule. Other information provided to the Commission in connection with staff examinations or investigations is kept confidential subject to the provisions of applicable law. If information collected pursuant to rule 2a–5 is reviewed by the Commission's examination staff, it is accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by December 18, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 13, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–22970 Filed 10–17–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98728; File No. SR–EMERALD–2023–28]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Related to the Options Regulatory Fee

October 12, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 5, 2023, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange'') filed with the

[4] *See* Good Faith Determinations of Fair Value, Investment Company Act Release No. 34128 (Dec. 7, 2020) (''Adopting Release'').

[5] Rule 2a–5(e)(4).

[6] Rule 2a–5(b).

[7] Rule 2a–5(b).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Emerald Options Exchange Fee Schedule (the ''Fee Schedule'') related to the Options Regulatory Fee.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/emerald-options/rule-filings,* at MIAX's [sic] principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule, to harmonize the language and processes relating to the Options Regulatory Fee (''ORF'') with the language and processes used by other options exchanges.[3] By way of background, the ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Member[4] customer options business, including performing routine surveillances, investigations, examinations, financial monitoring, as well as policy, rulemaking, interpretive and enforcement activities. The revenue generated from the ORF covers a material portion and when combined with all of the Exchange's other regulatory fees and fines will cover a material portion of the Exchange's regulatory costs. The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange monitors its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the ''Commission''). The Exchange notifies Members of adjustments to the ORF via a Regulatory Circular. The Exchange provides Members with such notice at least 30 calendar days prior to the effective date of the change.

The Regulatory Fee section of the Fee Schedule sets forth the details and description of how and when the ORF is assessed. For example, the Fee Schedule explicitly specifies that the Exchange may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. The Fee Schedule further states that the Exchange will notify participants of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change.

The Exchange proposes to update the Fee Schedule language relating to the timing of ORF changes. Particularly, the Exchange proposes to eliminate the strict requirement that the ORF may only be modified on the first business day of February or August, and also the explicit requirement that it must provide at least 30 calendar days prior notice to the effective date.

The Exchange first proposes to eliminate the requirement that ORF may only be modified on the first business day of February or August to afford the Exchange increased flexibility in amending the ORF. As noted above, the ORF is based in part on options transactions volume, and as such the amount of ORF collected is variable. If options transactions reported to OCC in a given month increase, the ORF collected from Members may increase as well. Similarly, if options transactions reported to OCC in a given month decrease, the ORF collected from Members may decrease as well. Accordingly, the Exchange monitors the amount of ORF collected to ensure that it does not exceed a material portion of the Exchange's total regulatory costs. If the Exchange determines that the amount of ORF collected exceeds costs, the proposed rule change allows the Exchange to adjust the ORF by submitting a fee change filing to the Commission in a month other than just February or August. Although the Exchange proposes to eliminate the explicit language in the fee schedule that provides the Exchange will adjust the ORF only semi-annually, and only on the first business day of February or August, it would continue to monitor its regulatory costs and revenues at a minimum on a semi-annual basis and submit a proposed rule change for each modification of the ORF as needed.

The Exchange also proposes to eliminate the explicit language in the Fee Schedule that it will notify participants of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change. Although the Exchange proposes to eliminate this language from the Fee Schedule, it notes that it will endeavor to notify Members of any planned change to the ORF by Regulatory Circular at least 30 calendar days prior to the effective date of such change. The Exchange believes this proposed change also provides the Exchange additional flexibility. For example, the Exchange often provides fee change notices on the first business day of the month. It may be the case that such date is less than 30 days from the effective date of proposed change (*e.g.,* if the Exchange wished to amend the ORF, effective August 1, 2023, the Exchange would not have met the 30-day notice requirement if it had announced on the first business day of July, as it has been historic practice, since the first business day falls on July 3, 2023). As such, the proposed rule changes provide added flexibility while still committing to provide notice on the timing of any changes to the ORF and ensuring that Members are prepared to configure their systems to properly account for the ORF.

The Exchange notes that the proposed changes will result in ORF processes and fee schedule language that will align with those of its affiliated

[3] *See* Securities and Exchange Act Release Nos. 98108 (August 10, 2023), 88 FR 55809 (August 16, 2023) (SR–CboeEDGX–2023–054) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fee Schedule Related to the Options Regulatory Fee); 98109 (August 10, 2023), 88 FR 55801 (August 16, 2023) (SR–CboeBZX–2023–061) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fee Schedule Related to the Options Regulatory Fee); 98446 (September 20, 2023), 88 FR 66100 (September 26, 2023) (SR–BOX–2023–24) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule for Trading on the BOX Options Market LLC Facility To Amend the Language and Process Related to the Options Regulatory Fee).

[4] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

exchanges, Miami International Securities Exchange, LLC (''MIAX Options'') and MIAX PEARL, LLC (''MIAX Pearl'').[5] Moreover, other options exchanges recently amended their fees to allow for flexibility to adjust ORF during months other than February or August.[6] The Exchange believes the proposed change provides uniformity across its affiliated options exchanges and reduces potential confusion. It also provides the Exchange added flexibility as to when modifications to the ORF may occur.

Implementation Date

The Exchange will announce the effective date of the proposed changes by Regulatory Circular distributed to all Members.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[7] Specifically, the Exchange believes that the proposal is consistent with the section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes that the proposal is consistent with the section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that the proposal is consistent with section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposed changes to the Fees Schedule are appropriate as it provides the Exchange with more flexibility in its assessment of ORF based on its periodic monitoring of ORF rates. The Exchange also represents that it will continue to monitor its regulatory costs and revenues at a minimum on a semi-annual basis, just as it, and its affiliated options exchanges (including MIAX Pearl and MIAX) do today. The Exchange believes that the proposed elimination of language specifying that the Exchange may only increase or decrease the ORF on the first business day February or August is reasonable because it is designed to afford the Exchange increased flexibility in making necessary adjustments to the ORF, as the Exchange is required to monitor the amount collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed total regulatory costs.

The Exchange also represents that it will endeavor to provide notice of any changes at least 30 days in advance of the effective date of such change, thereby providing Members with adequate time to make any necessary adjustments to accommodate any proposed changes. Taking out the strict requirements from the Fee Schedule, however, will provide the Exchange flexibility in modifying ORF and being able to adjust ORF even if it doesn't meet the strict 30-day deadline in the event extenuating circumstances prevent the Exchange from meeting this deadline or in the event such notice is a day or two less than 30 days due to when the first business days of the month fall. For example, as noted above, the Exchange often provides fee change notices on the first business day of the month. It may be the case that such date is less than 30 days from the effective date of proposed change (*e.g.,* if the Exchange wished to amend the ORF, effective, August 1, 2023, the Exchange would not have met the 30-day notice requirement if it had announced on the first business day of July, as it has been historic practice, since the first business day falls on July 3, 2023).

The Exchange believes that the proposal is reasonable, equitable and not unfairly discriminatory because it conforms to the process and fee schedule language used by two of its affiliated options exchanges, thereby providing consistency across the MIAX family options exchanges and reducing potential confusion. The proposed changes also apply uniformly to all Members subject to ORF. As noted above, other options exchanges are also not confined to making ORF changes on the first business day of February or August or required to provide 30 day notice.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the proposal is substantially similar in all material respects to filings submitted by Cboe EDGX Exchange, Inc. (''EDGX''), Cboe BZX Exchange, Inc. (''BZX''), and BOX Options Market LLC (''BOX'').[12] This proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely amends the Fee Schedule to modify the timing and notice requirements relating to the modification of the ORF and conforms to the timing and notice requirements used by other options exchanges within their fee schedules.[13] Further, ORF is a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs and the proposed rule change does not seek to change that.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6)[15] thereunder.

[5] The Exchange intends to submit an identical proposal for its affiliates MIAX Options and MIAX Pearl.

[6] *See supra* note 3.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] 15 U.S.C. 78f(b)(4).

[11] *See supra* note 3.

[12] *Id.*

[13] *Id.*

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed under Rule 19b–4(f)(6) [16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange is requesting the waiver because it will allow the Exchange to exercise more flexibility with respect to timing of changes to its assessment of ORF based on its periodic monitoring of ORF rates and allow the Exchange to mirror similar provisions already in place on other exchanges. Finally, the Exchange states that the proposed change would not introduce any novel regulatory issues. For these reasons, and because the proposed rule change does not raise any novel legal or regulatory issues, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–EMERALD–2023–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–EMERALD–2023–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–EMERALD–2023–28 and should be submitted on or before November 8, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–22923 Filed 10–17–23; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12) and (a)(59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98733; File No. SR–PEARL–2023–52]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the MIAX Pearl Options Fee Schedule for Purge Ports

October 12, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 2023, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Pearl Options Exchange Fee Schedule (the ''Fee Schedule'') to amend fees for MIAX Express Network (''MEO'') [3] Purge Ports (''Purge Ports'').[4]

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

I. 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''MEO Interface'' or ''MEO'' means a binary order interface for certain order types as set forth in Rule 516 into the MIAX Pearl System. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[4] The proposed fee change is based on a recent proposal by Nasdaq Phlx LLC (''Phlx'') to adopt fees for purge ports. *See* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

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 is proposing to amend the fees for Purge Ports, which is a function enabling the Exchange's two types of Members ,[5] Market Makers [6] and Electronic Exchange Members [7] (''EEMs''), to cancel all open orders or a subset of open orders through a single cancel message. The Exchange currently provides Members the option to purchase Purge Ports to assist in their quoting activity. Purge Ports provide Members with the ability to send purge messages to the Exchange System.[8] Purge Ports are not capable of sending or receiving any other type of messages or information. The use of Purge Ports is completely optional and no rule or regulation requires that a Market Maker utilize them.

Unlike other options exchanges that charge fees for Purge Ports on a per port basis,[9] the Exchange assesses a flat fee of $750 per month, regardless of the number of Purge Ports. Today, a Market Maker may request and be allocated two (2) Purge Ports per Matching Engine to which it connects and not all Members connect to all Matching Engines. The Exchange now proposes to amend the fee for Purge Ports to align more with other exchanges who charge on a per port basis by providing two (2) Purge Ports per Matching Engine for a monthly flat fee of $600 per month per Matching Engine. The only difference with a per port structure being is that Members receive two (2) Purge Ports per Matching Engine for the same proposed monthly fee, rather than be charged separate fee for each Purge Port. The Exchange proposes to charge the proposed fee for Purge Ports per Matching Engine, instead on a per Purge Port basis, due to its system architecture which provides two (2) Purge Ports per Matching Engine for redundancy purposes. In addition, the proposed fee would be lower than what other exchanges charge on a per port basis, notwithstanding that the Exchange is providing up to two (2) Purge Ports for that same low fee.[10]

Similar to a per port charge, Members would be also able to elect the number of Matching Engines they connect to and pay the applicable fee. The Exchange believes the proposed fee provides Members with flexibility to control their Purge Ports costs based on the number of Matching Engines it elects to connect to.

* * * * *

A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port grants a Member the ability to accomplish a specific function, such as order entry, order cancellation, access to execution reports, and other administrative information.

Purge Ports are designed to assist Members [11] in the management of, and risk control over, their orders, particularly if the firm is dealing with a large number of securities. For example, if a Market Maker detects market indications that may influence the execution potential of their orders, the Market Maker may use Purge Ports to reduce uncertainty and to manage risk by purging all orders in a number of securities. This allows Members to seamlessly avoid unintended executions, while continuing to evaluate the market, their positions, and their risk levels. Purge Ports are used by Members that conduct business activity that exposes them to a large amount of risk across a number of securities. Purge Ports enable Members to cancel all open orders, or a subset of open orders through a single cancel message. The Exchange notes that Purge Ports increase efficiency of already existing functionality enabling the cancellation of orders.

The Exchange operates highly performant systems with significant throughput and determinism which allows participants to enter, update and cancel orders at high rates. Members may currently cancel individual orders through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations.[12] As a result, Members can currently cancel orders in rapid succession across their existing logical ports [13] or through a single cancel message, all open orders or a subset of open orders.

Similarly, Members may also use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to automatically cancel all orders, as configured or instructed by the Member or Market Maker.[14] In addition, the Exchange already provides similar ability to mass cancel orders through the Exchange's risk controls, which are offered at no charge that enables Members to establish pre-determined levels of risk exposure, and can be used to cancel all open orders.[15] Accordingly, the Exchange believes that the Purge Ports provide an efficient option as an alternative to already available services and enhance the Participant's ability to manage their risk.

The Exchange believes that market participants benefit from a dedicated purge mechanism for specific Members and to the market as a whole. Members will have the benefit of efficient risk management and purge tools. The market will benefit from potential increased quoting and liquidity as Members may use Purge Ports to manage their risk more robustly. Only Members that request Purge Ports would be subject to the proposed fees, and other Members can continue to operate in exactly the same manner as they do today without dedicated Purge Ports,

[5] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[6] The term ''Market Maker'' or ''MM'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange Rules. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[7] The term ''Electronic Exchange Member'' or ''EEM'' means the holder of a Trading Permit who is a Member representing as agent Public Customer Orders or Non-Customer Orders on the Exchange and those non-Market Maker Members conducting proprietary trading. Electronic Exchange Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[8] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[9] *See* Cboe BXZ Exchange, Inc. (''BZX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe EDGX Exchange, Inc. (''EDGX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe Exchange, Inc. (''Cboe'') Fee Schedule ($850 per purge port per month). *See also* Nasdaq GEMX, Options 7, Pricing Schedule, Section 6.C.(3). Nasdaq GEMX, LLC (''Nasdaq GEMX'') assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports, applicable to market makers. *See also* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[10] *Id.*

[11] Members seeking to become registered as a Market Maker must comply with the applicable requirements of Chapter VI of the Exchange's Rules.

[12] *See* Exchange Rule 519C(a) and (b).

[13] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain market participants rely on such functionality and at times utilize such cancelation rates.

[14] *See* Exchange Rule 516C(c).

[15] *See* Exchange Rule 532.

but with the additional purging capabilities described above.

Implementation Date

The proposed fees will be effective October 1, 2023.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5) of the Act,[17] in particular, in that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposed fee is consistent with Section 6(b)(4) of the Act [18] because it represents an equitable allocation of reasonable dues, fees and other charges among market participants.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Members optional service and flexible fee structures promotes choice, flexibility, efficiency, and competition. The Exchange believes Purge Ports enhance Members' ability to manage orders, which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that Purge Ports foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages may encourage better use of such ports. This may, concurrent with the ports that carry orders and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Members' resources. Similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges, and other equities exchanges.[19] The Exchange believes that proper risk management, including the ability to efficiently cancel multiple orders quickly when necessary, is similarly valuable to firms that trade in the equities market, including Members that have heightened quoting obligations that are not applicable to other market participants.

Purge Ports do not relieve Members of their quoting obligations or firm quote obligations under Regulation NMS Rule 602.[20] Specifically, any interest that is executable against a Member's or Market Maker's orders that is received by the Exchange prior to the time of the removal of orders request will automatically execute. Members that purge their orders will not be relieved of the obligation to provide continuous two-sided orders on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.[21]

The Exchange is not the only exchange to offer this functionality and to charge associated fees.[22] The Exchange believes the proposed fee for Purge Ports is reasonable because it is lower than that currently charged by other exchanges. For example, BZX and EDGX charge a fee of $750 per purge port per month, Cboe charges $850 per purge port per month, Nasdaq GEMX assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports.[23]

The Exchange believes it is reasonable to charge $600 per month for Purge Ports as such ports represent targeted enhancement of technology and were specially developed to allow for the sending of a single message to cancel multiple orders, thereby assisting firms in effectively managing risk. The Exchange also believes that a Member that chooses to utilize Purge Ports may, in the future, reduce their need for additional ports by consolidating cancel messages to the Purge Port and thus freeing up some capacity of the existing logical ports and, therefore, allowing for increased message traffic without paying for additional logical ports. Purge Ports provide the ability to cancel multiple orders across multiple ports with less messaging from the firms using the ports and therefore may create efficiencies for firms and provide a more economical solution to their risk management needs. In addition, Purge Port requests may cancel orders submitted over numerous ports and contain added functionality to purge only a subset of these orders. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees for such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that its ability to set fees for Purge Ports is subject to significant substitution-based forces because Members are able to rely on currently available services both free and those they receive when using existing trading protocols. If the value of the efficiency introduced through the Purge Port functionality is not worth the proposed fees, Members will simply continue to rely on the existing functionality and not pay for Purge Ports. In that regard, Members may currently cancel individual orders through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations. Members already can also cancel orders individually and by utilizing Exchange protocols that allow them to develop proprietary systems that can send cancel messages at a high rate.[24] In addition, the Exchange already provides similar ability to mass cancel orders through the Exchange's risk controls, which are offered at no charge that enables Members to establish pre-determined levels of risk exposure, and can be used to cancel all open orders.[25]

Similarly, Members may use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to immediately cancel all pending Exchange.[26] Finally, this existing purging functionality will allow Participants to achieve essentially the same outcome in canceling orders as they would by utilizing the Purge Ports. Accordingly, the Exchange believes that the proposed Purge Ports fee is reasonable because it is related to the efficiency of Purge Ports related to other means and services already available which are either free or already a part of a fee assessed to the Participant's for existing connectivity. Accordingly, because Purge Ports provide additional optional functionality, excessive fees would simply serve to reduce or

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(4).

[19] *See supra* notes 4 and 10. *See also* Securities Exchange Act Release No. 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016). *See* also Securities Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[20] *See* Exchange Rule 604. *See also generally* Chapter VI of the Exchange's Rules.

[21] *Id.*

[22] *See supra* notes 4 and 10.

[23] *See supra* note 10.

[24] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain Participants rely on such functionality and at times utilize such cancelation rates.

[25] *See* Exchange Rule 532.

[26] *See* Exchange Rule 516C(c).

eliminate demand for this optional product.

The Exchange also believes that offering Purge Ports at the Matching Engine level promotes risk management across the industry, and thereby facilitates investor protection. Some market participants, in particular the larger firms, could and do build similar risk functionality (as described above) in their trading systems that permit the flexible cancellation of orders entered on the Exchange at a high rate. Offering Matching Engine level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

As noted above, the Exchange is not the only exchange to offer dedicated Purge Ports, and the proposed rate is lower than that charged by other exchanges for similar functionality. The Exchange also believes that moving to a per Matching Engine fee is reasonable due to the Exchange's architecture that provides it the ability to provide two (2) Purge Ports per Matching Engine for a fee that would still be lower than other exchanges that charge on a per port basis. Generally speaking, restricting the Exchange's ability to charge fees for these services discourages innovation and competition. Specifically in this case, the Exchange's inability to offer similar services to those offered by other exchanges, and charge reasonable and equitable fees for such services, would put the Exchange at a significant competitive disadvantage and, therefore, serve to restrict competition in the market—especially when other exchanges assess comparable fees higher than those proposed by the Exchange.

The Exchange believes that the proposed Purge Port fees are equitable because the proposed Purge Ports are completely voluntary as they relate solely to optional risk management functionality.

The Exchange also believes that the proposed amendments to its fee schedule are not unfairly discriminatory because they will apply uniformly to all Members that choose to use the optional Purge Ports. Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Market Maker is required or under any regulatory obligation to utilize them. All Members that voluntarily select this service option will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the services offered by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Purge Ports are completely voluntary and are available to all Members on an equal basis at the same cost. While the Exchange believes that Purge Ports provide a valuable service, Members can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Members is required or under any regulatory obligation to utilize Purge Ports. Accordingly, the Exchange believes that Purge Ports offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price the Purge Ports is constrained by competition among exchanges that offer similar functionality. As discussed, there are currently a number of similar offers available to market participants for higher fees at other exchanges. Proposing fees that are excessively higher than established fees for similar functionality would simply serve to reduce demand for the Purge Ports, which as discussed, market participants are under no obligation to utilize. It could also cause firms to shift trading to other exchanges that offer similar functionality at a lower costs, adversely impacting the overall trading on the Exchange and reducing market share. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for risk management. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposal would cause any unnecessary or in appropriate burden on intermarket competition as other exchanges are free to introduce their own purge port functionality and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposal would apply uniformly to any market participant, in that it does not differentiate between Members. The proposal would allow any interested Members to purchase Purge Port functionality based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[27] and Rule 19b–4(f)(2)[28] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–PEARL–2023–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–PEARL–2023–52. 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

[27] 15 U.S.C. 78s(b)(3)(A)(ii).

[28] 17 CFR 240.19b–4(f)(2).

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–PEARL–2023–52 and should be submitted on or before November 8, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–22928 Filed 10–17–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98726; File No. SR–MIAX–2023–040]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Related to the Options Regulatory Fee

October 12, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 5, 2023, Miami International Securities Exchange, LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Options Exchange Fee Schedule (the ''Fee Schedule'') related to the Options Regulatory Fee.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/miax-options/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule, to harmonize the language and processes relating to the Options Regulatory Fee (''ORF'') with the language and processes used by other options exchanges.[3] By way of background, the ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Member[4] customer options business, including performing routine surveillances, investigations, examinations, financial monitoring, as well as policy, rulemaking, interpretive and enforcement activities. The revenue generated from the ORF covers a material portion and when combined with all of the Exchange's other regulatory fees and fines will cover a material portion of the Exchange's regulatory costs.

The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange monitors its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the ''Commission''). The Exchange notifies Members of adjustments to the ORF via a Regulatory Circular. The Exchange provides Members with such notice at least 30 calendar days prior to the effective date of the change.

The Regulatory Fee section of the Fee Schedule sets forth the details and description of how and when the ORF is assessed. For example, the Fee Schedule explicitly specifies that the Exchange may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. The Fee Schedule further states that the Exchange will notify participants of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change.

The Exchange proposes to update the Fee Schedule language relating to the timing of ORF changes. Particularly, the Exchange proposes to eliminate the strict requirement that the ORF may only be modified on the first business day of February or August, and also the explicit requirement that it must provide at least 30 calendar days notice prior to the effective date.

The Exchange first proposes to eliminate the requirement that ORF may only be modified on the first business day of February or August to afford the Exchange increased flexibility in amending the ORF. As noted above, the ORF is based in part on options transactions volume, and as such the amount of ORF collected is variable. If options transactions reported to OCC in a given month increase, the ORF collected from Members may increase as well. Similarly, if options transactions reported to OCC in a given month decrease, the ORF collected from

[29] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 98108 (August 10, 2023), 88 FR 55809 (August 16, 2023) (SR–CboeEDGX–2023–054) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fee Schedule Related to the Options Regulatory Fee); 98109 (August 10, 2023), 88 FR 55801 (August 16, 2023) (SR–CboeBZX–2023–061) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fee Schedule Related to the Options Regulatory Fee); 98446 (September 20, 2023), 88 FR 66100 (September 26, 2023) (SR–BOX–2023–24) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule for Trading on the BOX Options Market LLC Facility To Amend the Language and Process Related to the Options Regulatory Fee).

[4] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

Members may decrease as well. Accordingly, the Exchange monitors the amount of ORF collected to ensure that it does not exceed a material portion of the Exchange's total regulatory costs. If the Exchange determines that the amount of ORF collected exceeds costs, the proposed rule change allows the Exchange to adjust the ORF by submitting a fee change filing to the Commission in a month other than just February or August. Although the Exchange proposes to eliminate the explicit language in the fee schedule that provides the Exchange will adjust the ORF only semi-annually, and only on the first business day of February or August, it would continue to monitor its regulatory costs and revenues at a minimum on a semi-annual basis and submit a proposed rule change for each modification of the ORF as needed.

The Exchange also proposes to eliminate the explicit language in the Fee Schedule that it will notify participants of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change. Although the Exchange proposes to eliminate this language from the Fee Schedule, it notes that it will endeavor to notify Members of any planned change to the ORF by Regulatory Circular at least 30 calendar days prior to the effective date of such change. The Exchange believes this proposed change also provides the Exchange additional flexibility. For example, the Exchange often provides fee change notices on the first business day of the month. It may be the case that such date is less than 30 days from the effective date of proposed change (*e.g.,* if the Exchange wished to amend the ORF, effective, August 1, 2023, the Exchange would not have met the 30-day notice requirement if it had announced on the first business day of July, as it has been historic practice, since the first business day falls on July 3, 2023). As such, the proposed rule changes provide added flexibility while still committing to provide notice on the timing of any changes to the ORF and ensuring that Members are prepared to configure their systems to properly account for the ORF.

The Exchange notes that the proposed changes will result in ORF processes and fee schedule language that will align with those of its affiliated exchanges, MIAX PEARL, LLC (''MIAX Pearl'') and MIAX Emerald, LLC (''MIAX Emerald'').[5] Moreover, other options exchanges recently amended their fees to allow for flexibility to adjust ORF during months other than February or August.[6] The Exchange believes the proposed change provides uniformity across its affiliated options exchanges and reduces potential confusion. It also provides the Exchange added flexibility as to when modifications to the ORF may occur.

Implementation Date

The Exchange will announce the effective date of the proposed changes by Regulatory Circular distributed to all Members.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[7] Specifically, the Exchange believes that the proposal is consistent with the section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes that the proposal is consistent with the section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that the proposal is consistent with section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposed changes to the Fees Schedule are appropriate as it provides the Exchange with more flexibility in its assessment of ORF based on its periodic monitoring of ORF rates. The Exchange also represents that it will continue to monitor its regulatory costs and revenues at a minimum on a semi-annual basis, just as it, and its affiliated options exchanges (including MIAX Pearl and MIAX Emerald) do today. The Exchange believes that the proposed elimination of language specifying that the Exchange may only increase or decrease the ORF on the first business day February or August is reasonable because it is designed to afford the Exchange increased flexibility in making necessary adjustments to the ORF, as the Exchange is required to monitor the amount collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed total regulatory costs.

The Exchange also represents that it will endeavor to provide notice of any changes at least 30 days in advance of the effective date of such change, thereby providing Members with adequate time to make any necessary adjustments to accommodate any proposed changes. Taking out the strict requirements from the Fee Schedule, however, will provide the Exchange flexibility in modifying ORF and being able to adjust ORF even if it doesn't meet the strict 30-day deadline in the event extenuating circumstances prevent the Exchange from meeting this deadline or in the event such notice is a day or two less than 30 days due to when the first business days of the month fall. For example, as noted above, the Exchange often provides fee change notices on the first business day of the month. It may be the case that such date is less than 30 days from the effective date of proposed change (*e.g.,* if the Exchange wished to amend the ORF, effective August 1, 2023, the Exchange would not have met the 30-day notice requirement if it had announced on the first business day of July, as it has been historic practice, since the first business day falls on July 3, 2023).

The Exchange believes that the proposal is reasonable, equitable and not unfairly discriminatory because it conforms to the process and fee schedule language used by two of its affiliated options exchanges, thereby providing consistency across the MIAX family options exchanges and reducing potential confusion. The proposed changes also apply uniformly to all Members subject to ORF. As noted above, other options exchanges are also not confined to making ORF changes on the first business day of February or August or required to provide 30 day notice.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or

[5] The Exchange intends to submit an identical proposal for its affiliates MIAX Pearl and MIAX Emerald.

[6] *See supra* note 3.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] 15 U.S.C. 78f(b)(4).

[11] *See supra* note 3.

appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the proposal is substantially similar in all material respects to filings submitted by Cboe EDGX Exchange, Inc. (''EDGX''), Cboe BZX Exchange, Inc. (''BZX''), and BOX Options Market LLC (''BOX'').[12] This proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely amends the Fee Schedule to modify the timing and notice requirements relating to the modification of the ORF and conforms to the timing and notice requirements used by other options exchanges within their fee schedules.[13] Further, ORF is a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs and the proposed rule change does not seek to change that.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6)[15] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange is requesting the waiver because it will allow the Exchange to exercise more flexibility with respect to timing of changes to its assessment of ORF based on its periodic monitoring of ORF rates and allow the Exchange to mirror similar provisions already in place on other exchanges. Finally, the Exchange states that the proposed change would not introduce any novel regulatory issues. For these reasons, and because the proposed rule change does not raise any novel legal or regulatory issues, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MIAX–2023–40 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–MIAX–2023–40. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–MIAX–2023–40 and should be submitted on or before November 8, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–22922 Filed 10–17–23; 8:45 am]

BILLING CODE 8011–01–P

[12] *Id.*

[13] *Id.*

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12) and (a)(59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98732; File No. SR–MIAX–2023–37]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Fee Schedule for Purge Ports

October 12, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 2023, Miami International Securities Exchange, LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Options Exchange Fee Schedule (the ''Fee Schedule'') to amend fees for Purge Ports.[3]

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/miax-options/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend the fees for Purge Ports, which is a function enabling Market Makers[4] to cancel all open quotes or a subset of open quotes through a single cancel message. The Exchange currently provides Market Makers the option to purchase Purge Ports to assist in their quoting activity. Purge Ports provide Market Makers with the ability to send purge messages to the Exchange System.[5] Purge Ports are not capable of sending or receiving any other type of messages or information. The use of Purge Ports is completely optional and no rule or regulation requires that a Market Maker utilize them.

Unlike other options exchanges that charge fees for Purge Ports on a per port basis,[6] the Exchange assesses a flat fee of $1,500 per month, regardless of the number of Purge Ports. Today, a Market Maker may request and be allocated two (2) Purge Ports per Matching Engine to which it connects and not all Market Makers connect to all Matching Engines. The Exchange now proposes to amend the fee for Purge Ports to align more with other exchanges who charge on a per port basis by providing two (2) Purge Ports per Matching Engine for a monthly flat fee of $300 per month per Matching Engine. The only difference with a per port structure being is that Market Makers receive two (2) Purge Ports per Matching Engine for the same proposed monthly fee, rather than be charged separate fee for each Purge Port. The Exchange proposes to charge the proposed fee for Purge Ports per Matching Engine, instead on a per Purge Port basis, due to its system architecture which provides two (2) Purge Ports per Matching Engine for redundancy purposes. In addition, the proposed fee would be lower than what other exchanges charge on a per port basis, notwithstanding that the Exchange is providing up to two (2) Purge Ports for that same low fee.[7]

Similar to a per port charge, Market Makers would be also able to elect the number of Matching Engines they connect to and pay the applicable fee. The Exchange believes the proposed fee provides Market Makers with flexibility to control their Purge Ports costs based on the number of Matching Engines it elects to connect to.

* * * * *

A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port grants a Member the ability to accomplish a specific function, such as order entry, order cancellation, access to execution reports, and other administrative information.

Purge Ports are designed to assist Market Makers[8] in the management of, and risk control over, their quotes, particularly if the firm is dealing with a large number of securities. For example, if a Market Maker detects market indications that may influence the execution potential of their quotes, the Market Maker may use Purge Ports to reduce uncertainty and to manage risk by purging all quotes in a number of securities. This allows Market Makers to seamlessly avoid unintended executions, while continuing to evaluate the market, their positions, and their risk levels. Purge Ports are used by Market Makers that conduct business activity that exposes them to a large amount of risk across a number of securities. Purge Ports enable Market Makers to cancel all open quotes, or a subset of open quotes through a single cancel message. The Exchange notes that Purge Ports increase efficiency of already existing functionality enabling the cancellation of quotes.

The Exchange operates highly performant systems with significant throughput and determinism which allows participants to enter, update and cancel quotes at high rates. Market Makers may currently cancel individual quotes through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations.[9]As a result, Market Makers can currently cancel quotes in rapid succession across their existing logical ports[10] or through a single cancel message, all open quotes or a subset of open quotes.

Similarly, Market Makers may also use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to automatically cancel all quotes, as configured or instructed by the Member

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed fee change is based on a recent proposal by Nasdaq Phlx LLC (''Phlx'') to adopt fees for purge ports. *See* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[4] The term ''Market Makers'' refers to Lead Market Makers (''LMMs''), Primary Lead Market Makers (''PLMMs''), and Registered Market Makers (''RMMs'') collectively. *See* Exchange Rule 100.

[5] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[6] *See* Cboe BXZ Exchange, Inc. (''BZX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe EDGX Exchange, Inc. (''EDGX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe Exchange, Inc. (''Cboe'') Fee Schedule ($850 per purge port per month). *See also* Nasdaq GEMX, Options 7, Pricing Schedule, Section 6.C.(3). Nasdaq GEMX, LLC (''Nasdaq GEMX'') assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports, applicable to market makers. *See also* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[7] *Id.*

[8] Members seeking to become registered as a Market Maker must comply with the applicable requirements of Chapter VI of the Exchange's Rules.

[9] *See* Exchange Rule 519C(a) and (b).

[10] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain market participants rely on such functionality and at times utilize such cancelation rates.

or Market Maker.[11] In addition, the Exchange already provides similar ability to mass cancel quotes through the Exchange's risk controls, which are offered at no charge that enables Market Makers to establish pre-determined levels of risk exposure, and can be used to cancel all open quotes.[12] Accordingly, the Exchange believes that the Purge Ports provide an efficient option as an alternative to already available services and enhance the Participant's ability to manage their risk.

The Exchange believes that market participants benefit from a dedicated purge mechanism for specific Market Makers and to the market as a whole. Market Makers will have the benefit of efficient risk management and purge tools. The market will benefit from potential increased quoting and liquidity as Market Makers may use Purge Ports to manage their risk more robustly. Only Market Makers that request Purge Ports would be subject to the proposed fees, and other Market Makers can continue to operate in exactly the same manner as they do today without dedicated Purge Ports, but with the additional purging capabilities described above.

Implementation Date

The proposed fees will be effective October 1, 2023.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[13] in general, and furthers the objectives of section 6(b)(5) of the Act,[14] in particular, in that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposed fee is consistent with section 6(b)(4) of the Act [15] because it represents an equitable allocation of reasonable dues, fees and other charges among market participants.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Market Makers optional service and flexible fee structures promotes choice, flexibility, efficiency, and competition. The Exchange believes Purge Ports enhance Market Makers' ability to manage quotes, which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that Purge Ports foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages may encourage better use of such ports. This may, concurrent with the ports that carry quotes and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers' resources. Similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges, and other equities exchanges.[16] The Exchange believes that proper risk management, including the ability to efficiently cancel multiple quotes quickly when necessary, is similarly valuable to firms that trade in the equities market, including Market Makers that have heightened quoting obligations that are not applicable to other market participants.

Purge Ports do not relieve Market Makers of their quoting obligations or firm quote obligations under Regulation NMS Rule 602.[17] Specifically, any interest that is executable against a Member's or Market Maker's quotes that is received by the Exchange prior to the time of the removal of quotes request will automatically execute. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two- sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.[18]

The Exchange is not the only exchange to offer this functionality and to charge associated fees.[19] The Exchange believes the proposed fee for Purge Ports is reasonable because it is lower than that currently charged by other exchanges. For example, BZX and EDGX charge a fee of $750 per purge port per month, Cboe charges $850 per purge port per month, Nasdaq GEMX assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports.[20]

The Exchange believes it is reasonable to charge $300 per month for Purge Ports as such ports represent targeted enhancement of technology and were specially developed to allow for the sending of a single message to cancel multiple quotes, thereby assisting firms in effectively managing risk. The Exchange also believes that a Member that chooses to utilize Purge Ports may, in the future, reduce their need for additional ports by consolidating cancel messages to the Purge Port and thus freeing up some capacity of the existing logical ports and, therefore, allowing for increased message traffic without paying for additional logical ports. Purge Ports provide the ability to cancel multiple quotes across multiple ports with less messaging from the firms using the ports and therefore may create efficiencies for firms and provide a more economical solution to their risk management needs. In addition, Purge Port requests may cancel quotes submitted over numerous ports and contain added functionality to purge only a subset of these quotes. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees for such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that its ability to set fees for Purge Ports is subject to significant substitution-based forces because Market Makers are able to rely on currently available services both free and those they receive when using existing trading protocols. If the value of the efficiency introduced through the Purge Port functionality is not worth the proposed fees, Market Makers will simply continue to rely on the existing functionality and not pay for Purge Ports. In that regard, Market Makers may currently cancel individual quotes through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations. Market Makers already can also cancel quotes individually and by utilizing Exchange protocols that allow them to develop proprietary systems that can send cancel

[11] *See* Exchange Rule 516C(c).

[12] *See* Exchange Rule 532.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(4).

[16] *See supra* notes 3 and 6. *See also* Securities Exchange Act Release No. 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016). *See* also Securities Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[17] *See* Exchange Rule 604. *See also generally* Chapter VI of the Exchange's Rules.

[18] *Id.*

[19] *See supra* notes 3 and 6.

[20] *See supra* note 6.

messages at a high rate.[21] In addition, the Exchange already provides similar ability to mass cancel quotes through the Exchange's risk controls, which are offered at no charge that enables Market Makers to establish pre-determined levels of risk exposure, and can be used to cancel all open quotes.[22]

Similarly, Market Makers may use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to immediately cancel all pending Exchange.[23] Finally, this existing purging functionality will allow Participants to achieve essentially the same outcome in canceling quotes as they would by utilizing the Purge Ports. Accordingly, the Exchange believes that the proposed Purge Ports fee is reasonable because it is related to the efficiency of Purge Ports related to other means and services already available which are either free or already a part of a fee assessed to the Participant's for existing connectivity. Accordingly, because Purge Ports provide additional optional functionality, excessive fees would simply serve to reduce or eliminate demand for this optional product.

The Exchange also believes that offering Purge Ports at the Matching Engine level promotes risk management across the industry, and thereby facilitates investor protection. Some market participants, in particular the larger firms, could and do build similar risk functionality (as described above) in their trading systems that permit the flexible cancellation of quotes entered on the Exchange at a high rate. Offering Matching Engine level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

As noted above, the Exchange is not the only exchange to offer dedicated Purge Ports, and the proposed rate is lower than that charged by other exchanges for similar functionality. The Exchange also believes that moving to a per Matching Engine fee is reasonable due to the Exchange's architecture that provides it the ability to provide two (2) Purge Ports per Matching Engine for a fee that would still be lower than other exchanges that charge on a per port basis. Generally speaking, restricting the Exchange's ability to charge fees for these services discourages innovation and competition. Specifically in this case, the Exchange's inability to offer similar services to those offered by other exchanges, and charge reasonable and equitable fees for such services, would put the Exchange at a significant competitive disadvantage and, therefore, serve to restrict competition in the market—especially when other exchanges assess comparable fees higher than those proposed by the Exchange.

The Exchange believes that the proposed Purge Port fees are equitable because the proposed Purge Ports are completely voluntary as they relate solely to optional risk management functionality.

The Exchange also believes that the proposed amendments to its fee schedule are not unfairly discriminatory because they will apply uniformly to all Market Makers that choose to use the optional Purge Ports. Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Market Maker is required or under any regulatory obligation to utilize them. All Market Makers that voluntarily select this service option will be charged the same amount for the same services. All Market Makers have the option to select any connectivity option, and there is no differentiation among Market Makers with regard to the fees charged for the services offered by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Purge Ports are completely voluntary and are available to all Market Makers on an equal basis at the same cost. While the Exchange believes that Purge Ports provide a valuable service, Market Makers can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Market Makers is required or under any regulatory obligation to utilize Purge Ports. Accordingly, the Exchange believes that Purge Ports offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price the Purge Ports is constrained by competition among exchanges that offer similar functionality. As discussed, there are currently a number of similar offers available to market participants for higher fees at other exchanges. Proposing fees that are excessively higher than established fees for similar functionality would simply serve to reduce demand for the Purge Ports, which as discussed, market participants are under no obligation to utilize. It could also cause firms to shift trading to other exchanges that offer similar functionality at a lower costs, adversely impacting the overall trading on the Exchange and reducing market share. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for risk management. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposal would cause any unnecessary or in appropriate burden on intermarket competition as other exchanges are free to introduce their own purge port functionality and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposal would apply uniformly to any market participant, in that it does not differentiate between Market Makers. The proposal would allow any interested Market Makers to purchase Purge Port functionality based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act,[24] and Rule 19b–4(f)(2)[25] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission

[21] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain Participants rely on such functionality and at times utilize such cancelation rates.

[22] *See* Exchange Rule 532.

[23] *See* Exchange Rule 516C(c).

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

[25] 17 CFR 240.19b–4(f)(2).

takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MIAX–2023–37 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–MIAX–2023–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–MIAX–2023–37 and should be submitted on or before November 8, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–22927 Filed 10–17–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–418, OMB Control No. 3235–0485]

Proposed Collection; Comment Request; Extension: Rule 15c2–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15c2–1, (17 CFR 240.15c2–1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15c2–1 prohibits broker-dealers from commingling under the same lien securities of their margin customers with securities of the broker-dealer and those of other customers without their written consent. The rule also prohibits the re-hypothecation of customers' margin securities for a sum in excess of the customer's aggregate indebtedness. Respondents must collect information necessary to prevent the re-hypothecation of customer securities, issue and retain copies of notices of hypothecation of customer securities, and collect written consents from customers.

There are approximately 59 respondents. Each of these respondents makes an estimated 45 responses per year and each response takes approximately 0.5 hours to complete, resulting in an industry-wide annual burden of approximately 1,327 hours.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by December 18, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 12, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–22921 Filed 10–17–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98729; File No. SR–PEARL–2023–56]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Related to the Options Regulatory Fee

October 12, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 5, 2023, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the fee schedule (the ''Fee Schedule'') related to the Options Regulatory Fee.

The text of the proposed rule change is available on the Exchange's website at

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings, at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule, to harmonize the language and processes relating to the Options Regulatory Fee (''ORF'') with the language and processes used by other options exchanges.[3] By way of background, the ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Member[4] customer options business, including performing routine surveillances, investigations, examinations, financial monitoring, as well as policy, rulemaking, interpretive and enforcement activities. The revenue generated from the ORF covers a material portion and when combined with all of the Exchange's other regulatory fees and fines will cover a material portion of the Exchange's regulatory costs.

The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange monitors its regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the ''Commission''). The Exchange notifies Members of adjustments to the ORF via a Regulatory Circular. The Exchange provides Members with such notice at least 30 calendar days prior to the effective date of the change.

The Regulatory Fee section of the Fee Schedule sets forth the details and description of how and when the ORF is assessed. For example, the Fee Schedule explicitly specifies that the Exchange may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. The Fee Schedule further states that the Exchange will notify participants of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change.

The Exchange proposes to update the Fee Schedule language relating to the timing of ORF changes. Particularly, the Exchange proposes to eliminate the strict requirement that the ORF may only be modified on the first business day of February or August, and also the explicit requirement that it must provide at least 30 calendar days prior notice to the effective date.

The Exchange first proposes to eliminate the requirement that ORF may only be modified on the first business day of February or August to afford the Exchange increased flexibility in amending the ORF. As noted above, the ORF is based in part on options transactions volume, and as such the amount of ORF collected is variable. If options transactions reported to OCC in a given month increase, the ORF collected from Members may increase as well. Similarly, if options transactions reported to OCC in a given month decrease, the ORF collected from Members may decrease as well. Accordingly, the Exchange monitors the amount of ORF collected to ensure that it does not exceed a material portion of the Exchange's total regulatory costs. If the Exchange determines that the amount of ORF collected exceeds costs, the proposed rule change allows the Exchange to adjust the ORF by submitting a fee change filing to the Commission in a month other than just February or August. Although the Exchange proposes to eliminate the explicit language in the fee schedule that provides the Exchange will adjust the ORF only semi-annually, and only on the first business day of February or August, it would continue to monitor its regulatory costs and revenues at a minimum on a semi-annual basis and submit a proposed rule change for each modification of the ORF as needed.

The Exchange also proposes to eliminate the explicit language in the Fee Schedule that it will notify participants of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change. Although the Exchange proposes to eliminate this language from the Fee Schedule, it notes that it will endeavor to notify Members of any planned change to the ORF by Regulatory Circular at least 30 calendar days prior to the effective date of such change. The Exchange believes this proposed change also provides the Exchange additional flexibility. For example, the Exchange often provides fee change notices on the first business day of the month. It may be the case that such date is less than 30 days from the effective date of proposed change (*e.g.,* if the Exchange wished to amend the ORF, effective, August 1, 2023, the Exchange would not have met the 30-day notice requirement if it had announced on the first business day of July, as it has been historic practice, since the first business day falls on July 3, 2023). As such, the proposed rule changes provide added flexibility while still committing to provide notice on the timing of any changes to the ORF and ensuring that Members are prepared to configure their systems to properly account for the ORF.

The Exchange notes that the proposed changes will result in ORF processes and fee schedule language that will align with those of its affiliated exchanges, Miami International Securities Exchange, LLC (''MIAX Options'') and MIAX Emerald, LLC (''MIAX Emerald'').[5] Moreover, other options exchanges recently amended their fees to allow for flexibility to adjust ORF during months other than February or August.[6] The Exchange believes the proposed change provides uniformity across its affiliated options exchanges and reduces potential confusion. It also provides the Exchange added flexibility as to when modifications to the ORF may occur.

[3] *See* Securities and Exchange Act Release Nos. 98108 (August 10, 2023), 88 FR 55809 (August 16, 2023) (SR–CboeEDGX–2023–054) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fee Schedule Related to the Options Regulatory Fee); 98109 (August 10, 2023), 88 FR 55801 (August 16, 2023) (SR–CboeBZX–2023–061) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend its Fee Schedule Related to the Options Regulatory Fee); 98446 (September 20, 2023), 88 FR 66100 (September 26, 2023) (SR–BOX–2023–24) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule for Trading on the BOX Options Market LLC Facility To Amend the Language and Process Related to the Options Regulatory Fee).

[4] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[5] The Exchange intends to submit an identical proposal for its affiliates MIAX Options and MIAX Emerald.

[6] *See supra* note 3.

Implementation Date

The Exchange will announce the effective date of the proposed changes by Regulatory Circular distributed to all Members.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[7] Specifically, the Exchange believes that the proposal is consistent with the section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes that the proposal is consistent with the section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that the proposal is consistent with section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposed changes to the Fees Schedule are appropriate as it provides the Exchange with more flexibility in its assessment of ORF based on its periodic monitoring of ORF rates. The Exchange also represents that it will continue to monitor its regulatory costs and revenues at a minimum on a semi-annual basis, just as it, and its affiliated options exchanges (including MIAX Options and MIAX Emerald) do today. The Exchange believes that the proposed elimination of language specifying that the Exchange may only increase or decrease the ORF on the first business day February or August is reasonable because it is designed to afford the Exchange increased flexibility in making necessary adjustments to the ORF, as the Exchange is required to monitor the amount collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed total regulatory costs.

The Exchange also represents that it will endeavor to provide notice of any changes at least 30 days in advance of the effective date of such change, thereby providing Members with adequate time to make any necessary adjustments to accommodate any proposed changes. Taking out the strict requirements from the Fee Schedule, however, will provide the Exchange flexibility in modifying ORF and being able to adjust ORF even if it doesn't meet the strict 30-day deadline in the event extenuating circumstances prevent the Exchange from meeting this deadline or in the event such notice is a day or two less than 30 days due to when the first business days of the month fall. For example, as noted above, the Exchange often provides fee change notices on the first business day of the month. It may be the case that such date is less than 30 days from the effective date of proposed change (*e.g.,* if the Exchange wished to amend the ORF, effective August 1, 2023, the Exchange would not have met the 30-day notice requirement if it had announced on the first business day of July, as it has been historic practice, since the first business day falls on July 3, 2023).

The Exchange believes that the proposal is reasonable, equitable and not unfairly discriminatory because it conforms to the process and fee schedule language used by two of its affiliated options exchanges, thereby providing consistency across the MIAX family options exchanges and reducing potential confusion. The proposed changes also apply uniformly to all Members subject to ORF. As noted above, other options exchanges are also not confined to making ORF changes on the first business day of February or August or required to provide 30 day notice.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the proposal is substantially similar in all material respects to filings submitted by Cboe EDGX Exchange, Inc. (''EDGX''), Cboe BZX Exchange, Inc. (''BZX''), and BOX Options Market LLC (''BOX'').[12] This proposal does not create an unnecessary or inappropriate inter-market burden on competition because it merely amends the Fee Schedule to modify the timing and notice requirements relating to the modification of the ORF and conforms to the timing and notice requirements used by other options exchanges within their fee schedules.[13] Further, ORF is a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs and the proposed rule change does not seek to change that.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6)[15] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange is requesting the waiver because it will allow the Exchange to exercise more flexibility with respect to timing of changes to its

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] 15 U.S.C. 78f(b)(4).

[11] *See supra* note 3.

[12] *Id.*

[13] *Id.*

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

assessment of ORF based on its periodic monitoring of ORF rates and allow the Exchange to mirror similar provisions already in place on other exchanges. Finally, the Exchange states that the proposed change would not introduce any novel regulatory issues. For these reasons, and because the proposed rule change does not raise any novel legal or regulatory issues, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PEARL–2023–56 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–PEARL–2023–56. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–PEARL–2023–56 and should be submitted on or before November 8, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–22924 Filed 10–17–23; 8:45 am]

BILLING CODE 8011–01–P

[18] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12) and (a)(59).

DEPARTMENT OF STATE

[Public Notice 12232]

60-Day Notice of Proposed Information Collection: I2U2 Project Proposal Submission Template

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to December 18, 2023.

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

- *Web:* Persons with access to the internet may comment on this notice by going to *www.regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2023–0033'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: I2U2@state.gov.*

You must include the information collection title and the OMB control number in any correspondence.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* I2U2 Project Proposal Submission Template.
- *OMB Control Number:* 1405–0261.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* Office of the Under Secretary for Economic Growth, Energy, and the Environment.
- *Respondents:* Individuals.
- *Estimated Number of Respondents:* 10.
- *Estimated Number of Responses:* 10.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 10 hours.
- *Frequency:* Once.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

I2U2 is a partnership between the heads of government of India, Israel, the United Arab Emirates, and the United States. This grouping of countries identifies bankable projects and initiatives, with a particular focus on joint investments and new initiatives in water, energy, transportation, space, health, food security, and technology. The I2U2 initiative aims to mobilize

private sector capital and expertise to achieve a variety of economic goals.

The purpose of this collection is to gather the required details necessary to determine if applicants' projects qualify to participate in the I2U2 initiative. This information is necessary to select participants and share information with I2U2 partners. The window to receive project proposals will remain open as long as the I2U2 initiative exists.

I2U2 will consider projects and initiatives on an individual basis that meet the following criteria:

1. Fall into at least one of these seven sectors: water, climate/energy, transportation, space, health, food security, or technology.

2. Preferably operate in the Middle East, India, the United States, or Africa. However, the I2U2 Group will consider opportunities anywhere in the world.

3. Allow each of the four partner countries to benefit from and/or contribute to the project. Priority will be given to projects based on cooperation and/or involvement of participants from all four I2U2 partner countries.

Respondents will access to the form at *www.state.gov/I2U2.* Following these criteria, the form asks individuals to select the applicable sectors and explain the proposed role of/benefits to each partner country. The form also requests details about the project submitter, any monetary and nonmonetary requests, and a description of the project and timeline. I2U2 will utilize this form for vetting, review, and selection of project submissions. Submitters may also optionally provide additional supporting documentation, such as a detailed budget, marketing brochure, or other relevant materials.

Methodology

The collection will be completed 100 percent electronically. The respondent will complete the form online and submit the form by email to *I2U2@state.gov.*

Kevin E. Bryant,

Deputy Director, Office of Directives Management, Department of State.

[FR Doc. 2023–22950 Filed 10–17–23; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 12228]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''The Heart of Zen'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition ''The Heart of Zen'' at the Asian Art Museum, San Francisco, California, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–22999 Filed 10–17–23; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 35441 (Sub-No. 1)]

Blackwell Northern Gateway Railroad Company—Lease Exemption—Oklahoma Department of Transportation and Blackwell Industrial Authority

Blackwell Northern Gateway Railroad Company (BNGR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease approximately 37.26 miles of rail line, owned by the Oklahoma Department of Transportation (ODOT) and Blackwell Industrial Authority (BIA) and extending from milepost 0.09 at Wellington, Kan., to milepost 35.35 at Blackwell, Okla., and from milepost 127.0 at Blackwell to milepost 125.0 also at Blackwell (the Line). ODOT owns the portions of the Line extending from milepost 18.32 at Hunnewell, Kan., to milepost 35.35 at Blackwell, and from milepost 127.0 to milepost 126.45 in Blackwell. BIA owns the portions of the Line extending from milepost 0.09 at Wellington to milepost 18.32 at Hunnewell, and from milepost 126.45 to milepost 125.0 in Blackwell.

