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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31513; Amdt. No. 4084]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 24, 2023. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 24, 2023.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg 26, Room 217, Oklahoma City, OK 73099. Telephone: (405) 954–1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on October 13, 2023.

Thomas J. Nichols,

Manager, Aviation Safety, Flight Standards Service, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

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[FR Doc. 2023–23393 Filed 10–23–23; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31512; Amdt. No. 4083]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 24, 2023. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 24, 2023.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC, 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954–1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the typed of SIAPS, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on October 13, 2023.

Thomas J. Nichols,

Manager, Aviation Safety, Flight Standards Service, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 30 November 2023

Safford, AZ, KSAD, RNAV (GPS) RWY 12, Amdt 1
Safford, AZ, KSAD, RNAV (GPS) RWY 30, Amdt 1
Tucson, AZ, KTUS, ILS OR LOC RWY 11L, Amdt 14E, CANCELED
Tucson, AZ, KTUS, ILS OR LOC RWY 12, Orig
Tucson, AZ, KTUS, RNAV (GPS) RWY 4, Amdt 1C
Tucson, AZ, KTUS, RNAV (GPS) RWY 11R, Orig-E, CANCELED
Tucson, AZ, KTUS, RNAV (GPS) RWY 22, Orig-E
Tucson, AZ, KTUS, RNAV (GPS) RWY 29L, Amdt 1B, CANCELED
Tucson, AZ, KTUS, RNAV (GPS) Z RWY 11L, Amdt 1D, CANCELED
Tucson, AZ, KTUS, RNAV (GPS) Z RWY 12, Orig
Tucson, AZ, KTUS, RNAV (GPS) Z RWY 29R, Amdt 2F, CANCELED
Tucson, AZ, KTUS, RNAV (GPS) Z RWY 30, Orig
Tucson, AZ, KTUS, RNAV (RNP) Y RWY 12, Orig
Tucson, AZ, KTUS, RNAV (RNP) Y RWY 30, Orig
Tucson, AZ, KTUS, VOR OR TACAN RWY 11L, Amdt 1D, CANCELED
Tucson, AZ, KTUS, VOR OR TACAN RWY 12, Orig
Tucson, AZ, KTUS, VOR OR TACAN RWY 29R, Amdt 2G, CANCELED
Tucson, AZ, KTUS, VOR OR TACAN RWY 30, Orig
Denver, CO, KDEN, RNAV (GPS) Y RWY 16R, Orig
Denver, CO, KDEN, RNAV (GPS) Y RWY 16R, Amdt 1D, CANCELED
Denver, CO, KDEN, RNAV (RNP) Z RWY 16R, Orig
Denver, CO, KDEN, RNAV (RNP) Z RWY 16R, Orig-C, CANCELED
Cochran, GA, 48A, Takeoff Minimums and Obstacle DP, Amdt 2A
Monticello, IA, KMXO, RNAV (GPS) RWY 15, Amdt 1D
Monticello, IA, KMXO, RNAV (GPS) RWY 33, Amdt 1C
Monticello, IA, KMXO, Takeoff Minimums and Obstacle DP, Amdt 4A
Chicago/Prospect Heights/Wheeling, IL, KPWK, RAV (GPS) RWY 30, Orig
Danville, IL, KDNV, ILS OR LOC RWY 21, Amdt 8
Danville, IL, KDNV, RNAV (GPS) RWY 3, Orig-C
Danville, IL, KDNV, RNAV (GPS) RWY 21, Orig-C
Danville, IL, KDNV, RNAV (GPS) RWY 34, Orig-C
Danville, IL, KDNV, VOR/DME RWY 3, Amdt 12B, CANCELED
Freeport, IL, KFEP, RNAV (GPS) RWY 6, Orig-C
Anderson, IN, KAID, ILS OR LOC RWY 30, Amdt 4
Lafayette, IN, KLAF, Takeoff Minimums and Obstacle DP, Amdt 1A
Lafayette, IN, KLAF, VOR–A, Amdt 26C
Abilene, KS, K78, RNAV (GPS) RWY 17, Amdt 1D
Pittsfield, MA, KPSF, LOC RWY 26, Amdt 10B
Pittsfield, MA, KPSF, RNAV (GPS) RWY 26, Amdt 2B
Plymouth, MA, KPYM, ILS OR LOC RWY 6, Amdt 1H
Plymouth, MA, KPYM, RNAV (GPS) RWY 6, Amdt 1E
Plymouth, MA, KPYM, RNAV (GPS) RWY 24, Orig-D
Plymouth, MA, KPYM, Takeoff Minimums and Obstacle DP, Amdt 4
Detroit, MI, KYIP, RNAV (GPS) RWY 9, Amdt 3
Redwood Falls, MN, KRWF, RNAV (GPS) RWY 30, Amdt 1
Kansas City, MO, KMCI, ILS OR LOC RWY 1L, Amdt 19A
Kansas City, MO, KMCI, ILS OR LOC RWY 1R, ILS RWY 1R (SA CAT I), ILS RWY 1R (CAT II), ILS RWY 1R (CAT III), Amdt 7A
Kansas City, MO, KMCI, ILS OR LOC RWY 19L, Amdt 5A
Kansas City, MO, KMCI, ILS OR LOC RWY 19R, ILS RWY 19R (SA CAT I), ILS RWY 19R (CAT II), ILS RWY 19R (CAT III), Amdt 15A
Nevada, MO, KNVD, Takeoff Minimums and Obstacle DP, Orig-A
Kalispell, MT, KGPI, RNAV (RNP) RWY 20, Amdt 1
Monroe, NC, EQY, ILS OR LOC RWY 5, Amdt 3A
Monroe, NC, EQY, RNAV (GPS) RWY 5, Amdt 3A
Monroe, NC, EQY, RNAV (GPS) RWY 23, Amdt 1C
Dayton, OH, KGDK, Takeoff Minimums and Obstacle DP, Amdt 3
Shawnee, OK, SNL, ILS OR LOC RWY 17, Amdt 3A
Brookings, OR, KBOK, RNAV (GPS)–A, Orig
Brookings, OR, KBOK, Takeoff Minimums and Obstacle DP, Orig
Sunriver, OR, S21, RNAV (GPS) RWY 18, Amdt 2
Sunriver, OR, S21, Takeoff Minimums and Obstacle DP, Orig-B
Altoona, PA, KAOO, ILS OR LOC RWY 21, Amdt 9
Altoona, PA, KAOO, RNAV (GPS) RWY 21, Amdt 1E
Punxsutawney, PA, N35, RNAV (GPS) RWY 24, Orig-E
Walterboro, SC, KRBW, ILS Y OR LOC Y RWY 23, Amdt 3
Memphis, TN, KMEM, ILS OR LOC RWY 27, Amdt 4D
Memphis, TN, KMEM, RNAV (GPS) RWY 27, Amdt 2E
San Saba, TX, 81R, RNAV (GPS) RWY 13, Orig
San Saba, TX, 81R, RNAV (GPS) RWY 31, Orig
San Saba, TX, 81R, Takeoff Minimums and Obstacle DP, Orig
Salt Lake City, UT, KSLC, RNAV (GPS) RWY 16L, Amdt 2
Salt Lake City, UT, KSLC, RNAV (GPS) RWY 16R, Amdt 2

Rescinded: On September 25, 2023 (88 FR 65598), the FAA published an Amendment in Docket No. 31508, Amdt No. 4079, to part 97 of the Federal Aviation Regulations under §§ 97.37. The following entry for Indianapolis, IN, effective November 30, 2023, is hereby rescinded in its entirety.

Indianapolis, IN, KUMP, Takeoff Minimums and Obstacle DP, Amdt 4

[FR Doc. 2023–23392 Filed 10–23–23; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–221; RM–11908; DA 23–990; FR ID 180832]

Television Broadcasting Services Las Vegas, Nevada

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On May 21, 2021, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking* (*NPRM*) in response to a petition for rulemaking filed by Scripps Broadcasting Holdings, LLC (Scripps or Licensee), the licensee of KTNV–TV, channel 7, Las Vegas, Nevada, requesting the substitution of channel 26 for channel 13 at Las Vegas, in the Table of TV Allotments. King Kong Broadcasting, Inc. (King Kong), the

licensee of low power television station KGNG–LD on channel 26 at Las Vegas, filed opposition comments and counter-proposed that channel 26 instead be allotted as a new vacant channel at Las Vegas. For the reasons set forth in the *Report and Order* referenced below, the Bureau denies King Kong's opposition and counter-proposal, amends FCC regulations to substitute channel 26 for channel 13 at Las Vegas, and directs Scripps to file an application for a construction permit for channel 26.