BNGR states that it currently operates the Line pursuant to a lease agreement with ODOT and BIA.[1] According to BNGR, it, ODOT, and BIA have executed a new Track Lease and Operating Agreement, which will govern BNGR operation of the Line upon the effective date of this notice.

BNGR certifies that its projected annual freight revenues will not result in the creation of a Class I or Class II rail carrier and will not exceed $5 million. BNGR also certifies that the agreement does not include an interchange commitment.

The transaction may be consummated on or after November 1, 2023,[2] 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 25, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 35441 (Sub-No. 1), 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 BNGR's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to BNGR, 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: October 13, 2023.

[1] *See Blackwell N. Gateway R.R.—Lease Renewal Exemption—Okla. Dept. of Transp.,* FD 35441 (STB served Nov. 17, 2010).

[2] BNGR initially submitted its verified notice on September 29, 2023, but supplemented it by letter on October 2, 2023. The date of BNGR's supplement will be considered the filing date for purposes of calculating the effective date of this exemption.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Stefan Rice,

Clearance Clerk.

[FR Doc. 2023–22988 Filed 10–17–23; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. WB 23–54]

Release of Waybill Data

The Surface Transportation Board has received a request from Washington State University (WB23–54—10/9/23) for permission to use data from the Board's annual 2000–2021 unmasked Carload Waybill Sample. A copy of this request may be obtained from the Board's website under docket no. WB23–54.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245–0319.

Eden Besera,

Clearance Clerk.

[FR Doc. 2023–22914 Filed 10–17–23; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

30-Day Notice of Intent To Seek Extension of Approval of Collection: Statutory Licensing Authority

ACTION: Notice and request for comments.

AGENCY: Surface Transportation Board.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for an extension of approval for the information collection required from those seeking statutory licensing authority, as described below.

DATES: Comments on this information collection should be submitted by November 17, 2023.

ADDRESSES: Written comments should be identified as ''Paperwork Reduction Act Comments, Surface Transportation Board, Statutory Licensing Authority.'' Written comments for the proposed information collection should be submitted via *www.reginfo.gov/public/do/PRAMain.* This information collection can be accessed by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. As an alternative, written comments may be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Michael J. McManus, Surface Transportation Board Desk Officer: via email at *oira_submission@omb.eop.gov;* by fax at (202) 395–1743; or by mail to Room 10235, 725 17th Street NW, Washington, DC 20503.

Please also direct all comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001, or to *PRA@stb.gov.* When submitting comments, please refer to ''Paperwork Reduction Act Comments, Surface Transportation Board: Statutory Licensing Authority.'' For further information regarding this collection, contact Michael Higgins, Deputy Director, Office of Public Assistance, Governmental Affairs, and Compliance, at (202) 245–0284 or *michael.higgins@stb.gov.* If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: The Board previously published a notice about this collection in the **Federal Register** (88 FR 52237 (August 7, 2023)). That notice allowed for a 60-day public review and comment period. No comments were received.

Comments are requested concerning: (1) the accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: Statutory Licensing Authority.

OMB Control Number: 2140–0023.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Rail carriers and non-carriers seeking statutory licensing or consolidation authority, an exemption from filing an application for such authority, or interchange commitments.

Number of Respondents: 85.

Estimated Time per Response:

ESTIMATED HOURS PER RESPONSE

Type of filing	Number of hours per response under 49 U.S.C. 10901–03 and 11323–26
Applications	575
Petitions *	75
Notices *	25
Interchange commitments	10

Frequency: On occasion.

AVERAGE ANNUAL NUMBER OF RESPONSES FOR FY 2020–2022

Type of filing	Average number of filings per year under 49 U.S.C. 10901–03 and 11323–26
Applications	7
Petitions *	15
Notices *	88
Interchange commitments	5

Total Burden Hours (annually including all respondents): 7,300 hours (sum of estimated hours per response x number of responses for each type of filing).

TOTAL ANNUAL BURDEN HOURS

Type of filing	Hours per response	Annual number of filings	Total annual burden hours
Applications	575	7	4,025
Petitions *	75	15	1,125
Notices *	25	88	2,200

TOTAL ANNUAL BURDEN HOURS—Continued

Type of filing	Hours per response	Annual number of filings	Total annual burden hours
Interchange commitments	10	5	50
Total annual burden hours			7,300

* Under section 10502, petitions for exemption and notices of exemption are permitted in lieu of an application.

Total ''Non-hour Burden'' Cost: None identified. Filings are submitted electronically to the Board. However, for some filings, respondents are sometimes required to send documentation or consultation letters to various other governmental agencies or parties, some of which may involve limited mailing costs, which staff estimates in total to be approximately $2,100.

Needs and Uses: As mandated by Congress, an application for prior approval and authority must be filed with the Board by persons seeking to construct, acquire, or operate a line of railroad; by railroads seeking to abandon or discontinue operations over a line of railroad; and, in the case of two or more railroads, by railroads seeking to consolidate their interests through merger or a common-control arrangement. *See* 49 U.S.C. 10901–03, 11323–26. Under 49 U.S.C. 10502, persons may seek an exemption from many of the application requirements of sections 10901–03 and 11323–26 by filing with the Board a petition for exemption or notice of exemption in lieu of an application. The collection by the Board of these applications, petitions, and notices (including collection of disclosures of rail ''interchange commitments'' under 49 CFR 1121.3(d), 1150.33(h), 1150.43(h), and 1180.4(g)(4)) enables the Board to meet its statutory duty to regulate the referenced rail transactions. If the actions for which authority is sought create agreements with interchange commitments that limit the future interchange of traffic with third parties, then certain information must be disclosed to the Board about those commitments. 49 CFR 1121.3(d), 1150.33(h), 1150.43(h), 1180.4(g)(4). The collection of this information facilitates the case-specific review of interchange commitments and enables the Board's monitoring of their usage generally.

Under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: October 13, 2023.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2023–22973 Filed 10–17–23; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of a Final Programmatic Environmental Assessment and Finding of No Significant Impact/Record of Decision

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

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration announces the availability of a Final Programmatic Environmental Assessment and Finding of No Significant Impact/Record of Decision for the Bipartisan Infrastructure Law-funded Airport Traffic Control Tower Replacement Program.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this notice, contact Aaron W. Comrov, Environmental Team Lead, FAA CSA ES EOSH Center (AJW–2C16E), 2300 East Devon Avenue, Room 450, Des Plaines, IL 60018; telephone: (847) 294–7665; email: *aaron.comrov@faa.gov.*

SUPPLEMENTARY INFORMATION: The Final Programmatic Environmental Assessment (PEA) considers the conditions and potential environmental impacts from the Proposed Action to replace numerous FAA-owned airport traffic control towers (ATCT) with modern facilities under the Bipartisan Infrastructure Law (BIL)-funded ATCT Replacement Program. Many existing ATCTs at municipal or general aviation airports are outdated and operating past their design life. The purpose and need for the proposed program is to replace select FAA-owned ATCTs with modern ATCTs while providing uninterrupted air traffic control services. The FAA has prepared the Final PEA and Finding of No Significant Impact (FONSI)/Record of Decision (ROD) in conformance with the requirements of the National Environmental Policy Act of 1969 (NEPA) and FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures.* The Final PEA analyzes the potential environmental impacts that may result from construction and operation of the proposed new ATCTs and decommissioning and removal of the existing ATCTs (the Proposed Action), as well as the No Action Alternative (*i.e.,* not constructing and operating the proposed new ATCTs). The Final PEA reflects consideration of comments received during the public comment period for the Draft PEA, which was open from June 28, 2023 through July 31, 2023.

The Proposed Action would provide for modern, operationally efficient ATCTs, which would be designed to meet the energy and sustainability requirements of FAA's *Terminal Facilities Design Standard* while adhering to the Council on Environmental Quality's *Guiding Principles for Sustainable Federal Buildings and Associated Instructions.* The proposed replacement ATCTs would enable the installation of modern air traffic control equipment, provide adequate space and an enhanced work environment for FAA personnel, lower operating costs, and improve environmental performance resulting in energy savings, water efficiency, reduced carbon emissions, and improved indoor air quality while meeting applicable FAA requirements.

Based on this analysis, the FAA determined there will not be a significant impact to the human environment from implementation of the Proposed Action and an Environmental Impact Statement (EIS) is not required. The FAA intends for

this PEA to create efficiencies by establishing a ''tiering'' framework, where appropriate, to project-specific actions that require additional analysis. As decisions on specific project sites are made, to the extent additional NEPA analysis is required, environmental reviews would be conducted to supplement the analysis set forth in the PEA.

The Final PEA and FONSI/ROD are available on the project website (*http://www.faa.gov/air_traffic_atf*).

Issued in Des Plaines, Illinois, on October 12, 2023.

Aaron W. Comrov,

Environmental Team Lead, FAA CSA ES EOSH Center, AJW–216E.

[FR Doc. 2023–22935 Filed 10–17–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2023–0041]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for an information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by December 18, 2023.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0041 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carlos B. McCloud, (225)–433–2892—*carlos.mccloud@dot.gov* or David Harris, (202) 366–2825—*dave.harris@dot.gov,* FHWA Office of Transportation Management (HOTM) USDOT HQ E84–471, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Title: Strategic Innovation for Revenue Collection (SIRC) Program Grant Application, Agreement, and Project Management.

Background: In adherence with 5 CFR 1320.13, this is a request for approval for an emergency clearance for processing of information related to a new collection of information for the SIRC Program grant application submission and quarterly reporting requirements for FY 2023–2024 program of projects awards. The collection of information will support implementation of Title III—Research, Technology, and Education, Sec. 13001. Strategic Innovation for Revenue Collection (a) and (b) of the Infrastructure Investment and Jobs Act (Pub. L. 117–58 or also referred to as the Bipartisan Infrastructure Law-BIL (see Exhibit A page 12). The Office of the Secretary of Transportation (OST) and the Federal Highway Administration (FHWA) has coordinated on the development of public information to solicit responses to a Notice of Funding Opportunity (NOFO) for the SIRC Program. Awarded funds to eligible applicants will test the feasibility of a road usage fee and other user-based alternative revenue mechanisms (referred to in this section as ''user based alternative revenue mechanisms'') to help maintain the long-term solvency of the Highway Trust Fund.

- The information will be received by the FHWA to fulfill the grant application submittal requirements and agreements prescribed in the NOFO.
- The collection of information will include grant application forms and narratives, grant agreements, and project management quarterly reporting.
- The purpose of the collection is to receive information relevant to evaluating applications to the SIRC grant program, per the NOFO, and reporting requirements agreed to by recipients of the Grants.
- The obligation to respond to the collection of information is voluntary and is required to obtain or retain a benefit.

The Strategic Innovation for Revenue Collection (SIRC) Program seeks to fund pilot projects that test the implementation of user-based alternative revenue mechanisms that utilize a road user fee structure for eligible entities to test the feasibility of the program objectives outlined in Section 133001 (b)(3), as prescribed in Exhibit A of this document. Grant awards test innovative ways to replace or supplement the Federal gas tax to maintain the long-term solvency of the Highway Trust Fund. The collection of information is necessary to receive applications for grant funds, evaluate the effectiveness of projects that have been awarded grant funds, and monitor project financial conditions and project progress pursuant to Section 133001 (b)(3). FY 2023–FY 2024 is the first year of implementation for the SIRC Program. FHWA implemented a similar predecessor program, the Surface Transportation System Funding Alternatives (STSFA) program authorized by section 6020 of the Fixing America's Surface Transportation (FAST) Act, Public Law 114–94, FY 2016–2021, which was repealed with the passage of BIL. Information about awards funded under the STSFA program is available at: *https://ops.fhwa.dot.gov/stsfa/index.htm.*

FHWA requests information from applicants in the form an electronic application, which will represent 100% of the submissions. The application will assist in soliciting proposals for funding from eligible applicants for the five-year grant program, to monitor the grant program recipients, project progress, assess project outcomes and permit evaluation. The reporting requirements are submitted by recipients and will be completed during the application stage, grant agreement, and the project management stages. FHWA will continue to use the information collected in the application phase to evaluate proposals and make decisions to award grants to applicants for any future similar appropriations. FHWA will use the information to monitor the progress of projects that have been awarded SIRC Program funds, and to monitor the proper expenditure of Federal funds. The project management information will be collected by grant recipients.

Much of the information will be produced and collected through the normal process of project management, so the additional burden of Government information collection is small in comparison to the data management related to information that grant recipients already collect to manage their projects properly. The information collected from grant recipients is project specific and the information is not available other than from the grantees.

The information will be used to monitor projects on a quarterly basis, and to ensure on an annual basis that the project's plan conforms to the project's real operating environment.

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise denote the CBI portions. DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA. Retention of records will adhere to DOT Order 1351.28 Records Management, 28.4.5 Electronic Records.

The Department will receive application reports electronically via email and via websites from grant awardees upon approval from OMB. Certain agencies within the Department have found that delivery of reports electronically is the most reliable way to collect information and will use their existing grant administration systems to collect the information covered under this request. To minimize the burden on applicants, OMB approved standard forms are being used to collect information where possible. Such standard forms include the Application for Federal Assistance (SF–424), available online at *https://apply07.grants.gov/apply/forms/sample/SF424_2_1-V2.1.pdf,* and the post-award Federal Financial Reports form (SF–425), available online at *https://apply07.grants.gov/apply/forms/sample/SF425_2_0-V2.0.pdf.*

If the information requested in the reports is not collected, the Department will not be able to evaluate project progress or financial conditions in accordance with the 23 U.S.C., Bipartisan Infrastructure Law and the Notice of Funding Opportunity (NOFO) for the program published in the **Federal Register**. The quarterly collection of financial data ensures that the use of Federal funds can be appropriately monitored.

Respondents: The primary respondents are the eligible applicants, which includes a State or a group of States, Metropolitan Planning Organization (MPO) or a group of Metropolitan Planning Organizations (as defined in section 134(b) of title 23, United States Code), a local government or a group of local governments.

Frequency: Every year by December 31st.

Estimated Average Burden per Response: The estimated number of hours for each of the 15 recipients (annually based on previous STSFA Program) to compile and submit the requested data is estimated to be no more than 8 employee hours annually.

Estimated Total Annual Burden Hours: The estimated total annual burden for 15 recipients is 120 hours annually.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued On: October 13, 2023.

Jazmyne Lewis,

Information Collection Officer.

Exhibit A

Section 13001 Strategic Innovation for Revenue Collection

Title III—Research, Technology, and Education Sec. 13001. Strategic Innovation for Revenue Collection

(a) *In General.*—The Secretary shall establish a program to test the feasibility of a road usage fee and other user-based alternative revenue mechanisms (referred to in this section as ''user based alternative revenue mechanisms'') to help maintain the long term solvency of the Highway Trust Fund, through pilot projects at the State, local, and regional level.

(b) *Grants.*—

(1) *In General.*—The Secretary shall provide grants to eligible entities to carry out pilot projects under this section.

(2) *Applications.*—To be eligible for a grant under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) *Objectives.*—The Secretary shall ensure that, in the aggregate, the pilot projects carried out using funds provided under this section meet the following objectives: (A) To test the design, acceptance, equity, and implementation of user-based alternative revenue mechanisms, including among—(i) differing income groups; and (ii) rural and urban drivers, as applicable. H.R. 3684–195 (B) To provide recommendations regarding adoption and implementation of user-based alternative revenue mechanisms. (C) To quantify and minimize the administrative costs of any potential user-based alternative revenue mechanisms. (D) To test a variety of solutions, including the use of independent and private third-party vendors, for the collection of data and fees from user-based alternative revenue mechanisms, including the reliability and security of those solutions and vendors. (E) To test solutions to ensure the privacy and security of data collected for the purpose of implementing a user-based alternative revenue mechanism. (F) To conduct public education and outreach to increase public awareness regarding the need for user-based alternative revenue mechanisms for surface transportation programs. (G) To evaluate the ease of compliance and enforcement of a variety of implementation approaches for different users of the surface transportation system. (H) To ensure, to the greatest extent practicable, the use of innovation. (I) To consider, to the greatest extent practicable, the potential for revenue collection along a network of alternative fueling stations. (J) To evaluate the impacts of the imposition of a user-based alternative revenue mechanism on—(i) transportation revenues; (ii) personal mobility, driving patterns, congestion, and transportation costs; and (iii) freight movement and costs. (K) To evaluate options for the integration of a user based alternative revenue mechanism with—(i) nationwide transportation revenue collections and regulations; (ii) toll revenue collection platforms; (iii) transportation network company fees; and (iv) any other relevant transportation revenue mechanisms.

(4) *Eligible Entity.*—An entity eligible to apply for a grant under this section is—(A) a State or a group of States; (B) a local government or a group of local governments; or (C) a metropolitan planning organization (as defined in section 134(b) of title 23, United States Code) or a group of metropolitan planning organizations.

(5) *Use of Funds.*—An eligible entity that receives a grant under this section shall use the grant to carry out a pilot project to address 1 or more of the objectives described in paragraph (3).

(6) *Consideration.*—The Secretary shall consider geographic diversity in awarding grants under this subsection.

(7) *Federal Share.*—The Federal share of the cost of a pilot project carried out under this section may not exceed—H.R. 3684–196.

(A) 80 percent of the total cost of a project carried out by an eligible entity that has not otherwise received a grant under this section; and

(B) 70 percent of the total cost of a project carried out by an eligible entity that has received at least 1 grant under this section.

(c) *Limitation on Revenue Collected.*—Any revenue collected through a user-based alternative revenue mechanism established using funds provided under this section shall not be considered a toll under section 301 of title 23, United States Code.

(d) *Recommendations and Report.*—Not later than 3 years after the date of enactment of this Act, the Secretary, in coordination with the Secretary of the Treasury and the Federal System Funding Alternative Advisory Board established under section 13002(g)(1), shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(1) summarizes the results of the pilot projects under this section and the national pilot program under section 13002; and

(2) provides recommendations, if applicable, to enable potential implementation of a nationwide user-based alternative revenue mechanism.

(e) *Funding.*—(1) *In General.*—Of the funds made available to carry out section 503(b) of title 23, United States Code, for each of fiscal years 2022 through 2026 $15,000,000 shall be used for pilot projects under this section.

(2) *Flexibility.*—If, by August 1 of each fiscal year, the Secretary determines that there are not enough grant applications to meet the requirements of this section for that fiscal year, the Secretary shall transfer to the national pilot program under section 13002 or to the highway research and development program under section 503(b) of title 23, United States Code—(A) any funds reserved for a fiscal year under paragraph (1) that the Secretary has not yet awarded under this section; and (B) an amount of obligation limitation equal to the amount of funds that the Secretary transfers under subparagraph (A).

(f) *Repeal.*—

(1) *In General.*—Section 6020 of the FAST Act (23 U.S.C. 503 note; Pub. L. 114–94) is repealed.

(2) *Clerical Amendment.*—The table of contents in section 1(b) of the FAST Act (Pub. L. 114–94; 129 Stat. 1312) is amended by striking the item relating to section 6020.

[FR Doc. 2023–22997 Filed 10–17–23; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2023–0039]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for an information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by December 18, 2023.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0039 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov*.

Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Steven Jessberger, (202) 366 5052/*steven.jessberger@dot.gov;* Patrick Zhang, (202) 366–1941/*patrick.zhang@dot.gov,* Department of Transportation, Federal Highway Administration, Office Highway Policy Information, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 7 a.m. to 4 p.m., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Title: Travel Monitoring Analysis System.

Background and Justification: The purpose of this document is to request OMB's three-year extension for a currently approved information collection titled ''Heavy Vehicle Travel Information System (HVTIS),'' covered by OMB Control No. 2125–0587. This information collection is due to expire on August 30, 2021. The Travel Monitoring Analysis System (TMAS) is the current system used to collect HVTIS information; therefore, the extension should now be titled Travel Monitoring Analysis System.

Part A. Justification

1. Circumstances That Make the Collection of Information Necessary

23 U. S. Code 150 National Goals and Performance Management Measures requires that the U.S. DOT to establish a performance management system for its Federal-aid highway program. The Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT) promulgated the performance management via 23 CFR 490: National Performance Management Measures. Traffic data, including volume (# of vehicles and travelers), class (types of vehicles), weight (weight of vehicles), and travel time (speed), are parameters the performance management program relies upon.

The FHWA is planning to continue to collect these traffic data through the TMAS system. To carry out the data collection, the FHWA will request that State Departments of Transportations (SDOTs) provide traffic volume, vehicle classification, vehicle speed, vehicle weight data, and nonmotorized data, which they collect as part of their traffic monitoring programs.

In addition, 23 CFR 1.5 and 49 CFR 1.48 provide the Federal Highway Administrator with authority to request such information deemed necessary to administer the Federal-aid highway program. Traffic data are used for assessing highway system performance under FHWA's strategic planning and performance reporting process in accordance with the requirement of the Government Performance and Results Act (GPRA, Sections 3 and 4).

Finally, both the 23 U. S. Code 503 and the 23 CFR 420.105(b) require States to provide data that support FHWA's responsibilities carrying out the Federal-aid highway program to Congress and the public.

The data to be collected will continue to be used by the FHWA and other DOT agencies to (a) manage its Federal-aid highway program through the performance management mechanism, (b) evaluate changes in vehicular and nonmotorized travel to assess impacts on highway safety, (c) analyze the role of travel in economic development and productivity, (d) assess impacts from truck travel on infrastructure demands, and (e) maintain and improve our Nation's mobility while protecting the human and natural environment.

2. How, by Whom, and for What Purpose Is the Information Used

The data submitted through TMAS will provide the amount and nature of vehicular travel at the national, regional, and state levels. The data also provide information on how vehicular travel pattern varies by hour of the day, day of the week, the month of the year, and year to year.

Data submitted under the TMAS program are essential to the FHWA and the U.S. DOT in determining:

• The effectiveness of current highway programs in supporting travel demands, safety improvement, and travel reliability
• The potential of possible modifications to the Federal-aid highway program, and
• The need for new programs
• The adequacy of the U.S. DOT Strategic Goals in areas of:

i. *Safety exposures:* providing accurate and detailed exposure information related to travel and especially the roles of different vehicles in the same traffic stream

ii. *Mobility:* providing data on the relative usage of system capacity by various vehicles by time of day and the associated share of congestion that may be implicit in such travel

iii. *Productivity:* providing data necessary to estimate the tonnage of goods and number of people being moved by time of day, and season of the year over the various highway systems and

iv. *Human and Natural Environment:* providing data needed for the highway noise and air quality effect assessments.

State highway agencies use the traffic data for project and program level applications such as geometric design, pavement design, safety analysis, overweight and oversize vehicle permitting, designating truck routes, estimating trends in freight movement, highway noise abatement needs assessment.

In addition to the usage by the Federal and State governmental agencies, institutions of higher learning, industry, consultants, professional organizations, and the public are using the data for research and education, business development, and general information.

3. Extent of Automated Information Collection

All data for the TMAS will be submitted electronically to the FHWA by all State highway and local agencies, including the District of Columbia and Puerto Rico Departments of Transportation. Reliance on electronic reporting is responsive to limited staff resources at both the local, State and Federal levels. With the unlimited data upload file size, online electronic submission reduces burden to all respondents.

The collected data will be further inserted into a Geographical Information System by the FHWA in order to support the analysis of point-specific vehicle travel data on a network basis. This is expected to allow:

• Correlation of pavement loadings generated by vehicles to data in other FHWA systems that report pavement condition;
• Major truck and interregional passenger corridors will be more readily identifiable among the links comprising the Nation's highway network, and;
• Weather, natural disaster and other geographically related phenomena can be more readily related to associated changes in travel patterns

All data summarization, processing, and editing are fully automated. The TMAS is supported by various software browsers for use by the local, States and FHWA staff in order to report, edit and summarize the collected data.

Respondents: State Departments of Transportation Agencies and Metropolitan Planning Organizations and Local Agencies responsible for submitting traffic data (both motorized and micromobility) to FHWA.

Frequency: All data for the TMAS will be submitted electronically monthly to the FHWA by all State highway and local agencies, including the District of Columbia and Puerto Rico Departments of Transportation. Reliance on electronic reporting is responsive to limited staff resources at both the local, State and Federal levels. With the unlimited data upload file size, online electronic submission reduces burden to all respondents.

The collected data will be further inserted into a Geographical Information System by the FHWA in order to support the analysis of point-specific vehicle travel data on a network basis. This is expected to allow:

• Correlation of pavement loadings generated by vehicles to data in other FHWA systems that report pavement condition;
• Major truck and interregional passenger corridors will be more readily identifiable among the links comprising the Nation's highway network, and;
• Weather, natural disaster and other geographically related phenomena can be more readily related to associated changes in travel patterns

All data summarization, processing, and editing are fully automated. The TMAS is supported by various software browsers for use by the local, States and FHWA staff in order to report, edit and summarize the collected data.

Estimated Average Burden per Response: FHWA estimates that the average State DOT operates 60 continuous vehicle classification installations, and 15 weigh-in-motion sites. State highway agencies have established their Traffic Monitoring System (TMS) under the Intermodal Surface Transportation Efficiency Act, Transportation Equity Act for the 21st Century, and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. The data collection burden relevant for this notice is the additional burden for each State to provide a copy of its traffic data per data formats specified in the FHWA *Traffic Monitoring Guide.* Automation and online tools continue to be developed and improved in support of the TMAS and the capability now exists for online submission and validation of volume, speed, classification and weight data. The combined burden for the monthly report is estimated to be 50 hours per respondent. The estimated total burden for all States, the District of Columbia, and Puerto Rico are 2,600 hours.

Salary costs associated with burden hours are estimated at an average of $35.50 per hour for the technical specialists dealing with the TMAS data types. The hourly rate is taken from Table 452 of the 2007 Statistical Abstract of the United States Census Bureau. These costs are calculated as follows: $35.50 × 2,600 hours = $92,300.

ESTIMATED TOTAL ANNUAL BURDEN HOURS

Data type	Reportings per year per site	Average hours per response	Hours per year per state
Site Description	1	2	2
Vehicle Classification	12	1	12
Vehicle Speed	12	1	12
Vehicle Weight	12	1	12
Total Volume	12	0.5	6
Total Nonmotorized Volume	12	0.5	6

ESTIMATED TOTAL ANNUAL BURDEN HOURS—Continued

Data type	Reportings per year per site	Average hours per response	Hours per year per state
Total Hours per State per Year	.....	.....	50

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued On: October 12, 2023.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2023–22908 Filed 10–17–23; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0706]

Agency Information Collection Activity under OMB Review: Application For Reimbursement of National Exam Fee

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link *www.reginfo.gov/public/do/PRAMain,* select ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0706.''

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *Maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0706'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 108–454 and Public Law 111–377; 38 U.S.C. 5101 and CFR 21.1030.

Title: Application for Reimbursement of National Exam Fee, VA Form 22–0810.

OMB Control Number: 2900–0706.

Type of Review: Revision of a currently approved collection.

Abstract: VA will use the information collected to determine whether the claimant qualifies to receive reimbursement for a claimed national test, and if so, the amount of the reimbursement of the fee charged.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 88 FR 60743 on Tuesday, September 5, 2023, Page 60743.

Affected Public: Individuals and Households.

Estimated Annual Burden: 57 hours.

Estimated Average Burden Time per Respondent: 15 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 230.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–22918 Filed 10–17–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0215]

Agency Information Collection Activity Under OMB Review: Request for Information To Make Direct Payment to Child Reaching Majority

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–0215.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0215'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Title 38 U.S.C. 1310, 1313, 1542, and 101(4).

Title: Request for Information to Make Direct Payment to Child Reaching Majority (VA Form Letter 21P–863)

OMB Control Number: 2900–0215.

Type of Review: Extension of a currently approved collection.

Abstract: The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA),

administers an integrated program of benefits and services established by law for veterans, service personnel, and their dependents and/or beneficiaries.

Title 38 U.S.C. 1310, 1313, 1542, and 101(4) provide for payment of death pension or dependency and indemnity compensation (DIC) to an eligible veteran's child when there is not an eligible surviving spouse and the child is between the ages of 18 and 23 and attending school. Until the child reaches the age of majority, payment is made to a custodian or fiduciary on behalf of the child. An unmarried schoolchild who is not incompetent is entitled to begin receiving direct payment on the age of majority. Regulatory authority is found in 38 CFR 3.403, 3.667, and 3.854.

Form Letter 21P–863 is used to gather the necessary information to determine a schoolchild's continued eligibility to VA death benefits and eligibility to direct payment at the age of majority. If the collection were not conducted, VA would have no means of determining a child's current address, marital status, and school attendance. Without this information, continued entitlement to death benefits and eligibility for direct payment at the age of majority could not be determined, and proper payment would not be made.

This is an extension only with no substantive changes and the respondent burden has not changed.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 88 FR on August 10, 2023, pages 54401 and 54402.

Affected Public: Individuals or households.

Estimated Annual Burden: 3 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 20.

By direction of the Secretary:

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–23000 Filed 10–17–23; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 88 Wednesday,

No. 200 October 18, 2023

Part II

Department of Commerce

Bureau of Industry and Security

15 CFR Parts 734, 740, 742, et al.

Implementation of 2022 Wassenaar Arrangement Decisions and Request for Comments on License Exception Eligibility for Certain Supersonic Aero Gas Turbine Engine Component Technology; Interim Final Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 740, 742, 772, and 774

[Docket No. 230929–0236]

RIN 0694–AI95

Implementation of 2022 Wassenaar Arrangement Decisions and Request for Comments on License Exception Eligibility for Certain Supersonic Aero Gas Turbine Engine Component Technology

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Interim final rule, with request for comment.

SUMMARY: The Bureau of Industry and Security (BIS) maintains, as part of its Export Administration Regulations (EAR), the Commerce Control List (CCL), which identifies certain items subject to Department of Commerce jurisdiction. During the December 2022 Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA) Plenary meeting, Participating States of the WA (Participating States) made certain decisions affecting the WA dual-use and munitions control lists, which BIS is now implementing via amendments to the CCL. BIS seeks comments on restricting STA eligibility for countries in EAR Country Group A:5 of certain technology for the development of supersonic aero gas turbine engine components controlled under ECCN 9E003.k, formerly controlled under ECCN 9E001 as part of its ongoing assessment of current export control licensing policy.

DATES: This rule is effective October 18, 2023. Comments specific to ECCN 9E003.k must be received by BIS no later than December 4, 2023.

ADDRESSES: Comments on this rule may be submitted to the Federal rulemaking portal (*www.regulations.gov*). The *regulations.gov* ID for this rule is: BIS–2023–0025. Please refer to RIN 0694–AI95 in all comments.

All filers using the portal should use the name of the person or entity submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC.'' Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. The corresponding non-confidential version of those comments must be clearly marked ''PUBLIC.'' The file name of the non-confidential version should begin with the character ''P.'' Any submissions with file names that do not begin with either a ''BC'' or a ''P'' will be assumed to be public and will be made publicly available through *https://www.regulations.gov.* Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential version to create an image of the file, rather than submitting a digital copy with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

FOR FURTHER INFORMATION CONTACT: For general questions, contact Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at 202–482–2440 or by email: *Sharron.Cook@bis.doc.gov.*

For Technical Questions Contact

Categories 0, 1 & 2: Sean Ghannadian at 202–482–3429 or *Sean.Ghannadian@bis.doc.gov*

Category 3: Carlos Monroy at 202–482–3246 or *Carlos.Monroy@bis.doc.gov*

Categories 4 & 5: Aaron Amundson or *Aaron.Amundson@bis.doc.gov*

Categories 6: John Varesi at 202–482–1114 or *John.Varesi@bis.doc.gov*

Categories 7: David Rosenberg at 202–482–5987, John Varesi at 202–482–1114 or *David.Rosenberg@bis.doc.gov* or *John.Varesi@bis.doc.gov*

Category 9: David Rosenberg at 202–482–5987, Jason Chauvin at 202–482–6462 or *David.Rosenberg@bis.doc.gov* or *Jason.Chauvin@bis.doc.gov*

''*600 Series*'' *(munitions items):* Jeffrey Leitz at 202–482–7417 or *Jeffrey.Leitz@bis.doc.gov*

SUPPLEMENTARY INFORMATION:

Background

The WA (*http://www.wassenaar.org/*) is a group of 42 like-minded states committed to promoting responsibility and transparency in the global arms trade and preventing destabilizing accumulations of conventional weapons. As a Participating State of the WA (Participating State), the United States has committed to controlling for export all items on the WA's List of Dual-Use Goods and Technologies (WA Dual-Use List) and on the WA Munitions List (together, WA control lists). The WA control lists were first established in 1996 and have been revised annually thereafter. Participating States implement changes to the WA control lists as soon as possible after the WA Plenary. By doing so in a timely manner, the United States demonstrates its decisive support for the goals of the WA, namely, that transfers do not contribute to the development or enhancement of military capabilities or are not diverted to support such capabilities. Timely implementation also ensures that U.S. companies have a level playing field with their competitors in other Participating States.

Revisions to the Commerce Control List Related to WA 2022 Plenary Meeting Decisions

Revisions (14) ECCNs: 1B001, 4D001,4E001, 6A005, 6B007, 7A003, 7E004, 8A001, 8A002, 9A001, 9A003, 9E001, 9E002, and 9E003.

Editorial Revision to Technical Notes in (55) ECCNS: This rule adds the phrase 'For the purposes of' in various Technical Notes in singular and plural form in ECCNs 1A004, 1A006, 1A007, 1A008, 1B001, 1C001, 1C002, 1C005, 1C008, 1C010, 1C011, 2A001, 2B004, 2B006, 2B008, 2B009, 2E003, 3A001, 3A002, 3B001, 3D003, 3D006, 3E001, 3E002, 4A004, 4D001, 4E001, 5A001, 5A002, 5A004, 6A001, 6A002, 6A003, 6A004, 6A005, 6A006, 6A007, 6A008, 6B007, 6C002, 6C005, 6D003, 6E003,7A004, 7A005, 7A006, 7B001, 7D002, 7E004, 8A002, 8C001, 8E002, 9A004, 9B005, and 9E003. The intention of this revision is to ensure consistency among ECCNs.

1C010 ''Fibrous or Filamentary Materials''

This rule makes an editorial revision by adding a reference to 1C010.e.1.b to technical note 1 because both paragraphs e.1.b.1 and e.1.b.2 use terms referenced in this technical note.

4D001 ''Software'' and 4E001 ''Technology''

In paragraphs 4D001.b.1 and 4E001.b.1, this rule changes the parameters of Weighted TeraFLOPS (WT) from 15 to 24. This change is made because processors with built-in hardware memory-coherent interconnects allow groupings of up to 8 processors without any additional

technical know-how, and it is widely believed that a single processor will reach Adjusted Peak Performance (APP) levels of up to 2 WT in the next year, and up to 2.5 WT by the 2025 timeframe. Thus, companies will soon be able to build computers that exceed the current APP levels without any additional technology. The corresponding technology and software levels in License Exception APP (Section 740.7 of the EAR) were adjusted in a final rule that implemented certain changes agreed to at the December 2021 WA Plenary. *See* 88 FR 12108 (February 24, 2023). Thus, BIS is not making any additional adjustments to those thresholds at this time.

6A005 ''Lasers'', ''Components'' and Optical Equipment

This rule raises the ''average output power'' parameter from ''50 W'' to ''80 W'' in 6A005.b.3.a.2. For the industrial applications that use green lasers, the power level is a key factor in manufacturing productivity. These applications require certain pulse energies for the resultant processes. To enhance manufacturing productivity, the repetition frequency for a given pulse energy must be increased, thereby requiring an increase in the average output power. Today, the average output power requirements for industrial green lasers exceed the WA threshold of 50 W, and are expected to continue an upward trend to more than 80 W. Companies outside of Participating States compete in the industrial green laser market, for example, several Chinese companies manufacture green lasers with average output power in the 50–80 W range.

To accommodate increased demand for single-mode semiconductor laser diodes, a decision was made during the WA 2022 Plenary to increase the technical parameters for semiconductor lasers. Specifically, adjusting the wavelength from 1,510 nm to 1,570 nm in 6A005.d.1.a.1 and d.1.a.2 groups these lasers with other semiconductor lasers with lower sensitivity applications. As a result, the necessary output power accommodation for automotive Light Detection and Ranging (LIDAR) applications is achieved with a modest output power increase from 1.5 W to 2.0 W in 6A005.d.1.a.1. Semiconductor lasers that fall within these parameters, while very useful for automotive LIDAR, have limited utility in military applications.

6A007 Gravity Meters (Gravimeters) and Gravity Gradiometers

A technical note to define 'time-to-steady-state registration' is added after paragraph 6A007.b.2, to harmonize this entry with the entry on the WA Dual-Use List.

6B007 Equipment To Produce, Align and Calibrate Land-Based Gravity Meters

This rule adds the word ''less'' to the heading of ECCN 6B007 to clarify that an ''accuracy'' better than 0.1 mGal is less than 0.1 mGal.

7A003 'Inertial Measurement Equipment or Systems'

This rule moves the definition of 'inertial measurement equipment or systems' from *Note 1* to a technical note, so that this entry is consistent with other CCL entries in which definitions are set forth in technical notes.

8A001 Submersible Vehicles and Surface Vessels

In paragraph 8A001.c.1.c, this rule adds the term 'wireless' before the term 'optical data' to clarify that the reference is to communications through water and to distinguish Remotely Operated Vehicles (ROVs) having this capability from those designed to only use a fiber optic data link.

8A002 Marine Systems, Equipment, ''Parts'' and ''Components''

In paragraphs 8A002.o.2.b and 8A002.o.2.c, this rule replaces the term 'engines' with 'motors' before the term 'propulsion.' While the terms ''engines'' and ''motors'' are largely interchangeable, it was determined that ''motor'' is more commonly used in the context of 8A002 items. In paragraph 8A002.o.4, this rule adds a new control for permanent magnet propulsion systems (PM propulsion systems) to adequately cover propulsion systems using permanent magnet motors, including Rim Driven Propulsion systems (RDPs).

9A001 Aero Gas Turbine Engines, and Technology Therefor in 9E001 and 9E002

This rule revises 9A001, 9A003, 9E001, 9E002, and 9E003 to permit the same civil certification release from 9A001 to 9A991 for supersonic aero gas turbine engines that is available for subsonic aero gas turbine engines.

The rule conforms with the decisions made at WA with regard to 9A001, specifically to combine 9A001.a and 9A001.b to allow for the same exclusion when the engine is certified by type with a civil certified supersonic aircraft. This rule revises the reference to 9A001.a in Notes 1 and 2 to read as 9A001, as 9A001.a is now the only subparagraph in 9A001. Note 1 now excludes from 9A001 aero gas turbine engines that power an ''aircraft'' to Mach 1 or higher for more than 30 minutes if the engines have been certified by an appropriate civil aviation authority, and are intended to power an ''aircraft'' for which a type certificate (or equivalent document) has been issued, as these engines are now controlled under ECCN 9A991 for AT reasons. As a conforming revision, the reference to 9A001.b is removed from the headings of ECCNs 9E001 and 9E002, as well as from the license requirements tables of these ECCNs. In addition, consistent with the removal of 9A001.b from the CCL, as described above, this rule also removes paragraphs (E) and (F) from § 740.20(b)(2)(viii), which had identified technology associated with 9A001.b that was ineligible for export, reexport, and transfer (in-country) under License Exception STA. Former paragraph (G) is redesignated as paragraph (E).

9A003 ''Specially Designed'' Assemblies or ''Components,'' Incorporating Any of the ''Technologies'' Controlled by 9E003.a, 9E003.h, 9E003.i, or 9E003.k, for Any of the Following Aero Gas Turbine Engines

This rule adds paragraph 9E003.k to the heading of ECCN 9A003, which expands the scope of control of assemblies and components under this ECCN.

9E003 Other ''Technology'' as Specified

This rule makes a simple editorial change to remove the first comma in 9E003.c after ''cooling holes'' that otherwise might bring confusion to the control text. This rule also redesignates 9E003.k as 9E003.l and adds a new paragraph 9E003.k to control specific technologies, formerly controlled by 9E001, that are peculiarly responsible for the development of an aero gas turbine engine that can enable an aircraft to cruise at supersonic speeds (Mach 1 or greater) for more than 30 minutes. This technology addition to 9E003 addresses the ''development'' of systems and components that enable the engine and aircraft to operate a supersonic speed. Because 9E003.k references engine capability (which does not change with certification) this important ''development'' technology will remain controlled even after the engine enters civil operation. The license requirement table is amended to reflect the redesignation of 9E003.k to

9E003.l to the SI control paragraph. Related revisions as a result of this redesignation are made to §§ 734.4(a)(4), 740.20(b)(2)(viii), 742.14(a), and the introductory text of 742.14(b).

The new 9E003.k technology for supersonic engines controls development technology only. The associated production technology has shifted from ECCN 9E002 to ECCN 9E991 and is designated as ''No License Required'' (NLR) to all destinations or countries listed in Country Group A:5 and A:6 (*see* supplement no. 1 to part 740 of the EAR).

The STA restrictions under 9E003 are revised by adding an ''or'' after 9E003.h and adding Country Group A:5 to harmonize with 740.20(b)(2) for 9E003. In addition, this rule adds a new STA restriction paragraph for 9E003.k for Country Group A:6 in order to maintain the STA restriction previously on ECCN 9E001 for ECCN paragraph 9A001.b. As required by the Export Control Reform Act (ECRA) (50 U.S.C. 4801–4852), BIS continually evaluates the control status of a range of technologies, including those related to supersonic engines, to effectively protect U.S. national security and foreign policy interests. In light of the amendments to 9E001 and 9E003 implementing the WA revisions, which identify technologies required for the development of specific components or systems specially designed for supersonic engines, BIS is seeking comment on whether to retain License Exception STA eligibility for destinations specified in Country Group A:5 of supplement no. 1 to part 740 of the EAR for the technology specified in 9E003.k. We invite the public to comment on this issue before the comment period closes. Information about how to comment is provided in the **ADDRESS** section of this rule.

Part 772—Definitions of Terms

This rule revises the definition for ''intrusion software'' by adding double quotes around the term ''program'' in paragraph (2) to indicate it is a defined term in § 772.1.

This rule notes the two occurrences of the term ''program'' that did not have double quotation marks indicating it is a defined term in § 772.1 and corrects this omission in technical note 1 below paragraph .g in ECCN 1B001 and in paragraph (2) in the definition of ''intrusion software'' in § 772.1. This rule also amends the term ''program'' in § 772.1 to add category 1 and 7 and remove category 2 from the categories where the term is used.

Supplement No. 6 to Part 774 Sensitive List

Paragraph 4 of supplement no. 6 to part 774 Sensitive List (SL) is amended by removing paragraphs (ii) 4D001 and (iii) 4E001. This change is being made as a consequence of the raising of the APP thresholds in 4D001 and 4E001. This rule implements the WA 2022 Plenary determination that high performance computer technology and software do not merit the same level of sensitivity as other items on the SL.

Savings Clause

Shipments of items removed from license exception eligibility or eligibility for export, reexport or transfer (in-country) without a license as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on October 18, 2023, pursuant to actual orders for exports, reexports and transfers (in-country) to a foreign destination, may proceed to that destination under the previous license exception eligibility or without a license so long as they have been exported, reexported or transferred (in-country) before December 18, 2023. Any such items not actually exported, reexported or transferred (in-country) before midnight, on December 18, 2023, require a license in accordance with this interim final rule.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act (ECRA), 50 U.S.C. 4801–4852. ECRA, as amended, provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. Executive Orders 12866, 13563, and 14094 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects and distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits and of reducing costs, harmonizing rules, and promoting flexibility.

This interim final rule has been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. Although this rule makes important changes to the EAR for items controlled for national security reasons, BIS believes that the overall increases in burdens and costs associated with the following information collections due to this rule will be minimal.

- 0694–0088, ''Simplified Network Application Processing System,'' which carries a burden- hour estimate of 29.6 minutes for a manual or electronic submission;
- 0694–0137 ''License Exceptions and Exclusions,'' which carries a burden-hour estimate average of 1.5 hours per submission (Note: submissions for License Exceptions are rarely required);
- 0694–0096 ''Five Year Records Retention Period,'' which carries a burden-hour estimate of less than 1 minute; and
- 0607–0152 ''Automated Export System (AES) Program,'' which carries a burden-hour estimate of 3 minutes per electronic submission.

Additional information regarding these collections of information—including all background materials—can be found at *https://www.reginfo.gov/public/do/PRAMain* and using the search function to enter either the title of the collection or the OMB Control Number.

3. Pursuant to Section 1762 of ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation and delay in effective date.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 772

Exports.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, parts 734, 740, 742, 772 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 734—SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

■ 1. The authority citation for part 734 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 8, 2022, 87 FR 68015 (November 10, 2022).

■ 2. Section 734.4 is amended to revise paragraph (a)(4) to read as follows:

§ 734.4 *De Minimis* U.S. content.

(a) * * *

(4) There is no de minimis level for U.S.-origin technology controlled by ECCN 9E003.a.1 through a.6, a.8, .h, .i, and .l, when redrawn, used, consulted, or otherwise commingled abroad.

* * * * *

PART 740—LICENSE EXCEPTIONS

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

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

■ 4. Section 740.20 is amended by revising paragraph (b)(2)(viii) to read as follows:

§ 740.20 License Exception Strategic Trade Authorization (STA).

* * * * *

(b) * * *

(2) * * *

(viii) Commerce Control List Category 9 limitations on use of License Exception STA.

(A) License Exception STA may not be used for 9B001 when destined to a country in Country Group A:6.

(B) License Exception STA may not be used for 9D001 or 9D002 ''software'' that is ''specially designed'' or modified for the ''development'' or ''production'' of:

(1) Components of engines controlled by ECCN 9A001 if such components incorporate any of the ''technologies'' controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.h, or 9E003.i (other than technology for fan or power turbines); or

(2) Equipment controlled by 9B001.

(C) License Exception STA may not be used for 9D001 ''software'' that is ''specially designed'' or modified for the ''development'' of ''technology'' controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.h, or 9E003.i (other than technology for fan or power turbines).

(D) License Exception STA may not be used for 9D004.f or 9D004.g ''software''.

(E) License Exception STA may not be used for ''technology'' in 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.h, or 9E003.i (other than technology for fan or power turbines).

* * * * *

PART 742—CONTROL POLICY—CCL BASED CONTROLS

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

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 8, 2022, 87 FR 68015 (November 10, 2022).

■ 6. Section 742.14 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

§ 742.14 Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.

(a) *License requirement.* Licenses are required for all destinations, except Canada, for ECCNs having an ''SI'' under the ''Reason for Control'' paragraph. These items include hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1 through a.6, a.8, .h, .i, and .l, and related controls.

(b) *Licensing policy.* Pursuant to section 6 of the Export Administration Act of 1979, as amended, foreign policy controls apply to technology required for the development, production or overhaul of commercial aircraft engines controlled by ECCN 9E003a.1 through a.6, a.8, .h, .i, and .l, and related controls. These controls supplement the national security controls that apply to these items. Applications for export and reexport to all destinations will be reviewed on a case-by-case basis to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. The following factors are among those that will be considered to determine what action will be taken on license applications:

* * * * *

PART 772—DEFINITIONS OF TERMS

■ 7. The authority citation for part 772 continues to read as follows:

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

■ 8. Section 772.1 is amended by revising the definitions for ''Intrusion software'' and ''Program'' to read as follows:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

* * * * *

Intrusion software. (5P2) ''Software'' specially designed or modified to avoid detection by 'monitoring tools', or to defeat 'protective countermeasures', of a computer or network-capable device, and performing any of the following:

(1) The extraction of data or information, from a computer or network-capable device, or the modification of system or user data; or

(2) The modification of the standard execution path of a ''program'' or process in order to allow the execution of externally provided instructions.

Note 1 to "Intrusion Software" Definition: *''Intrusion software'' does not include any of the following: Hypervisors, debuggers or Software Reverse Engineering (SRE) tools; Digital Rights Management (DRM) ''software''; or ''Software'' designed to be installed by manufacturers, administrators or users, for the purposes of asset tracking or recovery.*

Note 2 to "Intrusion Software" Definition: *Network-capable devices include mobile devices and smart meters.*

Technical note 1 to "Intrusion Software" Definition: *'Monitoring tools': ''software'' or hardware devices, that monitor system behaviors or processes running on a device. This includes antivirus (AV) products, end point security products, Personal Security Products (PSP), Intrusion Detection Systems (IDS), Intrusion Prevention Systems (IPS) or firewalls.*

Technical note 2 to "Intrusion Software" Definition: *'Protective countermeasures': techniques designed to ensure the safe execution of code, such as Data Execution Prevention (DEP), Address Space Layout Randomization (ASLR) or sandboxing.*

* * * * *

Program. (Cat 1, 4, 6, and 7)—A sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer.

PART 774—THE COMMERCE CONTROL LIST

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

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

■ 10. In supplement no. 1 to part 774, ECCNs 1A004, 1A006, 1A007, 1A008, 1B001, 1C001, 1C002, 1C003, 1C005, 1C008, 1C010, 1C011, 2A001, 2B004, 2B006, 2B008, 2B009, 2E003, 3A001, 3A002, 3B001, 3D003, 3D006, 3E001, 3E002, 4A004, 4D001, 4E001, 5A001, 5A002, 5A004, 6A001, 6A002, 6A003, 6A004, 6A005, 6A006, 6A007, 6A008, 6B007, 6C002, 6C005, 6D003, 6E003, 7A003, 7A004, 7A005, 7A006, 7B001, 7D002, 7E004, 8A001, 8A002, 8C001, 8E002, 9A001, 9A003, 9A004, 9A005, 9B005, 9E001, 9E002, and 9E003 are revised to read as follows:

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

* * * * *

1A004 Protective and detection equipment and ''components'', not ''specially designed'' for military use, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, CB, RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
CB applies to chemical detection systems and dedicated detectors therefor, in 1A004.c, that also have the technical characteristic.	CB Column 2
RS apply to 1A004.d	RS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: N/A

GBS: Yes for 1A004.a, .b, and .c.2.

List of Items Controlled

Related Controls: (1) See ECCNs 1A995, 2B351, and 2B352. (2) See ECCN 1D003 for ''software'' ''specially designed'' or modified to enable equipment to perform the functions of equipment controlled under section 1A004.c (Nuclear, biological, and chemical (NBC) detection systems). (3) See ECCN 1E002.g for control libraries (parametric technical databases) ''specially designed'' or modified to enable equipment to perform the functions of equipment controlled under 1A004.c (Nuclear, biological, and chemical (NBC) detection systems). (4) Chemical and biological protective and detection equipment specifically designed, developed, modified, configured, or adapted for military applications is ''subject to the ITAR'' (see 22 CFR parts 120 through 130, including USML Category XIV(f)), as is commercial equipment that incorporates ''parts'' or ''components'' controlled under that category except for domestic preparedness devices for individual protection that integrate ''components'' and ''parts'' identified in USML Category XIV(f)(4) when such ''parts'' or ''components'' are: Integral to the device; inseparable from the device; and incapable of replacement without compromising the effectiveness of the device, in which case the equipment is subject to the export licensing jurisdiction of the Department of Commerce under ECCN 1A004. (5) This entry does not control radionuclides incorporated in equipment listed in this entry—such materials are subject to the licensing jurisdiction of the Nuclear Regulatory Commission (See 10 CFR part 110).

Related Definitions: (1) 'Biological agents' means: pathogens or toxins, selected or modified (such as altering purity, shelf life, virulence, dissemination characteristics, or resistance to UV radiation) to produce casualties in humans or animals, degrade equipment or damage crops or the environment. (2) 'Riot control agents' are substances which, under the expected conditions of use for riot control purposes, produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure. (Tear gases are a subset of 'riot control agents.')

Items:

a. Full face masks, filter canisters and decontamination equipment therefor, designed or modified for defense against any of the following, and ''specially designed'' ''components'' therefor:

Note: *1A004.a includes Powered Air Purifying Respirators (PAPR) that are designed or modified for defense against agents or materials, listed in 1A004.a.*

Technical Notes: *For the purposes of 1A004.a:*

1. Full face masks are also known as gas masks.

2. Filter canisters include filter cartridges.

a.1. 'Biological agents';

a.2. 'Radioactive materials';

a.3. Chemical warfare (CW) agents; *or*

a.4. 'Riot control agents', as follows:

a.4.a. α-Bromobenzeneacetonitrile, (Bromobenzyl cyanide) (CA) (CAS 5798–79–8);

a.4.b. [(2-chlorophenyl) methylene] propanedinitrile, (o-Chlorobenzylidenemalononitrile) (CS) (CAS 2698–41–1);

a.4.c. 2-Chloro-1-phenylethanone, Phenylacyl chloride (ω-chloroacetophenone) (CN) (CAS 532–27–4);

a.4.d. Dibenz-(b,f)-1,4-oxazephine, (CR) (CAS 257–07–8);

a.4.e. 10-Chloro-5, 10-dihydrophenarsazine, (Phenarsazine chloride), (Adamsite), (DM) (CAS 578–94–9);

a.4.f. N-Nonanoylmorpholine, (MPA) (CAS 5299–64–9);

b. Protective suits, gloves and shoes, ''specially designed'' or modified for defense against any of the following:

b.1. 'Biological agents';

b.2. 'Radioactive materials'; *or*

b.3. Chemical warfare (CW) agents;

c. Detection systems, ''specially designed'' or modified for detection or identification of any of the following, and ''specially designed'' ''components'' therefor:

c.1. 'Biological agents';

c.2. 'Radioactive materials'; *or*

c.3. Chemical warfare (CW) agents;

d. Electronic equipment designed for automatically detecting or identifying the presence of ''explosives'' (as listed in the annex at the end of Category 1) residues and utilizing 'trace detection' techniques (*e.g.,* surface acoustic wave, ion mobility spectrometry, differential mobility spectrometry, mass spectrometry).

Technical Note: *For the purposes of 1A004.d, 'trace detection' is defined as the capability to detect less than 1 ppm vapor, or 1 mg solid or liquid.*

Note 1: *1A004.d does not apply to equipment ''specially designed'' for laboratory use.*

Note 2: *1A004.d does not apply to non-contact walk-through security portals.*

Note: *1A004 does not control:*

a. Personal radiation monitoring dosimeters;

b. Occupational health or safety equipment limited by design or function to protect against hazards specific to residential safety or civil industries, including:

1. Mining;

2. Quarrying;

3. Agriculture;

4. Pharmaceutical;

5. Medical;

6. Veterinary;

7. Environmental;

8. Waste management;

9. Food industry.

Technical Notes:

1. *1A004 includes equipment, ''components'' that have been 'identified,' successfully tested to national standards or otherwise proven effective, for the detection of or defense against 'radioactive materials' 'biological agents,' chemical warfare agents, 'simulants' or ''riot control agents,'' even if such equipment or ''components'' are used in civil industries such as mining, quarrying,*

agriculture, pharmaceuticals, medical, veterinary, environmental, waste management, or the food industry.

2. *'Simulant': A substance or material that is used in place of toxic agent (chemical or biological) in training, research, testing or evaluation.*

3. *For the purposes of 1A004, 'radioactive materials' are those selected or modified to increase their effectiveness in producing casualties in humans or animals, degrading equipment or damaging crops or the environment.*

* * * * *

1A006 Equipment, ''specially designed'' or modified for the disposal of Improvised Explosive Devices (IEDs), as follows (see List of Items Controlled), and ''specially designed'' ''components'' and ''accessories'' therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

License Requirement Note: *1A006 does not apply to equipment when accompanying its operator.*

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: Equipment ''specially designed'' for military use for the disposal of IEDs is ''subject to the ITAR'' (see 22 CFR parts 120 through 130, including USML Category IV).
Related Definitions: N/A
Items:

a. Remotely operated vehicles;
b. 'Disruptors'.

Technical Note: *For the purposes of 1A006.b 'disruptors' are devices ''specially designed'' for the purpose of preventing the operation of an explosive device by projecting a liquid, solid or frangible projectile.*

Note: *1A006 does not apply to equipment when accompanying its operator.*

1A007 Equipment and devices, ''specially designed'' to initiate charges and devices containing ''energetic materials,'' by electrical means, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
NP applies to 1A007.b, as well as 1A007.a when the detonator firing set meets or exceeds the parameters of 3A229.	NP Column 1
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: High explosives and related equipment ''specially designed'' for military use are ''subject to the ITAR'' (see 22 CFR parts 120 through 130). This entry does not control detonators using only primary explosives, such as lead azide. See also ECCNs 0A604, 3A229, and 3A232. See 1E001 for ''development'' and ''production'' technology controls, and 1E201 for ''use'' technology controls.
Related Definitions: N/A
Items:

a. Explosive detonator firing sets designed to drive explosive detonators specified by 1A007.b;

b. Electrically driven explosive detonators as follows:

b.1. Exploding bridge (EB);
b.2. Exploding bridge wire (EBW);
b.3. Slapper;
b.4. Exploding foil initiators (EFI).

Technical Notes:

1. The word initiator or igniter is sometimes used in place of the word detonator.

2. For the purposes of 1A007.b, the detonators of concern all utilize a small electrical conductor (bridge, bridge wire, or foil) that explosively vaporizes when a fast, high-current electrical pulse is passed through it. In non slapper types, the exploding conductor starts a chemical detonation in a contacting high explosive material such as PETN (pentaerythritoltetranitrate). In slapper detonators, the explosive vaporization of the electrical conductor drives a flyer or slapper across a gap, and the impact of the slapper on an explosive starts a chemical detonation. The slapper in some designs is driven by magnetic force. The term exploding foil detonator may refer to either an EB or a slapper-type detonator.

1A008 Charges, devices and ''components'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, UN, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls.

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

LVS: $3,000 for .a through .c; $6,000 for .d.
GBS: N/A

List of Items Controlled

Related Controls: (1) All of the following are ''subject to the ITAR'' (see 22 CFR parts 120 through 130):

a. High explosives and related equipment ''specially designed'' for military use;

b. Explosive devices or charges in this entry that utilize USML controlled energetic materials (See 22 CFR 121.1 Category V), if they have been specifically designed, developed, configured, adapted, or modified for a military application;

c. Shaped charges that have all of the following a uniform shaped conical liner with an included angle of 90 degrees or less, more than 2.0 kg of controlled materials, and a diameter exceeding 4.5 inches;

d. Detonating cord containing greater than 0.1 kg per meter (470 grains per foot) of controlled materials;

e. Cutters and severing tools containing greater than 10 kg of controlled materials;

f. With the exception of cutters and severing tools, devices or charges controlled by this entry where the USML controlled materials can be easily extracted without destroying the device or charge; *and*

g. Individual USML controlled energetic materials in this entry, even when compounded with other materials, when not incorporated into explosive devices or charges controlled by this entry or 1C992.

(2) See also ECCNs 1C011, 1C018, 1C111, 1C239, *and* 1C608 for additional controlled energetic materials. See ECCN *1E001* for the ''development'' or ''production'' ''technology'' for the commodities controlled by ECCN 1A008, but not for explosives or commodities that are ''subject to the ITAR'' (see 22 CFR parts 120 through 130).
Related Definitions: N/A
Items:

a. 'Shaped charges' having all of the following:

a.1. Net Explosive Quantity (NEQ) greater than 90 g; *and*

a.2. Outer casing diameter equal to or greater than 75 mm;

b. Linear shaped cutting charges having all of the following, and ''specially designed'' ''components'' therefor:

b.1. An explosive load greater than 40 g/m; *and*

b.2. A width of 10 mm or more;

c. Detonating cord with explosive core load greater than 64 g/m;

d. Cutters, not specified by 1A008.b, and severing tools, having a NEQ greater than 3.5 kg.

Technical Note: *For the purposes of 1A008.a, 'shaped charges' are explosive*

charges shaped to focus the effects of the explosive blast.

Note: *The only charges and devices specified in 1A008 are those containing ''explosives'' (see list of explosives in the Annex at the end of Category 1) and mixtures thereof.*

* * * * *

1B001 Equipment for the production or inspection of ''composite'' structures or laminates controlled by 1A002 or ''fibrous or filamentary materials'' controlled by 1C010, as follows (see List of Items Controlled), and ''specially designed'' ''components'' and ''accessories'' therefor.

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
MT applies to entire entry, except 1B001.d.4, e and f. **Note:** *MT applies to equipment in 1B001.d that meet or exceed the parameters of 1B101.*	MT Column 1
NP applies to filament winding machines described in 1B001.a that are capable of winding cylindrical rotors having a diameter between 75 mm (3 in) and 400 mm (16 in) and lengths of 600 mm (24 in) or greater; AND coordinating and programming controls and precision mandrels for these filament winding machines.	NP Column 1.
AT applies to entire entry.	AT Column 1.

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

LVS: N/A for MT and for 1B001.a; $5000 for all other items
GBS: N/A

List of Items Controlled

Related Controls: (1) See ECCN 1D001 for software for items controlled by this entry and see ECCNs 1E001 (''development'' and ''production'') and 1E101 (''use'') for technology for items controlled by this entry. (2) Also see ECCNs 1B101 and 1B201.
Related Definitions: N/A
Items:

a. Filament winding machines, of which the motions for positioning, wrapping and winding fibers are coordinated and programmed in three or more 'primary servo positioning' axes, ''specially designed'' for the manufacture of ''composite'' structures or laminates, from ''fibrous or filamentary materials'';

b. 'Tape laying machines', of which the motions for positioning and laying tape are coordinated and programmed in five or more 'primary servo positioning' axes, ''specially designed'' for the manufacture of ''composite'' airframe or missile structures;

Technical Note: *For the purposes of 1B001.b, 'tape-laying machines' have the ability to lay one or more 'filament bands' limited to widths greater than 25.4 mm and less than or equal to 304.8 mm, and to cut and restart individual 'filament band' courses during the laying process.*

c. Multidirectional, multidimensional weaving machines or interlacing machines, including adapters and modification kits, ''specially designed'' or modified for weaving, interlacing or braiding fibers for ''composite'' structures;

Technical Note: *For the purposes of 1B001.c the technique of interlacing includes knitting.*

d. Equipment ''specially designed'' or adapted for the production of reinforcement fibers, as follows:

d.1. Equipment for converting polymeric fibers (such as polyacrylonitrile, rayon, pitch or polycarbosilane) into carbon fibers or silicon carbide fibers, including special equipment to strain the fiber during heating;

d.2. Equipment for the chemical vapor deposition of elements or compounds, on heated filamentary substrates, to manufacture silicon carbide fibers;

d.3. Equipment for the wet-spinning of refractory ceramics (such as aluminum oxide);

d.4. Equipment for converting aluminum containing precursor fibers into alumina fibers by heat treatment;

e. Equipment for producing prepregs controlled by 1C010.e by the hot melt method;

f. Non-destructive inspection equipment ''specially designed'' for ''composite'' materials, as follows:

f.1. X-ray tomography systems for three dimensional defect inspection;

f.2. Numerically controlled ultrasonic testing machines of which the motions for positioning transmitters or receivers are simultaneously coordinated and programmed in four or more axes to follow the three dimensional contours of the ''part'' or ''component'' under inspection;

g. Tow-placement machines, of which the motions for positioning and laying tows are coordinated and programmed in two or more 'primary servo positioning' axes, ''specially designed'' for the manufacture of ''composite'' airframe or missile structures.

Technical Note to 1B001.g: *For the purposes of 1B001.g, 'tow-placement machines' have the ability to place one or more 'filament bands' having widths less than or equal to 25.4 mm, and to cut and restart individual 'filament band' courses during the placement process.*

Technical Notes for 1B001:

1. *For the purposes of 1B001, 'primary servo positioning' axes control, under computer ''program'' direction, the position of the end effector (i.e., head) in space relative to the work piece at the correct orientation and direction to achieve the desired process.*

2. *For the purposes of 1B001, a 'filament band' is a single continuous width of fully or partially resin-impregnated tape, tow or fiber. Fully or partially resin-impregnated 'filament bands' include those coated with dry powder that tacks upon heating.*

* * * * *

1C001 Materials ''specially designed'' for absorbing electromagnetic radiation, or intrinsically conductive polymers, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to items that meet or exceed the parameters of ECCN 1C101.	MT Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: N/A
GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship any item in this entry to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: See also 1C101.
Related Definitions: N/A
Items:

a. Materials for absorbing frequencies exceeding 2×10^8 Hz but less than 3×10^{12} Hz.

Note 1: *1C001.a does not control:*

a. Hair type absorbers, constructed of natural or synthetic fibers, with non-magnetic loading to provide absorption;

b. Absorbers having no magnetic loss and whose incident surface is non-planar in shape, including pyramids, cones, wedges and convoluted surfaces;

c. Planar absorbers, having all of the following:

1. Made from any of the following:

a. Plastic foam materials (flexible or non-flexible) with carbon-loading, or organic materials, including binders, providing more than 5% echo compared with metal over a bandwidth exceeding ±15% of the center frequency of the incident energy, and not capable of withstanding temperatures exceeding 450 K (177 °C); or

b. Ceramic materials providing more than 20% echo compared with metal over a bandwidth exceeding ±15% of the center frequency of the incident energy, and not capable of withstanding temperatures exceeding 800 K (527°C);

Technical Note: *For the purposes of 1C001.a Note 1.c.1, absorption test samples should be a square at least 5 wavelengths of the center frequency on a side and positioned in the far field of the radiating element.*

2. Tensile strength less than 7×10^6 N/m²; and

3. Compressive strength less than 14×10^6 N/m²;

d. Planar absorbers made of sintered ferrite, having all of the following:

1. A specific gravity exceeding 4.4; and

2. A maximum operating temperature of 548 K (275 °C) or less;

e. Planar absorbers having no magnetic loss and fabricated from 'open-cell foams' plastic material with a density of 0.15 grams/cm³ or less.

Technical Note: *For the purposes of 1C001.a Note e., 'open-cell foams' are flexible and porous materials, having an inner structure open to the atmosphere. 'Open-cell foams' are also known as reticulated foams.*

Note 2: *Nothing in Note 1 releases magnetic materials to provide absorption when contained in paint.*

b. Materials not transparent to visible light and ''specially designed'' for absorbing near-infrared radiation having a wavelength exceeding 810 nm but less than 2,000 nm (frequencies exceeding 150 THz but less than 370 THz);

Note: *1C001.b does not apply to materials, ''specially designed'' or formulated for any of the following applications:*

a. ''Laser'' marking of polymers; or

b. ''Laser'' welding of polymers.

c. Intrinsically conductive polymeric materials with a 'bulk electrical conductivity' exceeding 10,000 S/m (Siemens per meter) or a 'sheet (surface) resistivity' of less than 100 ohms/square, based on any of the following polymers:

c.1. Polyaniline;

c.2. Polypyrrole;

c.3. Polythiophene;

c.4. Poly phenylene-vinylene; *or*

c.5. Poly thienylene-vinylene.

Note: *1C001.c does not apply to materials in a liquid form.*

Technical Note: *For the purposes of 1C001.c, 'bulk electrical conductivity' and 'sheet (surface) resistivity' should be determined using ASTM D–257 or national equivalents.*

1C002 Metal alloys, metal alloy powder and alloyed materials, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
NP applies to 1C002.b.3 or b.4 if they exceed the parameters stated in 1C202.	NP Column 1
AT applies to entire entry.	AT Column 1

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

LVS: $3000; N/A for NP

GBS: N/A

List of Items Controlled

Related Controls: (1) See ECCNs 1E001 (''development'' and ''production'') and 1E201 (''use'') for technology for items controlled by this entry. (2) Also see ECCN 1C202. (3) Aluminum alloys and titanium alloys in physical forms and finished products ''especially designed'' or prepared for use in separating uranium isotopes are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110).

Related Definition: N/A

Items:

Note: *1C002 does not control metal alloys, metal alloy powder and alloyed materials, specially formulated for coating purposes.*

Technical Note: *For the purposes of 1C002, metal alloys are those containing a higher percentage by weight of the stated metal than of any other element.*

a. Aluminides, as follows:

a.1. Nickel aluminides containing a minimum of 15% by weight aluminum, a maximum of 38% by weight aluminum and at least one additional alloying element;

a.2. Titanium aluminides containing 10% by weight or more aluminum and at least one additional alloying element;

b. Metal alloys, as follows, made from the powder or particulate material controlled by 1C002.c:

b.1. Nickel alloys having any of the following:

b.1.a. A 'stress-rupture life' of 10,000 hours or longer at 923 K (650 °C) at a stress of 676 MPa; *or*

b.1.b. A 'low cycle fatigue life' of 10,000 cycles or more at 823 K (550 °C) at a maximum stress of 1,095 MPa;

b.2. Niobium alloys having any of the following:

b.2.a. A 'stress-rupture life' of 10,000 hours or longer at 1,073 K (800 °C) at a stress of 400 MPa; *or*

b.2.b. A 'low cycle fatigue life' of 10,000 cycles or more at 973 K (700 °C) at a maximum stress of 700 MPa;

b.3. Titanium alloys having any of the following:

b.3.a. A 'stress-rupture life' of 10,000 hours or longer at 723 K (450 °C) at a stress of 200 MPa; *or*

b.3.b. A 'low cycle fatigue life' of 10,000 cycles or more at 723 K (450 °C) at a maximum stress of 400 MPa;

b.4 Aluminum alloys having any of the following:

b.4.a. A tensile strength of 240 MPa or more at 473 K (200 °C); *or*

b.4.b. A tensile strength of 415 MPa or more at 298 K (25 °C);

b.5. Magnesium alloys having all the following:

b.5.a. A tensile strength of 345 MPa or more; and

b.5.b. A corrosion rate of less than 1 mm/year in 3% sodium chloride aqueous solution measured in accordance with ASTM standard G–31 or national equivalents;

Technical Notes: *For the purposes of 1C002.b:*

1. 'Stress-rupture life' should be measured in accordance with ASTM standard E–139 or national equivalents.

2. 'Low cycle fatigue life' should be measured in accordance with ASTM Standard E–606 'Recommended Practice for Constant-Amplitude Low-Cycle Fatigue Testing' or national equivalents. Testing should be axial with an average stress ratio equal to 1 and a stress-concentration factor (K_t) equal to 1. The average stress ratio is defined as maximum stress minus minimum stress divided by maximum stress.

c. Metal alloy powder or particulate material, having all of the following:

c.1. Made from any of the following composition systems:

Technical Note: *For the purposes of 1C002.c.1, X equals one or more alloying elements.*

c.1.a. Nickel alloys (Ni-Al-X, Ni-X-Al) qualified for turbine engine ''parts'' or ''components,'' *i.e.,* with less than 3 non-metallic particles (introduced during the manufacturing process) larger than 100 μm in 109 alloy particles;

c.1.b. Niobium alloys (Nb-Al-X or Nb-X-Al, Nb-Si-X or Nb-X-Si, Nb-Ti-X or Nb-X-Ti);

c.1.c. Titanium alloys (Ti-Al-X or Ti-X-Al);

c.1.d. Aluminum alloys (Al-Mg-X or Al-X-Mg, Al-Zn-X or Al-X-Zn, Al-Fe-X or Al-X-Fe); *or*

c.1.e. Magnesium alloys (Mg-Al-X or Mg-X-Al);

c.2. Made in a controlled environment by any of the following processes:

c.2.a. 'Vacuum atomization';

c.2.b. 'Gas atomization';

c.2.c. 'Rotary atomization';

c.2.d. 'Splat quenching';

c.2.e. 'Melt spinning' and 'comminution';

c.2.f. 'Melt extraction' and 'comminution';

c.2.g. 'Mechanical alloying'; *or*

c.2.h. 'Plasma atomization'; *and*

c.3. Capable of forming materials controlled by 1C002.a or 1C002.b;

d. Alloyed materials, having all the following:

d.1. Made from any of the composition systems specified by 1C002.c.1;

d.2. In the form of uncomminuted flakes, ribbons or thin rods; *and*

d.3. Produced in a controlled environment by any of the following:

d.3.a. 'Splat quenching';

d.3.b. 'Melt spinning'; *or*

d.3.c. 'Melt extraction'.

Technical Notes: *For the purposes of 1C002:*

1. 'Vacuum atomization' is a process to reduce a molten stream of metal to droplets of a diameter of 500 μm or less by the rapid evolution of a dissolved gas upon exposure to a vacuum.

2. 'Gas atomization' is a process to reduce a molten stream of metal alloy to droplets of 500 μm diameter or less by a high pressure gas stream.

3. 'Rotary atomization' is a process to reduce a stream or pool of molten metal to droplets of a diameter of 500 μm or less by centrifugal force.

4. 'Splat quenching' is a process to 'solidify rapidly' a molten metal stream impinging upon a chilled block, forming a flake-like product.

5. 'Melt spinning' is a process to 'solidify rapidly' a molten metal stream impinging upon a rotating chilled block, forming a flake, ribbon or rod-like product.

6. 'Comminution' is a process to reduce a material to particles by crushing or grinding.

7. 'Melt extraction' is a process to 'solidify rapidly' and extract a ribbon-like alloy product by the insertion of a short segment of a rotating chilled block into a bath of a molten metal alloy.

8. 'Mechanical alloying' is an alloying process resulting from the bonding, fracturing and rebonding of elemental and master alloy powders by mechanical impact. Non-metallic particles may be incorporated in the alloy by addition of the appropriate powders.

9. 'Plasma atomization' is a process to reduce a molten stream or solid metal to droplets of 500 μm diameter or less, using plasma torches in an inert gas environment.

10. For the purposes of 1C002 Technical Notes, 'solidify rapidly' is a process involving the solidification of molten material at cooling rates exceeding 1000 K/sec.

1C003 Magnetic metals, of all types and of whatever form, having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: $3000
GBS: N/A

List of Items Controlled

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

a. Initial relative permeability of 120,000 or more and a thickness of 0.05 mm or less;

Technical Note: *For the purposes of 1C003.a, measurement of initial relative permeability must be performed on fully annealed materials.*

b. Magnetostrictive alloys having any of the following:

b.1. A saturation magnetostriction of more than 5×104^{-4}; *or*

b.2. A magnetomechanical coupling factor (k) of more than 0.8; *or*

c. Amorphous or 'nanocrystalline' alloy strips, having all of the following:

c.1. A composition having a minimum of 75% by weight of iron, cobalt or nickel;

c.2. A saturation magnetic induction (B_s) of 1.6 T or more; *and*

c.3. Any of the following:

c.3.a. A strip thickness of 0.02 mm or less; *or*

c.3.b. An electrical resistivity of 2×10^{-4} ohm cm or more.

Technical Note: For the purposes of 1C003.c, 'nanocrystalline' materials are those materials having a crystal grain size of 50 nm or less, as determined by X-ray diffraction.

* * * * *

1C005 ''Superconductive'' ''composite'' conductors in lengths exceeding 100 m or with a mass exceeding 100 g, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: $1500
GBS: N/A

List of Items Controlled

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

a. ''Superconductive'' ''composite'' conductors containing one or more niobium-titanium 'filaments', having all of the following:

a.1. Embedded in a ''matrix'' other than a copper or copper-based mixed ''matrix''; *and*

a.2. Having a cross-section area less than 0.28×10^{-4} mm^2 (6 μm in diameter for circular 'filaments');

b. ''Superconductive'' ''composite'' conductors consisting of one or more ''superconductive'' 'filaments' other than niobium-titanium, having all of the following:

b.1. A ''critical temperature'' at zero magnetic induction exceeding 9.85 K (−263.31 °C); and

b.2. Remaining in the ''superconductive'' state at a temperature of 4.2 K (−268.96 °C) when exposed to a magnetic field oriented in any direction perpendicular to the longitudinal axis of conductor and corresponding to a magnetic induction of 12 T with critical current density exceeding 1750 A/mm^2 on overall cross-section of the conductor.

c. ''Superconductive'' ''composite'' conductors consisting of one or more ''superconductive'' 'filaments' which remain ''superconductive'' above 115 K (−158.16 °C).

Technical Note: *For the purposes of 1C005, 'filaments' may be in wire, cylinder, film, tape or ribbon form.*

* * * * *

1C008 Non-fluorinated polymeric substances as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: $200
GBS: N/A

List of Items Controlled

Related Controls: See also 1A003.
Related Definitions: N/A
Items:

a. Imides as follows:

a.1. Bismaleimides;

a.2. Aromatic polyamide-imides (PAI) having a 'glass transition temperature (Tg)' exceeding 563 K (290 °C);

a.3. Aromatic polyimides having a 'glass transition temperature (Tg)' exceeding 505 K (232 °C);

a.4. Aromatic polyetherimides having a 'glass transition temperature (Tg)' exceeding 563 K (290 °C);

Note: *1C008.a controls the substances in liquid or solid ''fusible'' form, including resin, powder, pellet, film, sheet, tape, or ribbon.*

N.B.: *For non-''fusible'' aromatic polyimides in film, sheet, tape, or ribbon form, see ECCN 1A003.*

b. [Reserved]

c. [Reserved]

d. Polyarylene ketones;

e. Polyarylene sulfides, where the arylene group is biphenylene, triphenylene or combinations thereof;

f. Polybiphenylenethersulphone having a 'glass transition temperature (Tg)' exceeding 563 K (290 °C).

Technical Notes:

1. *For the purposes of 1C008.a.2 thermoplastic materials, 1C008.a.4 materials, and 1C008.f materials, the 'glass transition temperature (Tg)' is determined using the method described in ISO 11357–2 (1999) or national equivalents.*

2. *For the purposes of 1C008.a.2 thermosetting materials and 1C008.a.3 materials, the 'glass transition temperature (Tg)' is determined using the 3-point bend method described in ASTM D 7028–07 or equivalent national standard. The test is to be performed using a dry test specimen which has attained a minimum of 90% degree of cure as specified by ASTM E 2160–04 or equivalent national standard, and was cured using the combination of standard- and post-cure processes that yield the highest Tg.*

* * * * *

1C010 ''Fibrous or filamentary materials'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
NP applies to 1C010.a (aramid ''fibrous or filamentary materials'', b (carbon ''fibrous and filamentary materials''), and e.1 for ''fibrous and filamentary materials'' that meet or exceed the control criteria of ECCN 1C210.	NP Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: $1500, N/A for NP
GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship any item in 1C010.c to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See ECCNs 1E001 (''development'' and ''production'') and 1E201 (''use'') for technology for items controlled by this entry. (2) Also see ECCNs 1C210 and 1C990. (3) See also 9C110 for material not controlled by 1C010.e, as defined by notes 1 or 2.

Related Definitions: (1) ''Specific modulus'': Young's modulus in pascals, equivalent to N/m2 divided by specific weight in N/m^3, measured at a temperature of (296+2) K ((23+2) °C) and a relative humidity of (50+5) %. (2) ''Specific tensile strength'': ultimate tensile strength in pascals, equivalent to N/m2 divided by specific weight in N/m^3, measured at a temperature of (296+2) K ((23+2) °C) and a relative humidity of (50+5) %.

Items:

Technical Notes:

1. *For the purposes of calculating ''specific tensile strength'', ''specific modulus'' or specific weight of ''fibrous or filamentary materials'' in 1C010.a, 1C010.b, 1C010.c, or 1C010.e.1.b the tensile strength and modulus should be determined by using Method A described in ISO 10618 (2004) or national equivalents.*

2. *For the purposes of assessing the ''specific tensile strength'', ''specific modulus'' or specific weight of non-unidirectional ''fibrous or filamentary materials'' (e.g., fabrics, random mats or braids) in 1C010, this is to be based on the mechanical properties of the constituent unidirectional monofilaments (e.g., monofilaments, yarns, rovings or tows) prior to processing into the non-unidirectional ''fibrous or filamentary materials''.*

a. Organic ''fibrous or filamentary materials'', having all of the following:

a.1. ''Specific modulus'' exceeding 12.7×10^6 m; *and*

a.2. ''Specific tensile strength'' exceeding 23.5×10^4 m;

Note: *1C010.a does not control polyethylene.*

b. Carbon ''fibrous or filamentary materials'', having all of the following:

b.1. ''Specific modulus'' exceeding 14.65×10^6 m; *and*

b.2. ''Specific tensile strength'' exceeding 26.82×10^4 m;

Note: *1C010.b does not control:*

a. ''Fibrous or filamentary materials'', for the repair of ''civil aircraft'' structures or laminates, having all of the following:

1. An area not exceeding 1 m^2;

2. A length not exceeding 2.5 m; and

3. A width exceeding 15 mm.

b. Mechanically chopped, milled or cut carbon ''fibrous or filamentary materials'' 25.0 mm or less in length.

c. Inorganic ''fibrous or filamentary materials'', having all of the following:

c.1. Having any of the following:

c.1.a. Composed of 50% or more by weight silicon dioxide (SiO_2) and having a ''specific modulus'' exceeding 2.54×10^6 m; *or*

c.1.b. Not specified in 1C010.c.1.a and having a ''specific modulus'' exceeding 5.6×10^6 m; *and*

c.2. Melting, softening, decomposition or sublimation point exceeding 1,922 K (1,649 °C) in an inert environment;

Note: *1C010.c does not control:*

a. Discontinuous, multiphase, polycrystalline alumina fibers in chopped fiber or random mat form, containing 3% by weight or more silica, with a ''specific modulus'' of less than 10×10^6 m;

b. Molybdenum and molybdenum alloy fibers;

c. Boron fibers;

d. Discontinuous ceramic fibers with a melting, softening, decomposition or sublimation point lower than 2,043 K (1,770 °C) in an inert environment.

d. ''Fibrous or filamentary materials'', having any of the following:

d.1. Composed of any of the following:

d.1.a. Polyetherimides controlled by 1C008.a; *or*

d.1.b. Materials controlled by 1C008.b to 1C008.f; *or*

d.2. Composed of materials controlled by 1C010.d.1.a or 1C010.d.1.b and 'commingled' with other fibers controlled by 1C010.a, 1C010.b or 1C010.c;

Technical Note: *For the purposes of 1C010.d.2, 'commingled' is filament to filament blending of thermoplastic fibers and reinforcement fibers in order to produce a fiber reinforcement ''matrix'' mix in total fiber form.*

e. Fully or partially resin impregnated or pitch impregnated ''fibrous or filamentary materials'' (prepregs), metal or carbon coated ''fibrous or filamentary materials'' (preforms) or 'carbon fiber preforms', having all of the following:

e.1. Having any of the following:

e.1.a. Inorganic ''fibrous or filamentary materials'' controlled by 1C010.c; *or*

e.1.b. Organic or carbon ''fibrous or filamentary materials'', having all of the following:

e.1.b.1. ''Specific modulus'' exceeding 10.15×10^6 m; and

e.1.b.2 ''Specific tensile strength'' exceeding 17.7×10^4m; and

e.2. Having any of the following:

e.2.a. Resin or pitch, controlled by 1C008 or 1C009.b;

e.2.b. 'Dynamic Mechanical Analysis glass transition temperature (DMA T_g)' equal to or exceeding 453 K (180°C) and having a phenolic resin; *or*

e.2.c. 'Dynamic Mechanical Analysis glass transition temperature (DMA T_g)' equal to or exceeding 505 K (232°C) and having a resin or pitch, not specified by 1C008 or 1C009.b, and not being a phenolic resin;

Note 1: *Metal or carbon coated ''fibrous or filamentary materials'' (preforms) or 'carbon fiber preforms', not impregnated with resin or pitch, are specified by ''fibrous or filamentary materials'' in 1C010.a, 1C010.b or 1C010.c.*

Note 2: *1C010.e does not apply to:*

a. Epoxy resin ''matrix'' impregnated carbon ''fibrous or filamentary materials'' (prepregs) for the repair of ''civil aircraft'' structures or laminates, having all of the following:

1. An area not exceeding 1 m^2

2. A length not exceeding 2.5 m; and

3. A width exceeding 15 mm;

b. Fully or partially resin-impregnated or pitch-impregnated mechanically chopped, milled or cut carbon ''fibrous or filamentary materials'' 25.0 mm or less in length when using a resin or pitch other than those specified by 1C008 or 1C009.b.

Technical Notes:

1. *For the purposes of 1C010.e and Note 1, 'carbon fiber preforms' are an ordered arrangement of uncoated or coated fibers intended to constitute a framework of a part before the ''matrix'' is introduced to form a ''composite''.*

2. *For the purposes of 1C010.e.2, 'Dynamic Mechanical Analysis glass transition temperature (DMA Tg)' is determined using the method described in ASTM D 7028 –07, or equivalent national standard, on a dry test specimen. In the case of thermoset materials, degree of cure of a dry test specimen shall be a minimum of 90% as defined by ASTM E 2160 04 or equivalent national standard.*

1C011 Metals and compounds, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
MT applies to 1C011.a and .b for items that meet or exceed the parameters in 1C111..	MT Column 1

Control(s)	*Country chart (see supp. No. 1 to part 738)*
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See also ECCNs 1C111 and 1C608. (2) All of the following are ''subject to the ITAR'' (see 22 CFR parts 120 through 130): (a) Materials controlled by 1C011.a, and metal fuels in particle form, whether spherical, atomized, spheroidal, flaked or ground, manufactured from material consisting of 99 percent or more of items controlled by 1C011.b; and (b) Metal powders mixed with other substances to form a mixture formulated for military purposes.
Related Definitions: N/A
Items:

a. Metals in particle sizes of less than 60 μm whether spherical, atomized, spheroidal, flaked or ground, manufactured from material consisting of 99% or more of zirconium, magnesium and alloys thereof;

Technical Note: *For the purposes of 1C011.a, the natural content of hafnium in the zirconium (typically 2% to 7%) is counted with the zirconium.*

Note: *The metals or alloys specified by 1C011.a also refer to metals or alloys encapsulated in aluminum, magnesium, zirconium or beryllium.*

b. Boron or boron alloys, with a particle size of 60 μm or less, as follows:

b.1. Boron with a purity of 85% by weight or more;

b.2. Boron alloys with a boron content of 85% by weight or more;

Note: *The metals or alloys specified by 1C011.b also refer to metals or alloys encapsulated in aluminum, magnesium, zirconium or beryllium.*

c. Guanidine nitrate (CAS 506–93–4);

d. Nitroguanidine (NQ) (CAS 556–88–7).

* * * * *

2A001 Anti-friction bearings, bearing systems and ''components,'' as follows, (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
MT applies to radial ball bearings having all tolerances specified in accordance with ISO 492 Tolerance Class 2 (or ANSI/ABMA Std 20 Tolerance Class ABEC–9, or other national equivalents) or better and having all the following characteristics: an inner ring bore diameter between 12 and 50 mm; an outer ring outside diameter between 25 and 100 mm; and a width between 10 and 20 mm..	MT Column 1
AT applies to entire entry.	AT Column 1

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

LVS: $3000, N/A for MT
GBS: Yes, for 2A001.a, N/A for MT

List of Items Controlled

Related Controls: (1) See also 2A991. (2) Quiet running bearings are ''subject to the ITAR'' (see 22 CFR parts 120 through 130.)
Related Definitions: Annular Bearing Engineers Committee (ABEC).
Items:

Note: *2A001.a includes ball bearing and roller elements ''specially designed'' for the items specified therein.*

a. Ball bearings and solid roller bearings, having all tolerances specified by the manufacturer in accordance with ISO 492 Tolerance Class 2 or Class 4 (or national equivalents), or better, and having both 'rings' and 'rolling elements', made from monel or beryllium;

Note: *2A001.a does not control tapered roller bearings.*

Technical Notes: *For the purposes of 2A001.a:*

1. 'Ring'—is an annular part of a radial rolling bearing incorporating one or more raceways (ISO 5593:1997).

2. 'Rolling element'—is a ball or roller which rolls between raceways (ISO 5593:1997).

b. [Reserved]

c. Active magnetic bearing systems using any of the following, and ''specially designed'' components therefor:

c.1. Materials with flux densities of 2.0 T or greater and yield strengths greater than 414 MPa;

c.2. All-electromagnetic 3D homopolar bias designs for actuators; *or*

c.3. High temperature (450 K (177 °C) and above) position sensors.

* * * * *

B. ''Test,'' ''Inspection'' and ''Production Equipment''

Technical Notes for 2B001 to 2B009, 2B201, and 2B991 to 2B999:

1. For the purposes of 2B, secondary parallel contouring axes, (e.g., the w-axis on horizontal boring mills or a secondary rotary axis the center line of which is parallel to the primary rotary axis) are not counted in the total number of contouring axes. Rotary axes need not rotate over 360 °. A rotary axis can be driven by a linear device (e.g., a screw or a rack-and-pinion).

2. For the purposes of 2B, the number of axes which can be coordinated simultaneously for ''contouring control'' is the number of axes along or around which, during processing of the workpiece, simultaneous and interrelated motions are performed between the workpiece and a tool. This does not include any additional axes along or around which other relative motions within the machine are performed, such as:

2.a. Wheel-dressing systems in grinding machines;

2.b. Parallel rotary axes designed for mounting of separate workpieces;

2.c. Co-linear rotary axes designed for manipulating the same workpiece by holding it in a chuck from different ends.

3. For the purposes of 2B, axis nomenclature shall be in accordance with International Standard ISO 841:2001, Industrial automation systems and integration—Numerical control of machines—Coordinate system and motion nomenclature.

4. For the purposes of this Category, a ''tilting spindle'' is counted as a rotary axis.

5. For the purposes of 2B, 'stated ''unidirectional positioning repeatability''' may be used for each specific machine model as an alternative to individual machine tests, and is determined as follows:

5.a. Select five machines of a model to be evaluated;

5.b. Measure the linear axis repeatability ($R\uparrow$,$R\downarrow$) according to ISO 230–2:2014 and evaluate ''unidirectional positioning repeatability'' for each axis of each of the five machines;

5.c. Determine the arithmetic mean value of the ''unidirectional positioning repeatability''-values for each axis of all five machines together. These arithmetic mean values ''unidirectional positioning repeatability'' ($\overline{UPR}$) become the stated value of each axis for the model. . .)($\overline{UPR}_x$, $\overline{UPR}_y$, . . .);

5.d. Since the Category 2 list refers to each linear axis there will be as many 'stated ''unidirectional positioning repeatability''' values as there are linear axes;

5.e. If any axis of a machine model not controlled by 2B001.a. to 2B001.c. has a 'stated ''unidirectional positioning repeatability''' equal to or less than the specified ''unidirectional positioning repeatability'' of each machine tool model plus 0.7 μm, the builder should be required to reaffirm the accuracy level once every eighteen months.

6. For the purposes of 2B, measurement uncertainty for the ''unidirectional positioning repeatability'' of machine tools, as defined in the International Standard ISO 230–2:2014, shall not be considered.

7. For the purposes of 2B, the measurement of axes shall be made according to test procedures in 5.3.2. of ISO 230–2:2014. Tests for axes longer than 2 meters shall be made over 2 m segments. Axes longer than 4 m require multiple tests (e.g., two tests for axes longer than 4 m and up to 8 m, three tests for axes longer than 8 m and up to 12 m), each over 2 m segments and distributed in equal intervals over the axis length. Test segments are equally spaced along the full axis length, with any excess length equally divided at the beginning, in between, and at the end of the test segments. The smallest ''*unidirectional positioning repeatability*''*-value of all test segments is to be reported.*

* * * * *

2B004 Hot ''isostatic presses'' having all of the characteristics described in the List of Items Controlled, and ''specially designed'' ''components'' and ''accessories'' therefor.

License Requirements

Reason for Control: NS, MT NP, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
MT applies to entire entry.	MT Column 1
NP applies to entire entry, except 2B004.b.3 and presses with maximum working pressures below 69 MPa.	NP Column 1
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See ECCN 2D001 for software for items controlled under this entry. (2) See ECCNs 2E001 (''development''), 2E002 (''production''), and 2E101 (''use'') for technology for items controlled under this entry. (3) For ''specially designed'' dies, molds and tooling, see ECCNs 0B501, 0B602, 0B606, 1B003, 9B004, and 9B009. (4) For additional controls on dies, molds and tooling, see ECCNs 1B101.d, 2B104 and 2B204. (5) Also see ECCNs 2B117 and 2B999.a.
Related Definitions: N/A
Items:

a. A controlled thermal environment within the closed cavity and possessing a chamber cavity with an inside diameter of 406 mm or more; *and*

b. Having any of the following:

b.1. A maximum working pressure exceeding 207 MPa;

b.2. A controlled thermal environment exceeding 1,773 K (1,500 °C); *or*

b.3. A facility for hydrocarbon impregnation and removal of resultant gaseous degradation products.

Technical Note: *For the purposes of 2B004, the inside chamber dimension is that of the chamber in which both the working temperature and the working pressure are achieved and does not include fixtures. That dimension will be the smaller of either the inside diameter of the pressure chamber or the inside diameter of the insulated furnace chamber, depending on which of the two chambers is located inside the other.*

* * * * *

2B006 Dimensional inspection or measuring systems, equipment, position feedback units and ''electronic assemblies'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country chart (see supp. no. 1 to part 738)*
NS applies to entire entry.	NS Column 2
NP applies to those items in 2B006.a, b.1, b.3, and .c (angular displacement measuring instruments) that meet or exceed the technical parameters in 2B206..	NP Column 1
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See ECCNs 2D001 and 2D002 for ''software'' for items controlled under this entry. (2) See ECCNs 2E001 (''development''), 2E002 (''production''), and 2E201 (''use'') for technology for items controlled under this entry. (3) Also see ECCNs 2B206 and 2B996.
Related Definitions: N/A
Items:

a. Computer controlled or ''numerically controlled'' Coordinate Measuring Machines (CMM), having a three dimensional length (volumetric) maximum permissible error of length measurement ($E_{0,MPE}$) at any point within the operating range of the machine (*i.e.,* within the length of axes) equal to or less (better) than (1.7 + L/1,000) µm (L is the measured length in mm) according to ISO 10360–2 (2009);

Technical Note: *For the purposes of 2B006.a, $E_{0,MPE}$ of the most accurate configuration of the CMM specified by the manufacturer (e.g.,best of the following: Probe, stylus length, motion parameters, environment) and with* ''*all compensations available*'' *shall be compared to the 1.7 + L/1,000* µm *threshold.*

b. Linear displacement measuring instruments or systems, linear position feedback units, and ''electronic assemblies'', as follows:

Note: *Interferometer and optical-encoder measuring systems containing a* ''*laser*'' *are only specified by 2B006.b.3.*

b.1. 'Non-contact type measuring systems' with a 'resolution' equal to or less (better) than 0.2 µm within 0 to 0.2 mm of the 'measuring range';

Technical Notes: *For the purposes of 2B006.b.1:*

1. 'Non-contact type measuring systems' are designed to measure the distance between the probe and measured object along a single vector, where the probe or measured object is in motion.

2. 'Measuring range' means the distance between the minimum and maximum working distance.

b.2. Linear position feedback units ''specially designed'' for machine tools and having an overall ''accuracy'' less (better) than (800 + (600 × L/1,000)) nm (L equals effective length in mm);

b.3. Measuring systems having all of the following:

b.3.a. Containing a ''laser'';

b.3.b. A 'resolution' over their full scale of 0.200 nm or less (better); *and*

b.3.c. Capable of achieving a ''measurement uncertainty'' equal to or less (better) than (1.6 + L/2,000) nm (L is the measured length in mm) at any point within a measuring range, when compensated for the refractive index of air and measured over a period of 30 seconds at a temperature of 20±0.01°C;

Technical Note: *For the purposes of 2B006.b, 'resolution' is the least increment of a measuring device; on digital instruments, the least significant bit.*

b.4. ''Electronic assemblies'' ''specially designed'' to provide feedback capability in systems controlled by 2B006.b.3;

c. Rotary position feedback units ''specially designed'' for machine tools or angular displacement measuring instruments, having an angular position ''accuracy'' equal to or less (better) than 0.9 second of arc;

Note: *2B006.c does not control optical instruments, such as autocollimators, using collimated light (e.g.,* ''*laser*'' *light) to detect angular displacement of a mirror.*

d. Equipment for measuring surface roughness (including surface defects), by measuring optical scatter with a sensitivity of 0.5 nm or less (better).

Note: *2B006 includes machine tools, other than those specified by 2B001, that can be used as measuring machines, if they meet or exceed the criteria specified for the measuring machine function.*

* * * * *

2B008 'Compound rotary tables' and ''tilting spindles'', ''specially designed'' for machine tools, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see supp. no. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: See also 2B998.
Related Definition: N/A
Items:

a. [Reserved]
b. [Reserved]
c. 'Compound rotary tables' having all of the following:
c.1. Designed for machine tools for turning, milling or grinding; *and*
c.2. Two rotary axes designed to be coordinated simultaneously for ''contouring control''.

Technical Note: *For the purposes of 2B008.c, a 'compound rotary table' is a table allowing the workpiece to rotate and tilt about two non-parallel axes.*

d. ''Tilting spindles'' having all of the following:
d.1. Designed for machine tools for turning, milling or grinding; *and*
d.2. Designed to be coordinated simultaneously for ''contouring control''.

* * * * *

2B009 Spin-forming machines and flow-forming machines, which, according to the manufacturer's technical specifications, can be equipped with ''numerical control'' units or a computer control and having all of the following characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, NP, AT

Control(s)	*Country chart (see supp. no. 1 to part 738)*
NS applies to entire entry.	NS Column 2
MT applies to: spin-forming. machines combining the functions of spin-forming and flow-forming; and flow-forming machines that meet or exceed the parameters of 2B009.a and 2B109.	MT Column 1
NP applies to flow-forming machines, and spin-forming machines capable of flow-forming functions, that meet or exceed the parameters of 2B209.	NP Column 1
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See ECCN 2D001 for ''software'' for items controlled under this entry. (2) See ECCNs 2E001 (''development''), 2E002 (''production''), and 2E101 (''use'') for technology for items controlled under this entry. (3) Also see ECCNs 2B109 and 2B209 for additional flow-forming machines for MT and NP reasons.
Related Definitions: N/A
Items:

a. Three or more axes which can be coordinated simultaneously for ''contouring control''; *and*
b. A roller force more than 60 kN.

Technical Note: *For the purposes of 2B009, machines combining the function of spin-forming and flow-forming are regarded as flow-forming machines.*

* * * * *

2E003 Other ''technology'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1

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

TSR: Yes, except 2E003.b, .e and .f

List of Items Controlled

Related Controls: See 2E001, 2E002, and 2E101 for ''development'' and ''use'' technology for equipment that are designed or modified for densification of carbon-carbon composites, structural composite rocket nozzles and reentry vehicle nose tips.
Related Definitions: N/A
Items:

a. [Reserved]
b. ''Technology'' for metal-working manufacturing processes, as follows:
b.1. ''Technology'' for the design of tools, dies or fixtures ''specially designed'' for any of the following processes:
b.1.a. ''Superplastic forming'';
b.1.b. ''Diffusion bonding''; *or*
b.1.c. 'Direct-acting hydraulic pressing';
b.2. [Reserved]

N.B.: *For ''technology'' for metal-working manufacturing processes for gas turbine engines and components, see 9E003 and USML Category XIX*

Technical Note: *For the purposes of 2E003.b.1.c, 'direct-acting hydraulic pressing' is a deformation process which uses a fluid-filled flexible bladder in direct contact with the workpiece.*

c. ''Technology'' for the ''development'' or ''production'' of hydraulic stretch-forming machines and dies therefor, for the manufacture of airframe structures;
d. [Reserved]
e. ''Technology'' for the ''development'' of integration ''software'' for incorporation of expert systems for advanced decision support of shop floor operations into ''numerical control'' units;
f. ''Technology'' for the application of inorganic overlay coatings or inorganic surface modification coatings (specified in column 3 of the following table) to non-electronic substrates (specified in column 2 of the following table), by processes specified in column 1 of the following table and defined in the Technical Note.

N.B. *This table should be read to control the technology of a particular 'Coating Process' only when the resultant coating in column 3 is in a paragraph directly across from the relevant 'Substrate' under column 2. For example, Chemical Vapor Deposition (CVD) 'coating process' control the ''technology'' for a particular application of 'silicides' to 'Carbon-carbon, Ceramic and Metal ''matrix'' ''composites'' substrates, but are not controlled for the application of 'silicides' to 'Cemented tungsten carbide (16), Silicon carbide (18)' substrates. In the second case, the resultant coating is not listed in the paragraph under column 3 directly across from the paragraph under column 2 listing 'Cemented tungsten carbide (16), Silicon carbide (18)'.*

Category 2E—Materials Processing Table; Deposition Techniques

1. *Coating process* (1) [1]	2. *Substrate*	3. *Resultant coating*
A. Chemical Vapor Deposition (CVD)	''Superalloys''	Aluminides for internal passages
	Ceramics (19) and Low-expansion glasses(14)	Silicides
		Carbides
		Dielectric layers (15)
		Diamond
		Diamond-like carbon (17)

[1] The numbers in parenthesis refer to the Notes following this Table.

1. *Coating process* (1) [1]	2. *Substrate*	3. *Resultant coating*
	Carbon-carbon, Ceramic, and Metal ''matrix'' ''composites''.	Silicides Carbides Refractory metals Mixtures thereof (4) Dielectric layers (15) Aluminides Alloyed aluminides (2) Boron nitride
	Cemented tungsten carbide (16), Silicon carbide (18)	Carbides Tungsten Mixtures thereof (4) Dielectric layers (15)
	Molybdenum and Molybdenum alloys	Dielectric layers (15)
	Beryllium and Beryllium alloys	Dielectric layers (15) Diamond Diamond-like carbon (17)
	Sensor window materials (9)	Dielectric layers (15) Diamond Diamond-like carbon (17)
B. Thermal-Evaporation Physical Vapor:		
1. Physical Vapor Deposition (PVD): Deposition (TE–PVD) Electron-Beam (EB–PVD).	''Superalloys''	Alloyed silicides Alloyed aluminides (2) MCrAlX (5) Modified zirconia (12) Silicides Aluminides Mixtures thereof (4)
	Ceramics (19) and Low-expansion glasses (14).	Dielectric layers (15)
	Corrosion resistant steel (7)	MCrAlX (5) Modified zirconia (12) Mixtures thereof (4)
	Carbon-carbon, Ceramic and Metal ''matrix'' ''composites''.	Silicides Carbides Refractory metals Mixtures thereof (4) Dielectric layers (15) Boron nitride
	Cemented tungsten carbide (16), Silicon carbide (18).	Carbides Tungsten Mixtures thereof (4) Dielectric layers (15)
	Molybdenum and Molybdenum alloys	Dielectric layers (15)
	Beryllium and Beryllium alloys	Dielectric layers (15) Borides Beryllium
	Sensor window materials (9)	Dielectric layers (15)
	Titanium alloys (13)	Borides Nitrides
2. Ion assisted resistive heating Physical Vapor Deposition (PVD)(Ion Plating).	Ceramics (19) and Low-expansion glasses (14).	Dielectric layers (15) Diamond-like carbon (17)
	Carbon-carbon, Ceramic and Metal ''matrix'' ''composites''.	Dielectric layers (15)
	Cemented tungsten carbide (16) Silicon carbide	Dielectric layers (15)
	Molybdenum and Molybdenum alloys	Dielectric layers (15)
	Beryllium and Beryllium alloys	Dielectric layers (15)
	Sensor window materials (9)	Dielectric Layers (15) Diamond-like carbon (17)
3. Physical Vapor Deposition (PVD): ''Laser'' Vaporization.	Ceramics (19) and Low-expansion glasses (14).	Silicides Dielectric layers (15) Diamond-like carbon (17)
	Carbon-carbon, Ceramic and Metal ''matrix'' ''composites''.	Dielectric layers (15)
	Cemented tungsten carbide (16), Silicon carbide.	Dielectric Layers (15)
	Molybdenum and Molybdenum alloys	Dielectric layers (15)
	Beryllium and Beryllium alloys	Dielectric layers (15)
	Sensor window materials (9)	Dielectric layers (15) Diamond-like carbon
4. Physical Vapor Deposition (PVD): Cathodic Arc Discharge.	''Superalloys''	Alloyed silicides Alloyed Aluminides (2) MCrA1X (5)

1. *Coating process* (1) [1]	2. *Substrate*	3. *Resultant coating*
	Polymers (11) and Organic "matrix" "composites".	Borides Carbides Nitrides Diamond-like carbon (17)
C. Pack cementation (see A above for out-of-pack cementation) (10).	Carbon-carbon, Ceramic and Metal "matrix" "composites".	Silicides Carbides Mixtures thereof (4)
	Titanium alloys (13)	Silicides Aluminides Alloyed aluminides (2)
	Refractory metals and alloys (8)	Silicides Oxides
D. Plasma spraying	"Superalloys"	MCrAlX (5) Modified zirconia (12) Mixtures thereof (4) Abradable Nickel-Graphite Abradable materials containing Ni-Cr-Al Abradable Al-Si-Polyester Alloyed aluminides (2)
	Aluminum alloys (6)	MCrAlX (5) Modified zirconia (12) Silicides Mixtures thereof (4)
	Refractory metals and alloys (8), Carbides, Corrosion resistant steel (7).	Aluminides Silicides MCrAlX (5) Modified zirconia (12) Mixtures thereof (4)
D. Plasma spraying (continued)	Titanium alloys (13)	Carbides Aluminides Silicides Alloyed aluminides (2)
	Abradable Nickel Graphite	Abradable materials containing Ni-Cr-Al Abradable Al-Si-Polyester
E. Slurry Deposition	Refractory metals and alloys (8)	Fused silicides Fused aluminides except for resistance heating elements
	Carbon-carbon, Ceramic and Metal "matrix" "composites".	Silicides Carbides Mixtures thereof (4)
F. Sputter Deposition	"Superalloys"	Alloyed silicides Alloyed aluminides (2) Noble metal modified aluminides (3) MCrAlX (5) Modified zirconia (12) Platinum Mixtures thereof (4)
	Ceramics and Low-expansion glasses (14)	Silicides Platinum Mixtures thereof (4) Dielectric layers (15) Diamond-like carbon (17)
	Titanium alloys (13)	Borides Nitrides Oxides Silicides Aluminides Alloyed aluminides (2) Carbides
F. Sputter Deposition (continued)	Carbon-carbon, Ceramic and Metal "matrix" "Composites".	Silicides Carbides Refractory metals Mixtures thereof (4) Dielectric layers (15) Boron nitride
	Cemented tungsten carbide (16), Silicon carbide (18).	Carbides Tungsten Mixtures thereof (4) Dielectric layers (15) Boron nitride
	Molybdenum and Molybdenum alloys	Dielectric layers (15)

1. *Coating process* (1) [1]	2. *Substrate*	3. *Resultant coating*
	Beryllium and Beryllium alloys	Borides Dielectric layers (15) Beryllium
	Sensor window materials (9)	Dielectric layers (15) Diamond-like carbon (17)
	Refractory metals and alloys (8)	Aluminides Silicides Oxides Carbides
G. Ion Implantation	High temperature bearing steels	Additions of Chromium,Tantalum, or Niobium (Columbium)
	Titanium alloys (13)	Borides Nitrides
	Beryllium and Beryllium alloys	Borides
	Cemented tungsten carbide (16)	Carbides Nitrides

Notes to Table on Deposition Techniques:

1. The term ''coating process'' includes coating repair and refurbishing as well as original coating.

2. The term ''alloyed aluminide coating'' includes single or multiple-step coatings in which an element or elements are deposited prior to or during application of the aluminide coating, even if these elements are deposited by another coating process. It does not, however, include the multiple use of single-step pack cementation processes to achieve alloyed aluminides.