DATES: Effective November 24, 2023.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, *Joyce.Bernstein@fcc.gov.*

SUPPLEMENTARY INFORMATION: The proposed rule was published at 86 FR 32011 on June 16, 2021. In its rulemaking petition, Scripps explained that digital VHF channels have propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances and also result in nearby electrical devices causing signal interference, that it has received many complaints from viewers unable to receive a reliable signal on channel 13, and that only five persons were predicted to lose service under the proposed channel substitution. In its Opposition, King Kong acknowledged that generally full-power television stations have priority over secondary LPTV stations in terms of channel allotments, but asserted that Scripps' proposal would not serve the public interest because it would displace KGNG–LD on channel 26. In support, King Kong stated that its principal resides in Las Vegas and as a result, King Kong has ascertained the needs of the community and curated programming options designed to serve the entire community, including programming which it characterizes as targeted towards the growing and underserved ethnic minority populations in the area. According to King Kong, if the Bureau were to grant Scripps' Petition, King Kong would be left with the option of filing for displacement to move to channel 13 once it is vacated by KTNV–TV or cease operations, and if it chose to seek displacement, it would be subject to competing applications and possibly still be forced to cease operations. Further, according to King Kong, even if it were ultimately granted a construction permit to operate the station on channel 13 or another VHF channel, KGNG–LD might be precluded from participating in the new ATSC 3.0 standard that would serve mobile users. Alternatively, King Kong noted that if the Commission grants its counterproposal and allots channel 26 to Las Vegas as a new allotment, in order to obtain a construction permit for UHF channel 26 King Kong would either have to be the sole applicant for the channel—an unlikely situation given Scripps' interest in the channel—or the winning bidder in a future Commission auction. Therefore, King Kong contended that the public interest would be better served if KGNG–LD remains on channel 26 and Scripps instead selects a different UHF channel for KTNV–TV. According to King Kong, there are at least eight other equivalent UHF channels available for KTNV–TV's use that are currently occupied by other LPTV stations and that while one of these LPTV stations would be displaced if Scripps sought to move to its channel, none of these stations provide the level of programming options offered by KGNG–LD or have principals with the same level of longstanding ties to the Las Vegas community as it principal possesses. Finally, King Kong alleged that Scripps targeted KGNG–LD because it is a strong competitor in Las Vegas and as a way of striking back at King Kong because of disputes that have arisen over the years between King Kong and KTNV–TV employees. In reply, Scripps stated that as an LPTV station, KGNG–LD has secondary status and is therefore subject to interference from and displacement by full power stations, and any Commission action ordering Scripps to displace one of the other LPTV stations contravenes longstanding precedent against making licensing decisions based solely on programming offered on KGNG–LD. In addition, King Kong's argument that preserving its low power service on channel 26 would enable it to deliver ATSC 3.0 services in the future should be disregarded because the Bureau has ruled in other channel substitution rulemaking proceedings that the impact of a proposed channel substitution on delivery of ATSC 3.0 service is not a factor as that service is still in the early stages of development and the availability of consumer devices remains limited. Scripps also argued that the claim that Scripps' decision to displace KGNG is motivated by some sort of animus towards King Kong is vague, unsupported, and irrelevant, and appears to be based on disputes between King Kong and the prior owner of KTNV–TV. In fact, Scripps states that it sought to work with King Kong given the displacement and offered to donate Scripps' channel 13 equipment to King Kong upon moving KTNV–TV to channel 26 and maintain, at Scripps' expense, a temporary channel 13 facility for King Kong's use at KTNV–TV's downtown Las Vegas studio and tower facility. With respect to King Kong's counterproposal that channel 26 be allotted as a vacant channel at Las Vegas, Scripps observed that its proposal and King Kong's counterproposal are indistinguishable based on the Commission's allotment priorities since both propose Las Vegas, a community that is already well-served, and that accordingly, any determination must be made based on the Commission's exercise of its general discretion to serve the public interest, and the Commission has routinely granted petitions such as Scripps' even when displacing LPTV stations. Scripps also points out that King Kong is free to submit a rulemaking petition for a new channel allotment on any of the UHF channels it has identified as available in Las Vegas. In reply, King Kong asserts Scripps provided no engineering explanation why it needs to move to channel 26, as opposed to another UHF channel, and reaffirmed its position that Scripps is targeting KGNG–LD as a means of removing a strong competitor and that the Commission must inquire into Scripps' motive before granting the Petition. It also reiterated that while LPTV stations are secondary, a harder look should be afforded to any proposal that would take service from viewers of low power stations such as KGNG–LD.

The Bureau denies King Kong's Opposition and Counterproposal and concludes that Scripps' proposal to substitute channel 26 for channel 13 at Las Vegas would serve the public interest and meets the Commission's technical and interference rules. It is axiomatic that LPTV stations, such as KGNG–LD, have secondary status and as such may not cause objectionable interference to existing full power stations, and must yield to or accept interference from existing full power stations that choose to modify where new interference will occur. Moreover, with respect to King Kong's request that the Bureau disregard KGNG–LD's secondary status and protect it from being displaced based on its specific programming, in general, section 326 of the Communications Act and the First Amendment of the U.S. Constitution prohibit the Commission from overseeing or regulating programming format. While King Kong's service to its community and the wide variety of programming it airs may be commendable, it is not justification to provide KGNG–LD greater protection than it is permitted under its secondary LPTV license or, as King Kong has requested, require Scripps to propose a

different channel and instead displace other LPTV stations because those stations are either purportedly silent or the programming they are providing is, in King Kong's opinion, not as noteworthy as KGNG–LD's programming. Doing so would not only be contradictory with the Act, the First Amendment, and Commission precedent, but King Kong's argument with regards to its public service completely ignores efforts being undertaken by other stations in the market. The Bureau also finds King Kong's concerns related to its displacement and potential that viewers may entirely lose the station to be overstated and not grounds for denial of the Petition since upon release of this *Report and Order,* King Kong will be eligible to file a displacement application for channel 13 or any other available channel. Commission records show that none of the other LPTV stations in Las Vegas are presently affected by pending or granted full power rulemaking petitions or full power modification applications, and because displacement applications are cut-off the day they are filed and major modifications for LPTV stations are frozen, it is highly unlikely that King Kong would face a competing application. In addition, while King Kong complains that Scripps did not provide any engineering data to refute the availability of the eight other UHF channels identified by King Kong, Scripps is not required to do so, and is free to choose any channel as a substitute channel that complies with our technical and community coverage requirements. With respect to KGNG–LD's future delivery of ATSC 3.0 services, the Bureau has consistently refused to consider this as a factor in channel substitution rulemaking proceedings and it does not justify altering KGNG–LD's status as a secondary service. The Bureau also finds King Kong's claim that Scripps chose to propose to move to channel 26, rather than another UHF channel, solely to vex King Kong and its principal to be conjecture and unfounded. Not only is it difficult to see how this unidentified conduct could be attributed to Scripps since it appears to have occurred before Scripps acquired the Station, it is at odds with Scripps' offer to assist King Kong in constructing a low power facility on channel 13, a fact that King Kong does not dispute. The Bureau makes clear, however, that its decision is in no way based on Scripps' offer to assist moving KGNG–LD to a displacement channel 13. The Bureau also denies King Kong's counterproposal. As Scripps points out, both parties propose Las Vegas so their proposals cannot be distinguished under the Commission's television allotment policies. In addition, Las Vegas already has seven allotted channels and under the Commission's allotment policies, which prioritize assigning two television channels to a community, is not entitled to an additional eighth channel at the expense of Scripps' channel substitution request, and as Scripps points out, the Bureau has acknowledged the public interest benefits associated with relocating a full power station from a VHF to a UHF channel. Moreover, if King Kong wishes to operate a full power television station in Las Vegas, it may file a petition for rulemaking to drop-in one of the eight UHF channels that it has identified as being available for Scripps' use in Las Vegas. The Bureau also notes that ten individuals or entities filed letters in the Commission Licensing Management System in July, August, and September 2021, opposing the proposed channel substitution, but did not serve Scripps. Under the Commission's rules, any comment that has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered as part of the proceeding. Nevertheless, because these letters merely reiterate arguments raised by King Kong, they are addressed as part of the Bureau's findings related to King Kong's Opposition.

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 21–221; RM–11908; DA 23–990, adopted October 18, 2023, and released October 18, 2023. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622(j), amend the table under Nevada by revising the entry for Las Vegas, to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
NEVADA	
* * * * *	
Las Vegas	2, 7, * 11, 16, 22, 26, 29
* * * * *	

[FR Doc. 2023–23466 Filed 10–23–23; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 88, No. 204
Tuesday, October 24, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–1006; Airspace Docket No. 22–AWP–65]

RIN 2120–AA66

Modification of Class E Airspace; Minden-Tahoe Airport, Minden, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This action proposes to modify the Class E airspace extending upward from 700 feet above the surface at Minden-Tahoe Airport, Minden, NV. Additionally, this action proposes administrative amendments to update the airport's Class E airspace legal description. These actions would support the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before December 8, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–1006 and Airspace Docket No. 22–AWP–65 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: Keith T. Adams, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2428.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

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 Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

Incorporation by Reference

Class E5 airspace areas are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an

annual basis. This document 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

The FAA published an NPRM in the **Federal Register** for FAA–2023–1006 (88 FR 54252; August 10, 2023) to modify Class E airspace at the Minden-Tahoe Airport for the purpose of containing the Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 16 and the RNAV (GPS) RWY 34 approaches. Subsequent to the publication of the NPRM, the FAA discovered substantive errors in the description of the proposed amendment. This SNPRM updates the FAA's proposal to correct those errors.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to modify the Class E airspace extending upward from 700 feet above the surface at Minden-Tahoe Airport, Minden, NV. The Class E airspace's radius is excessive and should be reduced by 2.3 miles to be within a 4.2-mile radius of the airport to more appropriately contain IFR operations.

An 8.9-mile extension should be added to the north to better contain departing IFR operations until they reach 1,200 feet above the surface. Additionally, a 7-mile extension should be added to the south to better contain arriving IFR operations below 1,500 feet above the surface.

Finally, the FAA proposes administrative modifications to the airport's associated legal description. The airport's geographic coordinates on line three of the text header should be updated to match the FAA's database.

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

* * * * *

AWP NV E5 Minden, NV [Amended]

Minden-Tahoe Airport, NV

(Lat. 39°00′02″ N, long. 119°45′04″ W)

That airspace extending upward from 700 feet above the surface within a 4.2-mile radius of the airport, that airspace 2 miles each side of the airport's 001° bearing extending from the 4.2-mile radius to 8.9 miles north of the airport, and that airspace 1.1 miles each side of the airport's 180° bearing extending from the 4.2-mile radius to 7 miles south of the airport.

* * * * *

Issued in Des Moines, Washington, on October 18, 2023.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2023–23430 Filed 10–23–23; 8:45 am]

BILLING CODE 4910–13–P

POSTAL SERVICE

39 CFR Part 20

International Mailing Services: Proposed Price Changes

AGENCY: Postal Service™.

ACTION: Proposed rule; request for comments.

SUMMARY: The Postal Service proposes to revise *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), to reflect changes coincident with the recently announced mailing services price adjustments.

DATES: We must receive your comments on or before November 24, 2023.

ADDRESSES: Mail or deliver comments to the director, Product Classification, U.S. Postal Service®, 475 L'Enfant Plaza SW, Rm. 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor N, Washington, DC by appointment only between the hours of 9 a.m. and 4 p.m., Monday through Friday by calling 1–202–268–2906 in advance. Email comments, containing the name and address of the commenter, to: *PCFederalRegister@usps.gov,* with a subject line of ''January 21, 2024, International Mailing Services Proposed Price Changes.'' Faxed comments are not accepted.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy at 202–268–6592 or Kathy Frigo at 202–268–4178.

SUPPLEMENTARY INFORMATION: All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

International Price and Service Adjustments

On October 6, 2023, the Postal Service filed a notice of mailing services price adjustments with the Postal Regulatory Commission (PRC), effective on January 21, 2024. The Postal Service proposes to revise Notice 123, *Price List,* available on Postal Explorer® at *https://pe.usps.com,* to reflect these new price changes. The new prices are or will be

available under Docket Number R2024–1 on the Postal Regulatory Commission's website at *www.prc.gov*.

This proposed rule describes the price changes for the following market dominant international services:

- First-Class Mail International (FCMI) service.
- International extra services and fees

First-Class Mail International

The Postal Service plans to increase prices for single-piece FCMI postcards, letters, and flats by approximately 3.3%. The proposed price for a single-piece postcard will increase to $1.55 worldwide. The First-Class Mail International letter nonmachinable surcharge will increase to $0.44. The proposed FCMI single-piece letter and flat prices will be as follows:

LETTERS

Weight not over (oz.)	Price groups			
	1	2	3–5	6–9
1	$1.55	$1.55	$1.55	$1.55
2	1.55	2.35	2.80	2.80
3	2.22	3.10	4.10	4.10
3.5	2.84	3.89	5.40	5.40

FLATS

Weight not over (oz.)	Price groups			
	1	2	3–5	6–9
1	$3.00	$3.00	$3.00	$3.00
2	3.35	3.98	4.23	4.23
3	3.64	4.87	5.45	5.45
4	3.89	5.78	6.71	6.71
5	4.18	6.69	7.93	7.93
6	4.46	7.58	9.16	9.16
7	4.74	8.50	10.39	10.39
8	5.02	9.40	11.61	11.61
12	6.41	11.35	14.08	14.08
15.994	7.80	13.30	16.54	16.54

International Extra Services and Fees

The Postal Service plans to increase prices for certain market dominant international extra services including:

- Certificate of Mailing
- Registered Mail™
- Return Receipt
- Customs Clearance and Delivery Fee
- International Business Reply™ Mail Service

CERTIFICATE OF MAILING

	Fee
Individual pieces:	
Individual article (PS Form 3817)	$2.00
Duplicate copy of PS Form 3817 or PS Form 3665 (per page)	2.00
Firm mailing sheet (PS Form 3665), per piece (minimum 3) First-Class Mail International only	0.58
Bulk quantities:	
For first 1,000 pieces (or fraction thereof)	11.10
Each additional 1,000 pieces (or fraction thereof)	1.45
Duplicate copy of PS Form 3606	2.00

Registered Mail

Fee: $20.75.

Return Receipt

Fee: $5.80.

Customs Clearance and Delivery

Fee: per piece $8.45.

International Business Reply Service

Fee: Cards $2.15; Envelopes up to 2 ounces $2.70.

Following the completion of Docket No. R2024–1, the Postal Service will adjust the prices for products and services covered by the International Mail Manual. These prices will be on Postal Explorer at *pe.usps.com.*

Accordingly, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the proposed changes to Notice 123, *Price List,* set out in this **SUPPLEMENTARY INFORMATION**.

The Postal Service will publish an appropriate update to Notice 123, *Price List,* to reflect these changes following the completion of the notice and comment period for this proposed rule.

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–22762 Filed 10–23–23; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Part 1900

[Docket Number 2023–001]

RIN 3121–AA04

Revising Scope of the Mining Sector of Projects That Are Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Extension of comment period.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) is extending by 30 days the deadline for submitting comments on its proposal to amend its regulations to revise the scope of ''mining'' as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41) to: (1) apply solely to critical minerals mining projects; and (2) expand the scope of the sector to include infrastructure constructed to support critical minerals supply chain activities, including critical minerals beneficiation, processing, and recycling.

DATES: Comments now must be submitted on or before November 22, 2023.

ADDRESSES: You may send comments, identified by Permitting Council Docket Number 2023–001 or RIN 3121–AA04, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for sending comments.
- *Mail:* Federal Permitting Improvement Steering Council, Office of the Executive Director, 1800 M St. NW, Suite 6006, Washington, DC 20036, Attention: RIN 3121–AA04.

FOR FURTHER INFORMATION CONTACT: John G. Cossa, General Counsel, Federal Permitting Improvement Steering Council, 1800 M St. NW, Suite 6006, Washington, DC 20036, *john.cossa@fpisc.gov,* or by telephone at 202–255–6936.

Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact this individual during normal business hours or to leave a message at other times. FIRS is available 24 hours a day, 7 days a week. You will receive a reply to a message during normal business hours.

SUPPLEMENTARY INFORMATION: On September 22, 2023, the Permitting Council published in the **Federal Register** a proposed rule that would amend the Permitting Council's regulations at 40 CFR part 1900 to revise the scope of the FAST–41 ''mining'' sector to: (1) apply solely to critical minerals mining projects; and (2) expand the scope of the sector to include infrastructure constructed to support critical minerals supply chain activities, including critical minerals beneficiation, processing, and recycling. 88 FR 65350. The proposal provided a 30-day comment period, which would have expired on October 23, 2023.

On October 13, 2023, the Permitting Council received a letter submitted on behalf of various environmental and Tribal entities requesting an extension of the 30-day comment period by an additional 60 days, through December 22, 2023. The Permitting Council has reviewed the request and has determined that an extension of 30 days is warranted to provide the public additional time to review the proposed rule and prepare comments. The full 60-day request was not granted given that the proposed rule is administrative in nature and does not make any critical minerals mining or supply chain project more or less likely to be approved or implemented, or any environmental or economic effect that may be associated with a critical minerals infrastructure project to occur. Accordingly, the Permitting Council is extending the comment period for this proposed rulemaking from October 23, 2023, to November 22, 2023. Comments on the proposed rule now must be submitted on or before November 22, 2023.

* * * * *

Eric Beightel,

Executive Director, Federal Permitting Improvement Steering Council.

[FR Doc. 2023–23456 Filed 10–23–23; 8:45 am]

BILLING CODE 6820–PL–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–83

[FMR Case 2023–102–1; Docket No. GSA–FMR–2023–0012; Sequence No. 1]

RIN 3090–AK69

Federal Management Regulation; Designation of Authority and Sustainable Siting

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: GSA, in furtherance of its authority to furnish space to Federal agencies, proposes to amend the Federal Management Regulation (FMR) to elaborate on the factors that are advantageous to the Government when planning for location decisions. In addition, the proposed revisions are necessary to bring the current regulation into compliance with updated terminology in statute and Office of Management and Budget (OMB) bulletins. The objective of these changes is to direct agencies to better integrate strategic, holistic analysis into planning for agency location decisions and to provide consistency in application of these regulations across Federal agencies and regions.

DATES: Interested parties should submit comments in writing on or before December 26, 2023 to be considered in the formulation of the final rule.