3. The term ''noble metal modified aluminide'' coating includes multiple-step coatings in which the noble metal or noble metals are laid down by some other coating process prior to application of the aluminide coating.

4. The term ''mixtures thereof'' includes infiltrated material, graded compositions, co-deposits and multilayer deposits and are obtained by one or more of the coating processes specified in the Table.

5. MCrAlX refers to a coating alloy where M equals cobalt, iron, nickel or combinations thereof and X equals hafnium, yttrium, silicon, tantalum in any amount or other intentional additions over 0.01% by weight in various proportions and combinations, except:

a. CoCrAlY coatings which contain less than 22% by weight of chromium, less than 7% by weight of aluminum and less than 2% by weight of yttrium;

b. CoCrAlY coatings which contain 22 to 24% by weight of chromium, 10 to 12% by weight of aluminum and 0.5 to 0.7% by weight of yttrium; or

c. NiCrAlY coatings which contain 21 to 23% by weight of chromium, 10 to 12% by weight of aluminum and 0.9 to 1.1% by weight of yttrium.

6. The term ''aluminum alloys'' refers to alloys having an ultimate tensile strength of 190 MPa or more measured at 293 K (20 °C).

7. The term ''corrosion resistant steel'' refers to AISI (American Iron and Steel Institute) 300 series or equivalent national standard steels.

8. ''Refractory metals and alloys'' include the following metals and their alloys: niobium (columbium), molybdenum, tungsten and tantalum.

9. ''Sensor window materials'', as follows: alumina, silicon, germanium, zinc sulphide, zinc selenide, gallium arsenide, diamond, gallium phosphide, sapphire and the following metal halides: sensor window materials of more than 40 mm diameter for zirconium fluoride and hafnium fluoride.

10. Category 2 does not include ''technology'' for single-step pack cementation of solid airfoils.

11. ''Polymers'', as follows: polyimide, polyester, polysulfide, polycarbonates and polyurethanes.

12. ''Modified zirconia'' refers to additions of other metal oxides, (e.g., calcia, magnesia, yttria, hafnia, rare earth oxides) to zirconia in order to stabilize certain crystallographic phases and phase compositions. Thermal barrier coatings made of zirconia, modified with calcia or magnesia by mixing or fusion, are not controlled.

13. ''Titanium alloys'' refers only to aerospace alloys having an ultimate tensile strength of 900 MPa or more measured at 293 K (20 °C).

14. ''Low-expansion glasses'' refers to glasses which have a coefficient of thermal expansion of 1 x 10^{-7} K^{-1} or less measured at 293 K (20 °C).

15. ''Dielectric layers'' are coatings constructed of multi-layers of insulator materials in which the interference properties of a design composed of materials of various refractive indices are used to reflect, transmit or absorb various wavelength bands. Dielectric layers refers to more than four dielectric layers or dielectric/metal ''composite'' layers.

16. ''Cemented tungsten carbide'' does not include cutting and forming tool materials consisting of tungsten carbide/(cobalt, nickel), titanium carbide/(cobalt, nickel), chromium carbide/nickel-chromium and chromium carbide/nickel.

17. ''Technology'' for depositing diamond-like carbon on any of the following is not controlled: magnetic disk drives and heads, equipment for the manufacture of disposables, valves for faucets, acoustic diaphragms for speakers, engine parts for automobiles, cutting tools, punching-pressing dies, office automation equipment, microphones, medical devices or molds, for casting or molding of plastics, manufactured from alloys containing less than 5% beryllium.

18. ''Silicon carbide'' does not include cutting and forming tool materials.

19. Ceramic substrates, as used in this entry, does not include ceramic materials containing 5% by weight, or greater, clay or cement content, either as separate constituents or in combination.

Technical Note to Table on Deposition Techniques: *Processes specified in Column 1 of the Table are defined as follows:*

a. Chemical Vapor Deposition (CVD) is an overlay coating or surface modification coating process wherein a metal, alloy, ''composite'', dielectric or ceramic is deposited upon a heated substrate. Gaseous reactants are decomposed or combined in the vicinity of a substrate resulting in the deposition of the desired elemental, alloy or compound material on the substrate. Energy for this decomposition or chemical reaction process may be provided by the heat of the substrate, a glow discharge plasma, or ''laser'' irradiation.

Note 1: *CVD includes the following processes: directed gas flow out-of-pack deposition, pulsating CVD, controlled nucleation thermal decomposition (CNTD), plasma enhanced or plasma assisted CVD processes.*

Note 2: *Pack denotes a substrate immersed in a powder mixture.*

Note 3: *The gaseous reactants used in the out-of-pack process are produced using the same basic reactions and parameters as the pack cementation process, except that the substrate to be coated is not in contact with the powder mixture.*

b. Thermal Evaporation-Physical Vapor Deposition (TE–PVD) is an overlay coating process conducted in a vacuum with a pressure less than 0.1 Pa wherein a source of thermal energy is used to vaporize the coating material. This process results in the condensation, or deposition, of the evaporated species onto appropriately positioned substrates. The addition of gases to the vacuum chamber during the coating process to synthesize compound coatings is an ordinary modification of the process. The use of ion or electron beams, or plasma, to activate or assist the coating's deposition is also a common modification in this technique. The use of monitors to provide in-process measurement of optical characteristics and thickness of coatings can

be a feature of these processes. Specific TE–PVD processes are as follows:

1. Electron Beam PVD uses an electron beam to heat and evaporate the material which forms the coating;

2. Ion Assisted Resistive Heating PVD employs electrically resistive heating sources in combination with impinging ion beam(s) to produce a controlled and uniform flux of evaporated coating species;

3. ''Laser'' Vaporization uses either pulsed or continuous wave ''laser'' beams to vaporize the material which forms the coating;

4. Cathodic Arc Deposition employs a consumable cathode of the material which forms the coating and has an arc discharge established on the surface by a momentary contact of a ground trigger. Controlled motion of arcing erodes the cathode surface creating a highly ionized plasma. The anode can be either a cone attached to the periphery of the cathode, through an insulator, or the chamber. Substrate biasing is used for non line-of-sight deposition;

Note: *This definition does not include random cathodic arc deposition with non-biased substrates.*

5. Ion Plating is a special modification of a general TE–PVD process in which a plasma or an ion source is used to ionize the species to be deposited, and a negative bias is applied to the substrate in order to facilitate the extraction of the species from the plasma. The introduction of reactive species, evaporation of solids within the process chamber, and the use of monitors to provide in-process measurement of optical characteristics and thicknesses of coatings are ordinary modifications of the process.

c. Pack Cementation is a surface modification coating or overlay coating process wherein a substrate is immersed in a powder mixture (a pack), that consists of:

1. The metallic powders that are to be deposited (usually aluminum, chromium, silicon or combinations thereof);

2. An activator (normally a halide salt); and

3. An inert powder, most frequently alumina.

Note: *The substrate and powder mixture is contained within a retort which is heated to between 1,030 K (757°C) to 1,375 K (1,102°C) for sufficient time to deposit the coating.*

d. Plasma Spraying is an overlay coating process wherein a gun (spray torch) which produces and controls a plasma accepts powder or wire coating materials, melts them and propels them towards a substrate, whereon an integrally bonded coating is formed. Plasma spraying constitutes either low pressure plasma spraying or high velocity plasma spraying.

Note 1: *Low pressure means less than ambient atmospheric pressure.*

Note 2: *High velocity refers to nozzle-exit gas velocity exceeding 750 m/s calculated at 293 K (20°C) at 0.1 MPa.*

e. Slurry Deposition is a surface modification coating or overlay coating process wherein a metallic or ceramic powder with an organic binder is suspended in a liquid and is applied to a substrate by either spraying, dipping or painting, subsequent air or oven drying, and heat treatment to obtain the desired coating.

f. Sputter Deposition is an overlay coating process based on a momentum transfer phenomenon, wherein positive ions are accelerated by an electric field towards the surface of a target (coating material). The kinetic energy of the impacting ions is sufficient to cause target surface atoms to be released and deposited on an appropriately positioned substrate.

Note 1: *The Table refers only to triode, magnetron or reactive sputter deposition which is used to increase adhesion of the coating and rate of deposition and to radio frequency (RF) augmented sputter deposition used to permit vaporization of non-metallic coating materials.*

Note 2: *Low-energy ion beams (less than 5 keV) can be used to activate the deposition.*

g. Ion Implantation is a surface modification coating process in which the element to be alloyed is ionized, accelerated through a potential gradient and implanted into the surface region of the substrate. This includes processes in which ion implantation is performed simultaneously with electron beam physical vapor deposition or sputter deposition.

Accompanying Technical Information to Table on Deposition Techniques:

1. Technical information for pretreatments of the substrates listed in the Table, as follows:

a. Chemical stripping and cleaning bath cycle parameters, as follows:

1. Bath composition;

a. For the removal of old or defective coatings corrosion product or foreign deposits;

b. For preparation of virgin substrates;

2. Time in bath;

3. Temperature of bath;

4. Number and sequences of wash cycles;

b. Visual and macroscopic criteria for acceptance of the cleaned part;

c. Heat treatment cycle parameters, as follows:

1. Atmosphere parameters, as follows:

a. Composition of the atmosphere;

b. Pressure of the atmosphere;

2. Temperature for heat treatment;

3. Time of heat treatment;

d. Substrate surface preparation parameters, as follows:

1. Grit blasting parameters, as follows:

a. Grit composition;

b. Grit size and shape;

c. Grit velocity;

2. Time and sequence of cleaning cycle after grit blast;

3. Surface finish parameters;

4. Application of binders to promote adhesion;

e. Masking technique parameters, as follows:

1. Material of mask;

2. Location of mask;

2. Technical information for in situ quality assurance techniques for evaluation of the coating processes listed in the Table, as follows:

a. Atmosphere parameters, as follows:

1. Composition of the atmosphere;

2. Pressure of the atmosphere;

b. Time parameters;

c. Temperature parameters;

d. Thickness parameters;

e. Index of refraction parameters;

f. Control of composition;

3. Technical information for post deposition treatments of the coated substrates listed in the Table, as follows:

a. Shot peening parameters, as follows:

1. Shot composition;

2. Shot size;

3. Shot velocity;

b. Post shot peening cleaning parameters;

c. Heat treatment cycle parameters, as follows:

1. Atmosphere parameters, as follows:

a. Composition of the atmosphere;

b. Pressure of the atmosphere;

2. Time-temperature cycles;

d. Post heat treatment visual and macroscopic criteria for acceptance of the coated substrates;

4. Technical information for quality assurance techniques for the evaluation of the coated substrates listed in the Table, as follows:

a. Statistical sampling criteria;

b. Microscopic criteria for:

1. Magnification;

2. Coating thickness, uniformity;

3. Coating integrity;

4. Coating composition;

5. Coating and substrates bonding;

6. Microstructural uniformity.

c. Criteria for optical properties assessment (measured as a function of wavelength):

1. Reflectance;

2. Transmission;

3. Absorption;

4. Scatter;

5. Technical information and parameters related to specific coating and surface modification processes listed in the Table, as follows:

a. For Chemical Vapor Deposition (CVD):

1. Coating source composition and formulation;

2. Carrier gas composition;

3. Substrate temperature;

4. Time-temperature-pressure cycles;

5. Gas control and part manipulation;

b. For Thermal Evaporation-Physical Vapor Deposition (PVD):

1. Ingot or coating material source composition;

2. Substrate temperature;

3. Reactive gas composition;

4. Ingot feed rate or material vaporization rate;

5. Time-temperature-pressure cycles;

6. Beam and part manipulation;

7. ''Laser'' parameters, as follows:

a. Wave length;

b. Power density;

c. Pulse length;

d. Repetition ratio;

e. Source;

c. For Pack Cementation:

1. Pack composition and formulation;

2. Carrier gas composition;

3. Time-temperature-pressure cycles;

d. For Plasma Spraying:

1. Powder composition, preparation and size distributions;

2. Feed gas composition and parameters;

3. Substrate temperature;

4. Gun power parameters;

5. Spray distance;

6. Spray angle;

7. Cover gas composition, pressure and flow rates;

8. Gun control and part manipulation;

e. For Sputter Deposition:

1. Target composition and fabrication;

2. Geometrical positioning of part and target;

3. Reactive gas composition;

4. Electrical bias;

5. Time-temperature-pressure cycles;

6. Triode power;

7. Part manipulation;

f. For Ion Implantation:

1. Beam control and part manipulation;

2. Ion source design details;

3. Control techniques for ion beam and deposition rate parameters;

4. Time-temperature-pressure cycles.

g. For Ion Plating:

1. Beam control and part manipulation;

2. Ion source design details;

3. Control techniques for ion beam and deposition rate parameters;

4. Time-temperature-pressure cycles;

5. Coating material feed rate and vaporization rate;

6. Substrate temperature;

7. Substrate bias parameters.

* * * * *

3A001 Electronic items as follows (see List of Items Controlled).

Reason for Control: NS, RS, MT, NP, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to ''Monolithic Microwave Integrated Circuit'' (''MMIC'') amplifiers in 3A001.b.2 and discrete microwave transistors in 3A001.b.3, except those 3A001.b.2 and b.3 items being exported or reexported for use in civil telecommunications applications.	NS Column 1
NS applies to entire entry.	NS Column 2
RS applies ''Monolithic Microwave Integrated Circuit'' (''MMIC'') amplifiers in 3A001.b.2 and discrete microwave transistors in 3A001.b.3, except those 3A001.b.2 and b.3 items being exported or reexported for use in civil telecommunications applications.	RS Column 1
MT applies to 3A001.a.1.a when usable in ''missiles''; and to 3A001.a.5.a when ''designed or modified'' for military use, hermetically sealed and rated for operation in the temperature range from below −54 °C to above +125 °C.	MT Column 1
NP applies to pulse discharge capacitors in 3A001.e.2 and superconducting solenoidal electromagnets in 3A001.e.3 that meet or exceed the technical parameters in 3A201.a and 3A201.b, respectively.	NP Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements: See § 743.1 of the EAR for reporting requirements for exports under 3A001.b.2 or b.3 under License Exceptions, and Validated End-User authorizations.

License Requirements Note: *See § 744.17 of the EAR for additional license requirements for microprocessors having a processing speed of 5 GFLOPS or more and an arithmetic logic unit with an access width of 32 bit or more, including those incorporating ''information security'' functionality, and associated ''software'' and ''technology'' for the ''production'' or ''development'' of such microprocessors.*

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

LVS: N/A for MT or NP; N/A for ''Monolithic Microwave Integrated Circuit'' (''MMIC'') amplifiers in 3A001.b.2 and discrete microwave transistors in 3A001.b.3, except those that are being exported or reexported for use in civil telecommunications applications.

Yes for:

$1500: 3A001.c

$3000: 3A001.b.1, b.2 (exported or reexported for use in civil telecommunications applications), b.3 (exported or reexported for use in civil telecommunications applications), b.9, .d, .e, .f, and .g.

$5000: 3A001.a (except a.1.a and a.5.a when controlled for MT), .b.4 to b.7, and b.12.

GBS: Yes for 3A001.a.1.b, a.2 to a.14 (except .a.5.a when controlled for MT), b.2 (exported or reexported for use in civil telecommunications applications), b.8 (except for ''vacuum electronic devices'' exceeding 18 GHz), b.9., b.10, .g, and .h, and .i.

Special Conditions for STA

STA: License Exception STA may not be used to ship any item in 3A001.b.2 or b.3, except those that are being exported or reexported for use in civil telecommunications applications, to any of the destinations listed in Country Group A:5 or A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See Category XV of the USML for certain ''space-qualified'' electronics and Category XI of the USML for certain ASICs, 'transmit/receive modules,' or 'transmit modules' ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) See also 3A101, 3A201, 3A611, 3A991, and 9A515.

Related Definitions: 'Microcircuit' means a device in which a number of passive or active elements are considered as indivisibly associated on or within a continuous structure to perform the function of a circuit. For the purposes of integrated circuits in 3A001.a.1, 5×10^3 Gy(Si) = 5×10^5 Rads (Si); 5×10^6 Gy (Si)/s = 5×10^8 Rads (Si)/s.

Items:

a. General purpose integrated circuits, as follows:

Note 1: *Integrated circuits include the following types:*

—''*Monolithic integrated circuits*'';
—''*Hybrid integrated circuits*'';
—''*Multichip integrated circuits*'';
—*Film type integrated circuits, including silicon-on-sapphire integrated circuits*'';
—''*Optical integrated circuits*'';
—''*Three dimensional integrated circuits*'';
—''*Monolithic Microwave Integrated Circuits*'' (''*MMICs*'').

a.1. Integrated circuits designed or rated as radiation hardened to withstand any of the following:

a.1.a. A total dose of 5×10^3 Gy (Si), or higher;

a.1.b. A dose rate upset of 5×10^6 Gy (Si)/s, or higher; *or*

a.1.c. A fluence (integrated flux) of neutrons (1 MeV equivalent) of 5×10^{13} n/cm^2 or higher on silicon, or its equivalent for other materials;

Note: *3A001.a.1.c does not apply to Metal Insulator Semiconductors (MIS).*

a.2. ''Microprocessor microcircuits,'' ''microcomputer microcircuits,'' microcontroller microcircuits, storage integrated circuits manufactured from a compound semiconductor, analog-to-digital converters, integrated circuits that contain analog-to-digital converters and store or process the digitized data, digital-to-analog converters, electro-optical or ''optical integrated circuits'' designed for ''signal processing'', field programmable logic devices, custom integrated circuits for which either the function is unknown or the control status of the equipment in which the integrated circuit will be used in unknown, Fast Fourier Transform (FFT) processors, Static Random-Access Memories (SRAMs), or 'non-volatile memories,' having any of the following:

Technical Note: *For the purposes of 3A001.a.2, 'non-volatile memories' are*

memories with data retention over a period of time after a power shutdown.

a.2.a. Rated for operation at an ambient temperature above 398 K (+125 °C);

a.2.b. Rated for operation at an ambient temperature below 218 K (−55 °C); *or*

a.2.c. Rated for operation over the entire ambient temperature range from 218 K (−55 °C) to 398 K (+125 °C);

Note: *3A001.a.2 does not apply to integrated circuits designed for civil automobile or railway train applications.*

a.3. ''Microprocessor microcircuits'', ''microcomputer microcircuits'' and microcontroller microcircuits, manufactured from a compound semiconductor and operating at a clock frequency exceeding 40 MHz;

Note: *3A001.a.3 includes digital signal processors, digital array processors and digital coprocessors.*

a.4. [Reserved]

a.5. Analog-to-Digital Converter (ADC) and Digital-to-Analog Converter (DAC) integrated circuits, as follows:

a.5.a. ADCs having any of the following:

a.5.a.1. A resolution of 8 bit or more, but less than 10 bit, with a ''sample rate'' greater than 1.3 Giga Samples Per Second (GSPS);

a.5.a.2. A resolution of 10 bit or more, but less than 12 bit, with a ''sample rate'' greater than 600 Mega Samples Per Second (MSPS);

a.5.a.3. A resolution of 12 bit or more, but less than 14 bit, with a ''sample rate'' greater than 400 MSPS;

a.5.a.4. A resolution of 14 bit or more, but less than 16 bit, with a ''sample rate'' greater than 250 MSPS; *or*

a.5.a.5. A resolution of 16 bit or more with a ''sample rate'' greater than 65 MSPS;

N.B.: *For integrated circuits that contain analog-to-digital converters and store or process the digitized data see 3A001.a.14.*

Technical Notes: *For the purposes of 3A001.a.5.a:*

1. *A resolution of n bit corresponds to a quantization of* 2^n *levels.*

2. *The resolution of the ADC is the number of bits of the digital output that represents the measured analog input. Effective Number of Bits (ENOB) is not used to determine the resolution of the ADC.*

3. *For ''multiple channel ADCs'', the ''sample rate'' is not aggregated and the ''sample rate'' is the maximum rate of any single channel.*

4. *For ''interleaved ADCs'' or for ''multiple channel ADCs'' that are specified to have an interleaved mode of operation, the ''sample rates'' are aggregated and the ''sample rate'' is the maximum combined total rate of all of the interleaved channels.*

a.5.b. Digital-to-Analog Converters (DAC) having any of the following:

a.5.b.1. A resolution of 10-bit or more but less than 12-bit,with an 'adjusted update rate' of exceeding 3,500 MSPS; *or*

a.5.b.2. A resolution of 12-bit or more and having any of the following:

a.5.b.2.a. An 'adjusted update rate' exceeding 1,250 MSPS but not exceeding 3,500 MSPS, and having any of the following:

a.5.b.2.a.1. A settling time less than 9 ns to arrive at or within 0.024% of full scale from a full scale step; *or*

a.5.b.2.a.2. A 'Spurious Free Dynamic Range' (SFDR) greater than 68 dBc (carrier) when synthesizing a full scale analog signal of 100 MHz or the highest full scale analog signal frequency specified below 100 MHz; *or*

a.5.b.2.b. An 'adjusted update rate' exceeding 3,500 MSPS;

Technical Notes: *For the purposes of 3A001.a.5.b:*

1. *'Spurious Free Dynamic Range' (SFDR) is defined as the ratio of the RMS value of the carrier frequency (maximum signal component) at the input of the DAC to the RMS value of the next largest noise or harmonic distortion component at its output.*

2. *SFDR is determined directly from the specification table or from the characterization plots of SFDR versus frequency.*

3. *A signal is defined to be full scale when its amplitude is greater than −3 dBfs (full scale).*

4. *'Adjusted update rate' for DACs is:*

a. *For conventional (non-interpolating) DACs, the 'adjusted update rate' is the rate at which the digital signal is converted to an analog signal and the output analog values are changed by the DAC. For DACs where the interpolation mode may be bypassed (interpolation factor of one), the DAC should be considered as a conventional (non-interpolating) DAC.*

b. *For interpolating DACs (oversampling DACs), the 'adjusted update rate' is defined as the DAC update rate divided by the smallest interpolating factor. For interpolating DACs, the 'adjusted update rate' may be referred to by different terms including:*

- input data rate
- input word rate
- input sample rate
- maximum total input bus rate
- maximum DAC clock rate for DAC clock input.

a.6. Electro-optical and ''optical integrated circuits'', designed for ''signal processing'' and having all of the following:

a.6.a. One or more than one internal ''laser'' diode;

a.6.b. One or more than one internal light detecting element; *and*

a.6.c. Optical waveguides;

a.7. 'Field programmable logic devices' having any of the following:

a.7.a. A maximum number of single-ended digital input/outputs of greater than 700; *or*

a.7.b. An 'aggregate one-way peak serial transceiver data rate' of 500 Gb/s or greater;

Note: *3A001.a.7 includes:*

—Complex Programmable Logic Devices (CPLDs);
—Field Programmable Gate Arrays (FPGAs);
—Field Programmable Logic Arrays (FPLAs);
—Field Programmable Interconnects (FPICs).

N.B.: *For integrated circuits having field programmable logic devices that are combined with an analog-to-digital converter, see 3A001.a.14.*

Technical Notes: *For the purposes of 3A001.a.7:*

1. *Maximum number of digital input/outputs in 3A001.a.7.a is also referred to as maximum user input/outputs or maximum available input/outputs, whether the integrated circuit is packaged or bare die.*

2. *'Aggregate one-way peak serial transceiver data rate' is the product of the peak serial one-way transceiver data rate times the number of transceivers on the FPGA.*

a.8. [Reserved]

a.9. Neural network integrated circuits;

a.10. Custom integrated circuits for which the function is unknown, or the control status of the equipment in which the integrated circuits will be used is unknown to the manufacturer, having any of the following:

a.10.a. More than 1,500 terminals;

a.10.b. A typical ''basic gate propagation delay time'' of less than 0.02 ns; *or*

a.10.c. An operating frequency exceeding 3 GHz;

a.11. Digital integrated circuits, other than those described in 3A001.a.3 to 3A001.a.10 and 3A001.a.12, based upon any compound semiconductor and having any of the following:

a.11.a. An equivalent gate count of more than 3,000 (2 input gates); *or*

a.11.b. A toggle frequency exceeding 1.2 GHz;

a.12. Fast Fourier Transform (FFT) processors having a rated execution time for an N-point complex FFT of less than ($N \log_2 N$)/20,480 ms, where N is the number of points;

Technical Note: *For the purposes of 3A001.a.12, when N is equal to 1,024 points, the formula in 3A001.a.12 gives an execution time of 500* μ*s.*

a.13. Direct Digital Synthesizer (DDS) integrated circuits having any of the following:

a.13.a. A Digital-to-Analog Converter (DAC) clock frequency of 3.5 GHz or more and a DAC resolution of 10 bit or more, but less than 12 bit; *or*

a.13.b. A DAC clock frequency of 1.25 GHz or more and a DAC resolution of 12 bit or more;

Technical Note: *For the purposes of 3A001.a.13, the DAC clock frequency may be specified as the master clock frequency or the input clock frequency.*

a.14. Integrated circuits that perform or are programmable to perform all of the following:

a.14.a. Analog-to-digital conversions meeting any of the following:

a.14.a.1. A resolution of 8 bit or more, but less than 10 bit, with a ''sample rate'' greater than 1.3 Giga Samples Per Second (GSPS);

a.14.a.2. A resolution of 10 bit or more, but less than 12 bit, with a ''sample rate'' greater than 1.0 GSPS;

a.14.a.3. A resolution of 12 bit or more, but less than 14 bit, with a ''sample rate'' greater than 1.0 GSPS;

a.14.a.4. A resolution of 14 bit or more, but less than 16 bit, with a ''sample rate'' greater than 400 Mega Samples Per Second (MSPS); *or*

a.14.a.5. A resolution of 16 bit or more with a ''sample rate'' greater than 180 MSPS; *and*

a.14.b. Any of the following:

a.14.b.1. Storage of digitized data; *or*

a.14.b.2. Processing of digitized data;

N.B. 1: *For analog-to-digital converter integrated circuits see 3A001.a.5.a.*

N.B. 2: *For field programmable logic devices see 3A001.a.7.*

Technical Notes: *For the purposes of 3A001.a.14:*

1. *A resolution of n bit corresponds to a quantization of 2^n levels.*

2. *The resolution of the ADC is the number of bits of the digital output of the ADC that represents the measured analog input. Effective Number of Bits (ENOB) is not used to determine the resolution of the ADC.*

3. *For integrated circuits with non-interleaving ''multiple channel ADCs'', the ''sample rate'' is not aggregated and the ''sample rate'' is the maximum rate of any single channel.*

4. *For integrated circuits with ''interleaved ADCs'' or with ''multiple channel ADCs'' that are specified to have an interleaved mode of operation, the ''sample rates'' are aggregated and the ''sample rate'' is the maximum combined total rate of all of the interleaved channels.*

b. Microwave or millimeter wave items, as follows:

Technical Note: *For the purposes of 3A001.b, the parameter peak saturated power output may also be referred to on product data sheets as output power, saturated power output, maximum power output, peak power output, or peak envelope power output.*

b.1. ''Vacuum electronic devices'' and cathodes, as follows:

Note 1: *3A001.b.1 does not control ''vacuum electronic devices'' designed or rated for operation in any frequency band and having all of the following:*

a. *Does not exceed 31.8 GHz; and*

b. *Is ''allocated by the ITU'' for radio-communications services, but not for radio-determination.*

Note 2: *3A001.b.1 does not control non-''space-qualified'' ''vacuum electronic devices'' having all the following:*

a. *An average output power equal to or less than 50 W; and*

b. *Designed or rated for operation in any frequency band and having all of the following:*

1. *Exceeds 31.8 GHz but does not exceed 43.5 GHz; and*

2. *Is ''allocated by the ITU'' for radio-communications services, but not for radio-determination.*

b.1.a. Traveling-wave ''vacuum electronic devices,'' pulsed or continuous wave, as follows:

b.1.a.1. Devices operating at frequencies exceeding 31.8 GHz;

b.1.a.2. Devices having a cathode heater with a turn on time to rated RF power of less than 3 seconds;

b.1.a.3. Coupled cavity devices, or derivatives thereof, with a ''fractional bandwidth'' of more than 7% or a peak power exceeding 2.5 kW;

b.1.a.4. Devices based on helix, folded waveguide, or serpentine waveguide circuits, or derivatives thereof, having any of the following:

b.1.a.4.a. An ''instantaneous bandwidth'' of more than one octave, and average power (expressed in kW) times frequency (expressed in GHz) of more than 0.5;

b.1.a.4.b. An ''instantaneous bandwidth'' of one octave or less, and average power (expressed in kW) times frequency (expressed in GHz) of more than 1;

b.1.a.4.c. Being ''space-qualified''; *or*

b.1.a.4.d. Having a gridded electron gun;

b.1.a.5. Devices with a ''fractional bandwidth'' greater than or equal to 10%, with any of the following:

b.1.a.5.a. An annular electron beam;

b.1.a.5.b. A non-axisymmetric electron beam; *or*

b.1.a.5.c. Multiple electron beams;

b.1.b. Crossed-field amplifier ''vacuum electronic devices'' with a gain of more than 17 dB;

b.1.c. Thermionic cathodes, designed for ''vacuum electronic devices,'' producing an emission current density at rated operating conditions exceeding 5 A/cm² or a pulsed (non-continuous) current density at rated operating conditions exceeding 10 A/cm²;

b.1.d. ''Vacuum electronic devices'' with the capability to operate in a 'dual mode.'

Technical Note: *For the purposes of 3A001.b.1.d, 'dual mode' means the ''vacuum electronic device'' beam current can be intentionally changed between continuous-wave and pulsed mode operation by use of a grid and produces a peak pulse output power greater than the continuous-wave output power.*

b.2. ''Monolithic Microwave Integrated Circuit'' (''MMIC'') amplifiers that are any of the following:

N.B.: *For ''MMIC'' amplifiers that have an integrated phase shifter see 3A001.b.12.*

b.2.a. Rated for operation at frequencies exceeding 2.7 GHz up to and including 6.8 GHz with a ''fractional bandwidth'' greater than 15%, and having any of the following:

b.2.a.1. A peak saturated power output greater than 75 W (48.75 dBm) at any frequency exceeding 2.7 GHz up to and including 2.9 GHz;

b.2.a.2. A peak saturated power output greater than 55 W (47.4 dBm) at any frequency exceeding 2.9 GHz up to and including 3.2 GHz;

b.2.a.3. A peak saturated power output greater than 40 W (46 dBm) at any frequency exceeding 3.2 GHz up to and including 3.7 GHz; *or*

b.2.a.4. A peak saturated power output greater than 20 W (43 dBm) at any frequency exceeding 3.7 GHz up to and including 6.8 GHz;

b.2.b. Rated for operation at frequencies exceeding 6.8 GHz up to and including 16 GHz with a ''fractional bandwidth'' greater than 10%, and having any of the following:

b.2.b.1. A peak saturated power output greater than 10 W (40 dBm) at any frequency exceeding 6.8 GHz up to and including 8.5 GHz; *or*

b.2.b.2. A peak saturated power output greater than 5 W (37 dBm) at any frequency exceeding 8.5 GHz up to and including 16 GHz;

b.2.c. Rated for operation with a peak saturated power output greater than 3 W (34.77 dBm) at any frequency exceeding 16 GHz up to and including 31.8 GHz, and with a ''fractional bandwidth'' of greater than 10%;

b.2.d. Rated for operation with a peak saturated power output greater than 0.1 nW (−70 dBm) at any frequency exceeding 31.8 GHz up to and including 37 GHz;

b.2.e. Rated for operation with a peak saturated power output greater than 1 W (30 dBm) at any frequency exceeding 37 GHz up to and including 43.5 GHz, and with a ''fractional bandwidth'' of greater than 10%;

b.2.f. Rated for operation with a peak saturated power output greater than 31.62 mW (15 dBm) at any frequency exceeding 43.5 GHz up to and including 75 GHz, and with a ''fractional bandwidth'' of greater than 10%;

b.2.g. Rated for operation with a peak saturated power output greater than 10 mW (10 dBm) at any frequency exceeding 75 GHz up to and including 90 GHz, and with a ''fractional bandwidth'' of greater than 5%; *or*

b.2.h. Rated for operation with a peak saturated power output greater than 0.1 nW (−70 dBm) at any frequency exceeding 90 GHz;

Note 1: *[Reserved]*

Note 2: *The control status of the ''MMIC'' whose rated operating frequency includes frequencies listed in more than one frequency range, as defined by 3A001.b.2.a through 3A001.b.2.h, is determined by the lowest peak saturated power output control threshold.*

Note 3: *Notes 1 and 2 following the Category 3 heading for product group A. Systems, Equipment, and Components mean that 3A001.b.2 does not control ''MMICs'' if they are ''specially designed'' for other applications, e.g., telecommunications, radar, automobiles.*

b.3. Discrete microwave transistors that are any of the following:

b.3.a. Rated for operation at frequencies exceeding 2.7 GHz up to and including 6.8 GHz and having any of the following:

b.3.a.1. A peak saturated power output greater than 400 W (56 dBm) at any frequency exceeding 2.7 GHz up to and including 2.9 GHz;

b.3.a.2. A peak saturated power output greater than 205 W (53.12 dBm) at any frequency exceeding 2.9 GHz up to and including 3.2 GHz;

b.3.a.3. A peak saturated power output greater than 115 W (50.61 dBm) at any frequency exceeding 3.2 GHz up to and including 3.7 GHz; *or*

b.3.a.4. A peak saturated power output greater than 60 W (47.78 dBm) at any frequency exceeding 3.7 GHz up to and including 6.8 GHz;

b.3.b. Rated for operation at frequencies exceeding 6.8 GHz up to and including 31.8 GHz and having any of the following:

b.3.b.1. A peak saturated power output greater than 50 W (47 dBm) at any frequency exceeding 6.8 GHz up to and including 8.5 GHz;

b.3.b.2. A peak saturated power output greater than 15 W (41.76 dBm) at any frequency exceeding 8.5 GHz up to and including 12 GHz;

b.3.b.3. A peak saturated power output greater than 40 W (46 dBm) at any frequency exceeding 12 GHz up to and including 16 GHz; *or*

b.3.b.4. A peak saturated power output greater than 7 W (38.45 dBm) at any frequency exceeding 16 GHz up to and including 31.8 GHz;

b.3.c. Rated for operation with a peak saturated power output greater than 0.5 W (27 dBm) at any frequency exceeding 31.8 GHz up to and including 37 GHz;

b.3.d. Rated for operation with a peak saturated power output greater than 1 W (30 dBm) at any frequency exceeding 37 GHz up to and including 43.5 GHz;

b.3.e. Rated for operation with a peak saturated power output greater than 0.1 nW (−70 dBm) at any frequency exceeding 43.5 GHz; *or*

b.3.f. Other than those specified by 3A001.b.3.a to 3A001.b.3.e and rated for operation with a peak saturated power output greater than 5 W (37.0 dBm) at all frequencies exceeding 8.5 GHz up to and including 31.8 GHz;

Note 1: *The control status of a transistor in 3A001.b.3.a through 3A001.b.3.e, whose rated operating frequency includes frequencies listed in more than one frequency range, as defined by 3A001.b.3.a through 3A001.b.3.e, is determined by the lowest peak saturated power output control threshold.*

Note 2: *3A001.b.3 includes bare dice, dice mounted on carriers, or dice mounted in packages. Some discrete transistors may also be referred to as power amplifiers, but the status of these discrete transistors is determined by 3A001.b.3.*

b.4. Microwave solid state amplifiers and microwave assemblies/modules containing microwave solid state amplifiers, that are any of the following:

b.4.a. Rated for operation at frequencies exceeding 2.7 GHz up to and including 6.8 GHz with a ''fractional bandwidth'' greater than 15%, and having any of the following:

b.4.a.1. A peak saturated power output greater than 500 W (57 dBm) at any frequency exceeding 2.7 GHz up to and including 2.9 GHz;

b.4.a.2. A peak saturated power output greater than 270 W (54.3 dBm) at any frequency exceeding 2.9 GHz up to and including 3.2 GHz;

b.4.a.3. A peak saturated power output greater than 200 W (53 dBm) at any frequency exceeding 3.2 GHz up to and including 3.7 GHz; *or*

b.4.a.4. A peak saturated power output greater than 90 W (49.54 dBm) at any frequency exceeding 3.7 GHz up to and including 6.8 GHz;

b.4.b. Rated for operation at frequencies exceeding 6.8 GHz up to and including 31.8 GHz with a ''fractional bandwidth'' greater than 10%, and having any of the following:

b.4.b.1. A peak saturated power output greater than 70 W (48.45 dBm) at any frequency exceeding 6.8 GHz up to and including 8.5 GHz;

b.4.b.2. A peak saturated power output greater than 50 W (47 dBm) at any frequency exceeding 8.5 GHz up to and including 12 GHz;

b.4.b.3. A peak saturated power output greater than 30 W (44.77 dBm) at any frequency exceeding 12 GHz up to and including 16 GHz; *or*

b.4.b.4. A peak saturated power output greater than 20 W (43 dBm) at any frequency exceeding 16 GHz up to and including 31.8 GHz;

b.4.c. Rated for operation with a peak saturated power output greater than 0.5 W (27 dBm) at any frequency exceeding 31.8 GHz up to and including 37 GHz;

b.4.d. Rated for operation with a peak saturated power output greater than 2 W (33 dBm) at any frequency exceeding 37 GHz up to and including 43.5 GHz, and with a ''fractional bandwidth'' of greater than 10%;

b.4.e. Rated for operation at frequencies exceeding 43.5 GHz and having any of the following:

b.4.e.1. A peak saturated power output greater than 0.2 W (23 dBm) at any frequency exceeding 43.5 GHz up to and including 75 GHz, and with a ''fractional bandwidth'' of greater than 10%;

b.4.e.2. A peak saturated power output greater than 20 mW (13 dBm) at any frequency exceeding 75 GHz up to and including 90 GHz, and with a ''fractional bandwidth'' of greater than 5%; *or*

b.4.e.3. A peak saturated power output greater than 0.1 nW (−70 dBm) at any frequency exceeding 90 GHz; *or*

b.4.f. [Reserved]

N.B.:

1. *For ''MMIC'' amplifiers see 3A001.b.2.*

2. *For 'transmit/receive modules' and 'transmit modules' see 3A001.b.12.*

3. *For converters and harmonic mixers, designed to extend the operating or frequency range of signal analyzers, signal generators, network analyzers or microwave test receivers, see 3A001.b.7.*

Note 1: *[Reserved]*

Note 2: *The control status of an item whose rated operating frequency includes frequencies listed in more than one frequency range, as defined by 3A001.b.4.a through 3A001.b.4.e, is determined by the lowest peak saturated power output control threshold.*

b.5. Electronically or magnetically tunable band-pass or band-stop filters, having more than 5 tunable resonators capable of tuning across a 1.5:1 frequency band (f_{max}/f_{min}) in less than 10 μs and having any of the following:

b.5.a. A band-pass bandwidth of more than 0.5% of center frequency; *or*

b.5.b. A band-stop bandwidth of less than 0.5% of center frequency;

b.6. [Reserved]

b.7. Converters and harmonic mixers, that are any of the following:

b.7.a. Designed to extend the frequency range of ''signal analyzers'' beyond 90 GHz;

b.7.b. Designed to extend the operating range of signal generators as follows:

b.7.b.1. Beyond 90 GHz;

b.7.b.2. To an output power greater than 100 mW (20 dBm) anywhere within the frequency range exceeding 43.5 GHz but not exceeding 90 GHz;

b.7.c. Designed to extend the operating range of network analyzers as follows:

b.7.c.1. Beyond 110 GHz;

b.7.c.2. To an output power greater than 31.62 mW (15 dBm) anywhere within the frequency range exceeding 43.5 GHz but not exceeding 90 GHz;

b.7.c.3. To an output power greater than 1 mW (0 dBm) anywhere within the frequency range exceeding 90 GHz but not exceeding 110 GHz; *or*

b.7.d. Designed to extend the frequency range of microwave test receivers beyond 110 GHz;

b.8. Microwave power amplifiers containing ''vacuum electronic devices'' controlled by 3A001.b.1 and having all of the following:

b.8.a. Operating frequencies above 3 GHz;

b.8.b. An average output power to mass ratio exceeding 80 W/kg; *and*

b.8.c. A volume of less than 400 cm^3;

Note: *3A001.b.8 does not control equipment designed or rated for operation in any frequency band which is ''allocated by the ITU'' for radio-communications services, but not for radio-determination.*

b.9. Microwave Power Modules (MPM) consisting of, at least, a traveling-wave ''vacuum electronic device,'' a ''Monolithic Microwave Integrated Circuit'' (''MMIC'') and an integrated electronic power conditioner and having all of the following:

b.9.a. A 'turn-on time' from off to fully operational in less than 10 seconds;

b.9.b. A volume less than the maximum rated power in Watts multiplied by 10 cm^3/W; *and*

b.9.c. An ''instantaneous bandwidth'' greater than 1 octave ($f_{max} > 2f_{min}$) and having any of the following:

b.9.c.1. For frequencies equal to or less than 18 GHz, an RF output power greater than 100 W; *or*

b.9.c.2. A frequency greater than 18 GHz;

Technical Notes: *For the purposes of 3A001.b.9:*

1. *To calculate the volume in 3A001.b.9.b, the following example is provided: for a maximum rated power of 20 W, the volume would be: 20 W X 10 cm^3/W = 200 cm^3.*

2. *The 'turn-on time' in 3A001.b.9.a refers to the time from fully-off to fully operational, i.e., it includes the warm-up time of the MPM.*

b.10. Oscillators or oscillator assemblies, specified to operate with a single sideband (SSB) phase noise, in dBc/Hz, less (better) than $-(126 + 20\log_{10}F - 20\log_{10}f)$ anywhere within the range of 10 Hz ≤ F ≤ 10 kHz;

Technical Note: *For the purposes of 3A001.b.10, F is the offset from the operating frequency in Hz and f is the operating frequency in MHz.*

b.11. 'Frequency synthesizer' ''electronic assemblies'' having a ''frequency switching time'' as specified by any of the following:

b.11.a. Less than 143 ps;

b.11.b. Less than 100 μs for any frequency change exceeding 2.2 GHz within the synthesized frequency range exceeding 4.8 GHz but not exceeding 31.8 GHz;

b.11.c. [Reserved]

b.11.d. Less than 500 μs for any frequency change exceeding 550 MHz within the synthesized frequency range exceeding 31.8 GHz but not exceeding 37 GHz;

b.11.e. Less than 100 μs for any frequency change exceeding 2.2 GHz within the synthesized frequency range exceeding 37 GHz but not exceeding 75 GHz;

b.11.f. Less than 100 μs for any frequency change exceeding 5.0 GHz within the synthesized frequency range exceeding 75 GHz but not exceeding 90 GHz; *or*

b.11.g. Less than 1 ms within the synthesized frequency range exceeding 90 GHz;

Technical Note: *For the purposes of 3A001.b.11, a 'frequency synthesizer' is any kind of frequency source, regardless of the actual technique used, providing a*

multiplicity of simultaneous or alternative output frequencies, from one or more outputs, controlled by, derived from or disciplined by a lesser number of standard (or master) frequencies.

N.B.: *For general purpose ''signal analyzers'', signal generators, network analyzers and microwave test receivers, see 3A002.c, 3A002.d, 3A002.e and 3A002.f, respectively.*

b.12. 'Transmit/receive modules,' 'transmit/receive MMICs,' 'transmit modules,' and 'transmit MMICs,' rated for operation at frequencies above 2.7 GHz and having all of the following:

b.12.a. A peak saturated power output (in watts), P_{sat}, greater than 505.62 divided by the maximum operating frequency (in GHz) squared [P_{sat}>505.62 W*GHz^2/f_{GHz}^2] for any channel;

b.12.b. A ''fractional bandwidth'' of 5% or greater for any channel;

b.12.c. Any planar side with length d (in cm) equal to or less than 15 divided by the lowest operating frequency in GHz [d ≤ 15cm*GHz*N/f_{GHz}] where N is the number of transmit or transmit/receive channels; *and*

b.12.d. An electronically variable phase shifter per channel.

Technical Notes: *For the purposes of 3A001.b.12:*

1. *A 'transmit/receive module' is a multifunction ''electronic assembly'' that provides bi-directional amplitude and phase control for transmission and reception of signals.*

2. *A 'transmit module' is an ''electronic assembly'' that provides amplitude and phase control for transmission of signals.*

3. *A 'transmit/receive MMIC' is a multifunction ''MMIC'' that provides bi-directional amplitude and phase control for transmission and reception of signals.*

4. *A 'transmit MMIC' is a ''MMIC'' that provides amplitude and phase control for transmission of signals.*

5. *2.7 GHz should be used as the lowest operating frequency (f_{GHz}) in the formula in 3A001.b.12.c for transmit/receive or transmit modules that have a rated operation range extending downward to 2.7 GHz and below [d≤15cm*GHz*N/2.7 GHz].*

6. *3A001.b.12 applies to 'transmit/receive modules' or 'transmit modules' with or without a heat sink. The value of d in 3A001.b.12.c does not include any portion of the 'transmit/receive module' or 'transmit module' that functions as a heat sink.*

7. *'Transmit/receive modules' or 'transmit modules,' 'transmit/receive MMICs' or 'transmit MMICs' may or may not have N integrated radiating antenna elements where N is the number of transmit or transmit/receive channels.*

c. Acoustic wave devices as follows and ''specially designed'' ''components'' therefor:

c.1. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices, having any of the following:

c.1.a. A carrier frequency exceeding 6 GHz;

c.1.b. A carrier frequency exceeding 1 GHz, but not exceeding 6 GHz and having any of the following:

c.1.b.1. A 'frequency side-lobe rejection' exceeding 65 dB;

c.1.b.2. A product of the maximum delay time and the bandwidth (time in μs and bandwidth in MHz) of more than 100;

c.1.b.3. A bandwidth greater than 250 MHz; *or*

c.1.b.4. A dispersive delay of more than 10 μs; *or*

c.1.c. A carrier frequency of 1 GHz or less and having any of the following:

c.1.c.1. A product of the maximum delay time and the bandwidth (time in μs and bandwidth in MHz) of more than 100;

c.1.c.2. A dispersive delay of more than 10 μs; *or*

c.1.c.3. A 'frequency side-lobe rejection' exceeding 65 dB and a bandwidth greater than 100 MHz;

Technical Note: *For the purposes of 3A001.c.1, 'frequency side-lobe rejection' is the maximum rejection value specified in data sheet.*

c.2. Bulk (volume) acoustic wave devices that permit the direct processing of signals at frequencies exceeding 6 GHz;

c.3. Acoustic-optic ''signal processing'' devices employing interaction between acoustic waves (bulk wave or surface wave) and light waves that permit the direct processing of signals or images, including spectral analysis, correlation or convolution;

Note: *3A001.c does not control acoustic wave devices that are limited to a single band pass, low pass, high pass or notch filtering, or resonating function.*

d. Electronic devices and circuits containing ''components,'' manufactured from ''superconductive'' materials, ''specially designed'' for operation at temperatures below the ''critical temperature'' of at least one of the ''superconductive'' constituents and having any of the following:

d.1. Current switching for digital circuits using ''superconductive'' gates with a product of delay time per gate (in seconds) and power dissipation per gate (in watts) of less than 10^{-14} J; *or*

d.2. Frequency selection at all frequencies using resonant circuits with Q-values exceeding 10,000;

e. High energy devices as follows:

e.1. 'Cells' as follows:

e.1.a 'Primary cells' having any of the following at 20°C:

e.1.a.1. 'Energy density' exceeding 550 Wh/kg and a 'continuous power density' exceeding 50 W/kg; *or*

e.1.a.2. 'Energy density' exceeding 50 Wh/kg and a 'continuous power density' exceeding 350 W/kg;

e.1.b. 'Secondary cells' having an 'energy density' exceeding 350 Wh/kg at 20°C;

Technical Notes:

1. *For the purposes of 3A001.e.1, 'energy density' (Wh/kg) is calculated from the nominal voltage multiplied by the nominal capacity in ampere-hours (Ah) divided by the mass in kilograms. If the nominal capacity is not stated, energy density is calculated from the nominal voltage squared then multiplied by the discharge duration in hours divided by the discharge load in Ohms and the mass in kilograms.*

2. *For the purposes of 3A001.e.1, a 'cell' is defined as an electrochemical device, which has positive and negative electrodes, an electrolyte, and is a source of electrical energy. It is the basic building block of a battery.*

3. *For the purposes of 3A001.e.1.a, a 'primary cell' is a 'cell' that is not designed to be charged by any other source.*

4. *For the purposes of 3A001.e.1.b, a 'secondary cell' is a 'cell' that is designed to be charged by an external electrical source.*

5. *For the purposes of 3A001.e.1.a, 'continuous power density' (W/kg) is calculated from the nominal voltage multiplied by the specified maximum continuous discharge current in amperes (A) divided by the mass in kilograms. 'Continuous power density' is also referred to as specific power.*

Note: *3A001.e does not control batteries, including single-cell batteries.*

e.2. High energy storage capacitors as follows:

e.2.a. Capacitors with a repetition rate of less than 10 Hz (single shot capacitors) and having all of the following:

e.2.a.1. A voltage rating equal to or more than 5 kV;

e.2.a.2. An energy density equal to or more than 250 J/kg; *and*

e.2.a.3. A total energy equal to or more than 25 kJ;

e.2.b. Capacitors with a repetition rate of 10 Hz or more (repetition rated capacitors) and having all of the following:

e.2.b.1. A voltage rating equal to or more than 5 kV;

e.2.b.2. An energy density equal to or more than 50 J/kg;

e.2.b.3. A total energy equal to or more than 100 J; *and*

e.2.b.4. A charge/discharge cycle life equal to or more than 10,000;

e.3. ''Superconductive'' electromagnets and solenoids, ''specially designed'' to be fully charged or discharged in less than one second and having all of the following:

Note: *3A001.e.3 does not control ''superconductive'' electromagnets or solenoids ''specially designed'' for Magnetic Resonance Imaging (MRI) medical equipment.*

e.3.a. Energy delivered during the discharge exceeding 10 kJ in the first second;

e.3.b. Inner diameter of the current carrying windings of more than 250 mm; *and*

e.3.c. Rated for a magnetic induction of more than 8 T or ''overall current density'' in the winding of more than 300 A/mm^2;

e.4. Solar cells, cell-interconnect-coverglass (CIC) assemblies, solar panels, and solar arrays, which are ''space-qualified,'' having a minimum average efficiency exceeding 20% at an operating temperature of 301 K (28 °C) under simulated 'AM0' illumination with an irradiance of 1,367 Watts per square meter (W/m^2);

Technical Note: *For the purposes of 3A001.e.4, 'AM0', or 'Air Mass Zero', refers to the spectral irradiance of sun light in the earth's outer atmosphere when the distance between the earth and sun is one astronomical unit (AU).*

f. Rotary input type absolute position encoders having an ''accuracy'' equal to or less (better) than 1.0 second of arc and ''specially designed'' encoder rings, discs or scales therefor;

g. Solid-state pulsed power switching thyristor devices and 'thyristor modules',

using either electrically, optically, or electron radiation controlled switch methods and having any of the following:

g.1. A maximum turn-on current rate of rise (di/dt) greater than 30,000 A/µs and off-state voltage greater than 1,100 V; *or*

g.2. A maximum turn-on current rate of rise (di/dt) greater than 2,000 A/µs and having all of the following:

g.2.a. An off-state peak voltage equal to or greater than 3,000 V; *and*

g.2.b. A peak (surge) current equal to or greater than 3,000 A;

Note 1: *3A001.g. includes:*

—Silicon Controlled Rectifiers (SCRs)
—Electrical Triggering Thyristors (ETTs)
—Light Triggering Thyristors (LTTs)
—Integrated Gate Commutated Thyristors (IGCTs)
—Gate Turn-off Thyristors (GTOs)
—MOS Controlled Thyristors (MCTs)
—Solidtrons

Note 2: *3A001.g does not control thyristor devices and 'thyristor modules' incorporated into equipment designed for civil railway or ''civil aircraft'' applications.*

Technical Note: *For the purposes of 3A001.g, a 'thyristor module' contains one or more thyristor devices.*

h. Solid-state power semiconductor switches, diodes, or 'modules', having all of the following:

h.1. Rated for a maximum operating junction temperature greater than 488 K (215°C);

h.2. Repetitive peak off-state voltage (blocking voltage) exceeding 300 V; *and*

h.3. Continuous current greater than 1 A.