ADDRESSES: Submit comments in response to FMR Case 2023–102–1 to *Regulations.gov* at *http://www.regulations.gov* via the Federal eRulemaking portal by searching for ''FMR Case 2023–102–1.'' Select the link ''Comment Now'' that corresponds with ''FMR Case 2023–102–1.'' Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FMR Case 2023–102–1'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternative instructions.

Instructions: Please submit comments only and cite FMR Case 2023–102–1 in all correspondence related to this case. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal or business confidential information, or both, 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: For clarification of content, contact Mr. Chris Coneeney, Office of Government-wide Policy, at 202–208–2956. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, 202–501–4755. Please cite FMR Case 2023–102–1.

SUPPLEMENTARY INFORMATION:

I. Background

The Administrator of General Services (Administrator) is authorized to acquire

real estate and interests in real estate to accommodate the space needs of Federal agencies. In particular, these authorities are codified at 40 U.S.C. 301 note (specifically, the 1950 Reorganization Plan No. 18), 113(d), 581(c)(1), 585, 3304, and 28 U.S.C. 462(f). In addition, 40 U.S.C. 584 requires the Administrator to assign space to executive agencies in accordance with policies and directives the President prescribes under 40 U.S.C. 121(a), after consultation with the affected agency, and based on a determination by the Administrator that the assignment or reassignment is advantageous to the Government in terms of economy, efficiency, or national security.

There are several other statutory authorities that underlie Federal site location policy. The Rural Development Act of 1972, as amended (7 U.S.C. 2204b–1) (RDA), requires executive agencies to give first priority to locating in rural areas. The Federal Urban Land Use Act of 1949, as amended (40 U.S.C. 901–905), requires GSA and other Federal agencies to consult with the unit of general local government exercising zoning and land use jurisdiction so that Federal urban land acquisitions and uses are developed in accordance with local zoning, land use practices and planning and development objectives to the greatest extent practicable. The National Historic Preservation Act of 1966, as amended (54 U.S.C. 300101 *et seq.*) (NHPA), encourages the preservation and utilization of all usable elements of the Nation's historic built environment. The Competition in Contracting Act of 1984, as amended (41 U.S.C. 3301 *et seq.*)(CICA), requires executive agencies to consider whether the location decision or delineated area will provide for adequate competition when acquiring leased space. Finally, 40 U.S.C. 121(c) authorizes the Administrator of General Services to issue regulations that the Administrator considers necessary to carry out the Administrator's functions under, as relevant here, subtitle I of chapter 40 of the United States Code. Thus, this rule implements the requirements of the statutes described above and establishes factors to be considered in the pre-procurement or acquisition process for Federal agency location decisions.

This rule updates the existing part 102–83 by incorporating new terminology, but continues to implement the underlying principles for location decisions that have been in existence for almost 50 years. These principles were first incorporated in 41 CFR part 101–17, Assignment and Utilization of Space (45 FR 37200–37206, June 2, 1980), and continue to be the foundation for the factors elaborated on today. The procedures for location decisions were eventually given a separate part in the FMR in 2002, when 41 CFR part 102–83, Location of Space, was issued. This part was last revised and published in the **Federal Register** on November 8, 2005 (70 FR 67857–67860).

The rule continues to be guided by the longstanding Executive Order (E.O.) 12072, ''Federal Space Management,'' which prescribes policies and directives for the planning, acquisition, utilization, and management of Federal space facilities in accordance with 40 U.S.C. 121(a) (43 FR 36869, August 18, 1978). E.O. 12072 requires that ''serious consideration'' be given ''to the impact a site selection will have on improving the social, economic, environmental, and cultural conditions of the communities in the urban area.''

In addition, in accordance with the NHPA and consistent with E.O. 12072, E.O. 13006, ''Locating Federal Facilities on Historic Properties in Our Nation's Central Cities'' (80 FR 15871, May 24, 1996), requires Federal agencies to give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies must consider other developed or undeveloped sites within historic districts. If no suitable site exists within historic districts, Federal agencies must then consider historic properties outside of historic districts.

Other E.O.s and more recent administration policies further inform this rule by providing new terminology to help understand and address what it means to consider the impact of social, economic, environmental, and cultural conditions. For example, E.O 11988,''Floodplain Management'' (42 FR 26951, May 24, 1977), as amended by E.O 13690, ''Establishing a Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input'' (80 FR 6425, Jan. 30, 2015), and E.O. 11990, ''Wetlands Protection'' (42 FR 26961, May 24, 1977), direct agencies to avoid locating in a floodplain and disturbing wetlands. E.O. 14057, ''Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability'' (86 FR 70935, December 8, 2021), its accompanying Implementing Instructions, dated August 31, 2022, and the associated OMB, White House Council on Environmental Quality and National Climate Policy Office memorandum (M–22–06, 12/8/2021) direct Federal agencies to promote sustainable locations for Federal facilities and strengthen the vitality and livability of the communities in which Federal facilities are located. These directives charge agencies with advancing sustainable land use that promotes the conservation of natural resources, reduced greenhouse gas (GHG) emissions and increased resilience to the impacts of climate change; efficient use of local infrastructure; expanded public transportation use and access; equitable development that promotes environmental justice and economic opportunity for disadvantaged communities; and coordination and alignment with the development plans of Tribal, State, and local or regional governments that advance these and related goals. Note that while E.O. 12072 and E.O. 13006 only address urban areas, E.O. 14057 applies many of the same goals to both urban and rural areas.

E.O. 14008, ''Tackling the Climate Crisis at Home and Abroad'' (86 FR 7619, January 27, 2021), directs Federal agencies to employ a Government-wide approach across a wide range of activities and goals related to tackling the climate change crisis. Most relevant to this part, it directs agencies to reduce climate pollution and increase resilience to the impacts of climate change, and seek environmental justice and spur economic opportunity for disadvantaged communities that have been historically marginalized and overburdened by pollution and underinvestment in housing, transportation, water and wastewater infrastructure, and health care.

E.O. 14091, ''Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government'' (88 FR 10825, February 16, 2023), directs Federal agencies to advance equity for all communities, especially those populations that historically have suffered from underinvestment and inequality, discrimination and persistent poverty, and to give equitable treatment to all individuals in a consistent and systematic manner. The order further promotes efficiency by directing Federal agencies, when planning for federally owned and leased facilities, to consider locations near existing employment centers and public transit so that a broad range of the region's workforce and population may access the jobs and services at those facilities. This enables the agencies for which GSA provides space to more readily carry out their missions. Where the Federal development may spur displacement of current community populations, the E.O. instructs Federal agencies to engage further with those

communities and the relevant regional and local officials to address displacement risks.

E.O. 14096, ''Revitalizing Our Nation's Commitment to Environmental Justice for All'' (88 FR 25251, April 21, 2023), builds on the E.O.s described above to reinforce agency use of data analysis in identifying communities suffering environmental injustice, including related to climate change and cumulative impacts, and targeting mitigation or harm avoidance through Federal actions. GSA and other Federal agencies can use various data sets and tools, such as the Climate and Economic Justice Screening Tool [1] (CEJST), to identify if proposed locations for federally owned and leased facilities are in geographically defined disadvantaged communities. The tool has an interactive map and uses datasets that are indicators of burdens in eight categories: climate change, energy, health, housing, legacy pollution, transportation, water and wastewater, and workforce development. The tool uses this information to identify communities that are experiencing these burdens. These are the communities that are disadvantaged because they are overburdened and underserved. The order also re-emphasizes consultation and engagement with members of affected communities that allow meaningful participation for those communities in agency decision-making, including individuals with limited English proficiency and individuals with disabilities. This is in keeping with the requirements of the Federal Urban Land Use Act.

As mentioned above, the principles that underlie this rule have been in existence for decades and it is well established that GSA has broad discretion regarding the substance of this regulation because it involves managerial and economic choices that are dependent on GSA's special expertise in this area. Moreover, when a project subject to 40 U.S.C. 3307 is contemplated, as part of the appropriation process, GSA provides the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives notice of the potential location of the project and a comprehensive plan that demonstrates that the project will enhance the architectural, historical, social, cultural, and economic environment of the locality. Thus, by adopting resolutions approving the appropriation of the funds for the proposed project, there is a presumption of congressional approval of the delineated area and the process completed by which either GSA or the agencies operating under GSA's authority, or both, establish the location decision. The congressional approval of the location decision is further evidenced by a provision that Congress routinely includes in GSA's annual appropriations act (See, for example, section 525 of title V of division E of section 2 of the Consolidated Appropriations Act, 2023, Pub. L. 117–328, 136 Stat. 4459, 4687). That provision requires the Administrator to ensure that the delineated area of a prospectus-level lease procurement is identical to the delineated area included in the approved prospectus and, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator must provide an explanatory statement to GSA's authorizing and appropriations committees.

For non-prospectus projects, GSA exercises its discretion in accordance with the principles that underlie this rule.

It is important to note that these proposed rule changes work in concert with, and not in lieu of, agency mission and physical security needs, CICA, cost considerations, consolidation and reductions in square footage, prioritizing federally owned space, and other procurement policies. In accordance with the statutes and policies described above, the optimal Federal location decision is the one that meets Federal agency mission needs, at an appropriate cost to taxpayers, while achieving the necessary level of security and leveraging Federal development in support of other Federal and local goals.

This proposed rule will revise in its entirety 41 CFR part 102–83, Location of Space. Federal agencies operating under or subject to the real property authorities of the Administrator of General Services must comply with the provisions of the FMR that cover real property (41 CFR parts 102–71 through 102–86).

II. Major Changes

The following updates and clarification changes are proposed for part 102–83:

- *Social, Economic, Environmental, and Cultural Factors in Location Decisions*

The rule now more explicitly explains the factors associated with social, economic, environmental, and cultural conditions to be considered in location decisions.

- *Central Cities to Principal Cities*

The term ''central cities'' has, for many years, been retired in favor of the term ''principal cities,'' as published in the OMB ''2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas'' (the 2010 Standards). This term reflects new consideration for how single or multiple urban centers function as commuting destinations and population centers within a single core-based statistical area (CBSA). This proposed rule updates the terminology throughout the part accordingly.

- *Metropolitan Areas to Core-Based Statistical Areas*

The shift from metropolitan areas (MA) to CBSAs reflects the change that first appeared in the OMB ''2000 Standards for Delineating Metropolitan and Micropolitan Statistical Areas'' (the 2000 Standards) to recognize both MAs and micropolitan statistical areas as having an urbanized core and surrounding areas with a high degree of integration to that core. The 2000 Standards were replaced and superseded by the 2010 Standards, and the most recent delineations for CBSA boundaries appeared in OMB Bulletin No. 18–04 on September 14, 2018. This proposed rule updates the term throughout the part accordingly.

- *Urban/Rural Definitions*

The definitions for ''urban area'' and ''rural area'' in the existing regulations are difficult to interpret because they draw on two different sources, and these definitions are not necessarily mutually exclusive from one another. The current part 102–83 has a definition for urban that relies on the boundaries of MAs defined by OMB.

The current definition for rural area comes not from the RDA, but rather from the Consolidated Farmers Home Administration Act of 1961 (CHSA), as amended by the Farm Security and Rural Investment Act of 2002, which identifies a rural area for general purposes of CSHA as any area except a city or town with a population greater than 50,000 people or adjacent urbanized areas. The original definition of rural area applicable to the RDA was stricken from the statute and, subsequently, GSA adopted the CHSA definition. The circularity of these current definitions, however, makes the boundaries of urban and rural difficult to interpret. Among the difficulties are the fact that the boundaries established by the definitions do not relate to

[1] The CEJST tool is available at *https://screeningtool.geoplatform.gov/en/*.

jurisdictional boundaries and are measured at the fine grain of census blocks, meaning that adjacent parcels within the same jurisdiction may be designated one as rural and the other as urban. With urban and rural areas immediately across the street from each other, making the case that an agency can only meet its need in the parcel designated as urban rather than the adjacent parcel designated rural, or vice versa, needlessly opens the Federal space action to protest.

Given that subsequent revisions of the RDA have actually eliminated the original definition of rural area, GSA has chosen a definition that better meets the needs of the Federal location decision process, and this proposed rule simplifies the definition to the boundaries of CBSAs, which follow county lines. Those areas contained within the boundaries are considered urban, and those outside the boundaries are considered rural. As with the current definitions, agency mission need remains the primary determinant of whether a Federal agency will seek space in an urban or rural area.

• *Considering Real Estate Cost and Efficiency Factors*

Federal location policy has long advocated that Federal agencies balance cost, mission and real estate efficiencies, as well as local development goals, when making location decisions. This derives from statute and related policies. This revised part enumerates these factors to encourage agencies to reach balanced, holistic decisions, and to clarify agency latitude to consider cost and other business factors.

• *Local Consultation Requirements*

The various governing authorities and directives for this part require that Federal agencies consult with local officials when making real estate decisions and that they seek opportunities for Federal action to support local development objectives. These authorities and policies include the Federal Urban Land Use Act of 1949 (40 U.S.C. 901–905); the RDA; and E.O. 12072. For the Federal Government to consider locating Federal facilities in a specific area or jurisdiction in keeping with the goals of this part, the existing or planned development composition for that area needs to be appropriate both to meeting Federal agency mission and space needs and local development goals.

Determining whether a specific area is appropriate for Federal facilities calls for consultation with local officials and community leaders, including American Indians, Native Alaskans, and Native Hawaiian Organizations in applicable geographies, to better understand local conditions and development goals, including those related to sustainability, climate change mitigation and resilience, and environmental justice. Further, where Federal agencies determine through data analysis, including through use of CEJST or other applicable Federal tools, and local consultation that displacement risks or other environmental justice concerns exist for current populations in the vicinity of a planned facility, Federal agencies are directed to engage with the affected communities and relevant regional and local officials to address mitigating those risks.

To encourage both effective long-term consultation and efficient processes that are not overly burdensome to Federal agencies, this revised part outlines the latitude that agencies have to develop efficient internal policy and procedure.

III. Executive Orders 12866, 13563, and 14094

Executive Order (E.O.) 12866 (Regulatory Planning and *Review*) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 14094 (Modernizing Regulatory Review) amends Section 3(f) of Executive Order 12866 and supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866 and E.O. 13563. The Office of Management and Budget's, Office of Information and Regulatory Affairs (OIRA) has determined that this rule is a significant regulatory action and, therefore, it is subject to review under section 6(b) of E.O. 12866.

IV. Regulatory Flexibility Act

GSA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

V. Regulatory Impact Analysis

During the first and subsequent years after publication of the rule, new construction members and leasing acquisition members (which include a combination of Planning Managers, Site Acquisition Staff, Program Managers, Lease Contracting Officers, and Lease Project Managers) will need to learn about GSA's government-wide plan and compliance requirements.

GSA estimates this cost by multiplying the time required to review the regulations and guidance implementing the rule by the estimated hourly compensation. GSA calculates the estimated hourly compensation using the U.S. Office of Personnel Management's 2023 General Schedule (GS) Rest of United States Locality Pay Table and the full fringe benefit cost factor of 36.25%.[2] [3] [4]

GSA assumes the new construction members and leasing acquisition members will, on average, stay consistent in the subsequent years. GSA also delegates leasing authority to several agencies, which are required to follow GSA's policies. As of July 2023, GSA has 9 active agencies using delegated leasing authority. Numbers and assumptions apply to delegated leasing agencies as well.

1. Government Costs

a. New Construction

The Government must educate its new construction members via a government-wide plan to heighten their familiarity with the rule. Below is a list of training and communication activities related to regulatory familiarization and compliance that GSA anticipates will occur.

GSA estimates it will take 5 GSA employees on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 20 hours each in year 1 to develop new content for planning managers and site acquisition staff training. Therefore, GSA estimates the total estimated cost for this part of the rule to be $8,612 (= 5 × $86.12 GS–14 step 5 rate × 20 hours).

GSA estimates it will take 5 GSA employees on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 1 hour each in years 3, 5, 7, and 9 to update new content for planning managers and site acquisition staff training. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $431 (= 5 × $86.12 GS–14 step 5 rate × 1 hour).

GSA estimates it will take 5 GSA employees on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 1.5 hours each in years 1,

[2] General Schedule (*opm.gov*).

[3] OMB Memo M–08–13, dated March 11, 2008.

[4] Computing Hourly Rates of Pay Using the 2,087-Hour Divisor (*opm.gov*).

3, 5, 7, and 9 to deliver new training content to planning managers and site acquisition staff. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $646 (= 5 × $86.12 GS–14 step 5 rate × 1.5 hours).

GSA estimates it will take 103 GSA planning managers and site acquisition staff on average, with a GS–13 step 5 with an average hourly rate of $72.88/hour, 1.5 hours each in years 1, 3, 5, 7, and 9 to receive new training content. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $11,259 (= 103 × $72.88 GS–13 step 5 rate × 1.5 hours).

GSA estimates it will take 5 GSA employees on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 4 hours each in year 1 to develop new content for training for client agencies. Therefore, GSA estimates the total estimated cost for this part of the rule to be $1,722 (= 5 × $86.12 GS–14 step 5 rate × 4 hours).

GSA estimates it will take 5 GSA employees on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 1 hour each in years 3, 5, 7, and 9 to develop new content for training for client agencies. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $431 (= 5 × $86.12 GS–14 step 5 rate × 1 hour).

GSA estimates it will take 5 GSA Central Office program managers on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 1.5 hours each in years 1, 3, 5, 7, and 9 to provide training to client agencies. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $646 (= 5 × $86.12 GS–14 step 5 rate × 1.5 hours).

GSA estimates it will take 400 client agency employees on average, with a GS–13 step 5 with an average hourly rate of $72.88/hour, 1.5 hours each in years 1, 3, 5, 7, and 9 to receive training. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $43,726 (= 400 × $72.88 GS–13 step 5 rate × 1.5 hours).

GSA estimates it will take 11 GSA regional office employees on average, with a GS–13 step 5 with an average hourly rate of $72.88/hour, 1 hour each in years 1, 3, 5, 7, and 9 to provide additional communications from GSA regional offices to client agency regional offices on the new training content. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $802 (= 11 × $72.88 GS–13 step 5 rate × 1 hour).