Technical Note: *For the purposes of 3A001.h, 'modules' contain one or more solid-state power semiconductor switches or diodes.*

Note 1: *Repetitive peak off-state voltage in 3A001.h includes drain to source voltage, collector to emitter voltage, repetitive peak reverse voltage and peak repetitive off-state blocking voltage.*

Note 2: *3A001.h includes:*

—Junction Field Effect Transistors (JFETs)
—Vertical Junction Field Effect Transistors (VJFETs)
—Metal Oxide Semiconductor Field Effect Transistors (MOSFETs)
—Double Diffused Metal Oxide Semiconductor Field Effect Transistor (DMOSFET)
—Insulated Gate Bipolar Transistor (IGBT)
—High Electron Mobility Transistors (HEMTs)
—Bipolar Junction Transistors (BJTs)
—Thyristors and Silicon Controlled Rectifiers (SCRs)
—Gate Turn-Off Thyristors (GTOs)
—Emitter Turn-Off Thyristors (ETOs)
—PiN Diodes
—Schottky Diodes

Note 3: *3A001.h does not apply to switches, diodes, or 'modules', incorporated into equipment designed for civil automobile, civil railway, or ''civil aircraft'' applications.*

i. Intensity, amplitude, or phase electro-optic modulators, designed for analog signals and having any of the following:

i.1. A maximum operating frequency of more than 10 GHz but less than 20 GHz, an optical insertion loss equal to or less than 3 dB and having any of the following:

i.1.a. A 'half-wave voltage' ('Vπ') less than 2.7 V when measured at a frequency of 1 GHz or below; *or*

i.1.b. A 'Vπ' of less than 4 V when measured at a frequency of more than 1 GHz; *or*

i.2. A maximum operating frequency equal to or greater than 20 GHz, an optical insertion loss equal to or less than 3 dB and having any of the following:

i.2.a. A 'Vπ' less than 3.3 V when measured at a frequency of 1 GHz or below; *or*

i.2.b. A 'Vπ' less than 5 V when measured at a frequency of more than 1 GHz.

Note: *3A001.i includes electro-optic modulators having optical input and output connectors (e.g., fiber-optic pigtails).*

Technical Note: *For the purposes of 3A001.i, a 'half-wave voltage' ('Vπ') is the applied voltage necessary to make a phase change of 180 degrees in the wavelength of light propagating through the optical modulator.*

* * * * *

3A002 General purpose ''electronic assemblies,'' modules and equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
MT applies to 3A002.h when the parameters in 3A101.a.2.b are met or exceeded.	MT Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements: *See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.*

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

LVS: $3000: 3A002.a, .e, .f, and .g
$5000: 3A002.c to .d, and .h (unless controlled for MT);
GBS: Yes, for 3A002.h (unless controlled for MT)

Special Conditions for STA

STA: License Exception STA may not be used to ship any item in 3A002.g.1 to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: See Category XV(e)(9) of the USML for certain ''space-qualified'' atomic frequency standards ''subject to the ITAR'' (see 22 CFR parts 120 through 130). See also 3A101, 3A992 and 9A515.x.
Related Definitions: Constant percentage bandwidth filters are also known as octave or fractional octave filters.
Items:

a. Recording equipment and oscilloscopes, as follows:

a.1. to a.5. [Reserved]

N.B.: *For waveform digitizers and transient recorders, see 3A002.h.*

a.6. Digital data recorders having all of the following:

a.6.a. A sustained 'continuous throughput' of more than 6.4 Gbit/s to disk or solid-state drive memory; *and*

a.6.b. ''Signal processing'' of the radio frequency signal data while it is being recorded;

Technical Notes: *For the purposes of 3A002.a.6:*

1. *For recorders with a parallel bus architecture, the 'continuous throughput' rate is the highest word rate multiplied by the number of bits in a word.*

2. *'Continuous throughput' is the fastest data rate the instrument can record to disk or solid-state drive memory without the loss of any information while sustaining the input digital data rate or digitizer conversion rate.*

a.7. Real-time oscilloscopes having a vertical root-mean-square (rms) noise voltage of less than 2% of full-scale at the vertical scale setting that provides the lowest noise value for any input 3dB bandwidth of 60 GHz or greater per channel;

Note: *3A002.a.7 does not apply to equivalent-time sampling oscilloscopes.*

b. [Reserved]

c. ''Signal analyzers'' as follows:

c.1. ''Signal analyzers'' having a 3 dB resolution bandwidth (RBW) exceeding 40 MHz anywhere within the frequency range exceeding 31.8 GHz but not exceeding 37 GHz;

c.2. ''Signal analyzers'' having a Displayed Average Noise Level (DANL) less (better) than −150 dBm/Hz anywhere within the frequency range exceeding 43.5 GHz but not exceeding 90 GHz;

c.3. ''Signal analyzers'' having a frequency exceeding 90 GHz;

c.4. ''Signal analyzers'' having all of the following:

c.4.a. 'Real-time bandwidth' exceeding 170 MHz; *and*

c.4.b. Having any of the following:

c.4.b.1. 100% probability of discovery, with less than a 3 dB reduction from full amplitude due to gaps or windowing effects, of signals having a duration of 15 µs or less; *or*

c.4.b.2. A 'frequency mask trigger' function, with 100% probability of trigger (capture) for signals having a duration of 15 µs or less;

Technical Notes:

1. *For the purposes of 3A002.c.4.a, 'real-time bandwidth' is the widest frequency range for which the analyzer can continuously transform time-domain data entirely into frequency-domain results, using a Fourier or other discrete time transform that processes every incoming time point, without a reduction of measured amplitude of more than 3 dB below the actual signal amplitude caused by gaps or windowing effects, while outputting or displaying the transformed data.*

2. *For the purposes of 3A002.c.4.b.1., probability of discovery is also referred to as probability of intercept or probability of capture.*

3. *For the purposes of 3A002.c.4.b.1, the duration for 100% probability of discovery is equivalent to the minimum signal duration necessary for the specified level measurement uncertainty.*

4. *For the purposes of 3A002.c.4.b.2, a 'frequency mask trigger' is a mechanism where the trigger function is able to select a frequency range to be triggered on as a subset of the acquisition bandwidth while ignoring other signals that may also be present within the same acquisition bandwidth. A 'frequency mask trigger' may contain more than one independent set of limits.*

Note: *3A002.c.4 does not apply to those ''signal analyzers'' using only constant percentage bandwidth filters (also known as octave or fractional octave filters).*

c.5. [Reserved]

d. Signal generators having any of the following:

d.1. Specified to generate pulse-modulated signals having all of the following, anywhere within the frequency range exceeding 31.8 GHz but not exceeding 37 GHz:

d.1.a. 'Pulse duration' of less than 25 ns; *and*

d.1.b. On/off ratio equal to or exceeding 65 dB;

d.2. An output power exceeding 100 mW (20 dBm) anywhere within the frequency range exceeding 43.5 GHz but not exceeding 90 GHz;

d.3. A ''frequency switching time'' as specified by any of the following:

d.3.a. [Reserved]

d.3.b. Less than 100 µs for any frequency change exceeding 2.2 GHz within the frequency range exceeding 4.8 GHz but not exceeding 31.8 GHz;

d.3.c. [Reserved]

d.3.d. Less than 500 µs for any frequency change exceeding 550 MHz within the frequency range exceeding 31.8 GHz but not exceeding 37 GHz;

d.3.e. Less than 100 µs for any frequency change exceeding 2.2 GHz within the frequency range exceeding 37 GHz but not exceeding 75 GHz; *or*

d.3.f. [Reserved]

d.3.g. Less than 100 µs for any frequency change exceeding 5.0 GHz within the frequency range exceeding 75 GHz but not exceeding 90 GHz.

d.4. A single sideband (SSB) phase noise, in dBc/Hz, specified as being any of the following:

d.4.a. Less (better) than $-(126 + 20 \log_{10} F - 20\log_{10}f)$ for anywhere within the range of 10 Hz ≤ F ≤ 10 kHz anywhere within the frequency range exceeding 3.2 GHz but not exceeding 90 GHz; *or*

d.4.b. Less (better) than $-(206 - 20\log_{10}f)$ for anywhere within the range of 10 kHz < F ≤ 100 kHz anywhere within the frequency range exceeding 3.2 GHz but not exceeding 90 GHz;

Technical Note: *For the purposes of 3A002.d.4, F is the offset from the operating frequency in Hz and f is the operating frequency in MHz.*

d.5. An 'RF modulation bandwidth' of digital baseband signals as specified by any of the following:

d.5.a. Exceeding 2.2 GHz within the frequency range exceeding 4.8 GHz but not exceeding 31.8 GHz;

d.5.b. Exceeding 550 MHz within the frequency range exceeding 31.8 GHz but not exceeding 37 GHz;

d.5.c. Exceeding 2.2 GHz within the frequency range exceeding 37 GHz but not exceeding 75 GHz;

d.5.d. Exceeding 5.0 GHz within the frequency range exceeding 75 GHz but not exceeding 90 GHz; *or*

Technical Note: *For the purposes of 3A002.d.5, 'RF modulation bandwidth' is the Radio Frequency (RF) bandwidth occupied by a digitally encoded baseband signal modulated onto an RF signal. It is also referred to as information bandwidth or vector modulation bandwidth. I/Q digital modulation is the technical method for producing a vector-modulated RF output signal, and that output signal is typically specified as having an 'RF modulation bandwidth'.*

d.6. A maximum frequency exceeding 90 GHz;

Note 1: *For the purposes of 3A002.d, signal generators include arbitrary waveform and function generators.*

Note 2: *3A002.d does not control equipment in which the output frequency is either produced by the addition or subtraction of two or more crystal oscillator frequencies, or by an addition or subtraction followed by a multiplication of the result.*

Technical Notes:

1. *For the purposes of 3A002.d, the maximum frequency of an arbitrary waveform or function generator is calculated by dividing the sample rate, in samples/second, by a factor of 2.5.*

2. *For the purposes of 3A002.d.1.a, 'pulse duration' is defined as the time interval from the point on the leading edge that is 50% of the pulse amplitude to the point on the trailing edge that is 50% of the pulse amplitude.*

e. Network analyzers having any of the following:

e.1. An output power exceeding 31.62 mW (15 dBm) anywhere within the operating frequency range exceeding 43.5 GHz but not exceeding 90 GHz;

e.2. An output power exceeding 1 mW (0 dBm) anywhere within the operating frequency range exceeding 90 GHz but not exceeding 110 GHz;

e.3. 'Nonlinear vector measurement functionality' at frequencies exceeding 50 GHz but not exceeding 110 GHz; *or*

Technical Note: *For the purposes of 3A002.e.3, 'nonlinear vector measurement functionality' is an instrument's ability to analyze the test results of devices driven into the large-signal domain or the non-linear distortion range.*

e.4. A maximum operating frequency exceeding 110 GHz;

f. Microwave test receivers having all of the following:

f.1. Maximum operating frequency exceeding 110 GHz; *and*

f.2. Being capable of measuring amplitude and phase simultaneously;

g. Atomic frequency standards being any of the following:

g.1. ''Space-qualified'';

g.2. Non-rubidium and having a long-term stability less (better) than 1×10^{-11}/month; *or*

g.3. Non-''space-qualified'' and having all of the following:

g.3.a. Being a rubidium standard;

g.3.b. Long-term stability less (better) than 1×10^{-11}/month; *and*

g.3.c. Total power consumption of less than 1 Watt.

h. ''Electronic assemblies,'' modules or equipment, specified to perform all of the following:

h.1. Analog-to-digital conversions meeting any of the following:

h.1.a. A resolution of 8 bit or more, but less than 10 bit, with a ''sample rate'' greater than 1.3 Giga Samples Per Second (GSPS);

h.1.b. A resolution of 10 bit or more, but less than 12 bit, with a ''sample rate'' greater than 1.0 GSPS;

h.1.c. A resolution of 12 bit or more, but less than 14 bit, with a ''sample rate'' greater than 1.0 GSPS;

h.1.d. A resolution of 14 bit or more but less than 16 bit, with a ''sample rate'' greater than 400 Mega Samples Per Second (MSPS); *or*

h.1.e. A resolution of 16 bit or more with a ''sample rate'' greater than 180 MSPS; *and*

h.2. Any of the following:

h.2.a. Output of digitized data;

h.2.b. Storage of digitized data; *or*

h.2.c. Processing of digitized data;

N.B.: *Digital data recorders, oscilloscopes, ''signal analyzers,'' signal generators, network analyzers and microwave test receivers, are specified by 3A002.a.6, 3A002.a.7, 3A002.c, 3A002.d, 3A002.e and 3A002.f, respectively.*

Technical Notes: *For the purposes of 3A002.h:*

1. *A resolution of n bit corresponds to a quantization of 2^n levels.*

2. *The resolution of the ADC is the number of bits of the digital output of the ADC that represents the measured analog input word. Effective Number of Bits (ENOB) is not used to determine the resolution of the ADC.*

3. *For non-interleaved multiple-channel ''electronic assemblies'', modules, or equipment, the ''sample rate'' is not aggregated and the ''sample rate'' is the maximum rate of any single channel.*

4. *For interleaved channels on multiple-channel ''electronic assemblies'', modules, or equipment, the ''sample rates'' are aggregated and the ''sample rate'' is the maximum combined total rate of all the interleaved channels.*

Note: *3A002.h includes ADC cards, waveform digitizers, data acquisition cards, signal acquisition boards and transient recorders.*

* * * * *

3B001 Equipment for the manufacturing of semiconductor devices or materials, as follows (see List of Items Controlled) and ''specially designed'' ''components'' and ''accessories'' therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
AT applies to entire entry.	AT Column 1

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

LVS: $500
GBS: Yes, except a.3 (molecular beam epitaxial growth equipment using gas sources), .e (automatic loading multi-chamber central wafer handling systems *only* if connected to equipment controlled by 3B001. a.3, or .f), and .f (lithography equipment).

List of Items Controlled

Related Controls: See also 3B991.
Related Definitions: N/A
Items:

a. Equipment designed for epitaxial growth as follows:

a.1. Equipment designed or modified to produce a layer of any material other than silicon with a thickness uniform to less than ±2.5% across a distance of 75 mm or more;

Note: *3B001.a.1 includes atomic layer epitaxy (ALE) equipment.*

a.2. Metal Organic Chemical Vapor Deposition (MOCVD) reactors designed for compound semiconductor epitaxial growth of material having two or more of the following elements: aluminum, gallium, indium, arsenic, phosphorus, antimony, or nitrogen;

a.3. Molecular beam epitaxial growth equipment using gas or solid sources;

b. Equipment designed for ion implantation and having any of the following:

b.1. [Reserved]

b.2. Being designed and optimized to operate at a beam energy of 20 keV or more and a beam current of 10 mA or more for hydrogen, deuterium, or helium implant;

b.3. Direct write capability;

b.4. A beam energy of 65 keV or more and a beam current of 45 mA or more for high energy oxygen implant into a heated semiconductor material ''substrate''; *or*

b.5. Being designed and optimized to operate at beam energy of 20 keV or more and a beam current of 10mA or more for silicon implant into a semiconductor material ''substrate'' heated to 600 °C or greater;

c. [Reserved]

d. [Reserved]

e. Automatic loading multi-chamber central wafer handling systems having all of the following:

e.1. Interfaces for wafer input and output, to which more than two functionally different 'semiconductor process tools' controlled by 3B001.a.1, 3B001.a.2, 3B001.a.3 or 3B001.b are designed to be connected; *and*

e.2. Designed to form an integrated system in a vacuum environment for 'sequential multiple wafer processing';

Note: *3B001.e does not control automatic robotic wafer handling systems ''specially designed'' for parallel wafer processing.*

Technical Notes:

1. For the purposes of 3B001.e.1, 'semiconductor process tools' refers to modular tools that provide physical processes for semiconductor production that are functionally different, such as deposition, implant or thermal processing.

2. For the purposes of 3B001.e.2, 'sequential multiple wafer processing' means the capability to process each wafer in different 'semiconductor process tools', such as by transferring each wafer from one tool to a second tool and on to a third tool with the automatic loading multi-chamber central wafer handling systems.

f. Lithography equipment as follows:

f.1. Align and expose step and repeat (direct step on wafer) or step and scan (scanner) equipment for wafer processing using photo-optical or X-ray methods and having any of the following:

f.1.a. A light source wavelength shorter than 193 nm; *or*

f.1.b. Capable of producing a pattern with a ''Minimum Resolvable Feature size'' (MRF) of 45 nm or less;

Technical Note: *For the purposes of 3B001.f.1.b, the 'Minimum Resolvable Feature size' (MRF) is calculated by the following formula:*

MRF = (an exposure light source wavelength in nm) × (K factor)/numerical aperture

where the K factor = 0.35

f.2 Imprint lithography equipment capable of production features of 45 nm or less;

Note: *3B001.f.2 includes:*

—Micro contact printing tools
—Hot embossing tools
—Nano-imprint lithography tools
—Step and flash imprint lithography (S–FIL) tools

f.3. Equipment ''specially designed'' for mask making having all of the following:

f.3.a. A deflected focused electron beam, ion beam or ''laser'' beam; *and*

f.3.b. Having any of the following:

f.3.b.1. A Full-Width Half-Maximum (FWHM) spot size smaller than 65 nm and an image placement less than 17 nm (mean + 3 sigma); *or*

f.3.b.2. [Reserved]

f.3.b.3. A second-layer overlay error of less than 23 nm (mean + 3 sigma) on the mask;

f.4. Equipment designed for device processing using direct writing methods, having all of the following:

f.4.a. A deflected focused electron beam; *and*

f.4.b. Having any of the following:

f.4.b.1. A minimum beam size equal to or smaller than 15 nm; *or*

f.4.b.2. An overlay error less than 27 nm (mean + 3 sigma);

g. Masks and reticles, designed for integrated circuits controlled by 3A001;

h. Multi-layer masks with a phase shift layer not specified by 3B001.g and designed to be used by lithography equipment having a light source wavelength less than 245 nm;

Note: *3B001.h. does not control multi-layer masks with a phase shift layer designed for the fabrication of memory devices not controlled by 3A001.*

N.B.: *For masks and reticles, ''specially designed'' for optical sensors, see 6B002.*

i. Imprint lithography templates designed for integrated circuits by 3A001;

j. Mask ''substrate blanks'' with multilayer reflector structure consisting of molybdenum and silicon, and having all of the following:

j.1. ''Specially designed'' for 'Extreme Ultraviolet (EUV)' lithography; *and*

j.2. Compliant with SEMI Standard P37.

Technical Note: *For the purposes of 3B001.j, 'Extreme Ultraviolet (EUV)' refers to electromagnetic spectrum wavelengths greater than 5 nm and less than 124 nm.*

* * * * *

3D003 'Computational lithography' ''software'' ''specially designed''for the ''development'' of patterns on EUV-lithography masks or reticles.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1

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

TSR: Yes

List of Items Controlled

Related Controls: N/A
Related Definitions: For the purposes of 3D003, 'computational lithography' is the use of computer modelling to predict, correct, optimize and verify imaging performance of the lithography process over a range of patterns, processes, and system conditions.
Items:

The list of items controlled is contained in the ECCN heading.

* * * * *

3D006 'Electronic Computer-Aided Design' ('ECAD') ''software'' ''specially designed'' for the ''development'' of integrated circuits having any ''Gate-All-Around Field-Effect Transistor'' (''GAAFET'') structure, and having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see supp. no. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

TSR: N/A

List of Items Controlled

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

a. ''Specially designed'' for implementing 'Register Transfer Level' ('RTL') to 'Geometrical Database Standard II' ('GDSII') or equivalent standard; *or*

b. ''Specially designed'' for optimization of power or timing rules.

Technical Notes: *For the purposes of 3D006:*

1. 'Electronic Computer-Aided Design' ('ECAD') is a category of ''software'' tools used for designing, analyzing, optimizing, and validating the performance of an integrated circuit or printed circuit board.

2. 'Register Transfer Level' ('RTL') is a design abstraction which models a synchronous digital circuit in terms of the flow of digital signals between hardware registers and the logical operations performed on those signals.

3. 'Geometrical Database Standard II' ('GDSII') is a database file format for data exchange of integrated circuit or integrated circuit layout artwork.

* * * * *

3E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of commodities controlled by 3A (except 3A980, 3A981, 3A991, 3A992, or 3A999), 3B (except 3B991 or 3B992) or 3C (except 3C992).

License Requirements

Reason for Control: NS, MT, NP, RS, AT

Control(s)	*Country chart (see supp. no. 1 to part 738)*
NS applies to ''technology'' for commodities controlled by 3A001, 3A002, 3A003, 3B001, 3B002, or 3C001 to 3C006.	NS Column 1
MT applies to ''technology'' for commodities controlled by 3A001 or 3A101 for MT reasons.	MT Column 1
NP applies to ''technology'' for commodities controlled by 3A001, 3A201, or 3A225 to 3A234 for NP reasons.	NP Column 1
RS applies to ''technology'' for commodities controlled by 3A090 or 3B090.	China and Macau (See § 742.6(a)(6))
RS applies to ''technology'' for commodities controlled in 3A090, when exported from China or Macau.	Worldwide (See § 742.6(a)(6))
AT applies to entire entry.	AT Column 1

License Requirements Note: *See § 744.17 of the EAR for additional license requirements for microprocessors having a processing speed of 5 GFLOPS or more and an arithmetic logic unit with an access width of 32 bit or more, including those incorporating ''information security'' functionality, and associated ''software'' and ''technology'' for the ''production'' or ''development'' of such microprocessors.*

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, Special Comprehensive Licenses, and Validated End-User authorizations.

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

TSR: Yes, except N/A for MT, and ''technology'' for the ''development'' or ''production'' of: (a) vacuum electronic device amplifiers described in 3A001.b.8, having operating frequencies exceeding 19 GHz; (b) solar cells, coverglass-interconnect-cells or covered-interconnect-cells (CIC) ''assemblies'', solar arrays and/or solar panels described in 3A001.e.4; (c) ''Monolithic Microwave Integrated Circuit'' (''MMIC'') amplifiers in 3A001.b.2; and (d) discrete microwave transistors in 3A001.b.3.

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit ''technology'' according to the General Technology Note for the ''development'' or ''production'' of equipment specified by ECCNs 3A002.g.1 or 3B001.a.2 to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR). License Exception STA may not be used to ship or transmit ''technology'' according to the General Technology Note for the ''development'' or ''production'' of components specified by ECCN 3A001.b.2 or b.3 to any of the destinations listed in Country Group A:5 or A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of certain ''space-qualified'' atomic frequency standards described in Category XV(e)(9), MMICs described in Category XV(e)(14), and oscillators described in Category XV(e)(15) of the USML are ''subject to the ITAR'' (see 22 CFR parts 120 through 130). See also 3E101, 3E201 and 9E515. (2) ''Technology'' for ''development'' or ''production'' of ''Microwave Monolithic Integrated Circuits'' (''MMIC'') amplifiers in 3A001.b.2 is controlled in this ECCN 3E001; 5E001.d refers only to that additional ''technology'' ''required'' for telecommunications.

Related Definition: N/A

Items:

The list of items controlled is contained in the ECCN heading.

Note 1: *3E001 does not control ''technology'' for equipment or ''components'' controlled by 3A003.*

Note 2: *3E001 does not control ''technology'' for integrated circuits controlled by 3A001.a.3 to a.14, having all of the following:*

(a) Using ''technology'' at or above 0.130 μm; and

(b) Incorporating multi-layer structures with three or fewer metal layers.

Note 3: *3E001 does not apply to 'Process Design Kits' ('PDKs') unless they include libraries implementing functions or technologies for items specified by 3A001 or 3A090.*

Technical Note: *For the purposes of 3E001 Note 3, a 'Process Design Kit' ('PDK') is a software tool provided by a semiconductor manufacturer to ensure that the required design practices and rules are taken into account in order to successfully produce a specific integrated circuit design in a specific semiconductor process, in accordance with technological and manufacturing constraints (each semiconductor manufacturing process has its particular 'PDK').*

3E002 ''Technology'' according to the General Technology Note other than that controlled in 3E001 for the ''development'' or ''production'' of a ''microprocessor microcircuit'', ''microcomputer microcircuit'' and microcontroller microcircuit core, having an arithmetic logic unit with an access width of 32 bits or more and any of the following features or characteristics (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1

License Requirements Note: *See § 744.17 of the EAR for additional license requirements for microprocessors having a processing speed of 5 GFLOPS or more and an arithmetic logic unit with an access width of 32 bit or more, including those incorporating ''information security'' functionality, and associated ''software'' and ''technology'' for the ''production'' or ''development'' of such microprocessors.*

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

TSR: Yes

List of Items Controlled

Related Controls: N/A

Related Definitions: N/A

Items:

a. A 'vector processor unit' designed to perform more than two calculations on 'floating-point' vectors (one-dimensional arrays of 32-bit or larger numbers) simultaneously;

Technical Note: *For the purposes of 3E002.a, a 'vector processor unit' is a processor element with built-in instructions that perform multiple calculations on 'floating-point' vectors (one-dimensional arrays of 32-bit or larger numbers) simultaneously, having at least one vector arithmetic logic unit and vector registers of at least 32 elements each.*

b. Designed to perform more than four 64-bit or larger 'floating-point' operation results per cycle; *or*

c. Designed to perform more than eight 16-bit 'fixed-point' multiply-accumulate results

per cycle (*e.g.,* digital manipulation of analog information that has been previously converted into digital form, also known as digital ''signal processing'').

Note 1: *3E002 does not control ''technology'' for multimedia extensions.*

Note 2: *3E002 does not control ''technology'' for microprocessor cores, having all of the following:*

a. *Using ''technology'' at or above 0.130 μm; and*

b. *Incorporating multi-layer structures with five or fewer metal layers.*

Note 3: *3E002 includes ''technology'' for the ''development'' or ''production'' of digital signal processors and digital array processors.*

Technical Notes:

1. For the purposes of 3E002.a and 3E002.b, 'floating-point' is defined by IEEE–754.

2. For the purposes of 3E002.c, 'fixed-point' refers to a fixed-width real number with both an integer component and a fractional component, and which does not include integer-only formats.

* * * * *

Category 4—Computers

* * * * *

Technical Note: *For the purposes of Note 2, 'main storage' is the primary storage for data or instructions for rapid access by a central processing unit. It consists of the internal storage of a ''digital computer'' and any hierarchical extension thereto, such as cache storage or non-sequentially accessed extended storage.*

* * * * *

4A004 Computers as follows (see List of Items Controlled) and ''specially designed'' related equipment, ''electronic assemblies'' and ''components'' therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: $5000
GBS: N/A

List of Items Controlled

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

a. 'Systolic array computers';
b. 'Neural computers';
c. 'Optical computers'.

Technical Notes:

1. For the purposes of 4A004.a, 'systolic array computers' are computers where the flow and modification of the data is dynamically controllable at the logic gate level by the user.

2. For the purposes of 4A004.b, 'neural computers' are computational devices designed or modified to mimic the behaviour of a neuron or a collection of neurons, i.e., computational devices which are distinguished by their hardware capability to modulate the weights and numbers of the interconnections of a multiplicity of computational components based on previous data.

3. For the purposes of 4A004.c, 'optical computers' are computers designed or modified to use light to represent data and whose computational logic elements are based on directly coupled optical devices.

* * * * *

4D001 ''Software'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, CC, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
CC applies to ''software'' for computerized finger-print equipment controlled by 4A003 for CC reasons.	CC Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

TSR: Yes, except for ''software'' for the ''development'' or ''production'' of the following:
(1) Commodities with an ''Adjusted Peak Performance'' (''APP'') exceeding 70 WT; or
(2) Commodities controlled by 4A005 or ''software'' controlled by 4D004.
APP: Yes to specific countries (see § 740.7 of the EAR for eligibility criteria)
ACE: Yes for 4D001.a (for the ''development'', ''production'' or ''use'' of equipment or ''software'' specified in ECCN 4A005 or 4D004), except to Country Group E:1 or E:2. See § 740.22 of the EAR for eligibility criteria.

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit ''software'' ''specially designed'' or modified for the ''development'' or ''production'' of equipment specified by ECCN 4A001.a.2 or for the ''development'' or ''production'' of ''digital computers'' having an 'Adjusted Peak Performance' ('APP') exceeding 70 Weighted TeraFLOPS (WT) to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR); and may not be used to ship or transmit ''software'' specified in 4D001.a ''specially designed'' for the ''development'' or ''production'' of equipment specified by ECCN 4A005 to any of the destinations listed in Country Group A:5 or A:6.

List of Items Controlled

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

a. ''Software'' ''specially designed'' or modified for the ''development'' or ''production'', of equipment or ''software'' controlled by 4A001, 4A003, 4A004, 4A005 or 4D (except 4D090, 4D980, 4D993 or 4D994).

b. ''Software'', other than that controlled by 4D001.a, ''specially designed'' or modified for the ''development'' or ''production'' of equipment as follows:

b.1. ''Digital computers'' having an ''Adjusted Peak Performance'' (''APP'') exceeding 24 Weighted TeraFLOPS (WT);

b.2. ''Electronic assemblies'' ''specially designed'' or modified for enhancing performance by aggregation of processors so that the ''APP'' of the aggregation exceeds the limit in 4D001.b.1.

* * * * *

4E001 ''Technology'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, RS, CC, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry, except 4A090 or ''software'' specified by 4D090.	NS Column 1
MT applies to ''technology'' for items controlled by 4A001.a and 4A101 for MT reasons.	MT Column 1
RS applies to ''technology'' for commodities controlled by 4A090 or ''software'' specified by 4D090.	China and Macau (See § 742.6(a)(6))
CC applies to ''software'' for computerized finger-print equipment controlled by 4A003 for CC reasons.	CC Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

TSR: Yes, except for the following:
(1) ''Technology'' for the ''development'' or ''production'' of commodities with an ''Adjusted Peak Performance'' (''APP'') exceeding 70 WT or for the ''development'' or ''production'' of commodities controlled

by 4A005 or ''software'' controlled by 4D004; or

(2) ''Technology'' for the ''development'' of ''intrusion software''.

APP: Yes to specific countries (see § 740.7 of the EAR for eligibility criteria).

ACE: Yes for 4E001.a (for the ''development'', ''production'' or ''use'' of equipment or ''software'' specified in ECCN 4A005 or 4D004) and for 4E001.c, except to Country Group E:1 or E:2. See § 740.22 of the EAR for eligibility criteria.

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit ''technology'' according to the General Technology Note for the ''development'' or ''production'' of any of the following equipment or ''software'': a. Equipment specified by ECCN 4A001.a.2; b. ''Digital computers'' having an 'Adjusted Peak Performance' ('APP') exceeding 70 Weighted TeraFLOPS (WT); or c. ''software'' specified in the License Exception STA paragraph found in the License Exception section of ECCN 4D001 to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR); and may not be used to ship or transmit ''technology'' specified in 4E001.a (for the ''development'', ''production'' or ''use'' of equipment or ''software'' specified in ECCN 4A005 or 4D004) and 4E001.c to any of the destinations listed in Country Group A:5 or A:6.

List of Items Controlled

Related Controls: N/A

Related Definitions: N/A

Items:

a. ''Technology'' according to the General Technology Note, for the ''development'', ''production'', or ''use'' of equipment or ''software'' controlled by 4A (except 4A980 or 4A994) or 4D (except 4D980, 4D993, 4D994).

b. ''Technology'' according to the General Technology Note, other than that controlled by 4E001.a, for the ''development'' or ''production'' of equipment as follows:

b.1. ''Digital computers'' having an ''Adjusted Peak Performance'' (''APP'') exceeding 24 Weighted TeraFLOPS (WT);

b.2. ''Electronic assemblies'' ''specially designed'' or modified for enhancing performance by aggregation of processors so that the ''APP'' of the aggregation exceeds the limit in 4E001.b.1.

c. ''Technology'' for the ''development'' of ''intrusion software.''

Note 1: *4E001.a and 4E001.c do not apply to ''vulnerability disclosure'' or ''cyber incident response''.*

Note 2: *Note 1 does not diminish national authorities' rights to ascertain compliance with 4E001.a and 4E001.c.*

* * * * *

5A001 Telecommunications systems, equipment, ''components'' and ''accessories,'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, SL, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to 5A001.a, b.5, .e, .f.3 and .h.	NS Column 1
NS applies to 5A001.b (except .b.5), .c, .d, .f (except f.3), .g, and .j.	NS Column 2
SL applies to 5A001.f.1.	A license is required for all destinations, as specified in § 742.13 of the EAR. Accordingly, a column specific to this control does not appear on the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR). *Note to SL paragraph: This licensing requirement does not supersede, nor does it implement, construe or limit the scope of any criminal statute, including, but not limited to the Omnibus Safe Streets Act of 1968, as amended*
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: N/A for 5A001.a, b.5, .e, f.3 and .h; $5000 for 5A001.b.1, .b.2, .b.3, .b.6, .d, f.2, f.4, and .g;

$3000 for 5A001.c.

GBS: Yes, except 5A001.a, b.5, e, and h.

ACE: Yes for 5A001.j, except to Country Group E:1 or E:2. See § 740.22 of the EAR for eligibility criteria

Special Conditions for STA

STA: License Exception STA may not be used to ship any commodity in 5A001.j to any of the destinations listed in Country Group A:5 or A:6 (See Supplement No. 1 to part 740 of the EAR), or any commodity in 5A001.b.3, .b.5 or .h to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See USML Category XI for controls on direction-finding ''equipment'' including types of ''equipment'' in ECCN 5A001.e and any other military or intelligence electronic ''equipment'' that is ''subject to the ITAR.'' (2) See USML Category XI(a)(4)(iii) for controls on electronic attack and jamming ''equipment'' defined in 5A001.f and .h that are subject to the ITAR. (3) See also ECCNs 5A101, 5A980, and 5A991.

Related Definitions: N/A

Items:

a. Any type of telecommunications equipment having any of the following characteristics, functions or features:

a.1. ''Specially designed'' to withstand transitory electronic effects or electromagnetic pulse effects, both arising from a nuclear explosion;

a.2. Specially hardened to withstand gamma, neutron or ion radiation;

a.3. ''Specially designed'' to operate below 218 K (−55 °C); *or*

a.4. ''Specially designed'' to operate above 397 K (124 °C);

Note: *5A001.a.3 and 5A001.a.4 apply only to electronic equipment.*

b. Telecommunication systems and equipment, and ''specially designed'' ''components'' and ''accessories'' therefor, having any of the following characteristics, functions or features:

b.1 Being underwater untethered communications systems having any of the following:

b.1.a. An acoustic carrier frequency outside the range from 20 kHz to 60 kHz;

b.1.b. Using an electromagnetic carrier frequency below 30 kHz; *or*

b.1.c. Using electronic beam steering techniques; *or*

b.1.d. Using ''lasers'' or light-emitting diodes (LEDs), with an output wavelength greater than 400 nm and less than 700 nm, in a ''local area network'';

b.2. Being radio equipment operating in the 1.5 MHz to 87.5 MHz band and having all of the following:

b.2.a. Automatically predicting and selecting frequencies and ''total digital transfer rates'' per channel to optimize the transmission; *and*

b.2.b. Incorporating a linear power amplifier configuration having a capability to support multiple signals simultaneously at an output power of 1 kW or more in the frequency range of 1.5 MHz or more but less than 30 MHz, or 250 W or more in the frequency range of 30 MHz or more but not exceeding 87.5 MHz, over an ''instantaneous bandwidth'' of one octave or more and with an output harmonic and distortion content of better than −80 dB;

b.3. Being radio equipment employing ''spread spectrum'' techniques, including ''frequency hopping'' techniques, not controlled in 5A001.b.4 and having any of the following:

b.3.a. User programmable spreading codes; *or*

b.3.b. A total transmitted bandwidth which is 100 or more times the bandwidth of any one information channel and in excess of 50 kHz;

Note: *5A001.b.3.b does not control radio equipment ''specially designed'' for use with any of the following:*

a. Civil cellular radio-communications systems; or

b. Fixed or mobile satellite Earth stations for commercial civil telecommunications.

Note: *5A001.b.3 does not control equipment operating at an output power of 1 W or less.*

b.4. Being radio equipment employing ultra-wideband modulation techniques, having user programmable channelizing codes, scrambling codes, or network identification codes and having any of the following:

b.4.a. A bandwidth exceeding 500 MHz; *or*

b.4.b. A ''fractional bandwidth'' of 20% or more;

b.5. Being digitally controlled radio receivers having all of the following:

b.5.a. More than 1,000 channels;

b.5.b. A 'channel switching time ' of less than 1 ms;

b.5.c. Automatic searching or scanning of a part of the electromagnetic spectrum; *and*

b.5.d. Identification of the received signals or the type of transmitter; *or*

Note: *5A001.b.5 does not control radio equipment ''specially designed'' for use with civil cellular radio-communications systems.*

Technical Note: *For the purposes of 5A001.b.5.b, 'channel switching time' means the time (i.e., delay) to change from one receiving frequency to another, to arrive at or within ±0.05% of the final specified receiving frequency. Items having a specified frequency range of less than ±0.05% around their center frequency are defined to be incapable of channel frequency switching.*

b.6. Employing functions of digital ''signal processing'' to provide 'voice coding' output at rates of less than 700 bit/s.

Technical Notes:

1. For variable rate 'voice coding', 5A001.b.6 applies to the 'voice coding' output of continuous speech.

2. For the purposes of 5A001.b.6, 'voice coding' is defined as the technique to take samples of human voice and then convert these samples of human voice into a digital signal taking into account specific characteristics of human speech.

c. Optical fibers of more than 500 m in length and specified by the manufacturer as being capable of withstanding a 'proof test' tensile stress of 2×10^9 N/m^2 or more;

N.B.: *For underwater umbilical cables, see 8A002.a.3.*

Technical Note: *For the purposes of 5A001.c, 'proof test' is the on-line or off-line production screen testing that dynamically applies a prescribed tensile stress over a 0.5 to 3 m length of fiber at a running rate of 2 to 5 m/s while passing between capstans approximately 150 mm in diameter. The ambient temperature is a nominal 293 K (20 °C) and relative humidity 40%. Equivalent national standards may be used for executing the proof test.*

d. ''Electronically steerable phased array antennae'' as follows:

d.1. Rated for operation above 31.8 GHz, but not exceeding 57 GHz, and having an Effective Radiated Power (ERP) equal to or greater than +20 dBm (22.15 dBm Effective Isotropic Radiated Power (EIRP));

d.2. Rated for operation above 57 GHz, but not exceeding 66 GHz, and having an ERP equal to or greater than +24 dBm (26.15 dBm EIRP);

d.3. Rated for operation above 66 GHz, but not exceeding 90 GHz, and having an ERP equal to or greater than +20 dBm (22.15 dBm EIRP);

d.4. Rated for operation above 90 GHz;

Note 1: *5A001.d does not control 'electronically steerable phased array antennae' for landing systems with instruments meeting ICAO standards covering Microwave Landing Systems (MLS).*

Note 2: *5A001.d does not apply to antennae ''specially designed'' for any of the following:*

a. Civil cellular or WLAN radio-communications systems;

b. IEEE 802.15 or wireless HDMI; or

c. Fixed or mobile satellite earth stations for commercial civil telecommunications.

Technical Note: *For the purposes of 5A001.d, 'electronically steerable phased array antenna' is an antenna which forms a beam by means of phase coupling, (i.e., the beam direction is controlled by the complex excitation coefficients of the radiating elements) and the direction of that beam can be varied (both in transmission and reception) in azimuth or in elevation, or both, by application of an electrical signal.*

e. Radio direction finding equipment operating at frequencies above 30 MHz and having all of the following, and ''specially designed'' ''components'' therefor:

e.1. ''Instantaneous bandwidth'' of 10 MHz or more; and

e.2. Capable of finding a Line Of Bearing (LOB) to non-cooperating radio transmitters with a signal duration of less than 1 ms;

f. Mobile telecommunications interception or jamming equipment, and monitoring equipment therefor, as follows, and ''specially designed'' ''components'' therefor:

f.1. Interception equipment designed for the extraction of voice or data, transmitted over the air interface;

f.2. Interception equipment not specified in 5A001.f.1, designed for the extraction of client device or subscriber identifiers (*e.g.,* IMSI, TIMSI or IMEI), signaling, or other metadata transmitted over the air interface;

f.3. Jamming equipment ''specially designed'' or modified to intentionally and selectively interfere with, deny, inhibit, degrade or seduce mobile telecommunication services and performing any of the following:

f.3.a. Simulate the functions of Radio Access Network (RAN) equipment;

f.3.b. Detect and exploit specific characteristics of the mobile telecommunications protocol employed (*e.g.,* GSM); *or*

f.3.c. Exploit specific characteristics of the mobile telecommunications protocol employed (*e.g.,* GSM);

f.4. Radio Frequency (RF) monitoring equipment designed or modified to identify the operation of items specified in 5A001.f.1, 5A001.f.2 or 5A001.f.3.

Note: *5A001.f.1 and 5A001.f.2 do not apply to any of the following:*

a. Equipment ''specially designed'' for the interception of analog Private Mobile Radio (PMR), IEEE 802.11 WLAN;

b. Equipment designed for mobile telecommunications network operators; or

c. Equipment designed for the ''development'' or ''production'' of mobile telecommunications equipment or systems.

N.B. 1: *See also the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). For items specified by 5A001.f.1 (including as previously specified by 5A001.i), see also 5A980 and the U.S. Munitions List (22 CFR part 121).*

N.B. 2: *For radio receivers see 5A001.b.5.*

g. Passive Coherent Location (PCL) systems or equipment, ''specially designed'' for detecting and tracking moving objects by measuring reflections of ambient radio frequency emissions, supplied by non-radar transmitters.

Technical Note: *For the purposes of 5A001.g, non-radar transmitters may include commercial radio, television or cellular telecommunications base stations.*

Note: *5A001.g. does not control:*

a. Radio-astronomical equipment; or

b. Systems or equipment, that require any radio transmission from the target.

h. Counter Improvised Explosive Device (IED) equipment and related equipment, as follows:

h.1. Radio Frequency (RF) transmitting equipment, not specified by 5A001.f, designed or modified for prematurely activating or preventing the initiation of Improvised Explosive Devices (IEDs);

h.2. Equipment using techniques designed to enable radio communications in the same frequency channels on which co-located equipment specified by 5A001.h.1 is transmitting.

N.B.: *See also Category XI of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).*

i. [Reserved]

N.B.: *See 5A001.f.1 for items previously specified by 5A001.i.*

j. IP network communications surveillance systems or equipment, and ''specially designed'' components therefor, having all of the following:

j.1. Performing all of the following on a carrier class IP network (*e.g.,* national grade IP backbone):

j.1.a. Analysis at the application layer (*e.g.,* Layer 7 of Open Systems Interconnection (OSI) model (ISO/IEC 7498–1));

j.1.b. Extraction of selected metadata and application content (*e.g.,* voice, video, messages, attachments); *and*

j.1.c. Indexing of extracted data; *and*

j.2. Being ''specially designed'' to carry out all of the following:

j.2.a. Execution of searches on the basis of ''hard selectors''; *and*

j.2.b. Mapping of the relational network of an individual or of a group of people.

Note: *5A001.j does not apply to ''systems'' or ''equipment'', ''specially designed'' for any of the following:*

a. Marketing purpose;

b. Network Quality of Service (QoS); or

c. Quality of Experience (QoE).

N.B.: *See also the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). Defense articles described in USML Category XI(b) are ''subject to the ITAR.''*

* * * * *

Category 5—Telecommunications and ''Information Security''

Part 2—''Information Security''

* * * * *

Technical Note: *For the purposes of the Cryptography Note, 'executable software' means ''software'' in executable form, from*

an existing hardware component excluded from 5A002, by the Cryptography Note.

* * * * *

5A002 ''Information security'' systems, equipment and ''components,'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT, EI

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1
EI applies to entire entry.	Refer to § 742.15 of the EAR.

License Requirements Note: *See § 744.17 of the EAR for additional license requirements for microprocessors having a processing speed of 5 GFLOPS or more and an arithmetic logic unit with an access width of 32 bit or more, including those incorporating ''information security'' functionality, and associated ''software'' and ''technology'' for the ''production'' or ''development'' of such microprocessors.*

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

LVS: Yes: $500 for ''components''.
N/A for systems and equipment.
GBS: N/A
ENC: Yes for certain EI controlled commodities, see § 740.17 of the EAR for eligibility.

List of Items Controlled

Related Controls: (1) ECCN 5A002.a controls ''components'' providing the means or functions necessary for ''information security.'' All such ''components'' are presumptively ''specially designed'' and controlled by 5A002.a. (2) See USML Categories XI (including XI(b)) and XIII(b) (including XIII(b)(2)) for controls on systems, equipment, and components described in 5A002.d or .e that are subject to the ITAR. (3) For ''satellite navigation system'' receiving equipment containing or employing decryption see 7A005, and for related decryption ''software'' and ''technology'' see 7D005 and 7E001. (4) Noting that items may be controlled elsewhere on the CCL, examples of items not controlled by ECCN 5A002.a.4 include the following: (a) An automobile where the only 'cryptography for data confidentiality' having a 'described security algorithm' is performed by a Category 5—Part 2 Note 3 eligible mobile telephone that is built into the car. In this case, secure phone communications support a non-primary function of the automobile but the mobile telephone (equipment), as a standalone item, is not controlled by ECCN 5A002 because it is excluded by the Cryptography Note (Note 3) (See ECCN 5A992.c). (b) An exercise bike with an embedded Category 5—Part 2 Note 3 eligible web browser, where the only controlled cryptography is performed by the web browser. In this case, secure web browsing supports a non-primary function of the exercise bike but the web browser (''software''), as a standalone item, is not controlled by ECCN 5D002 because it is excluded by the Cryptography Note (Note 3) (See ECCN 5D992.c). (5) After classification or self-classification in accordance with § 740.17(b) of the EAR, mass market encryption commodities that meet eligibility requirements are released from ''EI'' and ''NS'' controls. These commodities are designated 5A992.c.
Related Definitions: N/A
Items:

a. Designed or modified to use 'cryptography for data confidentiality' having a 'described security algorithm', where that cryptographic capability is usable, has been activated, or can be activated by any means other than secure ''cryptographic activation'', as follows:

a.1. Items having ''information security'' as a primary function;

a.2. Digital communication or networking systems, equipment or components, not specified in paragraph 5A002.a.1;

a.3. Computers, other items having information storage or processing as a primary function, and components therefor, not specified in paragraphs 5A002.a.1 or .a.2;

N.B.: *For operating systems see also 5D002.a.1 and .c.1.*

a.4. Items, not specified in paragraphs 5A002.a.1 to a.3, where the 'cryptography for data confidentiality' having a 'described security algorithm' meets all of the following:

a.4.a. It supports a non-primary function of the item; *and*

a.4.b. It is performed by incorporated equipment or ''software'' that would, as a standalone item, be specified by ECCNs 5A002, 5A003, 5A004, 5B002 or 5D002.

N.B. to paragraph a.4: *See Related Control Paragraph (4) of this ECCN 5A002 for examples of items not controlled by 5A002.a.4.*

Technical Notes:

1. For the purposes of 5A002.a, 'cryptography for data confidentiality' means ''cryptography'' that employs digital techniques and performs any cryptographic function other than any of the following:

1.a. ''Authentication;''

1.b. Digital signature;

1.c. Data integrity;

1.d. Non-repudiation;

1.e. Digital rights management, including the execution of copy-protected ''software;''

1.f. Encryption or decryption in support of entertainment, mass commercial broadcasts or medical records management; or

1.g. Key management in support of any function described in paragraphs 1.a to 1.f of this Technical Note paragraph 1.

2. For the purposes of 5A002.a, 'described security algorithm' means any of the following:

2.a. A ''symmetric algorithm'' employing a key length in excess of 56 bits, not including parity bits;

2.b. An ''asymmetric algorithm'' where the security of the algorithm is based on any of the following:

2.b.1. Factorization of integers in excess of 512 bits (e.g., RSA);

2.b.2. Computation of discrete logarithms in a multiplicative group of a finite field of size greater than 512 bits (e.g., Diffie-Hellman over Z/pZ); or

2.b.3. Discrete logarithms in a group other than mentioned in paragraph 2.b.2 of this Technical Note in excess of 112 bits (e.g., Diffie-Hellman over an elliptic curve); or

2.c. An ''asymmetric algorithm'' where the security of the algorithm is based on any of the following:

2.c.1. Shortest vector or closest vector problems associated with lattices (e.g., NewHope, Frodo, NTRUEncrypt, Kyber, Titanium);

2.c.2. Finding isogenies between Supersingular elliptic curves (e.g., Supersingular Isogeny Key Encapsulation); or

2.c.3. Decoding random codes (e.g., McEliece, Niederreiter).

Technical Note: *An algorithm described by Technical Note 2.c. may be referred to as being post-quantum, quantum-safe or quantum-resistant.*

Note 1: *Details of items must be accessible and provided upon request, in order to establish any of the following:*

a. Whether the item meets the criteria of 5A002.a.1 to a.4; or

b. Whether the cryptographic capability for data confidentiality specified by 5A002.a is usable without ''cryptographic activation.''

Note 2: *5A002.a does not control any of the following items, or specially designed ''information security'' components therefor:*

a. Smart cards and smart card 'readers/writers' as follows:

a.1. A smart card or an electronically readable personal document (e.g., token coin, e-passport) that meets any of the following:

a.1.a. The cryptographic capability meets all of the following:

a.1.a.1. It is restricted for use in any of the following:

a.1.a.1.a. Equipment or systems, not described by 5A002.a.1 to a.4;

a.1.a.1.b. Equipment or systems, not using 'cryptography for data confidentiality' having a 'described security algorithm'; or

a.1.a.1.c. Equipment or systems, excluded from 5A002.a by entries b. to f. of this Note; and

a.1.a.2. It cannot be reprogrammed for any other use; or

a.1.b. Having all of the following:

a.1.b.1. It is specially designed and limited to allow protection of 'personal data' stored within;

a.1.b.2. Has been, or can only be, personalized for public or commercial transactions or individual identification; and

a.1.b.3. Where the cryptographic capability is not user-accessible;

Technical Note to paragraph a.1.b.1 of Note 2: *For the purposes of 5A002.a Note 2.a.1.b.1, 'personal data' includes any data specific to a particular person or entity, such as the amount of money stored and data necessary for ''authentication.''*

a.2. 'Readers/writers' specially designed or modified, and limited, for items specified by paragraph a.1 of this Note;

Technical Note to paragraph a.2 of Note 2: *For the purposes of 5A002.a Note 2.a.2, 'readers/writers' include equipment that communicates with smart cards or electronically readable documents through a network.*

b. Cryptographic equipment specially designed and limited for banking use or 'money transactions';

Technical Note to paragraph b of Note 2: *For the purposes of 5A002.a Note 2.b, 'money transactions' in 5A002 Note 2 paragraph b. includes the collection and settlement of fares or credit functions.*

c. Portable or mobile radiotelephones for civil use (e.g., for use with commercial civil cellular radio communication systems) that are not capable of transmitting encrypted data directly to another radiotelephone or equipment (other than Radio Access Network (RAN) equipment), nor of passing encrypted data through RAN equipment (e.g., Radio Network Controller (RNC) or Base Station Controller (BSC));

d. Cordless telephone equipment not capable of end-to-end encryption where the maximum effective range of unboosted cordless operation (i.e., a single, unrelayed hop between terminal and home base station) is less than 400 meters according to the manufacturer's specifications;

e. Portable or mobile radiotelephones and similar client wireless devices for civil use, that implement only published or commercial cryptographic standards (except for anti-piracy functions, which may be non-published) and also meet the provisions of paragraphs a.2 to a.4 of the Cryptography Note (Note 3 in Category 5—Part 2), that have been customized for a specific civil industry application with features that do not affect the cryptographic functionality of these original non-customized devices;

f. Items, where the ''information security'' functionality is limited to wireless ''personal area network'' functionality implementing only published or commercial cryptographic standards;

g. Mobile telecommunications Radio Access Network (RAN) equipment designed for civil use, which also meet the provisions of paragraphs a.2 to a.4 of the Cryptography Note (Note 3 in Category 5—Part 2), having an RF output power limited to 0.1W (20 dBm) or less, and supporting 16 or fewer concurrent users;

h. Routers, switches, gateways or relays, where the ''information security'' functionality is limited to the tasks of ''Operations, Administration or Maintenance'' (''OAM'') implementing only published or commercial cryptographic standards;

i. General purpose computing equipment or servers, where the ''information security'' functionality meets all of the following:

i.1. Uses only published or commercial cryptographic standards; and

i.2. Is any of the following:

i.2.a. Integral to a CPU that meets the provisions of Note 3 in Category 5—Part 2;

i.2.b. Integral to an operating system that is not specified by 5D002; or

i.2.c. Limited to ''OAM'' of the equipment; or

j. Items specially designed for a 'connected civil industry application', meeting all of the following:

j.1. Being any of the following:

j.1.a. A network-capable endpoint device meeting any of the following:

j.1.a.1. The ''information security'' functionality is limited to securing 'non-arbitrary data' or the tasks of ''Operations, Administration or Maintenance'' (''OAM''); or

j.1.a.2. The device is limited to a specific 'connected civil industry application'; or

j.1.b. Networking equipment meeting all of the following:

j.1.b.1. Being specially designed to communicate with the devices specified by paragraph j.1.a. above; and

j.1.b.2. The ''information security'' functionality is limited to supporting the 'connected civil industry application' of devices specified by paragraph j.1.a. above, or the tasks of ''OAM'' of this networking equipment or of other items specified by paragraph j. of this Note; and

j.2. Where the ''information security'' functionality implements only published or commercial cryptographic standards, and the cryptographic functionality cannot easily be changed by the user.

Technical Notes:

1. *For the purposes of 5A002.a Note 2.j, 'connected civil industry application' means a network-connected consumer or civil industry application other than ''information security'', digital communication, general purpose networking or computing.*

2. For the purposes of 5A002.a Note 2.j.1.a.1, 'non-arbitrary data' means sensor or metering data directly related to the stability, performance or physical measurement of a system (e.g., temperature, pressure, flow rate, mass, volume, voltage, physical location, etc.), that cannot be changed by the user of the device.

b. Being a 'cryptographic activation token';

Technical Note: *For the purposes of 5A002.b, a 'cryptographic activation token' is an item designed or modified for any of the following:*

1. Converting, by means of ''cryptographic activation'', an item not specified by Category 5–Part 2 into an item specified by 5A002.a or 5D002.c.1, and not released by the Cryptography Note (Note 3 in Category 5–Part 2); or

2. Enabling by means of ''cryptographic activation'', additional functionality specified by 5A002.a of an item already specified by Category 5–Part 2;

c. Designed or modified to use or perform ''quantum cryptography'';

Technical Note: *For the purposes of 5A002.c, ''quantum cryptography'' is also known as Quantum Key Distribution (QKD).*

d. Designed or modified to use cryptographic techniques to generate channelizing codes, scrambling codes or network identification codes, for systems using ultra-wideband modulation techniques and having any of the following:

d.1. A bandwidth exceeding 500 MHz; *or*

d.2. A ''fractional bandwidth'' of 20% or more;

e. Designed or modified to use cryptographic techniques to generate the spreading code for ''spread spectrum'' systems, not specified by 5A002.d, including the hopping code for ''frequency hopping'' systems.

* * * * *

5A004 ''Systems,'' ''equipment'' and ''components'' for defeating, weakening or bypassing ''information security,'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT, EI

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1
EI applies to entire entry.	Refer to § 742.15 of the EAR

License Requirements Note: *See § 744.17 of the EAR for additional license requirements for microprocessors having a processing speed of 5 GFLOPS or more and an arithmetic logic unit with an access width of 32 bit or more, including those incorporating ''information security'' functionality, and associated ''software'' and ''technology'' for the ''production'' or ''development'' of such microprocessors.*

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

LVS: Yes: $500 for ''components.''
N/A for systems and equipment.
GBS: N/A
ENC: Yes for certain EI controlled commodities. See § 740.17 of the EAR for eligibility.

List of Items Controlled

Related Controls: ECCN 5A004.a controls ''components'' providing the means or functions necessary for ''information security.'' All such ''components'' are presumptively ''specially designed'' and controlled by 5A004.a.
Related Definitions: N/A
Items:

a. Designed or modified to perform 'cryptanalytic functions.'

Note: *5A004.a includes systems or equipment, designed or modified to perform 'cryptanalytic functions' by means of reverse engineering.*

Technical Note: *For the purposes of 5A004.a, 'cryptanalytic functions' are functions designed to defeat cryptographic mechanisms in order to derive confidential variables or sensitive data, including clear text passwords or cryptographic keys.*

b. Items, not specified by ECCNs 4A005 or 5A004.a, designed to perform all of the following:

b.1. 'Extract raw data' from a computing or communications device; *and*

b.2. Circumvent ''authentication'' or authorization controls of the device, in order to perform the function described in 5A004.b.1.

Technical Note: *For the purposes of 5A004.b.1, 'extract raw data' from a computing or communications device means to retrieve binary data from a storage medium, e.g., RAM, flash or hard disk, of the device without interpretation by the device's operating system or filesystem.*

Note 1: *5A004.b does not apply to systems or equipment specially designed for the ''development'' or ''production'' of a computing or communications device.*

Note 2: *5A004.b does not include:*

a. Debuggers, hypervisors;

b. Items limited to logical data extraction;

c. Data extraction items using chip-off or JTAG; or

d. Items specially designed and limited to jail-breaking or rooting.

* * * * *

6A001 Acoustic systems, equipment and ''components,'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: $3000; N/A for 6A001.a.1.b.1 object detection and location systems having a transmitting frequency below 5 kHz or a sound pressure level exceeding 210 dB (reference 1 μPa at 1 m) for equipment with an operating frequency in the band from 2 kHz to 30 kHz inclusive; 6A001.a.1.e, 6A001.a.2.a.1, a.2.a.2, 6A001.a.2.a.3, a.2.a.5, a.2.a.6, 6A001.a.2.b; processing equipment controlled by 6A001.a.2.c, and ''specially designed'' for real-time application with towed acoustic hydrophone arrays; a.2.e.1, a.2.e.2; and bottom or bay cable systems controlled by 6A001.a.2.f and having processing equipment ''specially designed'' for real-time application with bottom or bay cable systems.

GBS: Yes for 6A001.a.1.b.4.

Special Conditions for STA

STA: License Exception STA may not be used to ship commodities in 6A001.a.1.b, 6A001.a.1.e or 6A001.a.2 (except .a.2.a.4) to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: See also 6A991.

Related Definitions: N/A

Items:

a. Marine acoustic systems, equipment and ''specially designed'' ''components'' therefor, as follows:

a.1. Active (transmitting or transmitting-and-receiving) systems, equipment and ''specially designed'' ''components'' therefor, as follows:

Note: *6A001.a.1 does not control equipment as follows:*

a. Depth sounders operating vertically below the apparatus, not including a scanning function exceeding ± 20°, and limited to measuring the depth of water, the distance of submerged or buried objects or fish finding;

b. Acoustic beacons, as follows:

1. Acoustic emergency beacons;

2. Pingers ''specially designed'' for relocating or returning to an underwater position.

a.1.a. Acoustic seabed survey equipment as follows:

a.1.a.1. Surface vessel survey equipment designed for sea bed topographic mapping and having all of the following:

a.1.a.1.a. Designed to take measurements at an angle exceeding 20° from the vertical;

a.1.a.1.b. Designed to measure seabed topography at seabed depths exceeding 600 m;

a.1.a.1.c.'Sounding resolution' less than 2; and

a.1.a.1.d. 'Enhancement' of the depth ''accuracy'' through compensation for all the following:

a.1.a.1.d.1. Motion of the acoustic sensor;

a.1.a.1.d.2. In-water propagation from sensor to the seabed and back; and

a.1.a.1.d.3. Sound speed at the sensor;

Technical Notes:

1. For the purposes of 6A001.a.1.a.1.c, 'sounding resolution' is the swath width (degrees) divided by the maximum number of soundings per swath.

2. For the purposes of 6A001.a.1.a, 'enhancement' includes the ability to compensate by external means.

a.1.a.2. Underwater survey equipment designed for seabed topographic mapping and having any of the following:

Technical Note: *For the purposes of 6A001.a.1.a.2, the acoustic sensor pressure rating determines the depth rating.*

a.1.a.2.a. Having all of the following:

a.1.a.2.a.1. Designed or modified to operate at depths exceeding 300 m; and

a.1.a.2.a.2. 'Sounding rate' greater than 3,800 m/s; *or*

Technical Note: *For the purposes of 6A001.a.1.a.2.a.2, 'sounding rate' is the product of the maximum speed (m/s) at which the sensor can operate and the maximum number of soundings per swath assuming 100% coverage. For systems that produce soundings in two directions (3D sonars), the maximum of the 'sounding rate' in either direction should be used.*

a.1.a.2.b. Survey equipment, not specified by 6A001.a.1.a.2.a, having all of the following:

a.1.a.2.b.1. Designed or modified to operate at depths exceeding 100 m;

a.1.a.2.b.2. Designed to take measurements at an angle exceeding 20° from the vertical;

a.1.a.2.b.3. Having any of the following:

a.1.a.2.b.3.a. Operating frequency below 350 kHz; *or*

a.1.a.2.b.3.b. Designed to measure seabed topography at a range exceeding 200 m from the acoustic sensor; *and*

a.1.a.2.b.4. 'Enhancement' of the depth ''accuracy'' through compensation of all of the following:

a.1.a.2.b.4.a. Motion of the acoustic sensor;

a.1.a.2.b.4.b. In-water propagation from sensor to the seabed and back; *and*

a.1.a.2.b.4.c. Sound speed at the sensor.

a.1.a.3. Side Scan Sonar (SSS) or Synthetic Aperture Sonar (SAS), designed for seabed imaging and having all of the following, and ''specially designed'' transmitting and receiving acoustic arrays therefor:

a.1.a.3.a. Designed or modified to operate at depths exceeding 500 m; and

a.1.a.3.b. An 'area coverage rate' of greater than 570 m^2/s while operating at the maximum range that it can operate with an 'along track resolution' of less than 15 cm; *and*

a.1.a.3.c. An 'across track resolution' of less than 15 cm;

Technical Notes:

For the purposes of 6A001.a.1.a.3:

1. 'Area coverage rate' (m_2/s) is twice the product of the sonar range (m) and the maximum speed (m/s) at which the sensor can operate at that range.

2. 'Along track resolution' (cm), for SSS only, is the product of azimuth (horizontal) beamwidth (degrees) and sonar range (m) and 0.873.

3. 'Across track resolution' (cm) is 75 divided by the signal bandwidth (kHz).

a.1.b Systems or transmitting and receiving arrays, designed for object detection or location, having any of the following:

a.1.b.1. A transmitting frequency below 10 kHz;

a.1.b.2. Sound pressure level exceeding 224dB (reference 1 μPa at 1 m) for equipment with an operating frequency in the band from 10 kHz to 24 kHz inclusive;

a.1.b.3. Sound pressure level exceeding 235 dB (reference 1 μPa at 1 m) for equipment with an operating frequency in the band between 24 kHz and 30 kHz;

a.1.b.4. Forming beams of less than 1° on any axis and having an operating frequency of less than 100 kHz;

a.1.b.5. Designed to operate with an unambiguous display range exceeding 5,120 m; *or*

a.1.b.6. Designed to withstand pressure during normal operation at depths exceeding 1,000 m and having transducers with any of the following:

a.1.b.6.a. Dynamic compensation for pressure; *or*

a.1.b.6.b. Incorporating other than lead zirconate titanate as the transduction element;

a.1.c. Acoustic projectors, including transducers, incorporating piezoelectric, magnetostrictive, electrostrictive, electrodynamic or hydraulic elements operating individually or in a designed combination and having any of the following:

Notes:

1. The control status of acoustic projectors, including transducers, ''specially designed'' for other equipment is determined by the control status of the other equipment.

2. 6A001.a.1.c does not control electronic sources that direct the sound vertically only, or mechanical (e.g., air gun or vapor-shock gun) or chemical (e.g., explosive) sources.

3. Piezoelectric elements specified in 6A001.a.1.c include those made from lead-magnesium-niobate/lead-titanate ($Pb(Mg_{1/3}Nb_{2/3})O_3$-$PbTiO_3$, or PMN–PT) single crystals grown from solid solution or lead-indium-niobate/lead-magnesium niobate/lead-titanate ($Pb(In_{1/2}Nb_{1/2})O_3$–$Pb(Mg_{1/3}Nb_{2/3})O_3$–$PbTiO_3$, or PIN–PMN–PT) single crystals grown from solid solution.

a.1.c.1. Operating at frequencies below 10 kHz and having any of the following:

a.1.c.1.a. Not designed for continuous operation at 100% duty cycle and having a

radiated 'free-field Source Level (SLRMS)' exceeding (10log(f) + 169.77)dB (reference 1 μPa at 1 m) where f is the frequency in Hertz of maximum Transmitting Voltage Response (TVR) below 10 kHz; *or*

a.1.c.1.b. Designed for continuous operation at 100% duty cycle and having a continuously radiated 'free-field Source Level (SLRMS)' at 100% duty cycle exceeding (10log(f) + 159.77)dB (reference 1 μPa at 1 m) where f is the frequency in Hertz of maximum Transmitting Voltage Response (TVR) below 10 kHz; *or*

Technical Note: *For the purposes of 6A001.a.1.c.1, the 'free-field Source Level (SL_{RMS})' is defined along the maximum response axis and in the far field of the acoustic projector. It can be obtained from the Transmitting Voltage Response using the following equation: SL_{RMS} = (TVR + 20log V_{RMS}) dB (ref 1μPa at 1 m), where SL_{RMS} is the source level, TVR is the Transmitting Voltage Response and V_{RMS} is the Driving Voltage of the Projector.*

a.1.c.2. [Reserved]

N.B. *See 6A001.a.1.c.1 for items previously specified in 6A001.a.1.c.2.*

a.1.c.3. Side-lobe suppression exceeding 22 dB;

a.1.d. Acoustic systems and equipment, designed to determine the position of surface vessels or underwater vehicles and having all of the following, and ''specially designed'' ''components'' therefor:

a.1.d.1. Detection range exceeding 1,000 m; *and*

a.1.d.2. Determined position error of less than 10 m rms (root mean square) when measured at a range of 1,000 m;

Note: *6A001.a.1.d includes:*

a. Equipment using coherent ''signal processing'' between two or more beacons and the hydrophone unit carried by the surface vessel or underwater vehicle;

b. Equipment capable of automatically correcting speed-of-sound propagation errors for calculation of a point.

a.1.e. Active individual sonars, ''specially designed'' or modified to detect, locate and automatically classify swimmers or divers, having all of the following, and ''specially designed'' transmitting and receiving acoustic arrays therefor:

a.1.e.1. Detection range exceeding 530 m;

a.1.e.2. Determined position error of less than 15 m rms (root mean square) when measured at a range of 530 m; *and*

a.1.e.3. Transmitted pulse signal bandwidth exceeding 3 kHz;

N.B.: *For diver detection systems ''specially designed'' or modified for military use, see the U.S. Munitions List in the International Traffic in Arms Regulations (ITAR) (22 CFR part 121).*

Note: *For 6A001.a.1.e, where multiple detection ranges are specified for various environments, the greatest detection range is used.*

a.2. Passive systems, equipment and ''specially designed'' ''components'' therefor, as follows:

Note: *6A001.a.2 also applies to receiving equipment, whether or not related in normal application to separate active equipment, and ''specially designed'' components therefor.*

a.2.a. Hydrophones having any of the following:

Note: *The control status of hydrophones ''specially designed'' for other equipment is determined by the control status of the other equipment.*

Technical Notes:

For the purposes of 6A001.a.2.a:

1. Hydrophones consist of one or more sensing elements producing a single acoustic output channel. Those that contain multiple elements can be referred to as a hydrophone group.

2. Underwater acoustic transducers designed to operate as passive receivers are hydrophones.

a.2.a.1. Incorporating continuous flexible sensing elements;

a.2.a.2. Incorporating flexible assemblies of discrete sensing elements with either a diameter or length less than 20 mm and with a separation between elements of less than 20 mm;

a.2.a.3. Having any of the following sensing elements:

a.2.a.3.a. Optical fibers;

a.2.a.3.b. 'Piezoelectric polymer films' other than polyvinylidene-fluoride (PVDF) and its co-polymers {P(VDF-TrFE) and P(VDF–TFE)};

a.2.a.3.c. 'Flexible piezoelectric composites';

a.2.a.3.d. Lead-magnesium- niobate/lead-titanate (*i.e.,* $Pb(Mg_{1/3}Nb_{2/3})O_3$-$PbTiO_3$, or PMN–PT) piezoelectric single crystals grown from solid solution; *or*

a.2.a.3.e. Lead-indium-niobate/lead-magnesium niobate/lead-titanate (*i.e.,* $Pb(In_{1/2}Nb_{1/2})O_3$-$Pb(Mg_{1/3}Nb_{2/3})O_3$–$PbTiO_3$, or PIN–PMN–PT) piezoelectric single crystals grown from solid solution;

a.2.a.4. A 'hydrophone sensitivity' better than −180dB at any depth with no acceleration compensation;

a.2.a.5. Designed to operate at depths exceeding 35 m with acceleration compensation; *or*

a.2.a.6. Designed for operation at depths exceeding 1,000 m and having a 'hydrophone sensitivity' better than −230 dB below 4 kHz;

Technical Notes:

1. For the purposes of 6A001.a.2.a.3.b, 'piezoelectric polymer film' sensing elements consist of polarized polymer film that is stretched over and attached to a supporting frame or spool (mandrel).

2. For the purposes of 6A001.a.2.a.3.c, 'flexible piezoelectric composite' sensing elements consist of piezoelectric ceramic particles or fibers combined with an electrically insulating, acoustically transparent rubber, polymer or epoxy compound, where the compound is an integral part of the sensing elements.

3. For the purposes of 6A001.a.2.a, 'hydrophone sensitivity' is defined as twenty times the logarithm to the base 10 of the ratio of rms output voltage to a 1 V rms reference, when the hydrophone sensor, without a pre-amplifier, is placed in a plane wave acoustic field with an rms pressure of 1 μPa. For example, a hydrophone of −160 dB (reference 1 V per μPa) would yield an output voltage of 10^{-8} V in such a field, while one of −180 dB sensitivity would yield only 10^{-9} V output. Thus, −160 dB is better than −180 dB.

a.2.b. Towed acoustic hydrophone arrays having any of the following:

Technical Note: *For the purposes of 6A001.a.2.b, hydrophones arrays consist of a number of hydrophones providing multiple acoustic output channels.*

a.2.b.1. Hydrophone group spacing of less than 12.5 m or 'able to be modified' to have hydrophone group spacing of less than 12.5 m;

a.2.b.2. Designed or 'able to be modified' to operate at depths exceeding 35m;

Technical Note: *For the purposes of 6A001.a.2.b.2, 'able to be modified' in 6A001.a.2.b means having provisions to allow a change of the wiring or interconnections to alter hydrophone group spacing or operating depth limits. These provisions are: spare wiring exceeding 10% of the number of wires, hydrophone group spacing adjustment blocks or internal depth limiting devices that are adjustable or that control more than one hydrophone group.*

a.2.b.3. Heading sensors controlled by 6A001.a.2.d;

a.2.b.4. Longitudinally reinforced array hoses;

a.2.b.5. An assembled array of less than 40 mm in diameter;

a.2.b.6. [Reserved];

a.2.b.7. Hydrophone characteristics controlled by 6A001.a.2.a; *or*

a.2.b.8. Accelerometer-based hydro-acoustic sensors specified by 6A001.a.2.g;

a.2.c. Processing equipment, ''specially designed'' for towed acoustic hydrophone arrays, having ''user-accessible programmability'' and time or frequency domain processing and correlation, including spectral analysis, digital filtering and beamforming using Fast Fourier or other transforms or processes;

a.2.d. Heading sensors having all of the following:

a.2.d.1. An ''accuracy'' of better than ± 0.5°; *and*

a.2.d.2. Designed to operate at depths exceeding 35 m or having an adjustable or removable depth sensing device in order to operate at depths exceeding 35 m;

N.B.: *For inertial heading systems, see 7A003.c.*

a.2.e. Bottom or bay-cable hydrophone arrays having any of the following:

a.2.e.1. Incorporating hydrophones controlled by 6A001.a.2.a;

a.2.e.2. Incorporating multiplexed hydrophone group signal modules having all of the following characteristics:

a.2.e.2.a. Designed to operate at depths exceeding 35 m or having an adjustable or removal depth sensing device in order to operate at depths exceeding 35 m; *and*

a.2.e.2.b. Capable of being operationally interchanged with towed acoustic hydrophone array modules; *or*

a.2.e.3. Incorporating accelerometer-based hydro-acoustic sensors specified by 6A001.a.2.g;

a.2.f. Processing equipment, ''specially designed'' for bottom or bay cable systems, having ''user-accessible programmability'' and time or frequency domain processing and correlation, including spectral analysis,

digital filtering and beamforming using Fast Fourier or other transforms or processes;

a.2.g. Accelerometer-based hydro-acoustic sensors having all of the following:

a.2.g.1. Composed of three accelerometers arranged along three distinct axes;

a.2.g.2. Having an overall 'acceleration sensitivity' better than 48 dB (reference 1,000 mV rms per 1g);

a.2.g.3. Designed to operate at depths greater than 35 meters; *and*

a.2.g.4. Operating frequency below 20 kHz;

Note: *6A001.a.2.g does not apply to particle velocity sensors or geophones.*

Technical Notes:

1. *For the purposes of 6A001.a.2.g, accelerometer-based hydro-acoustic sensors are also known as vector sensors.*

2. *For the purposes of 6A001.a.2.g.2, 'acceleration sensitivity' is defined as twenty times the logarithm to the base 10 of the ratio of rms output voltage to a 1 V rms reference, when the hydro-acoustic sensor, without a preamplifier, is placed in a plane wave acoustic field with an rms acceleration of 1 g (i.e., 9.81 m/s²).*

b. Correlation-velocity and Doppler-velocity sonar log equipment designed to measure the horizontal speed of the equipment carrier relative to the sea bed, as follows:

b.1. Correlation-velocity sonar log equipment having any of the following characteristics:

b.1.a. Designed to operate at distances between the carrier and the sea bed exceeding 500 m; *or*

b.1.b. Having speed ''accuracy'' better than 1% of speed;

b.2. Doppler-velocity sonar log equipment having speed ''accuracy'' better than 1% of speed;

Note 1: *6A001.b does not apply to depth sounders limited to any of the following:*

a. Measuring the depth of water;

b. Measuring the distance of submerged or buried objects; or

c. Fish finding.

Note 2: *6A001.b does not apply to equipment ''specially designed'' for installation on surface vessels.*

c. [Reserved]

N.B.: *For diver deterrent acoustic systems, see 8A002.r.*

6A002 Optical sensors and equipment, and ''components'' therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, CC, RS, AT, UN

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 2
MT applies to optical detectors in 6A002.a.1, or a.3 that are ''specially designed'' or modified to protect ''missiles'' against nuclear effects (*e.g.,* Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects), and usable for ''missiles''.	MT Column 1
RS applies to 6A002.a.1, a.2, a.3 (except a.3.d.2.a and a.3.e for lead selenide based focal plane arrays (FPAs)), .c, and .f..	RS Column 1
CC applies to police-model infrared viewers in 6A002.c.	CC Column 1
AT applies to entire entry.	AT Column 1
UN applies to 6A002.a.1, a.2, a.3 and .c.	See § 746.1(b) for UN controls

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: $500 for 6A002.f.
$3000; except N/A for MT and for 6A002.a.1, a.2, a.3, .c, and .f.
GBS: N/A

List of Items Controlled

Related Controls: (1) See USML Category XII(e) for infrared focal plane arrays, image intensifier tubes, and related parts and components, subject to the ITAR. (2) See USML Category XV(e) for space-qualified focal plane arrays subject to the ITAR. (3) See also ECCNs 6A102, 6A202, and 6A992. (4) See ECCN 0A919 for foreign-made military commodities that incorporate commodities described in 6A002. (5) Section 744.9 imposes a license requirement on commodities described in ECCN 6A002 if being exported, reexported, or transferred (in-country) for use by a military end-user or for incorporation into an item controlled by ECCN 0A919. (6) See USML Categories XII(e) and XV(e)(3) for read-out integrated circuits ''subject to the ITAR.'' (7) See 6B002 for masks and reticles, ''specially designed'' for optical sensors specified by 6A002.a.1.b or 6A002.a.1.d.
Related Definitions: N/A
Items:

a. Optical detectors as follows:

a.1. ''Space-qualified'' solid-state detectors as follows:

Note: *For the purposes of 6A002.a.1, solid-state detectors include ''focal plane arrays''.*

a.1.a. ''Space-qualified'' solid-state detectors having all of the following:

a.1.a.1. A peak response in the wavelength range exceeding 10 nm but not exceeding 300 nm; *and*

a.1.a.2. A response of less than 0.1% relative to the peak response at a wavelength exceeding 400 nm;

a.1.b. ''Space-qualified'' solid-state detectors having all of the following:

a.1.b.1. A peak response in the wavelength range exceeding 900 nm but not exceeding 1,200 nm; *and*

a.1.b.2. A response ''time constant'' of 95 ns or less;

a.1.c. ''Space-qualified'' solid-state detectors having a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

a.1.d. ''Space-qualified'' ''focal plane arrays'' having more than 2,048 elements per array and having a peak response in the wavelength range exceeding 300 nm but not exceeding 900 nm;

a.2. Image intensifier tubes and ''specially designed'' ''components'' therefor, as follows:

Note: *6A002.a.2 does not control non-imaging photomultiplier tubes having an electron sensing device in the vacuum space limited solely to any of the following:*

a. A single metal anode; or

b. Metal anodes with a center to center spacing greater than 500 µm.

Technical Note: *For the purposes of 6A002.a.2, 'charge multiplication' is a form of electronic image amplification and is defined as the generation of charge carriers as a result of an impact ionization gain process. 'Charge multiplication' sensors may take the form of an image intensifier tube, solid state detector or ''focal plane array''.*

a.2.a. Image intensifier tubes having all of the following:

a.2.a.1. A peak response in the wavelength range exceeding 400 nm but not exceeding 1,050 nm;

a.2.a.2. Electron image amplification using any of the following:

a.2.a.2.a. A microchannel plate with a hole pitch (center-to-center spacing) of 12 µm or less; *or*

a.2.a.2.b. An electron sensing device with a non-binned pixel pitch of 500 µm or less, ''specially designed'' or modified to achieve 'charge multiplication' other than by a microchannel plate; *and*

a.2.a.3. Any of the following photocathodes:

a.2.a.3.a. Multialkali photocathodes (*e.g.,* S–20 and S–5) having a luminous sensitivity exceeding 350 µA/lm;

a.2.a.3.b. GaAs or GaInAs photocathodes; *or*

a.2.a.3.c. Other ''III–V compound'' semiconductor photocathodes having a maximum ''radiant sensitivity'' exceeding 10 mA/W;

a.2.b. Image intensifier tubes having all of the following:

a.2.b.1. A peak response in the wavelength range exceeding 1,050 nm but not exceeding 1,800 nm;

a.2.b.2. Electron image amplification using any of the following:

a.2.b.2.a. A microchannel plate with a hole pitch (center-to-center spacing) of 12 μm or less; *or*

a.2.b.2.b. An electron sensing device with a non-binned pixel pitch of 500 μm or less, ''specially designed'' or modified to achieve 'charge multiplication' other than by a microchannel plate; *and*

a.2.b.3. ''III/V compound'' semiconductor (*e.g.,* GaAs or GaInAs) photocathodes and transferred electron photocathodes, having a maximum ''radiant sensitivity'' exceeding 15 mA/W;

a.2.c. ''Specially designed'' ''components'' as follows:

a.2.c.1. Microchannel plates having a hole pitch (center-to-center spacing) of 12 μm or less;

a.2.c.2. An electron sensing device with a non-binned pixel pitch of 500 μm or less, ''specially designed'' or modified to achieve 'charge multiplication' other than by a microchannel plate;

a.2.c.3. ''III–V compound'' semiconductor (*e.g.,* GaAs or GaInAs) photocathodes and transferred electron photocathodes;

Note: *6A002.a.2.c.3 does not control compound semiconductor photocathodes designed to achieve a maximum ''radiant sensitivity'' of any of the following:*

a. 10 mA/W or less at the peak response in the wavelength range exceeding 400 nm but not exceeding 1,050 nm; or

b. 15 mA/W or less at the peak response in the wavelength range exceeding 1,050 nm but not exceeding 1,800 nm.

a.3. Non-''space-qualified'' ''focal plane arrays'' as follows:

N.B.: *'Microbolometer' non-''space-qualified'' ''focal plane arrays'' are only specified by 6A002.a.3.f.*

Technical Note: *For the purposes of 6A002.a.3, linear or two-dimensional multi-element detector arrays are referred to as ''focal plane arrays'';*

Note 1: *6A002.a.3 includes photoconductive arrays and photovoltaic arrays.*

Note 2: *6A002.a.3 does not control:*

a. Multi-element (not to exceed 16 elements) encapsulated photoconductive cells using either lead sulphide or lead selenide;

b. Pyroelectric detectors using any of the following:

b.1. Triglycine sulphate and variants;

b.2. Lead-lanthanum-zirconium titanate and variants;

b.3. Lithium tantalate;

b.4. Polyvinylidene fluoride and variants; or

b.5. Strontium barium niobate and variants.

c. ''Focal plane arrays'' ''specially designed'' or modified to achieve 'charge multiplication' and limited by design to have a maximum ''radiant sensitivity'' of 10 mA/W or less for wavelengths exceeding 760 nm, having all of the following:

c.1. Incorporating a response limiting mechanism designed not to be removed or modified; and

c.2. Any of the following:

c.2.a. The response limiting mechanism is integral to or combined with the detector element; or

c.2.b. The ''focal plane array'' is only operable with the response limiting mechanism in place.

d. Thermopile arrays having less than 5,130 elements;

Technical Note: *For the purposes of 6A002.a.3 Note 2.c.2.a, a response limiting mechanism integral to the detector element is designed not to be removed or modified without rendering the detector inoperable.*

a.3.a. Non-''space-qualified'' ''focal plane arrays'' having all of the following:

a.3.a.1. Individual elements with a peak response within the wavelength range exceeding 900 nm but not exceeding 1,050 nm; *and*

a.3.a.2. Any of the following:

a.3.a.2.a. A response ''time constant'' of less than 0.5 ns; *or*

a.3.a.2.b. ''Specially designed'' or modified to achieve 'charge multiplication' and having a maximum ''radiant sensitivity'' exceeding 10 mA/W;

a.3.b. Non-''space-qualified'' ''focal plane arrays'' having all of the following:

a.3.b.1. Individual elements with a peak response in the wavelength range exceeding 1,050 nm but not exceeding 1,200 nm; *and*

a.3.b.2. Any of the following:

a.3.b.2.a. A response ''time constant'' of 95 ns or less; *or*

a.3.b.2.b. ''Specially designed'' or modified to achieve 'charge multiplication' and having a maximum ''radiant sensitivity'' exceeding 10 mA/W;

a.3.c. Non-''space-qualified'' non-linear (2-dimensional) ''focal plane arrays'' having individual elements with a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

N.B.: *Silicon and other material based 'microbolometer' non-''space-qualified'' ''focal plane arrays'' are only specified by 6A002.a.3.f.*

a.3.d. Non-''space-qualified'' linear (1-dimensional) ''focal plane arrays'' having all of the following:

a.3.d.1. Individual elements with a peak response in the wavelength range exceeding 1,200 nm but not exceeding 3,000 nm; *and*

a.3.d.2. Any of the following:

a.3.d.2.a. A ratio of 'scan direction' dimension of the detector element to the 'cross-scan direction' dimension of the detector element of less than 3.8; *or*

a.3.d.2.b. Signal processing in the detector elements;

Note: *6A002.a.3.d does not control ''focal plane arrays'' (not to exceed 32 elements) having detector elements limited solely to germanium material.*

Technical Note: *For the purposes of 6A002.a.3.d, 'cross-scan direction' is defined as the axis parallel to the linear array of detector elements and the 'scan direction' is defined as the axis perpendicular to the linear array of detector elements.*

a.3.e. Non-''space-qualified'' linear (1-dimensional) ''focal plane arrays'' having individual elements with a peak response in the wavelength range exceeding 3,000 nm but not exceeding 30,000 nm;

a.3.f. Non-''space-qualified'' non-linear (2-dimensional) infrared ''focal plane arrays'' based on 'microbolometer' material having individual elements with an unfiltered response in the wavelength range equal to or exceeding 8,000 nm but not exceeding 14,000 nm;

Technical Note: *For the purposes of 6A002.a.3.f, 'microbolometer' is defined as a thermal imaging detector that, as a result of a temperature change in the detector caused by the absorption of infrared radiation, is used to generate any usable signal.*

a.3.g. Non-''space-qualified'' ''focal plane arrays'' having all of the following:

a.3.g.1. Individual detector elements with a peak response in the wavelength range exceeding 400 nm but not exceeding 900 nm;

a.3.g.2. ''Specially designed'' or modified to achieve 'charge multiplication' and having a maximum ''radiant sensitivity'' exceeding 10 mA/W for wavelengths exceeding 760 nm; *and*

a.3.g.3. Greater than 32 elements;

b. ''Monospectral imaging sensors'' and ''multispectral imaging sensors'', designed for remote sensing applications and having any of the following:

b.1. An Instantaneous-Field-Of-View (IFOV) of less than 200 μrad (microradians); *or*

b.2. Specified for operation in the wavelength range exceeding 400 nm but not exceeding 30,000 nm and having all the following:

b.2.a. Providing output imaging data in digital format; *and*

b.2.b. Having any of the following characteristics:

b.2.b.1. ''Space-qualified''; *or*

b.2.b.2. Designed for airborne operation, using other than silicon detectors, and having an IFOV of less than 2.5 mrad (milliradians);

Note: *6A002.b.1 does not control ''monospectral imaging sensors'' with a peak response in the wavelength range exceeding 300 nm but not exceeding 900 nm and only incorporating any of the following non-''space-qualified'' detectors or non -''space-qualified'' ''focal plane arrays'':*

a. Charge Coupled Devices (CCD) not designed or modified to achieve 'charge multiplication'; or

b. Complementary Metal Oxide Semiconductor (CMOS) devices not designed or modified to achieve 'charge multiplication'.

c. 'Direct view' imaging equipment incorporating any of the following:

c.1. Image intensifier tubes having the characteristics listed in 6A002.a.2.a or 6A002.a.2.b;

c.2. ''Focal plane arrays'' having the characteristics listed in 6A002.a.3; *or*

c.3. Solid state detectors specified by 6A002.a.1;

Technical Note: *For the purposes of 6A002.c,'direct view' refers to imaging equipment that presents a visual image to a human observer without converting the image into an electronic signal for television display, and that cannot record or store the image photographically, electronically or by any other means.*

Note: *6A002.c does not control equipment as follows, when incorporating other than GaAs or GaInAs photocathodes:*

a. Industrial or civilian intrusion alarm, traffic or industrial movement control or counting systems;

b. Medical equipment;

c. Industrial equipment used for inspection, sorting or analysis of the properties of materials;

d. Flame detectors for industrial furnaces;

e. Equipment ''specially designed'' for laboratory use.

d. Special support ''components'' for optical sensors, as follows:

d.1. ''Space-qualified'' cryocoolers;

d.2. Non-''space-qualified'' cryocoolers having a cooling source temperature below 218 K (−55 °C), as follows:

d.2.a. Closed cycle type with a specified Mean-Time-To-Failure (MTTF) or Mean-Time-Between-Failures (MTBF), exceeding 2,500 hours;

d.2.b. Joule-Thomson (JT) self-regulating minicoolers having bore (outside) diameters of less than 8 mm;

d.3. Optical sensing fibers specially fabricated either compositionally or structurally, or modified by coating, to be acoustically, thermally, inertially, electromagnetically or nuclear radiation sensitive.

Note: *6A002.d.3 does not apply to encapsulated optical sensing fibers ''specially designed'' for bore hole sensing applications.*

e. [Reserved]

f. 'Read-Out Integrated Circuits' ('ROIC') ''specially designed'' for ''focal plane arrays'' specified by 6A002.a.3.

Note: *6A002.f does not apply to read-out integrated circuits ''specially designed'' for civil automotive applications.*

Technical Note: *For the purposes of 6A002.f, a 'Read-Out Integrated Circuit' ('ROIC') is an integrated circuit designed to underlie or be bonded to a ''focal plane array'' (''FPA'') and used to read-out (i.e., extract and register) signals produced by the detector elements. At a minimum the 'ROIC' reads the charge from the detector elements by extracting the charge and applying a multiplexing function in a manner that retains the relative spatial position and orientation information of the detector elements for processing inside or outside the 'ROIC'.*

6A003 Cameras, systems or equipment, and ''components'' therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, RS, AT, UN

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
NP applies to cameras controlled by 6A003.a.3 or a.4 and to plug-ins in 6A003.a.6 for cameras controlled by 6A003.a.3 or a.4.	NP Column 1
RS applies to 6A003.b.3, 6A003.b.4.a, 6A003.b.4.c and to items controlled in 6A003.b.4.b that have a frame rate greater than 60 Hz or that incorporate a focal plane array with more than 111,000 elements, or to items in 6A003.b.4.b when being exported or reexported to be embedded in a civil product. (But see § 742.6(a)(2)(iii) and (v) for certain exemptions).	RS Column 1
RS applies to items controlled in 6A003.b.4.b that have a frame rate of 60 Hz or less and that incorporate a focal plane array with not more than 111,000 elements if not being exported or reexported to be embedded in a civil product.	RS Column 2
AT applies to entire entry.	AT Column 1
UN applies to 6A003.b.3 and b.4.	See § 746.1(b) for UN controls

License Requirement Note: Commodities that are not subject to the ITAR but are of the type described in USML Category XII(c) are controlled as cameras in ECCN 6A003 when they incorporate a camera controlled in this ECCN.

Reporting Requirements

See § 743.3 of the EAR for thermal camera reporting for exports that are not authorized by an individually validated license of thermal imaging cameras controlled by ECCN 6A003.b.4.b to destinations in Country Group A:1 (see Supplement No. 1 to part 740 of the EAR), must be reported to BIS.

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

LVS: $1,500, except N/A for 6A003.a.3 through a.6, b.1, b.3 and b.4

GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship any commodity in 6A003.b.3 or b.4 to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See ECCNs 6E001 (''development''), 6E002 (''production''), and 6E201 (''use'') for technology for items controlled under this entry. (2) Also see ECCN 6A203. (3) See ECCN 0A919 for foreign made military commodities that incorporate cameras described in 6A003. (4) Section 744.9 imposes a license requirement on cameras described in 6A003 if being exported, reexported, or transferred (in-country) for use by a military end-user or for incorporation into a commodity controlled by ECCN 0A919. (5) See USML Category XII(c) and (e) for cameras subject to the ITAR. *Related Definitions:* N/A.

Items:

a. Instrumentation cameras and ''specially designed'' ''components'' therefor, as follows:

Note: *Instrumentation cameras, controlled by 6A003.a.3 to 6A003.a.5, with modular structures should be evaluated by their maximum capability, using plug-ins available according to the camera manufacturer's specifications.*

a.1. [Reserved]

a.2. [Reserved]

a.3. Electronic streak cameras having temporal resolution better than 50 ns;

a.4. Electronic framing cameras having a speed exceeding 1,000,000 frames/s;

a.5. Electronic cameras having all of the following:

a.5.a. An electronic shutter speed (gating capability) of less than 1µs per full frame; *and*

a.5.b. A read out time allowing a framing rate of more than 125 full frames per second;

a.6. Plug-ins having all of the following characteristics:

a.6.a. ''Specially designed'' for instrumentation cameras which have modular structures and that are controlled by 6A003.a; *and*

a.6.b. Enabling these cameras to meet the characteristics specified by 6A003.a.3, 6A003.a.4 or 6A003.a.5, according to the manufacturer's specifications;

b. Imaging cameras as follows:

Note: *6A003.b does not control television or video cameras ''specially designed'' for television broadcasting.*

b.1. Video cameras incorporating solid state sensors, having a peak response in the wavelength range exceeding 10 nm, but not exceeding 30,000 nm and having all of the following:

b.1.a. Having any of the following:

b.1.a.1. More than 4×10^6 ''active pixels'' per solid state array for monochrome (black and white) cameras;

b.1.a.2. More than 4×10^6 ''active pixels'' per solid state array for color cameras incorporating three solid state arrays; *or*

b.1.a.3. More than 12×10^6 ''active pixels'' for solid state array color cameras incorporating one solid state array; *and*

b.1.b. Having any of the following:

b.1.b.1. Optical mirrors controlled by 6A004.a.;

b.1.b.2. Optical control equipment controlled by 6A004.d.; *or*

b.1.b.3. The capability for annotating internally generated 'camera tracking data';

Technical Notes:

1. For the purposes of 6A003.b.1, digital video cameras should be evaluated by the maximum number of ''active pixels'' used for capturing moving images.

2. For the purposes of 6A003.b.1.b.3, 'camera tracking data' is the information

necessary to define camera line of sight orientation with respect to the earth. This includes: (1) the horizontal angle the camera line of sight makes with respect to the earth's magnetic field direction and; (2) the vertical angle between the camera line of sight and the earth's horizon.

b.2. Scanning cameras and scanning camera systems, having all of the following:

b.2.a. A peak response in the wavelength range exceeding 10 nm, but not exceeding 30,000 nm;

b.2.b. Linear detector arrays with more than 8,192 elements per array; *and*

b.2.c. Mechanical scanning in one direction;

Note: *6A003.b.2 does not apply to scanning cameras and scanning camera systems, ''specially designed'' for any of the following:*

a. Industrial or civilian photocopiers;

b. Image scanners ''specially designed'' for civil, stationary, close proximity scanning applications (e.g., reproduction of images or print contained in documents, artwork or photographs); or

c. Medical equipment.

b.3. Imaging cameras incorporating image intensifier tubes having the characteristics listed in 6A002.a.2.a or 6A002.a.2.b;

b.4. Imaging cameras incorporating ''focal plane arrays'' having any of the following:

b.4.a. Incorporating ''focal plane arrays'' controlled by 6A002.a.3.a to 6A002.a.3.e;

b.4.b. Incorporating ''focal plane arrays'' controlled by 6A002.a.3.f; *or*

b.4.c. Incorporating ''focal plane arrays'' controlled by 6A002.a.3.g;

Note 1: *Imaging cameras described in 6A003.b.4 include ''focal plane arrays'' combined with sufficient ''signal processing'' electronics, beyond the read out integrated circuit, to enable as a minimum the output of an analog or digital signal once power is supplied.*

Note 2: *6A003.b.4.a does not control imaging cameras incorporating linear ''focal plane arrays'' with 12 elements or fewer, not employing time-delay-and-integration within the element and designed for any of the following:*

a. Industrial or civilian intrusion alarm, traffic or industrial movement control or counting systems;

b. Industrial equipment used for inspection or monitoring of heat flows in buildings, equipment or industrial processes;

c. Industrial equipment used for inspection, sorting or analysis of the properties of materials;

d. Equipment ''specially designed'' for laboratory use; or

e. Medical equipment.

Note 3: *6A003.b.4.b does not control imaging cameras having any of the following:*

a. A maximum frame rate equal to or less than 9 Hz;

b. Having all of the following:

1. Having a minimum horizontal or vertical 'Instantaneous-Field-of-View (IFOV)' of at least 2 mrad (milliradians);

2. Incorporating a fixed focal-length lens that is not designed to be removed;

3. Not incorporating a 'direct view' display; and

Technical Note: *For the purposes of 6A003.b.4 Note 3.b.3, 'direct view' refers to an imaging camera operating in the infrared spectrum that presents a visual image to a human observer using a near-to-eye micro display incorporating any light-security mechanism.*

4. Having any of the following:

a. No facility to obtain a viewable image of the detected field-of-view; or

b. The camera is designed for a single kind of application and designed not to be user modified; or

Technical Note:

For the purposes of 6A003.b.4 Note 3.b.1, 'Instantaneous-Field-of-View (IFOV)' is the lesser figure of the 'Horizontal IFOV' or the 'Vertical IFOV'.

'Horizontal IFOV' = horizontal Field-of-View (FOV)/number of horizontal detector elements.

'Vertical IFOV' = vertical Field-of-View (FOV)/number of vertical detector elements.

c. The camera is ''specially designed'' for installation into a civilian passenger land vehicle and having all of the following:

1. The placement and configuration of the camera within the vehicle are solely to assist the driver in the safe operation of the vehicle;

2. Is operable only when installed in any of the following:

a. The civilian passenger land vehicle for which it was intended and the vehicle weighs less than 4,500 kg (gross vehicle weight); or

b. A ''specially designed'', authorized maintenance test facility; and

3. Incorporates an active mechanism that forces the camera not to function when it is removed from the vehicle for which it was intended.

Note: *When necessary, details of the items will be provided, upon request, to the Bureau of Industry and Security in order to ascertain compliance with the conditions described in Note 3.b.4 and Note 3.c in this Note to 6A003.b.4.b.*

Note 4: *6A003.b.4.c does not apply to 'imaging cameras' having any of the following characteristics:*

a. Having all of the following:

1. Where the camera is ''specially designed'' for installation as an integrated component into indoor and wall-plug-operated systems or equipment, limited by design for a single kind of application, as follows:

a. Industrial process monitoring, quality control, or analysis of the properties of materials;

b. Laboratory equipment ''specially designed'' for scientific research;

c. Medical equipment;

d. Financial fraud detection equipment; and

2. Is only operable when installed in any of the following:

a. The system(s) or equipment for which it was intended; or

b. A ''specially designed,'' authorized maintenance facility; and

3. Incorporates an active mechanism that forces the camera not to function when it is removed from the system(s) or equipment for which it was intended;

b. Where the camera is ''specially designed'' for installation into a civilian passenger land vehicle or passenger and vehicle ferries and having all of the following:

1. The placement and configuration of the camera within the vehicle or ferry are solely to assist the driver or operator in the safe operation of the vehicle or ferry;

2. Is only operable when installed in any of the following:

a. The civilian passenger land vehicle for which it was intended and the vehicle weighs less than 4,500 kg (gross vehicle weight);

b. The passenger and vehicle ferry for which it was intended and having a length overall (LOA) 65 m or greater; or

c. A ''specially designed'', authorized maintenance test facility; and

3. Incorporates an active mechanism that forces the camera not to function when it is removed from the vehicle for which it was intended;

c. Limited by design to have a maximum ''radiant sensitivity'' of 10 mA/W or less for wavelengths exceeding 760 nm, having all of the following:

1. Incorporating a response limiting mechanism designed not to be removed or modified; and

2. Incorporates an active mechanism that forces the camera not to function when the response limiting mechanism is removed; and

3. Not ''specially designed'' or modified for underwater use; or

d. Having all of the following:

1. Not incorporating a 'direct view' or electronic image display;

2. Has no facility to output a viewable image of the detected field of view;

3. The ''focal plane array'' is only operable when installed in the camera for which it was intended; and

4. The ''focal plane array'' incorporates an active mechanism that forces it to be permanently inoperable when removed from the camera for which it was intended.

Note: *When necessary, details of the item will be provided, upon request, to the Bureau of Industry and Security in order to ascertain compliance with the conditions described in Note 4 above.*

b.5. Imaging cameras incorporating solid-state detectors specified by 6A002.a.1.

6A004 Optical equipment and ''components,'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: $3000

GBS: Yes for 6A004.a.1, a.2, a.4, .b, d.2, and .f.

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA may not be used to ship any commodity in 6A004.c or .d to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) For optical mirrors or 'aspheric optical elements' ''specially designed'' for lithography ''equipment,'' see ECCN 3B001. (2) See USML Category XII(e) for gimbals ''subject to the ITAR.'' (3) See also 6A994.

Related Definitions: An 'aspheric optical element' is any element used in an optical system whose imaging surface or surfaces are designed to depart from the shape of an ideal sphere.

Items:

a. Optical mirrors (reflectors) as follows:

Technical Note: *For the purposes of 6A004.a, Laser Induced Damage Threshold (LIDT) is measured according to ISO 21254–1:2011.*

a.1. 'Deformable mirrors' having an active optical aperture greater than 10 mm and having any of the following, and ''specially designed'' components therefor:

a.1.a. Having all the following:

a.1.a.1. A mechanical resonant frequency of 750 Hz or more; *and*

a.1.a.2. More than 200 actuators; *or*

a.1.b. A Laser Induced Damage Threshold (LIDT) being any of the following:

a.1.b.1. Greater than 1 kW/cm^2 using a ''CW laser''; *or*

a.1.b.2. Greater than 2 J/cm^2 using 20 ns ''laser'' pulses at 20 Hz repetition rate;

Technical Notes:

For the purposes of 6A004.a.1:

1. *'Deformable mirrors' are mirrors having any of the following:*

a. A single continuous optical reflecting surface which is dynamically deformed by the application of individual torques or forces to compensate for distortions in the optical waveform incident upon the mirror; or

b. Multiple optical reflecting elements that can be individually and dynamically repositioned by the application of torques or forces to compensate for distortions in the optical waveform incident upon the mirror.