GSA estimates it will take 400 client agency regional office employees on average, with a GS–13 step 5 with an average hourly rate of $72.88/hour, 0.5 hours each in years 1, 3, 5, 7, and 9 to review the GSA regional office communications on the new training content. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $14,575 (= 400 × $72.88 GS–13 step 5 rate × 0.5 hours).

GSA estimates it will take 2 GSA project managers on average, with a GS–13 step 5 with an average hourly rate of $72.88/hour, 2 hours each in years 1, 3, 5, 7, and 9 to share GSA site selection analysis information with community organizations. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $292 (= 2 × $72.88 GS–13 step 5 rate × 2 hours).

b. Leased Buildings

The Government must educate its leasing acquisition members via a government-wide plan to heighten their familiarity with the rule. Below is a list of training and communication activities related to regulatory familiarization and compliance that GSA anticipates will occur.

GSA estimates it will take 3 GSA employees on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 5 hours each in year 1 to develop new contract language relating to location and preferences. Therefore, GSA estimates the total estimated cost for this part of the rule to be $1,292 (= 3 × $86.12 GS–14 step 5 rate × 5 hours).

GSA estimates it will take 3 GSA employees on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 1 hour each in years 2 and 3 to develop new contract language relating to location and preferences. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $258 (= 3 × $86.12 GS–14 step 5 rate × 1 hour).

GSA estimates it will take 1 GSA employee on average, with an SES Level 3 with an average hourly rate of $127.31/hour, 2 hours in year 1 to develop new contract language relating to location and preferences. Therefore, GSA estimates the total estimated cost for this part of the rule to be $255 (= 1 × $127.31 SES Level 3 rate × 2 hours).

GSA estimates it will take 1 GSA employee on average, with an SES Level 3 with an average hourly rate of $127.31/hour, 1 hour in years 2 and 3 to develop new contract language relating to location and preferences. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $127 (= 1 × $127.31 SES Level 3 rate × 1 hour).

GSA estimates it will take 3 GSA employees on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 0.5 hours each in years 1, 3, 5, 7, and 9 to receive new training content. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $1,292 (= 3 × $86.12 GS–14 step 5 rate × 5 hours).

GSA estimates it will take 3 GSA employees on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 1 hour each in years 2 and 3 to update existing locational policy guidance. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $258 (= 3 × $86.12 GS–14 step 5 rate × 1 hour).

GSA estimates it will take 1 GSA employee on average, with an SES Level 3 with an average hourly rate of $127.31/hour, 2 hours in year 1 to update existing locational policy guidance. Therefore, GSA estimates the total estimated cost for this part of the rule to be $255 (= 1 × $127.31 SES Level 3 rate × 2 hours).

GSA estimates it will take 1 GSA employee on average, with an SES Level 3 with an average hourly rate of $127.31/hour, 1 hour in years 2 and 3 to update existing locational policy guidance. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $127 (= 1 × $127.31 SES Level 3 rate × 1 hour).

GSA estimates it will take 1 GSA employee on average, with a GS–13 step 5 with an average hourly rate of $72.88/hour, 1 hour in year 1 to update training for Lease Contracting Officers and Lease Project Managers. Therefore, GSA estimates the total estimated cost for this part of the rule to be $73 (= 1 × $72.88 GS–13 step 5 rate × 1 hour).

GSA estimates it will take 1 GSA employee on average, with a GS–13 step 5 with an average hourly rate of $72.88/hour, 1 hour in year 1 to deliver training to Lease Contracting Officers and Lease Project Managers. Therefore, GSA estimates the total estimated cost for this part of the rule to be $73 (= 1 × $72.88 GS–15 step 5 rate × 1 hour).

GSA estimates it will take 650 GSA Lease Contracting Officers and Lease Project Managers on average, with a GS–12 step 5 with an average hourly rate of $61.29/hour, 1 hour each in year 1 to receive training. Therefore, GSA estimates the total estimated cost for this part of the rule to be $39,836 (= 650 × $61.29 GS–12 step 5 rate × 1 hour).

GSA estimates it will take 650 GSA Lease Contracting Officers and Lease Project Managers on average, with a GS–12 step 5 with an average hourly rate of $61.29/hour, 0.5 hours each in years 3, 5, 7, and 9 to receive training. Therefore, GSA estimates the total annual estimated cost for this part of the rule

to be $19,918 (= 650 × $61.29 GS–12 step 5 rate × 0.5 hours).

GSA estimates it will take 500 Lease Contracting Officers and Lease Project Managers from delegated leasing agencies [5] on average, with a GS–12 step 5 with an average hourly rate of $61.29/hour, 1 hour each in year 1 to receive GSA training. Therefore, GSA estimates the total estimated cost for this part of the rule to be $30,643 (= 500 × $61.29 GS–12 step 5 rate × 1 hour).

GSA estimates it will take 500 Lease Contracting Officers and Lease Project Managers from delegated leasing agencies on average, with a GS–12 step 5 with an average hourly rate of $61.29/hour, 0.5 hours each in years 3, 5, 7, and 9 to receive GSA training. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $15,322 (= 500 × $61.29 GS–12 step 5 rate × 0.5 hours).

GSA estimates it will take 9 employees from delegated leasing agencies on average, with a GS–13 step 5 with an average hourly rate of $72.88/hour, 1 hour each in year 1 to update delegated leasing agency training for Lease Contracting Officers and Lease Project Managers. Therefore, GSA estimates the total estimated cost for this part of the rule to be $656 (= 9 × $72.88 GS–13 step 5 rate × 1 hour).

GSA estimates it will take 9 employees from delegated leasing agencies on average, with a GS–13 step 5 with an average hourly rate of $72.88/hour, 1 hour each in year 1 to deliver training to Lease Contracting Officers and Lease Project Managers. Therefore, GSA estimates the total estimated cost for this part of the rule to be $656 (= 9 × $72.88 GS–13 step 5 rate × 1 hour).

GSA estimates it will take 500 Lease Contracting Officers and Lease Project Managers from delegated leasing agencies on average, with a GS–12 step 5 with an average hourly rate of $61.29/hour, 1 hour each in year 1 to receive delegated leasing agency training. Therefore, GSA estimates the total estimated cost for this part of the rule to be $30,643 (= 500 × $61.29 GS–12 step 5 rate × 1 hour).

GSA estimates it will take 500 Lease Contracting Officers and Lease Project Managers from delegated leasing agencies on average, with a GS–12 step 5 with an average hourly rate of $61.29/hour, 0.5 hours each in years 3, 5, 7, and 9 to receive delegated leasing agency training. Therefore, GSA estimates the total estimated cost for this part of the rule to be $15,322 (= 500 × $61.29 GS–12 step 5 rate × 0.5 hours).

Total Government Costs

GSA estimates the total estimated Government costs to be $682,967 for years 1 through 10. A breakdown of total estimated Government costs by year is provided in the table below.[6]

Year	1	2	3	4	5	6	7	8	9	10
Part a New Construction	$82,000		$73,000		$73,000		$73,000		$73,000	
Part b Leased Buildings	106,000	1,000	51,000		51,000		51,000		51,000	
Total Government Costs	188,000	1,000	124,000		124,000		124,000		124,000	

2. Public Costs

Public costs associated with this rule include small entities of community organizations in areas GSA is considering for new construction. GSA assumes for each site selection transaction, the agency will engage with 1 small entity which on average will have two employees. Those employees would receive, review and share GSA site selection analysis information. GSA estimates the average hourly rate of $86.12 for the small entity employees as the private sector pay equivalent of a GS–14 step 5. GSA estimates it will engage with 1 small entity on average with 2 small entity employees on average, with a GS–14 step 5 with an average hourly rate of $86.12/hour, 4 hours each in years 1, 3, 5, 7, and 9 to receive, review and share GSA site selection analysis information. Therefore, GSA estimates the total annual estimated cost for this part of the rule to be $689 (= 2 × $86.12 GS–14 step 5 rate × 4 hours).

Total Public Costs

GSA estimates the total estimated public costs to be $3,445 for years 1 through 10. A breakdown of total estimated public costs by year is provided in the table below.[7]

Year	1	2	3	4	5	6	7	8	9	10
Total Public Costs	$1,000		$1,000		$1,000		$1,000		$1,000	

3. Overall Total Additional Costs

The overall total additional undiscounted cost of this rule is estimated to be $686,412 over a 10-year period. GSA did not identify any cost savings based on the impact of the rule. A breakdown of overall total additional costs by year is provided in the table below.[8]

Year	1	2	3	4	5	6	7	8	9	10
Total Government Costs	$188,000	$1,000	$124,000		$124,000		$124,000		$124,000	
Total Public Costs	1,000		1,000		1,000		1,000		1,000	

[5] The GSA Office of Leasing provided this number as an averaged total across delegated leasing agencies by surveying their internal database.

[6] Costs are rounded to the nearest thousand.

[7] Costs are rounded to the nearest thousand.

[8] Costs are rounded to the nearest thousand.

Year	1	2	3	4	5	6	7	8	9	10
Overall Total Additional Costs	189,000	1,000	125,000	.....	125,000	.....	125,000	.....	125,000	.....