2. *'Deformable mirrors' are also known as adaptive optic mirrors.*

a.2. Lightweight monolithic mirrors having an average ''equivalent density'' of less than 30 kg/m^2 and a total mass exceeding 10 kg;

a.3. Lightweight ''composite'' or foam mirror structures having an average ''equivalent density'' of less than 30 kg/m^2 and a total mass exceeding 2 kg;

Note: *6A004.a.2 and 6A004.a.3 do not apply to mirrors ''specially designed'' to direct solar radiation for terrestrial heliostat installations.*

a.4. Mirrors ''specially designed'' for beam steering mirror stages specified in 6A004.d.2.a with a flatness of λ/10 or better (λ is equal to 633 nm) and having any of the following:

a.4.a. Diameter or major axis length greater than or equal to 100 mm; *or*

a.4.b. Having all of the following:

a.4.b.1. Diameter or major axis length greater than 50 mm but less than 100 mm; *and*

a.4.b.2. A Laser Induced Damage Threshold (LIDT) being any of the following:

a.4.b.2.a. Greater than 10 kW/cm2 using a ''CW laser''; *or*

a.4.b.2.b. Greater than 20 J/cm2 using 20 ns ''laser'' pulses at 20 Hz repetition rate;

N.B. *For optical mirrors ''specially designed'' for lithography equipment, see 3B001.*

b. Optical ''components'' made from zinc selenide (ZnSe) or zinc sulfide (ZnS) with transmission in the wavelength range exceeding 3,000 nm but not exceeding 25,000 nm and having any of the following:

b.1. Exceeding 100 cm^3 in volume; *or*

b.2. Exceeding 80 mm in diameter or length of major axis and 20 mm in thickness (depth);

c. ''Space-qualified'' ''components'' for optical systems, as follows:

c.1. ''Components'' lightweighted to less than 20% ''equivalent density'' compared with a solid blank of the same aperture and thickness;

c.2. Raw substrates, processed substrates having surface coatings (single-layer or multi-layer, metallic or dielectric, conducting, semiconducting or insulating) or having protective films;

c.3. Segments or assemblies of mirrors designed to be assembled in space into an optical system with a collecting aperture equivalent to or larger than a single optic 1 m in diameter;

c.4. ''Components'' manufactured from ''composite'' materials having a coefficient of linear thermal expansion, in any coordinate direction, equal to or less than 5×10^{-6}/K;

d. Optical control equipment as follows:

d.1. Equipment ''specially designed'' to maintain the surface figure or orientation of the ''space-qualified'' ''components'' controlled by 6A004.c.1 or 6A004.c.3;

d.2. Steering, tracking, stabilisation and resonator alignment equipment as follows:

d.2.a. Beam steering mirror stages designed to carry mirrors having diameter or major axis length greater than 50 mm and having all of the following, and ''specially designed'' electronic control equipment therefor:

d.2.a.1. A maximum angular travel of ±26 mrad or more;

d.2.a.2. A mechanical resonant frequency of 500 Hz or more; *and*

d.2.a.3. An angular ''accuracy'' of 10 μrad (microradians) or less (better);

d.2.b. Resonator alignment equipment having bandwidths equal to or more than 100 Hz and an ''accuracy'' of 10 μrad or less (better);

d.3. Gimbals having all of the following:

d.3.a. A maximum slew exceeding 5°;

d.3.b. A bandwidth of 100 Hz or more;

d.3.c. Angular pointing errors of 200 μrad (microradians) or less; *and*

d.3.d. Having any of the following:

d.3.d.1. Exceeding 0.15 m but not exceeding 1 m in diameter or major axis length and capable of angular accelerations exceeding 2 rad (radians)/s^2; *or*

d.3.d.2. Exceeding 1 m in diameter or major axis length and capable of angular accelerations exceeding 0.5 rad (radians)/s^2;

d.4. [Reserved]

e. 'Aspheric optical elements' having all of the following:

e.1. Largest dimension of the optical-aperture greater than 400 mm;

e.2. Surface roughness less than 1 nm (rms) for sampling lengths equal to or greater than 1 mm; *and*

e.3. Coefficient of linear thermal expansion's absolute magnitude less than 3×10^{-6}/K at 25°C;

Technical Note:

1. For the purposes of 6A004.e, an 'aspheric optical element' is any element used in an optical system whose imaging surface or surfaces are designed to depart from the shape of an ideal sphere.

2. For the purposes of 6A004.e.2, manufacturers are not required to measure the surface roughness unless the optical element was designed or manufactured with the intent to meet, or exceed, the control parameter.

Note: *6A004.e does not control 'aspheric optical elements' having any of the following:*

a. Largest optical-aperture dimension less than 1 m and focal length to aperture ratio equal to or greater than 4.5:1;

b. Largest optical-aperture dimension equal to or greater than 1 m and focal length to aperture ratio equal to or greater than 7:1;

c. Designed as Fresnel, flyeye, stripe, prism or diffractive optical elements;

d. Fabricated from borosilicate glass having a coefficient of linear thermal expansion greater than 2.5×10^{-6}/K at 25°C; or

e. An x-ray optical element having inner mirror capabilities (e.g., tube-type mirrors).

f. Dynamic wavefront measuring equipment having all of the following:

f.1. 'Frame rates' equal to or more than 1 kHz; *and*

f.2. A wavefront accuracy equal to or less (better) than λ/20 at the designed wavelength.

Technical Note: *For the purposes of 6A004.f, 'frame rate' is a frequency at which all ''active pixels'' in the ''focal plane array'' are integrated for recording images projected by the wavefront sensor optics.*

6A005 ''Lasers'', ''components'' and optical equipment, as follows (see List of Items Controlled), excluding items that are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 2
NP applies to lasers controlled by 6A005.a.2, a.3, a.4, b.2.b, b.3, b.4, b.6.c, c.1.b, c.2.b, d.2, d.3.c, or d.4.c that meet or exceed the technical parameters described in 6A205.	NP Column 1

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
AT applies to entire entry.	AT Column 1

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

LVS: N/A for NP items
$3000 for all other items
GBS: Neodymium-doped (other than glass) ''lasers'' controlled by 6A005.b.6.d.2 (except 6A005.b.6.d.2.b) that have an output wavelength exceeding 1,000 nm, but not exceeding 1,100 nm, and an average or CW output power not exceeding 2 kW, and operate in a pulse-excited, non-''Q-switched'' multiple-transverse mode, or in a continuously excited, multiple-transverse mode; Dye and Liquid Lasers controlled by 6A005.c.1, c.2 and c.3, except for a pulsed single longitudinal mode oscillator having an average output power exceeding 1 W and a repetition rate exceeding 1 kHz if the ''pulse duration'' is less than 100 ns; CO ''lasers'' controlled by 6A005.d.2 having a CW maximum rated single or multimode output power not exceeding 10 kW; CO_2 or CO/CO_2 ''lasers'' controlled by 6A005.d.3 having an output wavelength in the range from 9,000 to 11,000 nm and having a pulsed output not exceeding 2 J per pulse and a maximum rated average single or multimode output power not exceeding 5 kW; and CO_2 ''lasers'' controlled by 6A005.d.3 that operate in CW multiple-transverse mode, and having a CW output power not exceeding 15 kW.

List of Items Controlled

Related Controls (1) See ECCN *6D001* for ''software'' for items controlled under this entry. (2) See ECCNs *6E001* (''development''), *6E002* (''production''), and *6E201* (''use'') for technology for items controlled under this entry. (3) Also see ECCNs *6A205* and *6A995.* (4) See ECCN 3B001 for excimer ''lasers'' ''specially designed'' for lithography equipment. (5) ''Lasers'' ''especially designed'' or prepared for use in isotope separation are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110). (6) See USML Category XII(b) and (e) for laser systems or lasers subject to the ITAR. (7) See USML Category XVIII for certain laser-based directed energy weapon systems, equipment, and components subject to the ITAR.
Related Definitions: For the purposes of 6A005: (1) 'Wall-plug efficiency' is defined as the ratio of ''laser'' output power (or ''average output power'') to total electrical input power required to operate the ''laser'', including the power supply/conditioning and thermal conditioning/heat exchanger, see 6A005.a.6.b.1 and 6A005.b.6; (2) 'Non-repetitive pulsed' refers to ''lasers'' that produce either a single output pulse or that have a time interval between pulses exceeding one minute, see Note 2 of 6A005 and 6A005.d.6.
Items:

Notes:

1. *Pulsed ''lasers'' include those that run in a continuous wave (CW) mode with pulses superimposed.*

2. *Excimer, semiconductor, chemical, CO, CO^2, and 'non-repetitive pulsed' Nd:glass ''lasers'' are only specified by 6A005.d.*

Technical Note: *For the purposes of 6A005 Note 2, 'non-repetitive pulsed' refers to ''lasers'' that produce either a single output pulse or that have a time interval between pulses exceeding one minute.*

3. *6A005 includes fiber ''lasers''.*

4. *The control status of ''lasers'' incorporating frequency conversion (i.e., wavelength change) by means other than one ''laser'' pumping another ''laser'' is determined by applying the control parameters for both the output of the source ''laser'' and the frequency-converted optical output.*

5. *6A005 does not control ''lasers'' as follows:*

a. Ruby with output energy below 20 J;

b. Nitrogen;

c. Krypton.

6. *For the purposes of 6A005.a and 6A005.b, 'single transverse mode' refers to ''lasers'' with a beam profile having an M^2-factor of less than 1.3, while 'multiple transverse mode' refers to ''lasers'' with a beam profile having an M^2-factor of 1.3 or higher*

a. Non-''tunable'' continuous wave ''(CW) lasers'' having any of the following:

a.1. Output wavelength less than 150 nm and output power exceeding 1W;

a.2. Output wavelength of 150 nm or more but not exceeding 510 nm and output power exceeding 30 W;

Note: *6A005.a.2 does not control Argon ''lasers'' having an output power equal to or less than 50 W.*

a.3. Output wavelength exceeding 510 nm but not exceeding 540 nm and any of the following:

a.3.a. 'Single transverse mode' output and output power exceeding 50 W; *or*

a.3.b. 'Multiple transverse mode' output and output power exceeding 150 W;

a.4. Output wavelength exceeding 540 nm but not exceeding 800 nm and output power exceeding 30 W;

a.5. Output wavelength exceeding 800 nm but not exceeding 975 nm and any of the following:

a.5.a. 'Single transverse mode' output and output power exceeding 50 W; *or*

a.5.b. 'Multiple transverse mode' output and output power exceeding 80 W;

a.6. Output wavelength exceeding 975 nm but not exceeding 1,150 nm and any of the following;

a.6.a. 'Single transverse mode' output and any of the following:

a.6.a.1. Output power exceeding 1,000 W; *or*

a.6.a.2. Having all of the following:

a.6.a.2.a. Output power exceeding 500 W; *and*

a.6.a.2.b. Spectral bandwidth less than 40 GHz; *or*

a.6.b. 'Multiple transverse mode' output and any of the following:

a.6.b.1. 'Wall-plug efficiency' exceeding 18% and output power exceeding 1,000 W; or

a.6.b.2. Output power exceeding 2 kW;

Note 1: *6A005.a.6.b does not control 'multiple transverse mode', industrial ''lasers'' with output power exceeding 2 kW and not exceeding 6 kW with a total mass greater than 1,200 kg. For the purpose of this note, total mass includes all ''components'' required to operate the ''laser,'' e.g., ''laser,'' power supply, heat exchanger, but excludes external optics for beam conditioning or delivery.*

Note 2: *6A005.a.6.b does not apply to 'multiple transverse mode', industrial ''lasers'' having any of the following:*

a. [Reserved];

b. Output power exceeding 1 kW but not exceeding 1.6 kW and having a BPP exceeding 1.25 mm·mrad;

c. Output power exceeding 1.6 kW but not exceeding 2.5 kW and having a BPP exceeding 1.7 mm·mrad;

d. Output power exceeding 2.5 kW but not exceeding 3.3 kW and having a BPP exceeding 2.5 mm·mrad;

e. Output power exceeding 3.3 kW but not exceeding 6 kW and having a BPP exceeding 3.5 mm·mrad;

f. [Reserved]

g. [Reserved]

h. Output power exceeding 6 kW but not exceeding 8 kW and having a BPP exceeding 12 mm·mrad; or

i. Output power exceeding 8 kW but not exceeding 10 kW and having a BPP exceeding 24 mm·mrad;

a.7. Output wavelength exceeding 1,150 nm but not exceeding 1,555 nm and any of the following:

a.7.a. 'Single transverse mode' and output power exceeding 50 W; *or*

a.7.b. 'Multiple transverse mode' and output power exceeding 80 W;

a.8. Output wavelength exceeding 1,555 nm but not exceeding 1,850 nm and output power exceeding 1 W;

a.9. Output wavelength exceeding 1,850 nm but not exceeding 2,100 nm, and any of the following:

a.9.a. 'Single transverse mode' and output power exceeding 1 W; *or*

a.9.b. 'Multiple transverse mode' output and output power exceeding 120 W; *or*

a.10. Output wavelength exceeding 2,100 nm and output power exceeding 1 W;

b. Non-''tunable'' ''pulsed lasers'' having any of the following:

b.1. Output wavelength less than 150 nm and any of the following:

b.1.a. Output energy exceeding 50 mJ per pulse and ''peak power'' exceeding 1 W; *or*

b.1.b. ''Average output power'' exceeding 1 W;

b.2. Output wavelength of 150 nm or more but not exceeding 510 nm and any of the following:

b.2.a. Output energy exceeding 1.5 J per pulse and ''peak power'' exceeding 30 W; *or*

b.2.b. ''Average output power'' exceeding 30 W;

Note: *6A005.b.2.b does not control Argon ''lasers'' having an ''average output power'' equal to or less than 50 W.*

b.3. Output wavelength exceeding 510 nm, but not exceeding 540 nm and any of the following:

b.3.a. 'Single transverse mode' output and any of the following:

b.3.a.1. Output energy exceeding 1.5 J per pulse and ''peak power'' exceeding 50 W; *or*

b.3.a.2. ''Average output power'' exceeding 80 W; *or*

b.3.b. 'Multiple transverse mode' output and any of the following:

b.3.b.1. Output energy exceeding 1.5 J per pulse and ''peak power'' exceeding 150 W; or

b.3.b.2. ''Average output power'' exceeding 150 W;

b.4. Output wavelength exceeding 540 nm but not exceeding 800 nm and any of the following:

b.4.a. ''Pulse duration'' less than 1 ps and any of the following:

b.4.a.1. Output energy exceeding 0.005 J per pulse and ''peak power'' exceeding 5 GW; *or*

b.4.a.2. ''Average output power'' exceeding 20 W; *or*

b.4.b. ''Pulse duration'' equal to or exceeding 1 ps and any of the following:

b.4.b.1. Output energy exceeding 1.5 J per pulse and ''peak power'' exceeding 30 W; *or*

b.4.b.2. ''Average output power'' exceeding 30 W;

b.5. Output wavelength exceeding 800 nm but not exceeding 975 nm and any of the following:

b.5.a. ''Pulse duration'' less than 1ps and any of the following:

b.5.a.1. Output energy exceeding 0.005 J per pulse and ''peak power'' exceeding 5 GW; *or*

b.5.a.2. 'Single transverse mode' output and ''average output power'' exceeding 20 W;

b.5.b. ''Pulse duration'' equal to or exceeding 1 ps and not exceeding 1 μs and any of the following:

b.5.b.1. Output energy exceeding 0.5 J per pulse and ''peak power'' exceeding 50 W;

b.5.b.2. 'Single transverse mode' output and ''average output power'' exceeding 20 W; *or*

b.5.b.3. 'Multiple transverse mode' output and ''average output power'' exceeding 50 W; *or*

b.5.c. ''Pulse duration'' exceeding 1 μs and any of the following:

b.5.c.1. Output energy exceeding 2 J per pulse and ''peak power'' exceeding 50 W;

b.5.c.2. 'Single transverse mode' output and ''average output power'' exceeding 50 W; *or*

b.5.c.3. 'Multiple transverse mode' output and ''average output power'' exceeding 80 W.

b.6. Output wavelength exceeding 975 nm but not exceeding 1,150 nm and any of the following:

b.6.a. ''Pulse duration'' of less than 1 ps, and any of the following:

b.6.a.1. Output ''peak power'' exceeding 2 GW per pulse;

b.6.a.2. ''Average output power'' exceeding 30 W; *or*

b.6.a.3. Output energy exceeding 0.002 J per pulse;

b.6.b. ''Pulse duration'' equal to or exceeding 1 ps and less than 1 ns, and any of the following:

b.6.b.1. Output ''peak power'' exceeding 5 GW per pulse;

b.6.b.2. ''Average output power'' exceeding 50 W; *or*

b.6.b.3. Output energy exceeding 0.1 J per pulse;

b.6.c. ''Pulse duration'' equal to or exceeding 1 ns but not exceeding 1 μs and any of the following:

b.6.c.1. 'Single transverse mode' output and any of the following:

b.6.c.1.a. ''Peak power'' exceeding 100 MW;

b.6.c.1.b. ''Average output power'' exceeding 20 W limited by design to a maximum pulse repetition frequency less than or equal to 1 kHz;

b.6.c.1.c. 'Wall-plug efficiency' exceeding 12%, ''average output power'' exceeding 100 W and capable of operating at a pulse repetition frequency greater than 1 kHz;

b.6.c.1.d. ''Average output power'' exceeding 150 W and capable of operating at a pulse repetition frequency greater than 1 kHz; *or*

b.6.c.1.e. Output energy exceeding 2 J per pulse; *or*

b.6.c.2. 'Multiple transverse mode' output and any of the following:

b.6.c.2.a. ''Peak power'' exceeding 400 MW;

b.6.c.2.b. 'Wall-plug efficiency' exceeding 18% and ''average output power'' exceeding 500 W;

b.6.c.2.c. ''Average output power'' exceeding 2 kW; or

b.6.c.2.d. Output energy exceeding 4 J per pulse; *or*

b.6.d. ''Pulse duration'' exceeding 1 μs and any of the following:

b.6.d.1. 'Single transverse mode' output and any of the following:

b.6.d.1.a. ''Peak power'' exceeding 500 kW;

b.6.d.1.b. 'Wall-plug efficiency' exceeding 12% and ''average output power'' exceeding 100 W; *or*

b.6.d.1.c. ''Average output power'' exceeding 150 W; *or*

b.6.d.2. 'Multiple transverse mode' output and any of the following:

b.6.d.2.a. ''Peak power'' exceeding 1 MW;

b.6.d.2.b. 'Wall-plug efficiency' exceeding 18% and ''average output power'' exceeding 500 W; *or*

b.6.d.2.c. ''Average output power'' exceeding 2 kW;

b.7. Output wavelength exceeding 1,150 nm but not exceeding 1,555 nm and any of the following:

b.7.a. ''Pulse duration'' not exceeding 1 μs and any of the following:

b.7.a.1. Output energy exceeding 0.5 J per pulse and ''peak power'' exceeding 50 W;

b.7.a.2. 'Single transverse mode' output and ''average output power'' exceeding 20 W; *or*

b.7.a.3. 'Multiple transverse mode' output and ''average output power'' exceeding 50 W; *or*

b.7.b. ''Pulse duration'' exceeding 1 μs and any of the following:

b.7.b.1. Output energy exceeding 2 J per pulse and ''peak power'' exceeding 50 W;

b.7.b.2. 'Single transverse mode' output and ''average output power'' exceeding 50 W; *or*

b.7.b.3. 'Multiple transverse mode' output and ''average output power'' exceeding 80 W;

b.8. Output wavelength exceeding 1,555 nm but not exceeding 1,850 nm, and any of the following:

b.8.a. Output energy exceeding 100 mJ per pulse and ''peak power'' exceeding 1 W; *or*

b.8.b. ''Average output power'' exceeding 1 W;

b.9. Output wavelength exceeding 1,850 nm but not exceeding 2,100 nm, and any of the following:

b.9.a. 'Single transverse mode' and any of the following:

b.9.a.1. Output energy exceeding 100 mJ per pulse and ''peak power'' exceeding 1 W; *or*

b.9.a.2. ''Average output power'' exceeding 1 W;

b.9.b. 'Multiple transverse mode' and any of the following:

b.9.b.1. Output energy exceeding 100 mJ per pulse and ''peak power'' exceeding 10 kW; *or*

b.9.b.2. ''Average output power'' exceeding 120 W; *or*

b.10. Output wavelength exceeding 2,100 nm and any of the following:

b.10.a. Output energy exceeding 100 mJ per pulse and ''peak power'' exceeding 1 W; *or*

b.10.b. ''Average output power'' exceeding 1 W;

c. ''Tunable'' lasers having any of the following:

c.1. Output wavelength less than 600 nm and any of the following:

c.1.a. Output energy exceeding 50 mJ per pulse and ''peak power'' exceeding 1 W; *or*

c.1.b. Average or CW output power exceeding 1W;

Note: *6A005.c.1 does not apply to dye ''lasers'' or other liquid ''lasers,'' having a multimode output and a wavelength of 150 nm or more but not exceeding 600 nm and all of the following:*

1. Output energy less than 1.5 J per pulse or a ''peak power'' less than 20 W; and

2. Average or CW output power less than 20 W.

c.2. Output wavelength of 600 nm or more but not exceeding 1,400 nm, and any of the following:

c.2.a. Output energy exceeding 1 J per pulse and ''peak power'' exceeding 20 W; *or*

c.2.b. Average or CW output power exceeding 20 W; *or*

c.3. Output wavelength exceeding 1,400 nm and any of the following:

c.3.a. Output energy exceeding 50 mJ per pulse and ''peak power'' exceeding 1 W; *or*

c.3.b. Average or CW output power exceeding 1 W;

d. Other ''lasers'', not controlled by 6A005.a, 6A005.b, or 6A005.c as follows:

d.1. Semiconductor ''lasers'' as follows:

Notes:

1. 6A005.d.1 includes semiconductor ''lasers'' having optical output connectors (e.g., fiber optic pigtails).

2. The control status of semiconductor ''lasers'' ''specially designed'' for other equipment is determined by the control status of the other equipment.

d.1.a. Individual single-transverse mode semiconductor ''lasers'' having any of the following:

d.1.a.1. Wavelength equal to or less than 1,570 nm and average or CW output power, exceeding 2.0 W; *or*

d.1.a.2. Wavelength greater than 1,570 nm and average or CW output power, exceeding 500 mW;

d.1.b. Individual 'multiple-transverse mode' semiconductor ''lasers'' having any of the following:

d.1.b.1. Wavelength of less than 1,400 nm and average or CW output power, exceeding 25 W;

d.1.b.2. Wavelength equal to or greater than 1,400 nm and less than 1,900 nm and average or CW output power, exceeding 2.5 W; *or*

d.1.b.3. Wavelength equal to or greater than 1,900 nm and average or CW output power, exceeding 1 W;

d.1.c. Individual semiconductor ''laser'' 'bars' having any of the following:

d.1.c.1. Wavelength of less than 1,400 nm and average or CW output power, exceeding 100 W;

d.1.c.2. Wavelength equal to or greater than 1,400 nm and less than 1,900 nm and average or CW output power, exceeding 25 W; *or*

d.1.c.3. Wavelength equal to or greater than 1,900 nm and average or CW output power, exceeding 10 W;

d.1.d. Semiconductor ''laser'' 'stacked arrays' (two dimensional arrays) having any of the following:

d.1.d.1. Wavelength less than 1,400 nm and having any of the following:

d.1.d.1.a. Average or CW total output power less than 3 kW and having average or CW output 'power density' greater than 500 W/cm^2;

d.1.d.1.b. Average or CW total output power equal to or exceeding 3 kW but less than or equal to 5 kW, and having average or CW output 'power density' greater than 350W/cm^2;

d.1.d.1.c. Average or CW total output power exceeding 5 kW;

d.1.d.1.d. Peak pulsed 'power density' exceeding 2,500 W/cm^2; *or*

Note: *6A005.d.1.d.1.d does not apply to epitaxially-fabricated monolithic devices.*

d.1.d.1.e. Spatially coherent average or CW total output power, greater than 150 W;

d.1.d.2. Wavelength greater than or equal to 1,400 nm but less than 1,900 nm, and having any of the following:

d.1.d.2.a. Average or CW total output power less than 250 W and average or CW output 'power density' greater than 150 W/cm2;

d.1.d.2.b. Average or CW total output power equal to or exceeding 250 W but less than or equal to 500 W, and having average or CW output 'power density' greater than 50W/cm^2;

d.1.d.2.c. Average or CW total output power exceeding 500 W;

d.1.d.2.d. Peak pulsed 'power density' exceeding 500 W/cm^2; *or*

Note: *6A005.d.1.d.2.d does not apply to epitaxially-fabricated monolithic devices.*

d.1.d.2.e. Spatially coherent average or CW total output power, exceeding 15 W;

d.1.d.3. Wavelength greater than or equal to 1,900 nm and having any of the following:

d.1.d.3.a. Average or CW output 'power density' greater than 50 W/cm^2;

d.1.d.3.b. Average or CW output power greater than 10 W; *or*

d.1.d.3.c. Spatially coherent average or CW total output power, exceeding 1.5 W; *or*

d.1.d.4. At least one ''laser'' 'bar' specified by 6A005.d.1.c;

Technical Note: *For the purposes of 6A005.d.1.d, 'power density' means the total ''laser'' output power divided by the emitter surface area of the 'stacked array'.*

d.1.e. Semiconductor ''laser'' 'stacked arrays', other than those specified by 6A005.d.1.d, having all of the following:

d.1.e.1. ''Specially designed'' or modified to be combined with other 'stacked arrays' to form a larger 'stacked array'; *and*

d.1.e.2. Integrated connections, common for both electronics and cooling;

Note 1: *'Stacked arrays', formed by combining semiconductor ''laser'' 'stacked arrays' specified by 6A005.d.1.e, that are not designed to be further combined or modified are specified by 6A005.d.1.d.*

Note 2: *'Stacked arrays', formed by combining semiconductor ''laser'' 'stacked arrays' specified by 6A005.d.1.e, that are designed to be further combined or modified are specified by 6A005.d.1.e.*

Note 3: *6A005.d.1.e does not apply to modular assemblies of single 'bars' designed to be fabricated into end to end stacked linear arrays.*

Technical Notes:

For the purposes of 6A005.d.1.e:

1. Semiconductor ''lasers'' are commonly called ''laser'' diodes.

2. A 'bar' (also called a semiconductor ''laser'' 'bar', a ''laser'' diode 'bar' or diode 'bar') consists of multiple semiconductor ''lasers'' in a one-dimensional array.

3. A 'stacked array' consists of multiple 'bars' forming a two-dimensional array of semiconductor ''lasers''.

d.2. Carbon monoxide (CO) ''lasers'' having any of the following:

d.2.a. Output energy exceeding 2 J per pulse and ''peak power'' exceeding 5 kW; *or*

d.2.b. Average or CW output power, exceeding 5 kW;

d.3. Carbon dioxide (CO_2) ''lasers'' having any of the following:

d.3.a. CW output power exceeding 15 kW;

d.3.b. Pulsed output with ''pulse duration'' exceeding 10 µs and any of the following:

d.3.b.1. ''Average output power'' exceeding 10 kW; *or*

d.3.b.2. ''Peak power'' exceeding 100 kW; *or*

d.3.c. Pulsed output with a ''pulse duration'' equal to or less than 10 µs and any of the following:

d.3.c.1. Pulse energy exceeding 5 J per pulse; *or*

d.3.c.2. ''Average output power'' exceeding 2.5 kW;

d.4. Excimer ''lasers'' having any of the following:

d.4.a. Output wavelength not exceeding 150 nm and any of the following:

d.4.a.1. Output energy exceeding 50 mJ per pulse; *or*

d.4.a.2. ''Average output power'' exceeding 1 W;

d.4.b. Output wavelength exceeding 150 nm but not exceeding 190 nm and any of the following:

d.4.b.1. Output energy exceeding 1.5 J per pulse; *or*

d.4.b.2. ''Average output power'' exceeding 120 W;

d.4.c. Output wavelength exceeding 190 nm but not exceeding 360 nm and any of the following:

d.4.c.1. Output energy exceeding 10 J per pulse; *or*

d.4.c.2. ''Average output power'' exceeding 500 W; *or*

d.4.d. Output wavelength exceeding 360 nm and any of the following:

d.4.d.1. Output energy exceeding 1.5 J per pulse; *or*

d.4.d.2. ''Average output power'' exceeding 30 W;

Note: *For excimer ''lasers'' ''specially designed'' for lithography equipment, see 3B001.*

d.5. ''Chemical lasers'' as follows:

d.5.a. Hydrogen Fluoride (HF) ''lasers';

d.5.b. Deuterium Fluoride (DF) ''lasers'';

d.5.c. 'Transfer lasers' as follows:

d.5.c.1. Oxygen Iodine (O_2-I) ''lasers'';

d.5.c.2. Deuterium Fluoride-Carbon dioxide (DF–CO_2) ''lasers'';

Technical Note: *For the purposes of 6A005.d.5.c, 'transfer lasers' are ''lasers'' in which the lasing species are excited through the transfer of energy by collision of a non-lasing atom or molecule with a lasing atom or molecule species.*

d.6. 'Non-repetitive pulsed' Neodymium (Nd) glass ''lasers'' having any of the following:

d.6.a. A ''pulse duration'' not exceeding 1 µs and output energy exceeding 50 J per pulse; *or*

d.6.b. A ''pulse duration'' exceeding 1 µs and output energy exceeding 100 J per pulse;

e. ''Components'' as follows:

e.1. Mirrors cooled either by 'active cooling' or by heat pipe cooling;

Technical Note: *For the purposes of 6A005.e.1, 'active cooling' is a cooling technique for optical ''components'' using flowing fluids within the subsurface (nominally less than 1 mm below the optical surface) of the optical component to remove heat from the optic.*

e.2. Optical mirrors or transmissive or partially transmissive optical or electro-optical-''components,'' other than fused tapered fiber combiners and Multi-Layer Dielectric gratings (MLDs), ''specially designed'' for use with controlled ''lasers'';

Note to 6A005.e.2: *Fiber combiners and MLDs are specified by 6A005.e.3.*

e.3. Fiber ''laser'' ''components'' as follows:

e.3.a. Multimode to multimode fused tapered fiber combiners having all of the following:

e.3.a.1. An insertion loss better (less) than or equal to 0.3 dB maintained at a rated total average or CW output power (excluding output power transmitted through the single mode core if present) exceeding 1,000 W; *and*

e.3.a.2. Number of input fibers equal to or greater than 3;

e.3.b. Single mode to multimode fused tapered fiber combiners having all of the following:

e.3.b.1. An insertion loss better (less) than 0.5 dB maintained at a rated total average or CW output power exceeding 4,600 W;

e.3.b.2. Number of input fibers equal to or greater than 3; *and*

e.3.b.3. Having any of the following:

e.3.b.3.a. A Beam Parameter Product (BPP) measured at the output not exceeding 1.5 mm mrad for a number of input fibers less than or equal to 5; *or*

e.3.b.3.b. A BPP measured at the output not exceeding 2.5 mm mrad for a number of input fibers greater than 5;

e.3.c. MLDs having all of the following:

e.3.c.1. Designed for spectral or coherent beam combination of 5 or more fiber ''lasers;'' *and*

e.3.c.2. CW ''Laser'' Induced Damage Threshold (LIDT) greater than or equal to 10 kW/cm^2;

f. Optical equipment as follows:

N.B.: *For shared aperture optical elements, capable of operating in ''Super-High Power Laser'' (''SHPL'') applications, see the U.S. Munitions List (22 CFR part 121).*

f.1. [Reserved]

N.B.: *For items previously specified by 6A005.f.1, see 6A004.f.*

f.2. ''Laser'' diagnostic equipment ''specially designed'' for dynamic measurement of ''SHPL'' system angular beam steering errors and having an angular ''accuracy'' of 10 μrad (microradians) or less (better);

f.3. Optical equipment and ''components'', ''specially designed'' for coherent beam combination in a phased-array ''SHPL'' system and having any of the following:

f.3.a. An ''accuracy'' of 0.1 μm or less, for wavelengths greater than 1 μm; *or*

f.3.b. An ''accuracy'' of λ/10 or less (better) at the designed wavelength, for wavelengths equal to or less than 1 μm;

f.4. Projection telescopes ''specially designed'' for use with ''SHPL'' systems;

g. 'Laser acoustic detection equipment' having all of the following:

g.1. CW ''laser'' output power greater than or equal to 20 mW;

g.2. ''Laser'' frequency stability equal to or better (less) than 10 MHz;

g.3. ''Laser'' wavelengths equal to or exceeding 1,000 nm but not exceeding 2,000 nm;

g.4. Optical system resolution better (less) than 1 nm; *and*

g.5. Optical Signal to Noise ratio equal to or exceeding 10^3.

Technical Note: *For the purposes of 6A005.g, 'laser acoustic detection equipment' is sometimes referred to as a ''Laser'' Microphone or Particle Flow Detection Microphone.*

6A006 ''Magnetometers'', ''magnetic gradiometers'', ''intrinsic magnetic gradiometers'', underwater electric field sensors, ''compensation systems'', and ''specially designed'' ''components'' therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: $1500, N/A for 6A006.a.1; ''Magnetometers'' and subsystems defined in 6A006.a.2 using optically pumped or nuclear precession (proton/Overhauser) having a 'sensitivity' lower (better) than 2 pT (rms) per square root Hz; and 6A006.d, and 6A006.e.

GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship any commodity in: 6A006.a.1; or 6A006.a.2; or 6A006.c.1 ''Magnetic gradiometers'' using multiple ''magnetometers'' specified by 6A006.a.1 or 6.A006.a.2; or 6A006.d or .e (only for underwater receivers incorporating magnetometers specified in 6A006.a.1 or 6A006.a.2) to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: See also 6A996. This entry does not control instruments ''specially designed'' for fishery applications or biomagnetic measurements for medical diagnostics.

Related Definitions: N/A

Items:

a. ''Magnetometers'' and subsystems, as follows:

a.1. ''Magnetometers'' using ''superconductive'' (SQUID) ''technology'' and having any of the following:

a.1.a. SQUID systems designed for stationary operation, without ''specially designed'' subsystems designed to reduce in-motion noise, and having a 'sensitivity' equal to or lower (better) than 50 fT (rms) per square root Hz at a frequency of 1 Hz; *or*

a.1.b. SQUID systems having an in-motion-magnetometer 'sensitivity' lower (better) than 20 pT (rms) per square root Hz at a frequency of 1 Hz and ''specially designed'' to reduce in-motion noise;

a.2. ''Magnetometers'' using optically pumped or nuclear precession (proton/Overhauser) ''technology'' having a 'sensitivity' lower (better) than 20 pT (rms) per square root Hz at a frequency of 1 Hz;

a.3. ''Magnetometers'' using fluxgate ''technology'' having a 'sensitivity' equal to or lower (better) than 10 pT (rms) per square root Hz at a frequency of 1 Hz;

a.4. Induction coil ''magnetometers'' having a 'sensitivity' lower (better) than any of the following:

a.4.a. 0.05 nT (rms)/square root Hz at frequencies of less than 1 Hz;

a.4.b. 1×10^{-3} nT (rms)/square root Hz at frequencies of 1 Hz or more but not exceeding 10 Hz; *or*

a.4.c. 1×10^{-4} nT (rms)/square root Hz at frequencies exceeding 10 Hz;

a.5. Fiber optic ''magnetometers'' having a 'sensitivity' lower (better) than 1 nT (rms) per square root Hz;

b. Underwater electric field sensors having a 'sensitivity' lower (better) than 8 nanovolt per meter per square root Hz when measured at 1 Hz;

c. ''Magnetic gradiometers'' as follows:

c.1. ''Magnetic gradiometers'' using multiple ''magnetometers'' controlled by 6A006.a;

c.2. Fiber optic ''intrinsic magnetic gradiometers'' having a magnetic gradient field 'sensitivity' lower (better) than 0.3 nT/m (rms) per square root Hz;

c.3. ''Intrinsic magnetic gradiometers'', using ''technology'' other than fiber-optic ''technology'', having a magnetic gradient field 'sensitivity' lower (better) than 0.015 nT/m (rms) per square root Hz;

d. ''Compensation systems'' for magnetic and underwater electric field sensors resulting in a performance equal to or better than the control parameters of 6A006.a, 6A006.b, and 6A006.c; and

e. Underwater electromagnetic receivers incorporating magnetic field sensors specified by 6A006.a or underwater electric field sensors specified by 6A006.b.

Technical Note: *For the purposes of 6A006, 'sensitivity' (noise level) is the root mean square of the device-limited noise floor which is the lowest signal that can be measured.*

6A007 Gravity meters (gravimeters) and gravity gradiometers, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
MT applies to 6A007.b and .c when the accuracies in 6A007.b.1 and b.2 are met or exceeded.	MT Column 1
AT applies to entire entry.	AT Column 1

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

LVS: $3000; N/A for MT

GBS: N/A

List of Items Controlled

Related Controls: (1) See USML Category XII(d) for certain gravity meters (gravimeters) and gravity gradiometers subject to the ITAR. (2) See also ECCNs 6A107, 6A997, and 7A611.

Related Definitions: N/A

Items:

a. Gravity meters designed or modified for ground use and having a static ''accuracy'' of less (better) than 10 μGal;

Note: *6A007.a does not control ground gravity meters of the quartz element (Worden) type.*

b. Gravity meters designed for mobile platforms and having all of the following:

b.1. A static ''accuracy'' of less (better) than 0.7 mGal; *and*

b.2. An in-service (operational) ''accuracy'' of less (better) than 0.7 mGal having a 'time-to-steady-state registration' of less than 2 minutes under any combination of attendant corrective compensations and motional influences;

Technical Note: For the purposes of 6A007.b.2, 'time-to-steady-state registration' (also referred to as the gravimeter's response time) is the time over which the disturbing effects of platform induced accelerations (high frequency noise) are reduced.

c. Gravity gradiometers.

6A008 Radar systems, equipment and assemblies, having any of the following (see List of Items Controlled), and ''specially designed'' ''components'' therefor.

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
MT applies to items that are designed for airborne applications and that are usable in systems controlled for MT reasons.	MT Column 1
RS applies to 6A008.j.1.	RS Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: $5000; N/A for MT and for 6A008.j.1.
GBS: Yes, for 6A008.b, .c, and l.1 only

Special Conditions for STA

STA: License Exception STA may not be used to ship any commodity in 6A008.d, 6A008.h or 6A008.k to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See also ECCNs 6A108 and 6A998. ECCN 6A998 controls, inter alia, the Light Detection and Ranging (LIDAR) equipment excluded by the note to paragraph j of this ECCN (6A008). (2) See USML Category XII(b) for certain LIDAR, Laser Detection and Ranging (LADAR), or range-gated systems subject to the ITAR.
Related Definitions: N/A
Items:

Note: *6A008 does not control:*

—Secondary surveillance radar (SSR);
—Civil Automotive Radar;
—Displays or monitors used for air traffic control (ATC);
—Meteorological (weather) radar;
—Precision Approach Radar (PAR) equipment conforming to ICAO standards and employing electronically steerable linear (1-dimensional) arrays or mechanically positioned passive antennas.

a. Operating at frequencies from 40 GHz to 230 GHz and having any of the following:

a.1. An average output power exceeding 100 mW; *or*

a.2. Locating ''accuracy'' of 1 m or less (better) in range and 0.2 degree or less (better) in azimuth;

b. A tunable bandwidth exceeding ±6.25% of the 'center operating frequency';

Technical Note: *For the purposes of 6A008.b, the 'center operating frequency' equals one half of the sum of the highest plus the lowest specified operating frequencies.*

c. Capable of operating simultaneously on more than two carrier frequencies;

d. Capable of operating in synthetic aperture (SAR), inverse synthetic aperture (ISAR) radar mode, or sidelooking airborne (SLAR) radar mode;

e. Incorporating electronically scanned array antennae;

Technical Note: *For the purposes of 6A008.e, electronically scanned array antennae are also known as electronically steerable array antennae.*

f. Capable of heightfinding non-cooperative targets;

g. ''Specially designed'' for airborne (balloon or airframe mounted) operation and having Doppler ''signal processing'' for the detection of moving targets;

h. Employing processing of radar signals and using any of the following:

h.1. ''Radar spread spectrum'' techniques; *or*

h.2. ''Radar frequency agility'' techniques;

i. Providing ground-based operation with a maximum 'instrumented range' exceeding 185 km;

Note: *6A008.i does not control:*

a. Fishing ground surveillance radar;

b. Ground radar equipment ''specially designed'' for en route air traffic control, and having all of the following:

1. A maximum 'instrumented range' of 500 km or less;

2. Configured so that radar target data can be transmitted only one way from the radar site to one or more civil ATC centers;

3. Contains no provisions for remote control of the radar scan rate from the en route ATC center; and

4. Permanently installed;

c. Weather balloon tracking radars.

Technical Note: *For the purposes of 6A008.i, 'instrumented range' is the specified unambiguous display range of a radar.*

j. Being ''laser'' radar or Light Detection and Ranging (LIDAR) equipment and having any of the following:

j.1. ''Space-qualified'';

j.2. Employing coherent heterodyne or homodyne detection techniques and having an angular resolution of less (better) than 20 μrad (microradians); *or*

j.3. Designed for carrying out airborne bathymetric littoral surveys to International Hydrographic Organization (IHO) Order 1a Standard (5th Edition February 2008) for Hydrographic Surveys or better, and using one or more ''lasers'' with a wavelength exceeding 400 nm but not exceeding 600 nm;

Note 1: *LIDAR equipment ''specially designed'' for surveying is only specified by 6A008.j.3.*

Note 2: *6A008.j does not apply to LIDAR equipment ''specially designed'' for meteorological observation.*

Note 3: *Parameters in the IHO Order 1a Standard 5th Edition February 2008 are summarized as follows:*

Horizontal Accuracy (95% Confidence Level)= 5 m + 5% of depth.

Depth Accuracy for Reduced Depths (95% confidence level) = $\pm\sqrt{(a^2 + (b*d)^2)}$ where:

a = 0.5 m = constant depth error, i.e., the sum of all constant depth errors
b = 0.013 = factor of depth dependent error
*b*d = depth dependent error, i.e., the sum of all depth dependent errors*
d = depth

Feature Detection = Cubic features > 2 m in depths up to 40 m; 10% of depth beyond 40 m.

k. Having ''signal processing'' sub-systems using ''pulse compression'' and having any of the following:

k.1. A ''pulse compression'' ratio exceeding 150; *or*

k.2. A compressed pulse width of less than 200 ns; *or*

Note: *6A008.k.2 does not apply to two dimensional 'marine radar' or 'vessel traffic service' radar, having all of the following:*

a. ''Pulse compression'' ratio not exceeding 150;

b. Compressed pulse width of greater than 30 ns;

c. Single and rotating mechanically scanned antenna;

d. Peak output power not exceeding 250 W; and

e. Not capable of ''frequency hopping''.

l. Having data processing sub-systems and having any of the following:

l.1. 'Automatic target tracking' providing, at any antenna rotation, the predicted target position beyond the time of the next antenna beam passage; or

Note: *6A008.l.1 does not control conflict alert capability in ATC systems, or 'marine radar'.*

Technical Note: *For the purposes of 6A008.l.1, 'automatic target tracking' is a processing technique that automatically determines and provides as output an extrapolated value of the most probable position of the target in real time.*

l.2. [Reserved]

l.3. [Reserved]

l.4. Configured to provide superposition and correlation, or fusion, of target data within six seconds from two or more 'geographically dispersed' radar sensors to improve the aggregate performance beyond that of any single sensor specified by 6A008.f, or 6A008.i.

Technical Note: *For the purposes of 6A008.l.4, sensors are considered 'geographically dispersed' when each location is distant from any other more than 1,500 m in any direction. Mobile sensors are always considered 'geographically dispersed'.*

N.B.: *See also the U.S. Munitions List (22 CFR part 121).*

Note: *6A008.l does not apply to systems, equipment and assemblies designed for 'vessel traffic services'.*

Technical Notes:

1. *For the purposes of 6A008, 'marine radar' is a radar that is designed to navigate*

safely at sea, inland waterways or near-shore environments.

2. *For the purposes of 6A008, 'vessel traffic service' is a vessel traffic monitoring and control service similar to air traffic control for ''aircraft.''*

* * * * *

6B007 Equipment to produce, align and calibrate land-based gravity meters with a static ''accuracy'' of less (better) than 0.1 mGal.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: $5000
GBS: N/A

List of Items Controlled

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

The list of items controlled is contained in the ECCN heading.

* * * * *

6C002 Optical sensor materials as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: $3000
GBS: N/A

List of Items Controlled

Related Controls: See also 6C992.
Related Definitions: N/A
Items:

a. Elemental tellurium (Te) of purity levels of 99.9995% or more;

b. Single crystals (including epitaxial wafers) of any of the following:

b.1. Cadmium zinc telluride (CdZnTe), with zinc content less than 6% by 'mole fraction';

b.2. Cadmium telluride (CdTe) of any purity level; *or*

b.3. Mercury cadmium telluride (HgCdTe) of any purity level.

Technical Note: *For the purposes of 6C002.b.1, 'mole fraction' is defined as the ratio of moles of ZnTe to the sum of the moles of CdTe and ZnTe present in the crystal.*

* * * * *

6C005 ''Laser'' materials as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: $1500
GBS: N/A

List of Items Controlled

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

a. Synthetic crystalline ''laser'' host material in unfinished form as follows:

a.1. Titanium doped sapphire;

a.2. [Reserved]

b. Rare-earth-metal doped double-clad fibers having any of the following:

b.1. Nominal ''laser'' wavelength of 975 nm to 1,150 nm and having all of the following:

b.1.a. Average core diameter equal to or greater than 25 μm; *and*

b.1.b. Core 'Numerical Aperture' ('NA') less than 0.065; *or*

Note to 6C005.b.1: *6C005.b.1 does not apply to double-clad fibers having an inner glass cladding diameter exceeding 150* μm *and not exceeding 300* μm.

b.2. Nominal ''laser'' wavelength exceeding 1,530 nm and having all of the following:

b.2.a. Average core diameter equal to or greater than 20 μm; *and*

b.2.b. Core 'NA' less than 0.1.

Technical Notes:

1. For the purposes of 6C005.b.1.b, the core 'Numerical Aperture' ('NA') is measured at the emission wavelengths of the fiber.

2. 6C005.b includes fibers assembled with end caps.

* * * * *

6D003 Other ''software'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
RS applies to paragraph c.	RS Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

TSR: Yes, except for 6D003.c and exports or reexports to destinations outside of those countries listed in Country Group A:5 (See Supplement No. 1 to part 740 of the EAR) of ''software'' for items controlled by 6D003.a.

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit software in 6D003.a to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: See also ECCNs 6D103, 6D991, and 6D993.
Related Definitions: N/A
Items:

Acoustics

a. ''Software'' as follows:

a.1. ''Software'' ''specially designed'' for acoustic beam forming for the ''real-time processing'' of acoustic data for passive reception using towed hydrophone arrays;

a.2. ''Source code'' for the ''real-time processing'' of acoustic data for passive reception using towed hydrophone arrays;

a.3. ''Software'' ''specially designed'' for acoustic beam forming for the ''real-time processing'' of acoustic data for passive reception using bottom or bay cable systems;

a.4. ''Source code'' for the ''real-time processing'' of acoustic data for passive reception using bottom or bay cable systems;

a.5. ''Software'' or ''source code'', ''specially designed'' for all of the following:

a.5.a. ''Real-time processing'' of acoustic data from sonar systems controlled by 6A001.a.1.e; *and*

a.5.b. Automatically detecting, classifying and determining the location of divers or swimmers;

N.B.: *For diver detection ''software'' or ''source code'', ''specially designed'' or modified for military use, see the U.S. Munitions List of the International Traffic in Arms Regulations (ITAR) (22 CFR part 121).*

b. Optical sensors. None.

Cameras

c. ''Software'' designed or modified for cameras incorporating ''focal plane arrays'' specified by 6A002.a.3.f and designed or modified to remove a frame rate restriction and allow the camera to exceed the frame rate specified in 6A003.b.4 Note 3.a;

Optics

d. ''Software'' ''specially designed'' to maintain the alignment and phasing of segmented mirror systems consisting of mirror segments having a diameter or major axis length equal to or larger than 1 m;

e. Lasers. None.

Magnetic and Electric Field Sensors

f. ''Software'' as follows:

f.1. ''Software'' ''specially designed'' for magnetic and electric field ''compensation systems'' for magnetic sensors designed to operate on mobile platforms;

f.2. ''Software'' ''specially designed'' for magnetic and electric field anomaly detection on mobile platforms;

f.3. ''Software'' ''specially designed'' for ''real-time processing'' of electromagnetic data using underwater electromagnetic receivers specified by 6A006.e;

f.4. ''Source code'' for ''real-time processing'' of electromagnetic data using underwater electromagnetic receivers specified by 6A006.e;

Gravimeters

g. ''Software'' ''specially designed'' to correct motional influences of gravity meters or gravity gradiometers;

Radar

h. ''Software'' as follows:

h.1. Air Traffic Control (ATC) ''software'' designed to be hosted on general purpose computers located at Air Traffic Control centers and capable of accepting radar target data from more than four primary radars;

h.2. ''Software'' for the design or ''production'' of radomes having all of the following:

h.2.a. ''Specially designed'' to protect the ''electronically scanned array antennae'' specified by 6A008.e; *and*

h.2.b. Resulting in an antenna pattern having an 'average side lobe level' more than 40 dB below the peak of the main beam level.

Technical Note: *For the purposes of 6D003.h.2.b 'average side lobe level' is measured over the entire array excluding the angular extent of the main beam and the first two side lobes on either side of the main beam.*

* * * * *

6E003 Other ''technology'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1

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

TSR: Yes

List of Items Controlled

Related Controls: See also 6E993.
Related Definitions: N/A
Items:

Acoustics

a. [Reserved]

Optical Sensors

b. [Reserved]

Cameras

c. [Reserved]

Optics

d. ''Technology'' as follows:

d.1. ''Technology'' ''required'' for the coating and treatment of optical surfaces to achieve an 'optical thickness' uniformity of 99.5% or better for optical coatings 500 mm or more in diameter or major axis length and with a total loss (absorption and scatter) of less than 5×10^{-3};

N.B.: *See also 2E003.f.*

Technical Note: *For the purposes of 6E003.d.1, 'optical thickness' is the mathematical product of the index of refraction and the physical thickness of the coating.*

d.2. ''Technology'' for the fabrication of optics using single point diamond turning techniques to produce surface finish ''accuracies'' of better than 10 nm rms on non-planar surfaces exceeding 0.5 m^2;

Lasers

e. ''Technology'' ''required'' for the ''development,'' ''production'' or ''use'' of ''specially designed'' diagnostic instruments or targets in test facilities for ''SHPL'' testing or testing or evaluation of materials irradiated by ''SHPL'' beams;

Magnetic and Electric Field Sensors

f. [Reserved]

Gravimeters

g. [Reserved]

Radar

h. [Reserved]

* * * * *

7A003 'Inertial measurement equipment or systems', having any of the following.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to commodities in 7A003.d that meet or exceed the parameters of 7A103.	MT Column 1
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See also ECCNs 7A103, 7A611, and 7A994. (2) See USML Category XII(d) for guidance or navigation systems subject to the ITAR.
Related Definitions: N/A
Items:

7A003 does not apply to 'inertial measurement equipment or systems' which are certified for use on ''civil aircraft'' by civil aviation authorities of one or more Wassenaar Arrangement Participating States, see Supplement No. 1 to part 743 of the EAR.

Technical Notes:

1. For the purposes of 7A003, 'inertial measurement equipment or systems' incorporate accelerometers or gyroscopes to measure changes in velocity and orientation in order to determine or maintain heading or position without requiring an external reference once aligned. 'Inertial measurement equipment or systems' include:

Attitude and Heading Reference Systems (AHRSs);

Gyrocompasses;

Inertial Measurement Units (IMUs);

Inertial Navigation Systems (INSs);

Inertial Reference Systems (IRSs);

Inertial Reference Units (IRUs).