The following is a summary of the estimated costs calculated for a 10-year time horizon at a 3- and 7-percent discount rate:

Summary	Total costs
Present Value (3 percent)	$601,071
Annualized Costs (3 percent)	70,464
Present Value (7 percent)	512,057
Annualized Costs (7 percent)	72,905

VI. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

VII. Small Business Regulatory Enforcement Fairness Act

This proposed rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

VIII. Severability

GSA is proposing to add a new provision on severability at 41 CFR 102–83.150, which states that all provisions included in part 102–83 are separate and severable from one another.

Regulations concerning location policy do a number of things—from identifying and elaborating upon the factors that are advantageous to the Government when planning for location decisions, to outlining the consultation requirements with local officials and the communities potentially impacted by Federal location decisions, to explaining the role of agencies when planning for such decisions.

Accordingly, if any particular term or provision in part 102–83, or the application thereof to any agency or circumstance, is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining terms or provisions, or the application of such term or provision to agencies or circumstances other than those to which it is invalid or unenforceable, will not be affected thereby, and each term and provision of this rule will be valid and be enforced to the fullest extent permitted by law. For example, if any location factor is determined to be invalid, the other factors would remain in full force and effect.

Further, any cross-references that appear throughout part 102–83 are duplicative and are intended only to make the regulations more user-friendly. Invalidation of a particular provision that is cross-referenced elsewhere will not materially alter the provision that contains the cross-reference.

In summary, removal of any particular provision from part 102–83 would not render the entire regulatory scheme unworkable. Thus, GSA considers each of the provisions in part 102–83 to be separate and severable from one another. In the event of a stay or invalidation of any particular provision, it is GSA's intention that the remaining provisions will continue in effect.

List of Subjects in 41 CFR Part 102–83

Federal buildings and facilities, government property management, rates and fares.

Krystal J. Brumfield,

Associate Administrator, Office of Government-wide Policy.

Therefore, GSA proposes to revise 41 CFR part 102–83 to read as follows:

PART 102–83—LOCATION OF SPACE

Subpart A—General Provisions

Sec.

102–83.05 What does this part cover?
102–83.10 What are the governing authorities for this part?
102–83.15 Which Federal agencies must comply with these provisions?
102–83.20 How does an agency request a deviation from the provisions of this part?
102–83.25 Intentionally Omitted

Subpart B—Location of Space

102–83.30 What basic location of space policy governs a Federal agency?
102–83.35 Is there a general hierarchy of consideration that agencies must follow in their utilization of space?
102–83.40 What is a delineated area?
102–83.45 What is a Core-Based Statistical Area?
102–83.50 How is a Core-Based Statistical Area defined?
102–83.55 What is a rural area?
102–83.60 What is an urban area?
102–83.65 What is a principal city?
102–83.70 What are centralized community business areas and centralized business districts?
102–83.75 What is environmental justice?
102–83.80 What is equitable development?
102–83.85 In addition to Federal agency mission, security, and program requirements, what other factors and principles must agencies consider when establishing a potential delineated area?
102–83.90 What hierarchy of geographic consideration must agencies apply to location decisions for new Federal facilities or leased locations?
102–83.95 How must agencies consult with local officials to comply with the consultation elements of this part?
102–83.100 What flexibility do Federal agencies have to implement this part in high cost areas?
102–83.105 Are Federal agencies required to give preference to historic properties when acquiring leased space?
102–83.110 Does GSA provide assistance to Federal agencies by consulting with local officials to establish recommended delineated areas?
102–83.115 Are Federal agencies required to consider whether the CBA or other areas recommended by local officials will provide for adequate competition when acquiring leased space?
102–83.120 What information and data must agencies provide to the Administrator of General Services, or other acquiring agency head, to comply with the provisions of this part?
102–83.125 Who must approve the final delineated area?
102–83.130 When is written justification for a delineated area in urban areas required?
102–83.135 How will GSA negotiate changes to the final delineated area with requesting agencies?
102–83.140 Where may Federal agencies appeal GSA decisions and recommendations concerning the delineated area?
102–83.145 Do these regulations apply in GSA's National Capital Region?

Subpart C—Severability

102–83.150 What portions of this part are severable?

Authority: 40 U.S.C. 113(d), 121(c), 581(c)(1), 584, 585, and 901–905; section 1 of Reorganization Plan No. 18 of 1950, 15 FR 3177, 64 Stat. 1270 (40 U.S.C. 301 note); 28 U.S.C. 462(f); 7 U.S.C. 2204b; 41 U.S.C. 3301 *et seq.;* 54 U.S.C. 300101 *et seq.;* E.O.s 12072 and 13006.

Subpart A—General Provisions

§ 102–83.05 What does this part cover?

This part covers GSA's considerations when making location decisions for Federal agencies in both federally owned and leased space and the considerations of those Federal agencies operating under or subject to the real property authorities of the

Administrator of General Services (Administrator), including those using delegated real property authority, when making their own location decisions. It directs practices that foster the policies and programs of the Federal Government and improve the management, efficiency and effectiveness of Government activities.

§ 102–83.10 What are the governing authorities for this part?

The authorities for this regulation are—

(a) Rural Development Act of 1972, as amended (7 U.S.C. 2204b–1), requires executive agencies to give first priority to locating in rural areas;

(b) Federal Urban Land Use Act of 1949, as amended (40 U.S.C. 901–905), requires GSA and other Federal agencies to consult with the unit of general local government exercising zoning and land use jurisdiction. To the greatest extent possible, GSA must coordinate Federal projects with local planning agencies to be in accordance with zoning, land use practices and planning and development objectives;

(c) Competition in Contracting Act of 1984, as amended, (41 U.S.C. 3301 *et seq.*) (CICA), requires executive agencies to consider whether the delineated area will provide for adequate competition when acquiring leased space; and

(d) 40 U.S.C. 113(d) authorizes the Administrator to provide space to the Senate, the House of Representatives, and the Architect of the Capitol upon their request.

(e) 40 U.S.C. 121(c) authorizes the Administrator to issue regulations that the Administrator considers necessary to carry out the Administrator's functions under subtitle I of title 40 of the United States Code.

(f) National Historic Preservation Act of 1966, as amended, 54 U.S.C. 300101 *et seq.,* encourages, among other things, the public and private preservation and utilization of all usable elements of the Nation's historic built environment.

(g) 40 U.S.C. 584 authorizes the Administrator to assign and reassign space for an executive agency in any Federal Government-owned or leased building.

(h) 40 U.S.C. 581(c)(1) authorizes the Administrator to acquire, by purchase, condemnation or otherwise, real estate and interests in real estate.

(i) 40 U.S.C. 585 authorizes the Administrator to enter into a lease agreement for the accommodation of a Federal agency in a building or improvement that is in existence or being erected by the lessor to accommodate the Federal agency, and to assign and reassign the leased space to a Federal agency.

(j) Section 1 of Reorganization Plan No. 18 of 1950, 15 FR 3177, 64 Stat. 1270 (40 U.S.C. 301 note), which, with certain exceptions, transferred all function with respect to acquiring space in buildings by lease, and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in Government-owned buildings) to the Administrator.

(k) 28 U.S.C. 462(f) authorizes the Administrator to provide space to the judicial branch upon request from the Director of the Administrative Office of the United States Court.

(l) E.O. 12072 encourages Federal agencies to locate and use real estate in ways that serve to strengthen the Nation's cities and make them attractive places to live and work, conserve existing urban resources and encourage the development and redevelopment of cities. Toward this end, the E.O. requires executive agencies to give first consideration to centralized community business areas and other areas recommended by local officials as possible locations for Federal facilities when locating in urban areas (43 FR 36869, August 18, 1978).

(m) E.O. 13006 requires that, when operationally appropriate and economically prudent, and subject to the RDA and E.O. 12072, when locating Federal facilities, Federal agencies must give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies must consider other developed or undeveloped sites within historic districts. Federal agencies must then consider historic properties outside of historic districts, if no suitable site within a district exists (80 FR 15871, May 24, 1996).

§ 102–83.15 Which Federal agencies must comply with these provisions?

All Federal agencies operating under or subject to the real property authorities of the Administrator, including those using delegated real property authority, must comply with these provisions. Refer to 41 CFR 102–71.20 for the definition of Federal agency. Federal agencies using independent authority must still comply with statutory requirements and E.O.s (consistent with such authority), but this part does not apply to these agencies. Agencies with independent authority may use these provisions at agency discretion.

§ 102–83.20 How does an agency request a deviation from the provisions of this part?

Refer to §§ 102–2.60 through 102–2.110 of this chapter for information on how to obtain a deviation from this part.

§ 102–83.25 Intentionally Omitted.

Subpart B—Location of Space

§ 102–83.30 What basic location of space policy governs a Federal agency?

(a) All Federal agencies when planning for location decisions under the authorities of the Administrator, including those using delegated real property authority, are required to apply the applicable laws, regulations and E.O.s outlined in this part to their activities. This applies to agencies using the space and to agencies acquiring a leasehold interest or a new site to accommodate a space requirement.