2. For the purposes of 7A003, 'positional aiding references' independently provide position, and include:

a. ''Satellite navigation system'';

b.''Data-Based Referenced Navigation'' (''DBRN'').

a. Designed for ''aircraft'', land vehicles or vessels, providing position without the use of 'positional aiding references', and having any of the following ''accuracies'' subsequent to normal alignment:

a.1. 0.8 nautical miles per hour (nm/hr) ''Circular Error Probable'' (''CEP'') rate or less (better);

a.2. 0.5% distanced travelled ''CEP'' or less (better); *or*

a.3. Total drift of 1 nautical mile ''CEP'' or less (better) in a 24 hr period;

Technical Note: *For the purposes of 7A003.a.1, 7A003.a.2 and 7A003.a.3, the performance parameters typically apply to 'inertia measurement equipment or systems' designed for ''aircraft'', vehicles and vessels, respectively. These parameters result from the utilization of specialized non-'positional aiding references' (e.g., altimeter, odometer, velocity log). As a consequence, the specified performance values cannot be readily converted between these parameters. Equipment designed for multiple platforms are evaluated against each applicable entry 7A003.a.1, 7A003.a.2, or 7A003.a.3.*

b. Designed for ''aircraft'', land vehicles or vessels, with an embedded 'positional aiding reference' and providing position after loss of all 'positional aiding references' for a period of up to 4 minutes, having an ''accuracy'' of less (better) than 10 meters ''CEP'';

Technical Note: *For the purposes of 7A003.b, this entry refers to systems in which 'inertial measurement equipment or systems' and other independent 'positional aiding references' are built into a single unit (i.e., embedded) in order to achieve improved performance.*

c. Designed for ''aircraft'', land vehicles or vessels, providing heading or True North determination and having any of the following:

c.1. A maximum operating angular rate less (lower) than 500 deg/s and a heading ''accuracy'' without the use of 'positional aiding references' equal to or less (better) than 0.07 deg sec (Lat) (equivalent to 6 arc minutes rms at 45 degrees latitude); *or*

c.2. A maximum operating angular rate equal to or greater (higher) than 500 deg/s and a heading ''accuracy'' without the use of 'positional aiding references' equal to or less (better) than 0.2 deg sec (Lat) (equivalent to 17 arc minutes rms at 45 degrees latitude);

d. Providing acceleration measurements or angular rate measurements, in more than one dimension, and having any of the following:

d.1. Performance specified by 7A001 or 7A002 along any axis, without the use of any aiding references; *or*

d.2. Being ''space-qualified'' and providing angular rate measurements having an ''angle random walk'' along any axis of less (better) than or equal to 0.1 degree per square root hour.

Note: *7A003.d.2 does not apply to 'inertial measurement equipment or systems' that contain ''spinning mass gyros'' as the only type of gyro.*

7A004 'Star trackers' and ''components'' therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to entire entry.	MT Column 1
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See USML Category XV for certain 'star trackers' that are ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) See also 7A104 and 7A994.
Related Definitions: N/A
Items:

a. 'Star trackers' with a specified azimuth ''accuracy'' of equal to or less (better) than 20 seconds of arc throughout the specified lifetime of the equipment;

b. ''Components'' ''specially designed'' for equipment specified in 7A004.a as follows:

b.1. Optical heads or baffles;

b.2. Data processing units.

Technical Note: *For the purposes of 7A004.a, 'star trackers' are also referred to as stellar attitude sensors or gyro-astro compasses.*

7A005 ''Satellite navigation system'' receiving equipment having any of the following and ''specially designed'' ''components'' therefor.

License Requirements

Reason for Control: NS, MT and AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to 7A005.b.	NS Column 1
MT applies to commodities in 7A005.b that meet or exceed the parameters of 7A105.	MT Column 1
AT applies to 7A005.b.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See also ECCNs 7A105, 7A611 and 7A994. Commercially available ''satellite navigation system'' receivers do not typically employ decryption or adaptive antennae and are classified as 7A994. (2) See USML Category XII(d) for ''satellite navigation system'' receiving equipment subject to the ITAR and USML Category XI(c)(10) for antennae that are subject to the ITAR. (3) Items that otherwise would be covered by ECCN 7A005.a are ''subject to the ITAR'' (see 22 CFR parts 120 through 130).
Related Definitions: N/A
Items:

a. Employing a decryption algorithm ''specially designed'' or modified for government use to access the ranging code for position and time; *or*

b. Employing 'adaptive antenna systems'.

Note: *7A005.b does not apply to ''satellite navigation system'' receiving equipment that only uses ''components'' designed to filter, switch, or combine signals from multiple omni-directional antennas that do not implement adaptive antenna techniques.*

Technical Note: *For the purposes of 7A005.b, 'adaptive antenna systems' dynamically generate one or more spatial nulls in an antenna array pattern by signal processing in the time domain or frequency domain.*

7A006 Airborne altimeters operating at frequencies other than 4.2 to 4.4 GHz inclusive and having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to commodities in this entry that meet or exceed the parameters of 7A106.	MT Column 1
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: See also 7A106, 7A994 and Category 6 for controls on radar.
Related Definitions: N/A
Items:

a. 'Power management'; *or*

Technical Note: *For the purposes of 7A006.a, 'power management' is changing the transmitted power of the altimeter signal so that received power at the ''aircraft'' altitude is always at the minimum necessary to determine the altitude.*

b. Using phase shift key modulation.

* * * * *

7B001 Test, calibration or alignment equipment, ''specially designed'' for equipment controlled by 7A (except 7A994).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to entire entry.	MT Column 1
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See also 7B101, 7B102 and 7B994. (2) This entry does not control test, calibration or alignment equipment for 'Maintenance level I' or 'Maintenance Level II'.
Related Definition: For the purposes of 7B001: (1) 'Maintenance Level I': The failure of an inertial navigation unit is detected on the ''aircraft'' by indications from the Control and Display Unit (CDU) or by the status message from the corresponding sub-system. By following the manufacturer's manual, the cause of the failure may be localized at the level of the malfunctioning Line Replaceable Unit (LRU). The operator then removes the LRU and replaces it with a spare. (2) 'Maintenance Level II': The defective LRU is sent to the maintenance workshop (the manufacturer's or that of the operator responsible for level II maintenance). At the maintenance workshop, the malfunctioning LRU is tested by various appropriate means to verify and localize the defective Shop Replaceable Assembly (SRA) module responsible for the failure. This SRA is removed and replaced by an operative spare. The defective SRA (or possibly the complete LRU) is then shipped to the manufacturer. 'Maintenance Level II' does not include the disassembly or repair of controlled accelerometers or gyro sensors.
Items:

The list of items controlled is contained in the ECCN heading.

* * * * *

7D002 ''Source code'' for the operation or maintenance of any inertial navigation equipment, including inertial equipment not controlled by 7A003 or 7A004, or Attitude and Heading Reference Systems ('AHRS').

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to entire entry.	MT Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

TSR: N/A

List of Items Controlled

Related Controls: (1.) See also 7D102 and 7D994. (2.) This entry does not control ''source code'' for the operation or maintenance of gimballed 'AHRS'.

Related Definition: For the purposes of 7D002, 'AHRS' generally differ from Inertial Navigation Systems (INS) in that an 'AHRS' provides attitude and heading information and normally does not provide the acceleration, velocity and position information associated with an INS.

Items:

The list of items controlled is contained in the ECCN heading.

* * * * *

7E004 Other ''technology'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to ''technology'' for equipment or systems controlled for MT reasons.	MT Column 1
AT applies to entire entry.	AT Column 1

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

TSR: N/A

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for 7E004, except for 7E004.a.7. (2) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for 7E004, except for 7E004.a.7.

List of Items Controlled

Related Controls: (1) See also 7E001, 7E002, 7E101, and 7E994. (2) In addition to the Related Controls in 7E001, 7E002, and 7E101 that include MT controls, also see the MT controls in 7E104 for design ''technology'' for the integration of the flight control, guidance, and propulsion data into a flight management system, designed or modified for rockets or missiles capable of achieving a ''range'' equal to or greater than 300 km, for optimization of rocket system trajectory; and also see 9E101 for design ''technology'' for integration of air vehicle fuselage, propulsion system and lifting control surfaces, designed or modified for unmanned aerial vehicles capable of achieving a ''range'' equal to or greater than 300 km, to optimize aerodynamic performance throughout the flight regime of an unmanned aerial vehicle.

Related Definitions: N/A.

Items:

a. ''Technology'' for the ''development'' or ''production'' of any of the following:

a.1. [Reserved]

a.2. Air data systems based on surface static data only, *i.e.,* which dispense with conventional air data probes;

a.3. Three dimensional displays for ''aircraft'';

a.4. [Reserved]

a.5. Electric actuators (*i.e.,* electromechanical, electrohydrostatic and integrated actuator package) ''specially designed'' for 'primary flight control';

Technical Note: *For the purposes of 7E004.a.5, 'primary flight control' is ''aircraft'' stability or maneuvering control using force/moment generators, i.e., aerodynamic control surfaces or propulsive thrust vectoring.*

a.6. 'Flight control optical sensor array' ''specially designed'' for implementing ''active flight control systems''; *or*

Technical Note: *For the purposes of 7E004.a.6, a 'flight control optical sensor array' is a network of distributed optical sensors, using ''laser'' beams, to provide real-time flight control data for on-board processing.*

a.7. ''DBRN'' systems designed to navigate underwater, using sonar or gravity databases, that provide a positioning ''accuracy'' equal to or less (better) than 0.4 nautical miles;

b. ''Development'' ''technology'', as follows, for ''active flight control systems'' (including ''fly-by-wire systems'' or ''fly-by-light systems''):

b.1. Photonic-based ''technology'' for sensing ''aircraft'' or flight control component state, transferring flight control data, or commanding actuator movement, ''required'' for ''fly-by-light systems'' ''active flight control systems'';

b.2. [Reserved]

b.3. Real-time algorithms to analyze component sensor information to predict and preemptively mitigate impending degradation and failures of components within an ''active flight control system'';

Note: *7E004.b.3 does not include algorithms for purpose of off-line maintenance.*

b.4. Real-time algorithms to identify component failures and reconfigure force and moment controls to mitigate ''active flight control system'' degradations and failures;

Note: *7E004.b.4 does not include algorithms for the elimination of fault effects through comparison of redundant data sources, or off-line pre-planned responses to anticipated failures.*

b.5. Integration of digital flight control, navigation and propulsion control data, into a digital flight management system for ''total control of flight'';

Note: *7E004.b.5 does not apply to:*

1. ''Technology'' for integration of digital flight control, navigation and propulsion control data, into a digital flight management system for 'flight path optimization';

2. ''Technology'' for ''aircraft'' flight instrument systems integrated solely for VOR, DME, ILS or MLS navigation or approaches.

Technical Note: *'Flight path optimization' is a procedure that minimizes deviations from a four-dimensional (space and time) desired trajectory based on maximizing performance or effectiveness for mission tasks.*

b.6. [Reserved]

b.7. ''Technology'' ''required'' for deriving the functional requirements for ''fly-by-wire systems'' having all of the following:

b.7.a. 'Inner-loop' airframe stability controls requiring loop closure rates of 40 Hz or greater; *and*

Technical Note: *For the purposes of 7E004.b.7.a, 'inner-loop' refers to functions of ''active flight control systems'' that automate airframe stability controls.*

b.7.b. Having any of the following:

b.7.b.1. Corrects an aerodynamically unstable airframe, measured at any point in the design flight envelope, that would lose recoverable control if not corrected within 0.5 seconds;

b.7.b.2. Couples controls in two or more axes while compensating for 'abnormal changes in aircraft state';

Technical Note: *For the purposes of 7E004.b.7.b.2, 'abnormal changes in aircraft state' include in-flight structural damage, loss of engine thrust, disabled control surface, or destabilizing shifts in cargo load.*

b.7.b.3. Performs the functions specified in 7E004.b.5; *or*

Note: *7E004.b.7.b.3 does not apply to autopilots.*

b.7.b.4. Enables ''aircraft'' to have stable controlled flight, other than during take-off or landing, at greater than 18 degrees angle of attack, 15 degrees side slip, 15 degrees/second pitch or yaw rate, or 90 degrees/second roll rate;

b.8. ''Technology'' ''required'' for deriving the functional requirements of ''fly-by-wire systems'' to achieve all of the following:

b.8.a. No loss of control of the ''aircraft'' in the event of a consecutive sequence of any two individual faults within the ''fly-by-wire system''; *and*

b.8.b. Probability of loss of control of the ''aircraft'' being less (better) than 1×10^{-9} failures per flight hour;

Note: *7E004.b does not apply to ''technology'' associated with common computer elements and utilities (e.g., input signal acquisition, output signal transmission, computer ''program'' and data loading, built-in test, task scheduling mechanisms) not providing a specific flight control system function.*

c. ''Technology'' for the ''development'' of helicopter systems, as follows:

c.1. Multi-axis fly-by-wire or fly-by-light controllers, which combine the functions of at least two of the following into one controlling element:

c.1.a. Collective controls;
c.1.b. Cyclic controls;
c.1.c. Yaw controls;
c.2. ''Circulation-controlled anti-torque or circulation-controlled direction control systems'';
c.3. Rotor blades incorporating 'variable geometry airfoils', for use in systems using individual blade control.

Technical Note: *For the purposes of 7E004.c.3, 'variable geometry airfoils' use trailing edge flaps or tabs, or leading edge slats or pivoted nose droop, the position of which can be controlled in flight.*

* * * * *

8A001 Submersible vehicles and surface vessels, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: $5000; N/A for 8A001.b and .c.1
GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship any commodity in 8A001.b, 8A001.c or 8A001.d to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: For the control status of equipment for submersible vehicles, see: Category 6 for sensors; Categories 7 and 8 for navigation equipment; Category 8A for underwater equipment.
Related Definitions: N/A
Items:

a. Manned, tethered submersible vehicles designed to operate at depths exceeding 1,000 m;
b. Manned, untethered submersible vehicles having any of the following:
b.1. Designed to 'operate autonomously' and having a lifting capacity of all the following:
b.1.a. 10% or more of their weight in air; *and*
b.1.b. 15 kN or more;
b.2. Designed to operate at depths exceeding 1,000 m; *or*
b.3. Having all of the following:
b.3.a. Designed to continuously 'operate autonomously' for 10 hours or more; *and*
b.3.b. 'Range' of 25 nautical miles or more;

Technical Notes:

1. For the purposes of 8A001.b, 'operate autonomously' means fully submerged, without snorkel, all systems working and cruising at minimum speed at which the submersible can safely control its depth dynamically by using its depth planes only, with no need for a support vessel or support base on the surface, sea-bed or shore, and containing a propulsion system for submerged or surface use.

2. For the purposes of 8A001.b, 'range' means half the maximum distance a submersible vehicle can 'operate autonomously'.

c. Unmanned submersible vehicles as follows:
c.1. Unmanned submersible vehicles having any of the following:
c.1.a. Designed for deciding a course relative to any geographical reference without real-time human assistance;
c.1.b. Acoustic data or command link; or
c.1.c. Wireless optical data or command link exceeding 1,000 m;
c.2. Unmanned, submersible vehicles, not specified in 8A001.c.1, having all of the following:
c.2.a. Designed to operate with a tether;
c.2.b. Designed to operate at depths exceeding 1,000 m; and
c.2.c. Having any of the following:
c.2.c.1. Designed for self-propelled maneuver using propulsion motors or thrusters specified by 8A002.a.2; or
c.2.c.2. Fiber optic data link;
d. [Reserved]
e. Ocean salvage systems with a lifting capacity exceeding 5 MN for salvaging objects from depths exceeding 250 m and having any of the following:
e.1. Dynamic positioning systems capable of position keeping within 20 m of a given point provided by the navigation system; *or*
e.2. Seafloor navigation and navigation integration systems, for depths exceeding 1,000 m and with positioning ''accuracies'' to within 10 m of a predetermined point.

8A002 Marine systems, equipment, ''parts'' and ''components,'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: $5000; N/A for 8A002.o.3.b
GBS: Yes for manipulators for civil end uses (*e.g.,* underwater oil, gas or mining operations) controlled by 8A002.i.2 and having 5 degrees of freedom of movement; and 8A002.r.

Special Conditions for STA

STA: License Exception STA may not be used to ship any commodity in 8A002.b, h, j, o.3, or p to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See also 8A992 and for underwater communications systems, see Category 5, Part I—Telecommunications. (2) See also 8A992 for self-contained underwater breathing apparatus that is not controlled by 8A002 or released for control by the 8A002.q Note. (3) For electronic imaging systems ''specially designed'' or modified for underwater use incorporating image intensifier tubes specified by 6A002.a.2.a or 6A002.a.2.b, see 6A003.b.3. (4) For electronic imaging systems ''specially designed'' or modified for underwater use incorporating ''focal plane arrays'' specified by 6A002.a.3.g, see 6A003.b.4.c. (5) Section 744.9 imposes a license requirement on commodities described in 8A002.d if being exported, reexported, or transferred (in-country) for use by a military end-user or for incorporation into an item controlled by ECCN 0A919.
Related Definitions: N/A
Items:

a. Systems, equipment, ''parts'' and ''components,'' ''specially designed'' or modified for submersible vehicles and designed to operate at depths exceeding 1,000 m, as follows:
a.1. Pressure housings or pressure hulls with a maximum inside chamber diameter exceeding 1.5 m;
a.2. Direct current propulsion motors or thrusters;
a.3. Umbilical cables, and connectors therefor, using optical fiber and having synthetic strength members;
a.4. ''Parts'' and ''components'' manufactured from material specified by ECCN 8C001;

Technical Note: *For the purposes of 8A002.a.4, this entry should not be defeated by the export of 'syntactic foam' controlled by 8C001 when an intermediate stage of manufacture has been performed and it is not yet in its final component form.*

b. Systems ''specially designed'' or modified for the automated control of the motion of submersible vehicles controlled by 8A001, using navigation data, having closed loop servo-controls and having any of the following:
b.1. Enabling a vehicle to move within 10 m of a predetermined point in the water column;
b.2. Maintaining the position of the vehicle within 10 m of a predetermined point in the water column; *or*
b.3. Maintaining the position of the vehicle within 10 m while following a cable on or under the seabed;
c. Fiber optic pressure hull penetrators;
d. Underwater vision systems having all of the following:
d.1. ''Specially designed'' or modified for remote operation with an underwater vehicle; and

d.2. Employing any of the following techniques to minimize the effects of back scatter:

d.2.a. Range-gated illuminators; or

d.2.b. Range-gated ''laser'' systems;

e. [Reserved]

f. [Reserved]

g. Light systems ''specially designed'' or modified for underwater use, as follows:

g.1. Stroboscopic light systems capable of a light output energy of more than 300 J per flash and a flash rate of more than 5 flashes per second;

g.2. Argon arc light systems ''specially designed'' for use below 1,000 m;

h. ''Robots'' ''specially designed'' for underwater use, controlled by using a dedicated computer and having any of the following:

h.1. Systems that control the ''robot'' using information from sensors which measure force or torque applied to an external object, distance to an external object, or tactile sense between the ''robot'' and an external object; *or*

h.2. The ability to exert a force of 250 N or more or a torque of 250 Nm or more and using titanium based alloys or ''composite'' ''fibrous or filamentary materials'' in their structural members;

i. Remotely controlled articulated manipulators ''specially designed'' or modified for use with submersible vehicles and having any of the following:

i.1. Systems which control the manipulator using information from sensors which measure any of the following:

i.1.a. Torque or force applied to an external object; *or*

i.1.b. Tactile sense between the manipulator and an external object; *or*

i.2. Controlled by proportional master-slave techniques and having 5 degrees of 'freedom of movement' or more;

Technical Note: *For the purposes of 8A002.i.2, only functions having proportionally related motion control using positional feedback are counted when determining the number of degrees of 'freedom of movement'.*

j. Air independent power systems ''specially designed'' for underwater use, as follows:

j.1. Brayton or Rankine cycle engine air independent power systems having any of the following:

j.1.a. Chemical scrubber or absorber systems, ''specially designed'' to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

j.1.b. Systems ''specially designed'' to use a monoatomic gas;

j.1.c. Devices or enclosures, ''specially designed'' for underwater noise reduction in frequencies below 10 kHz, or special mounting devices for shock mitigation; *or*

j.1.d. Systems having all of the following:

j.1.d.1. ''Specially designed'' to pressurize the products of reaction or for fuel reformation;

j.1.d.2. ''Specially designed'' to store the products of the reaction; *and*

j.1.d.3. ''Specially designed'' to discharge the products of the reaction against a pressure of 100 kPa or more;

j.2. Diesel cycle engine air independent systems having all of the following:

j.2.a. Chemical scrubber or absorber systems, ''specially designed'' to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

j.2.b. Systems ''specially designed'' to use a monoatomic gas;

j.2.c. Devices or enclosures, ''specially designed'' for underwater noise reduction in frequencies below 10 kHz, or special mounting devices for shock mitigation; *and*

j.2.d. ''Specially designed'' exhaust systems that do not exhaust continuously the products of combustion;

j.3. ''Fuel cell'' air independent power systems with an output exceeding 2 kW and having any of the following:

j.3.a. Devices or enclosures, ''specially designed'' for underwater noise reduction in frequencies below 10 kHz, or special mounting devices for shock mitigation; *or*

j.3.b. Systems having all of the following:

j.3.b.1. ''Specially designed'' to pressurize the products of reaction or for fuel reformation;

j.3.b.2. ''Specially designed'' to store the products of the reaction; *and*

j.3.b.3. ''Specially designed'' to discharge the products of the reaction against a pressure of 100 kPa or more;

j.4. Stirling cycle engine air independent power systems having all of the following:

j.4.a. Devices or enclosures, ''specially designed'' for underwater noise reduction in frequencies below 10 kHz, or special mounting devices for shock mitigation; *and*

j.4.b. ''Specially designed'' exhaust systems which discharge the products of combustion against a pressure of 100 kPa or more;

k. [Reserved]

l. [Reserved]

m. [Reserved]

n. [Reserved]

o. Propellers, power transmission systems, power generation systems and noise reduction systems, as follows:

o.1. [Reserved]

o.2. Water-screw propeller, power generation systems or transmission systems, designed for use on vessels, as follows:

o.2.a. Controllable-pitch propellers and hub assemblies, rated at more than 30 MW;

o.2.b. Internally liquid-cooled electric propulsion motors with a power output exceeding 2.5 MW;

o.2.c. ''Superconductive'' propulsion motors with a power output exceeding 0.1 MW;

o.2.d. Power transmission shaft systems incorporating ''composite'' material ''parts'' or ''components'' and capable of transmitting more than 2 MW;

o.2.e. Ventilated or base-ventilated propeller systems, rated at more than 2.5 MW;

o.3. Noise reduction systems designed for use on vessels of 1,000 tonnes displacement or more, as follows:

o.3.a. Systems that attenuate underwater noise at frequencies below 500 Hz and consist of compound acoustic mounts for the acoustic isolation of diesel engines, diesel generator sets, gas turbines, gas turbine generator sets, propulsion motors or propulsion reduction gears, ''specially designed'' for sound or vibration isolation and having an intermediate mass exceeding 30% of the equipment to be mounted;

o.3.b. 'Active noise reduction or cancellation systems' or magnetic bearings, ''specially designed'' for power transmission systems;

Technical Note: *For the purposes of 8A002.o.3.b, 'active noise reduction or cancellation systems' incorporate electronic control systems capable of actively reducing equipment vibration by the generation of anti-noise or anti-vibration signals directly to the source.*

o.4. Permanent magnet electric propulsion motors ''specially designed'' for submersible vehicles, having a power output exceeding 0.1 MW.

Note: *8A002.o.4. includes rim-driven propulsion systems.*

p. Pumpjet propulsion systems having all of the following:

p.1. Power output exceeding 2.5 MW; *and*

p.2. Using divergent nozzle and flow conditioning vane techniques to improve propulsive efficiency or reduce propulsion-generated underwater-radiated noise;

q. Underwater swimming and diving equipment as follows;

q.1. Closed circuit rebreathers;

q.2. Semi-closed circuit rebreathers;

Note: *8A002.q does not control individual rebreathers for personal use when accompanying their users.*

N.B. *For equipment and devices ''specially designed'' for military use see ECCN 8A620.f.*

r. Diver deterrent acoustic systems ''specially designed'' or modified to disrupt divers and having a sound pressure level equal to or exceeding 190 dB (reference 1 μPa at 1 m) at frequencies of 200 Hz and below.

Note 1: *8A002.r does not apply to diver deterrent systems based on under-water-explosive devices, air guns or combustible sources.*

Note 2: *8A002.r includes diver deterrent acoustic systems that use spark gap sources, also known as plasma sound sources.*

* * * * *

8C001 'Syntactic foam' designed for underwater use and having all of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: See also 8A002.a.4.
Related Definition: For the purposes of 8C001, 'Syntactic foam' consists of hollow spheres of plastic or glass embedded in a resin ''matrix.''

Items:

a. Designed for marine depths exceeding 1,000 m; *and*

b. A density less than 561 kg/m^3.

* * * * *

8E002 Other ''technology'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

TSR: N/A

License Exceptions Note: *License Exception TSU is not applicable for the repair ''technology'' controlled by 8E002.a or .b, see Supplement No. 2 to part 774.*

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit technology in 8E002.a to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: See also 8E992.
Related Definitions: N/A
Items:

a. ''Technology'' for the ''development'', ''production'', repair, overhaul or refurbishing (re-machining) of propellers ''specially designed'' for underwater noise reduction;

b. ''Technology'' for the overhaul or refurbishing of equipment controlled by 8A001, 8A002.b, 8A002.j, 8A002.o or 8A002.p.

c. ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of any of the following:

c.1. Surface-effect vehicles (fully skirted variety) having all of the following:

c.1.a. Maximum design speed, fully loaded, exceeding 30 knots in a significant wave height of 1.25 m or more;

c.1.b. Cushion pressure exceeding 3,830 Pa; *and*

c.1.c. Light-ship-to-full-load displacement ratio of less than 0.70;

c.2. Surface-effect vehicles (rigid sidewalls) with a maximum design speed, fully loaded, exceeding 40 knots in a significant wave height of 3.25 m or more;

c.3. Hydrofoil vessels with active systems for automatically controlling foil systems, with a maximum design speed, fully loaded, of 40 knots or more in a significant wave height of 3.25 m or more; *or*

c.4. 'Small waterplane area vessels' having any of the following:

c.4.a. Full load displacement exceeding 500 tonnes with a maximum design speed, fully loaded, exceeding 35 knots in a significant wave height of 3.25 m or more; *or*

c.4.b. Full load displacement exceeding 1,500 tonnes with a maximum design speed, fully loaded, exceeding 25 knots in a significant wave height of 4 m or more.

Technical Note: *For the purposes of 8E002.c.4, a 'small waterplane area vessel' is defined by the following formula: waterplane area at an operational design draft less than 2x (displaced volume at the operational design draft)$^{2/3}$.*

* * * * *

9A001 Aero gas turbine engines having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to only to those engines that meet the characteristics listed in 9A101.	MT Column 1
AT applies to entire entry.	AT Column 1

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: See also 9A101 and 9A991.
Related Definitions: N/A
Items:

a. Incorporating any of the ''technologies'' controlled by 9E003.a, 9E003.h, or 9E003.i;

Note 1: *9A001 does not control aero gas turbine engines which meet all of the following:*

a. Certified by the civil aviation authority in a country listed in Supplement No. 1 to Part 743; and

b. Intended to power non-military manned ''aircraft'' for which any of the following has been issued by a Wassenaar Arrangement Participating State listed in Supplement No. 1 to Part 743 for the ''aircraft'' with this specific engine type:

b.1. A civil type certificate; or

b.2. An equivalent document recognized by the International Civil Aviation Organization (ICAO).

Note 2: *9A001 does not apply to aero gas turbine engines designed for Auxiliary Power Units (APUs) approved by the civil aviation authority in a Wassenaar Arrangement Participating State (see Supplement No. 1 to part 743 of the EAR).*

b. [Reserved]

* * * * *

9A003 ''Specially designed'' assemblies or ''components'', incorporating any of the ''technologies'' controlled by 9E003.a, 9E003.h, 9E003.i, or 9E003.k, for any of the following aero gas turbine engines (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

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

LVS: $5000
GBS: N/A

List of Items Controlled

Related Controls: N/A
Related Definition: N/A
Items:

a. Controlled by 9A001; *or*

b. Whose design or production origins are either not from a Wassenaar Participating State (see Supplement No. 1 to part 743 of the EAR) or unknown to the manufacturer.

9A004 Space launch vehicles and ''spacecraft,'' ''spacecraft buses'', ''spacecraft payloads'', ''spacecraft'' on-board systems or equipment, terrestrial equipment, air-launch platforms, and ''sub-orbital craft'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS and AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to 9A004.g, .u, .v, .w and .x.	NS Column 1
AT applies to 9A004.g, .u, .v, .w, .x and .y.	AT Column 1

License Requirement Note: *9A004.b through .f, and .h are controlled under ECCN 9A515.*

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

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See also 9A104, 9A515, and 9B515. (2) See ECCNs 9E001 (''development'') and 9E002 (''production'') for technology for items controlled by this entry. (3) See USML Categories IV for the space launch vehicles and XV for other spacecraft that are ''subject to the ITAR'' (see 22 CFR parts 120 through 130).
Related Definition: N/A
Items:

a. Space launch vehicles;

b. ''Spacecraft'';

c. ''Spacecraft buses'';

d. ''Spacecraft payloads'' incorporating items specified by 3A001.b.1.a.4, 3A002.g,

5A001.a.1, 5A001.b.3, 5A002.c, 5A002.e, 6A002.a.1, 6A002.a.2, 6A002.b, 6A002.d, 6A003.b, 6A004.c, 6A004.e, 6A008.d, 6A008.e, 6A008.k, 6A008.l or 9A010.c;

e. On-board systems or equipment, ''specially designed'' for ''spacecraft'' and having any of the following functions:

e.1. 'Command and telemetry data handling';

Note: *For the purposes of 9A004.e.1, 'command and telemetry data handling' includes bus data management, storage, and processing.*

e.2. 'Payload data handling'; *or*

Note: *For the purposes of 9A004.e.2, 'payload data handling' includes payload data management, storage, and processing.*

e.3. 'Attitude and orbit control';

Note: *For the purposes of 9A004.e.3, 'attitude and orbit control' includes sensing and actuation to determine and control the position and orientation of a ''spacecraft''.*

N.B.: *Equipment ''specially designed'' for military use is ''subject to the ITAR''. See 22 CFR parts 120 through 130.*

f. Terrestrial equipment ''specially designed'' for ''spacecraft'', as follows:

f.1. Telemetry and telecommand equipment ''specially designed'' for any of the following data processing functions:

f.1.a. Telemetry data processing of frame synchronization and error corrections, for monitoring of operational status (also known as health and safe status) of the ''spacecraft bus''; *or*

f.1.b. Command data processing for formatting command data being sent to the ''spacecraft'' to control the ''spacecraft bus'';

f.2. Simulators ''specially designed'' for 'verification of operational procedures' of ''spacecraft''.

Technical Note: *For the purposes of 9A004.f.2, 'verification of operational procedures' is any of the following:*

1. Command sequence confirmation;

2. Operational training;

3. Operational rehearsals; or

4. Operational analysis.

g. ''Aircraft'' ''specially designed'' or modified to be air-launch platforms for space launch vehicles or ''sub-orbital craft''.

h. ''Sub-orbital craft''.

i. through t. [Reserved]

u. The James Webb Space Telescope (JWST) being developed, launched, and operated under the supervision of the U.S. National Aeronautics and Space Administration (NASA).

v. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for the James Webb Space Telescope and that are *not:*

v.1. Enumerated or controlled in the USML;

v.2. Microelectronic circuits;

v.3. Described in ECCN 7A004 or 7A104; *or*

v.4. Described in an ECCN containing ''space-qualified'' as a control criterion (*See* ECCN 9A515.x.4).

w. The International Space Station being developed, launched, and operated under the supervision of the U.S. National Aeronautics and Space Administration.

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for the International Space Station.

y. Items that would otherwise be within the scope of ECCN 9A004.v or .x but that have been identified in an interagency-cleared commodity classification (CCATS) pursuant to § 748.3(e) as warranting control in 9A004.y.

9B005 On-line (real time) control systems, instrumentation (including sensors) or automated data acquisition and processing equipment, ''specially designed'' for use with any of the following (see List of Items Controlled).

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1

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

LVS: N/A

GBS: N/A

List of Items Controlled

Related Controls: See also 9B105.

Related Definitions: N/A

Items:

a. Wind tunnels designed for speeds of Mach 1.2 or more;

Note: *9B005.a does not control wind tunnels ''specially designed'' for educational purposes and having a 'test section size' (measured laterally) of less than 250 mm.*

Technical Note: *For the purposes of 9B005.a Note, 'test section size' means the diameter of the circle, or the side of the square, or the longest side of the rectangle, at the largest test section location.*

b. Devices for simulating flow-environments at speeds exceeding Mach 5, including hot-shot tunnels, plasma arc tunnels, shock tubes, shock tunnels, gas tunnels and light gas guns; *or*

c. Wind tunnels or devices, other than two-dimensional sections, capable of simulating Reynolds number flows exceeding 25×10^6.

* * * * *

9E001 ''Technology'' according to the General Technology Note for the ''development'' of equipment or ''software'', controlled by 9A004, 9A012, 9B (except for ECCNs 9B604, 9B610, 9B619, 9B990 and 9B991), or ECCN 9D001 to 9D004, 9D101, or 9D104.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to ''technology'' for items controlled by 9A004, 9A012, 9B001 to 9B010, 9D001 to 9D004 for NS reasons.	NS Column 1
MT applies to ''technology'' for items controlled by 9A012, 9B001, 9B002, 9B003, 9B004, 9B005, 9B007, 9B104, 9B105, 9B106, 9B115, 9B116, 9B117, 9D001, 9D002, 9D003, or 9D004 for MT reasons.	MT Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any technology in this entry to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR)

List of Items Controlled

Related Controls: (1) See also 9E101 and 1E002.f (for controls on ''technology'' for the repair of controlled structures, laminates or materials). (2) ''Technology'' required for the ''development'' of equipment described in ECCNs 9A005 to 9A011 or ''software'' described in ECCNs 9D103 and 9D105 is ''subject to the ITAR.''

Related Definitions: N/A

Items:

The list of items controlled is contained in the ECCN heading.

9E002 ''Technology'' according to the General Technology Note for the ''production'' of ''equipment'' controlled by ECCN 9A004 or 9B (except for ECCNs 9B117, 9B604, 9B610, 9B619, 9B990, and 9B991).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to ''technology'' for equipment controlled by 9B001, 9B002, 9B003, 9B004, 9B005, 9B007, 9B104, 9B105, 9B106, 9B115 or 9B116 for MT reasons.	MT Column 1

Control(s)	Country chart (see Supp. No. 1 to part 738)
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any technology in this entry to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See also 9E102. (2) See also 1E002.f for 'technology'' for the repair of controlled structures, laminates, or materials. (3) ''Technology'' that is required for the ''production'' of equipment described in ECCNs 9A005 to 9A011 is ''subject to the ITAR.''

Related Definitions: N/A

Items:

The list of items controlled is contained in the ECCN heading.

9E003 Other ''technology'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, SI, AT

Control(s)	Country chart (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 1
SI applies to 9E003.a.1 through a.8, .h, .i, and .l.	See § 742.14 of the EAR for additional information.
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any technology in 9E003.a.1 to a.5, 9E003.c., 9E003.h, or 9E003.i (other than technology for fan or power turbines) to any of the destinations listed in Country Group A:5 or A:6 (See Supplement No.1 to part 740 of the EAR).

License Exception STA may not be used to ship or transmit any technology in 9E003.k to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) Hot section ''technology'' specifically designed, modified, or equipped for military uses or purposes, or developed principally with U.S. Department of Defense funding, is ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) ''Technology'' is subject to the EAR when actually applied to a commercial ''aircraft'' engine program. Exporters may seek to establish commercial application either on a case-by-case basis through submission of documentation demonstrating application to a commercial program in requesting an export license from the Department of Commerce in respect to a specific export, or in the case of use for broad categories of ''aircraft,'' engines, ''parts'' or ''components,'' a commodity jurisdiction determination from the Department of State.

Related Definitions: N/A

Items:

a. ''Technology'' ''required'' for the ''development'' or ''production'' of any of the following gas turbine engine ''parts,'' ''components'' or systems:

a.1. Gas turbine blades, vanes or ''tip shrouds'', made from Directionally Solidified (DS) or Single Crystal (SC) alloys and having (in the 001 Miller Index Direction) a stress-rupture life exceeding 400 hours at 1,273 K (1,000 °C) at a stress of 200 MPa, based on the average property values;

Technical Note: *For the purposes of 9E003.a.1, stress-rupture life testing is typically conducted on a test specimen.*

a.2. Combustors having any of the following:

a.2.a. 'Thermally decoupled liners' designed to operate at 'combustor exit temperature' exceeding 1,883 K (1,610 °C);

a.2.b. Non-metallic liners;

a.2.c. Non-metallic shells; *or*

a.2. d. Liners designed to operate at 'combustor exit temperature' exceeding 1,883 K (1,610 °C) and having holes that meet the parameters specified by 9E003.c;

a.2.e. Utilizing 'pressure gain combustion';

Technical Note: *For the purposes of 9E003.a.2.e, in 'pressure gain combustion' the bulk average stagnation pressure at the combustor outlet is greater than the bulk average stagnation pressure at the combustor inlet due primarily to the combustion process, when the engine is running in a ''steady state mode'' of operation.*

Note: *The ''required'' ''technology'' for holes in 9E003.a.2 is limited to the derivation of the geometry and location of the holes.*

Technical Notes:

1. *For the purposes of 9E003.a.2.a, 'thermally decoupled liners' are liners that feature at least a support structure designed to carry mechanical loads and a combustion facing structure designed to protect the support structure from the heat of combustion. The combustion facing structure and support structure have independent thermal displacement (mechanical displacement due to thermal load) with respect to one another, i.e., they are thermally decoupled.*

2. *For the purposes of 9E003.a.2.d, 'combustor exit temperature' is the bulk average gas path total (stagnation) temperature between the combustor exit plane and the leading edge of the turbine inlet guide vane (i.e., measured at engine station T40 as defined in SAE ARP 755A) when the engine is running in a ''steady state mode'' of operation at the certificated maximum continuous operating temperature.*

N.B.: *See 9E003.c for ''technology'' ''required'' for manufacturing cooling holes.*

a.3. ''Parts'' or ''components,'' that are any of the following:

a.3.a. Manufactured from organic ''composite'' materials designed to operate above 588 K (315 °C);

a.3.b. Manufactured from any of the following:

a.3.b.1. Metal ''matrix'' ''composites'' reinforced by any of the following:

a.3.b.1.a. Materials controlled by 1C007;

a.3.b.1.b. ''Fibrous or filamentary materials'' specified by 1C010; *or*

a.3.b.1.c. Aluminides specified by 1C002.a; *or*

a.3.b.2. Ceramic ''matrix'' ''composites'' specified by 1C007; *or*

a.3.c. Stators, vanes, blades, tip seals (shrouds), rotating blings, rotating blisks or 'splitter ducts', that are all of the following:

a.3.c.1. Not specified in 9E003.a.3.a;

a.3.c.2. Designed for compressors or fans; *and*

a.3.c.3. Manufactured from material controlled by 1C010.e with resins controlled by 1C008;

Technical Note: For the purposes of 9E003.a.3.c, a 'splitter duct' performs the initial separation of the air-mass flow between the bypass and core sections of the engine.

a.4. Uncooled turbine blades, vanes or ''tip shrouds'' designed to operate at a 'gas path temperature' of 1,373 K (1,100 °C) or more;

a.5. Cooled turbine blades, vanes or ''tip shrouds'', other than those described in 9E003.a.1, designed to operate at a 'gas path temperature' of 1,693 K (1,420 °C) or more;

Technical Note: *For the purposes of 9E003.a.5, 'gas path temperature' is the bulk average gas path total (stagnation) temperature at the leading-edge plane of the turbine component when the engine is running in a ''steady state mode'' of operation at the certificated or specified maximum continuous operating temperature.*

a.6. Airfoil-to-disk blade combinations using solid state joining;

a.7. [Reserved]

a.8. 'Damage tolerant' gas turbine engine rotor ''parts'' or ''components'' using powder metallurgy materials controlled by 1C002.b; *or*

Technical Note: *For the purposes of 9E003.a.8, 'damage tolerant' ''parts'' and ''components'' are designed using methodology and substantiation to predict and limit crack growth.*

a.9. [Reserved]

N.B.: *For ''FADEC systems'', see 9E003.h.*

a.10. [Reserved]

N.B.: *For adjustable flow path geometry, see 9E003.i.*

a.11. 'Fan blades' having all of the following:

a.11.a. 20% or more of the total volume being one or more closed cavities containing vacuum or gas only; *and*

a.11.b. One or more closed cavities having a volume of 5 cm^3 or larger;

Technical Note: *For the purposes of 9E003.a.11, a 'fan blade' is the aerofoil portion of the rotating stage or stages, which provide both compressor and bypass flow in a gas turbine engine.*

b. ''Technology'' ''required'' for the ''development'' or ''production'' of any of the following:

b.1. Wind tunnel aero-models equipped with non-intrusive sensors capable of transmitting data from the sensors to the data acquisition system; *or*

b.2. ''Composite'' propeller blades or prop-fans, capable of absorbing more than 2,000 kW at flight speeds exceeding Mach 0.55;

c. ''Technology'' ''required'' for manufacturing cooling holes in gas turbine engine ''parts'' or ''components'' incorporating any of the ''technologies'' specified by 9E003.a.1, 9E003.a.2, or 9E003.a.5, and having any of the following:

c.1. Having all of the following:

c.1.a. Minimum 'cross-sectional area' less than 0.45 mm^2;

c.1.b. 'Hole shape ratio' greater than 4.52; *and*

c.1.c. 'Incidence angle' equal to or less than 25°; *or*

c.2. Having all of the following:

c.2.a. Minimum 'cross-sectional area' less than 0.12 mm^2;

c.2.b. 'Hole shape ratio' greater than 5.65; *and*

c.2.c. 'Incidence angle' more than 25°;

Note: *9E003.c does not apply to ''technology'' for manufacturing constant radius cylindrical holes that are straight through and enter and exit on the external surfaces of the component.*

Technical Notes:

1. *For the purposes of 9E003.c, the 'cross-sectional area' is the area of the hole in the plane perpendicular to the hole axis.*

2. *For the purposes of 9E003.c, 'hole shape ratio' is the nominal length of the axis of the hole divided by the square root of its minimum 'cross-sectional area'.*

3. *For the purposes of 9E003.c, 'incidence angle' is the acute angle measured between the plane tangential to the airfoil surface and the hole axis at the point where the hole axis enters the airfoil surface.*

4. *For the purposes of 9E003.c, methods for manufacturing holes include ''laser'' beam machining, water jet machining, Electro-Chemical Machining (ECM) or Electrical Discharge Machining (EDM).*

d. ''Technology'' ''required'' for the ''development'' or ''production'' of helicopter power transfer systems or tilt rotor or tilt wing ''aircraft'' power transfer systems;

e. ''Technology'' for the ''development'' or ''production'' of reciprocating diesel engine ground vehicle propulsion systems having all of the following:

e.1. 'Box volume' of 1.2 m^3 or less;

e.2. An overall power output of more than 750 kW based on 80/1269/EEC, ISO 2534 or national equivalents; *and*

e.3. Power density of more than 700 kW/m^3 of 'box volume';

Technical Note: *For the purposes of 9E003.e.1., 'box volume' is the product of three perpendicular dimensions measured in the following way:*

Length: The length of the crankshaft from front flange to flywheel face;

Width: The widest of any of the following:

a. The outside dimension from valve cover to valve cover;

b. The dimensions of the outside edges of the cylinder heads; or

c. The diameter of the flywheel housing;

Height: The largest of any of the following:

a. The dimension of the crankshaft centerline to the top plane of the valve cover (or cylinder head) plus twice the stroke; or

b. The diameter of the flywheel housing.

f. ''Technology'' ''required'' for the ''production'' of ''specially designed'' ''parts'' or ''components'' for high output diesel engines, as follows:

f.1. ''Technology'' ''required'' for the ''production'' of engine systems having all of the following ''parts'' and ''components'' employing ceramics materials controlled by 1C007:

f.1.a Cylinder liners;

f.1.b. Pistons;

f.1.c. Cylinder heads; *and*

f.1.d. One or more other ''part'' or ''component'' (including exhaust ports, turbochargers, valve guides, valve assemblies or insulated fuel injectors);

f.2. ''Technology'' ''required'' for the ''production'' of turbocharger systems with single-stage compressors and having all of the following:

f.2.a. Operating at pressure ratios of 4:1 or higher;

f.2.b. Mass flow in the range from 30 to 130 kg per minute; *and*

f.2.c. Variable flow area capability within the compressor or turbine sections;

f.3. ''Technology'' ''required'' for the ''production'' of fuel injection systems with a ''specially designed'' multifuel (*e.g.,* diesel or jet fuel) capability covering a viscosity range from diesel fuel (2.5 cSt at 310.8 K (37.8 °C)) down to gasoline fuel (0.5 cSt at 310.8 K (37.8 °C)) and having all of the following:

f.3.a. Injection amount in excess of 230 mm^3 per injection per cylinder; *and*

f.3.b. Electronic control features ''specially designed'' for switching governor characteristics automatically depending on fuel property to provide the same torque characteristics by using the appropriate sensors;

g. ''Technology'' ''required'' for the ''development'' or ''production'' of 'high output diesel engines' for solid, gas phase or liquid film (or combinations thereof) cylinder wall lubrication and permitting operation to temperatures exceeding 723 K (450 °C), measured on the cylinder wall at the top limit of travel of the top ring of the piston;

Technical Note: *For the purposes of 9E003.g, 'high output diesel engines' are diesel engines with a specified brake mean effective pressure of 1.8 MPa or more at a speed of 2,300 r.p.m., provided the rated speed is 2,300 r.p.m. or more.*

h. ''Technology'' for gas turbine engine ''FADEC systems'' as follows:

h.1. ''Development'' ''technology'' for deriving the functional requirements for the ''parts'' or ''components'' necessary for the ''FADEC system'' to regulate engine thrust or shaft power (*e.g.,* feedback sensor time constants and accuracies, fuel valve slew rate);

h.2. ''Development'' or ''production'' ''technology'' for control and diagnostic ''parts'' or ''components'' unique to the ''FADEC system'' and used to regulate engine thrust or shaft power;

h.3. ''Development'' ''technology'' for the control law algorithms, including ''source code'', unique to the ''FADEC system'' and used to regulate engine thrust or shaft power;

Note: *9E003.h does not apply to technology related to engine-''aircraft'' integration required by civil aviation authorities of one or more Wassenaar Arrangement Participating States (See Supplement No. 1 to part 743 of the EAR) to be published for general airline use (e.g., installation manuals, operating instructions, instructions for continued airworthiness) or interface functions (e.g., input/output processing, airframe thrust or shaft power demand).*

i. ''Technology'' for adjustable flow path systems designed to maintain engine stability for gas generator turbines, fan or power turbines, or propelling nozzles, as follows:

i.1. ''Development'' ''technology'' for deriving the functional requirements for the ''parts'' or ''components'' that maintain engine stability;

i.2. ''Development'' or ''production'' ''technology'' for ''parts'' or ''components'' unique to the adjustable flow path system and that maintain engine stability;

i.3. ''Development'' ''technology'' for the control law algorithms, including ''source code'', unique to the adjustable flow path system and that maintain engine stability;

Note: *9E003.i does not apply to ''technology'' for any of the following:*

a. Inlet guide vanes;

b. Variable pitch fans or prop-fans;

c. Variable compressor vanes;

d. Compressor bleed valves; or

e. Adjustable flow path geometry for reverse thrust.

j. ''Technology'' ''required'' for the ''development'' of wing-folding systems designed for fixed-wing ''aircraft'' powered by gas turbine engines.

N.B.: *For ''technology'' ''required'' for the ''development'' of wing-folding systems designed for fixed-wing ''aircraft'' specified in USML Category VIII (a), see USML Category VIII (i).*

k. ''Technology'', not specified in 9E003.a, 9E003.h, or 9E003.i, ''required'' for the ''development'' of any of the following components or systems, ''specially designed'' for aero gas turbine engines to enable ''aircraft'' to cruise at Mach 1 or greater for more than 30 minutes:

k.1. Propulsion inlet systems;

k.2. Propulsion exhaust systems;

k.3. 'Reheat systems';

k.4. 'Active thermal management systems' to condition fluids used to lubricate or cool 'engine rotor supports';

k.5. Oil-free 'engine rotor supports'; or

k.6. Systems to remove heat from 'compression system' core gas path flow.

Technical Notes: *For the purposes of 9E003.k:*

1. Propulsion inlet systems include core flow pre-coolers.

2. 'Reheat systems' provide additional thrust by combusting fuel in exhaust and/or bypass flow downstream of the last turbomachinery stage. 'Reheat systems' are also referred to as afterburners.

3. 'Active thermal management systems' employ methods other than passive oil-to-air cooling or oil-to-fuel cooling, such as vapor cycle systems.

4. 'Compression system' is any stage or combination of stages between the engine inlet face and the combustor that increases gas path pressure through mechanical work.

5. An 'engine rotor support' is the bearing supporting the main engine shaft that drives the compression system or turbine rotors.

N.B. 1 *See 9E003.h, for engine control technology.*

N.B. 2 *See 9E003.i, for adjustable flow path systems technology.*

l. ''Technology'' not otherwise controlled in 9E003.a.1 through a.8, a.10, and .h and used in the ''development'', ''production'', or overhaul of hot section ''parts'' or ''components'' of civil derivatives of military engines controlled on the U.S. Munitions List.

* * * * *

■ 13. Supplement no. 6 to part 774 is amended by revising paragraph (4) to read as follows:

Supplement No. 6 to Part 774—Sensitive List

* * * * *

(4) Category 4

(i) 4A001.a.2.

(ii) [Reserved]

* * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2023–22299 Filed 10–12–23; 4:15 pm]

BILLING CODE 3510–33–P

Reader Aids

Federal Register

Vol. 88, No. 200

Wednesday, October 18, 2023

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, OCTOBER

67617–67928 2
67929–68422 3
68423–69002 4
69003–69528 5
69529–69872 6
69873–70336 10
70337–70564 11
70565–70884 12
70885–71272 13
71273–71458 16
71459–71724 17
71725–71986 18

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

Proposed Rules:
1 69390
25 69390
175 69390
180 69390
182 69390
183 69390
184 69390
200 69390

3 CFR

Proclamations:
10633 68423
10634 68425
10635 68427
10636 68429
10637 68431
10638 68433
10639 68435
10640 68437
10641 68439
10642 68441
10643 68445
10644 70337
10645 70565
10646 70567
10647 70569
10648 70571
10649 70573
10650 70577
10651 71263
10652 71265
10653 71725
10654 71727
10655 71729

Executive Orders:
14031 (amended by 14109) 68447
14048 (superseded in part by 14109) 68447
14084 (amended by 14109) 68447
14109 68447

Administrative Orders:
Memorandums:
Memorandum of September 21, 2023 70563
Memorandum of September 27, 2023 67617
Notices:
Notice of October 12, 2023 71271

5 CFR

2424 ..... 69873, 70579, 71731

Proposed Rules
2412 70374

7 CFR

2 70579
27 69529
52 71459
407 71731
457 ..... 70339, 71731
932 69873
956 69876
981 67621
989 71273
3434 71275

Proposed Rules:
51 70379
927 69888
981 68500
993 70608
1240 ..... 71302, 71306
3550 69099
3555 69099

10 CFR

50 71277
52 71277
72 67929
429 70580
431 ..... 69686, 70580

Proposed Rules:
Ch. I 69555
20 68506
30 68506
50 71777
51 68506
52 71777
72 67987
100 71777
430 69826
431 ..... 67989, 70196
474 67682

12 CFR

Ch. X 71279

Proposed Rules
308 70391
364 70391

13 CFR

120 ..... 69003, 69529, 70580
125 ..... 70339, 70343

14 CFR

21 70344
39 ..... 67627, 67629, 67636, 67640, 67935, 67937, 67939, 68451, 68454, 69008, 69011, 69013, 69015, 69018, 69020, 69023, 70885, 71283, 71461, 71464, 71466, 71733
43 71468
71 ..... 69025, 70351, 71735
91 71468
97 ..... 67942, 67943

Proposed Rules:
1 68507
3 70911

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List October 10, 2023

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://portalguard.gsa.gov/__*layouts/PG/register.aspx.

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.