(b) Federal agencies intending to use space under this part are responsible for identifying the geographic area within which to locate their activities (*i.e.,* the delineated area) to support their mission and program requirements. Agencies must define delineated areas that support the applicable laws, regulations and E.O.s outlined in this part. In addition to these responsibilities, agencies conducting a space acquisition have certain additional specific responsibilities as outlined in this part.

§ 102–83.35 Is there a general hierarchy of consideration that agencies must follow in their utilization of space?

Yes. In accordance with part 79 of the FMR (41 CFR 102–79), Assignment and Utilization of Space, Federal agencies must follow the hierarchy of consideration, giving first priority to Government-owned and Government-leased buildings. When no existing Government-owned or Government-leased space meets the space need, Federal agencies must follow the hierarchy of geographic consideration in § 102–83.95 when obtaining new space as identified in this subpart.

§ 102–83.40 What is a delineated area?

The delineated area is the specific geographic boundary within which space will be obtained to satisfy a Federal agency space requirement.

§ 102–83.45 What is a Core-Based Statistical Area?

A Core-Based Statistical Area (CBSA) is a geographic area established by OMB. Current CBSAs are listed in OMB Bulletin No. 20–01, ''Revised Delineations of Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and Guidance on Uses of the Delineations of

These Areas,'' dated March 6, 2020, or succeeding OMB Bulletin. In this part, the CBSA designation is used to distinguish between urban and rural areas, which have different directives associated with them.

§ 102–83.50 How is a CBSA defined?

A CBSA is defined by OMB using U.S. Census data as an area that has at its core an urban center and includes the adjacent areas that are socioeconomically tied to the urban center by commuting patterns pursuant to the *2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas* (75 FR 37246, June 28, 2010), or succeeding OMB publication.

§ 102–83.55 What is a rural area?

A rural area is any area that is not contained within the geographic boundaries of a CBSA.

§ 102–83.60 What is an urban area?

An urban area is any area contained within the geographic boundaries of a CBSA.

§ 102–83.65 What is a principal city?

(a) A principal city is an incorporated place or census designated place within a CBSA that meets certain employment and population-based criteria. Major metropolitan areas typically have several principal cities.

(b) The principal city designation is established by OMB pursuant to the *2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas* (75 FR 37246, June 28, 2010), or succeeding standards. OMB regularly publishes an updated list of Principal Cities (OMB Bulletin No. 20–01, and succeeding). In this part, the principal city designation is used to help the Federal agency focus local consultation.

§ 102–83.70 What are centralized community business areas and centralized business districts?

A centralized community business area (CBA) or centralized business district, also commonly referred to as a central business district, is an area of concentration of commercial real estate and activity within a principal city, including other specific areas of similar character that may be recommended by local officials. The CBA may be part of a traditional downtown area or part of another area that local government officials have identified as supportive of their long-term economic development objectives. CBAs are designated by local governments and not by Federal agencies, so Federal agencies must consult with local officials to understand the current boundaries of these areas. As described in E.O. 12072, these areas may include other specific areas that are recommended by local officials.

§ 102–83.75 What is environmental justice?

Environmental justice is the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment so that people are fully protected from disproportionate and adverse human health and environmental effects (including risks) and hazards; and have equitable access to a healthy, sustainable, and resilient environment. Advancing environmental justice further requires Federal agencies to provide opportunities for meaningful engagement of the public, including communities with environmental justice concerns who are potentially affected by Federal activities. When planning for location decisions, which is the Federal activity for purposes of this rule, Federal agencies must be especially mindful of how proposed locations would impact communities with environmental justice concerns. As appropriate and consistent with applicable law, Federal agencies should seek to minimize negative and maximize positive impacts in these areas, using available data and meaningful engagement with local stakeholders to identify such communities, and identify, analyze, and address adverse human health and environmental effects (including risks) and hazards of the Federal activity.

§ 102–83.80 What is equitable development?

Equitable development is a positive development approach that employs processes, policies, and programs that aim to meet the needs of all communities and community members, with a particular focus on underserved communities and populations. When seeking Federal locations, agencies should, to the extent consistent with applicable law, consider the needs of communities, including those communities that are underserved, through policies and actions that reduce disparities while fostering communities that are healthy and vibrant.

§ 102–83.85 In addition to Federal agency mission, security, and program requirements, what other factors and principles must agencies consider when establishing a potential delineated area?

(a) In addition to agency mission, security, and program requirements, Federal agencies also must give serious consideration to the impact a location decision will have on improving the social, economic, environmental, and cultural conditions of communities, including those that have been historically harmed by environmental injustice and inequality, as well as avoiding harm to such communities, while at the same time promoting efficient and cost-effective Government real estate management. These factors and principles derive from the relevant authorities in this part and include the following:

(1) Cost to the Government, including both upfront real estate acquisition as well as long-term operating costs;

(2) Opportunities to reduce the Federal real estate footprint and optimize agency space usage;

(3) Ability to manage the local Federal real estate portfolio strategically to optimize effective operations over the long term; and

(4) Consideration of the competition requirements under CICA, if applicable to the site location decision.

(b) In addition to agency mission, security and program requirements, Federal agencies also must consider a series of factors meant to promote Federal investment that supports larger Federal program goals and local development objectives. These factors include the following:

(1) Compatibility with State and local economic development objectives, such as local and regional comprehensive plans, neighborhood scale plans and local plans covering sustainability and resilience goals. When planning for location decisions, agencies should align, where possible, with local and regional planning goals. Agencies should meaningfully engage with local officials and community members potentially impacted by a location decision and consider their recommendations in light of Federal mission needs and equitability and sustainability goals, including where affected populations have experienced historic and ongoing harms due to environmental injustice and inequality;

(2) Promoting of environmentally sustainable development, reduced greenhouse gas emissions, increased resilience to the impacts of climate change, and stewardship of regional natural resources. Maximizing the use of existing resources by leveraging investment in existing infrastructure; prioritize development of brownfields (properties, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant),

greyfields (previously developed land that is underutilized) and infill development; avoid development in floodplains or impacts to wetlands to the extent practicable, and promote the preservation of historic resources and other existing buildings. Fostering protection of the natural environment by preserving existing ecosystems, avoiding development of green space and promoting climate change adaptation planning;

(3) Advancing environmental justice and equitable development;

(4) Advancing Federal and local historic preservation objectives; and

(5) Seeking location-efficient sites that provide a variety of transportation options for employees and the public, while maximizing use of existing infrastructure and minimizing employee and visitor travel by car. Prioritize central business districts, existing employment centers and rural town centers; prioritize locations that promote transportation choice, especially walking, biking and public transit options; and locate in areas that are accessible by public transit, where it exists, to a broad range of the workforce and population, such as those seeking services or needing to visit Federal space locations.

(c) The factors listed in paragraphs (a) and (b) of this section must be considered when applying the hierarchy of geographic consideration in § 102–83.90. The optimal Federal location decision is the choice that meets Federal agency mission, security and program requirements and is cost effective, while leveraging Federal development in support of these other Federal programs policies and goals, as well as local development objectives.

§ 102–83.90 What hierarchy of geographic consideration must agencies apply to location decisions?

(a) Agencies must develop policies and procedures for applying the goals of this part in their business practices. These policies and procedures must include methods for applying the hierarchy outlined in paragraph (b) of this section.

(b) When making new location decisions, agencies must give preference to geographic areas in the following order:

(1) Agencies must give first priority to locating in a rural area in accordance with the Rural Development Act of 1972 (RDA). As with other elements of this part, acquiring agencies must develop their own policies and procedures for implementing the goals of the RDA. Agencies must consider the objectives outlined in § 102–83.85 and use these principles and factors to differentiate among potential locations. Agencies are encouraged to seek a location that best meets these factors or meet multiple factors. If an agency's mission cannot be accomplished in a rural area, the agency may locate in an urban area.

(2) When an agency's mission requires location in an urban area, the agency must give priority to the CBA within a principal city of a CBSA or other areas as recommended by local officials. Agencies must consider the objectives outlined in § 102–83.85 and use these principles and factors to differentiate among potential locations. Agencies are encouraged to seek a location that best meets these factors or meets multiple factors.

(3) If an agency mission cannot be met within a principal city, or where areas, such as existing employment centers, outside the principal city offer better opportunities to advance the objectives outlined in § 102–83.85, in accordance with their established policies and procedures, agencies may proceed to seek space in those areas.

(4) Once an agency has set a delineated area in a rural or urban area, agencies must comply with the requirements for consideration of historic properties and districts set forth in § 102–78.60.

§ 102–83.95 How must agencies consult with local officials and communities to comply with the consultation elements of this part?

Agencies have wide latitude to develop their own internal policies for engaging in consultation in ways that are both effective and efficient based upon the intent of this part, the relevant development context and the agency's core business practices. Agencies must develop internal policies and procedures that guide consultation using different methods for actions of varying scale or scope. Location decisions to support fee simple acquisition and Federal construction in most cases will require direct consultation with local officials during the location evaluation process to meet the intent of this part. Conversely, for acquisition of existing space through a lease contract, agencies may develop internal procedures that apply the hierarchy outlined in this part such that no transaction-specific consultation with local officials would be required if the delineated area is within a recognized CBA or other area recommended by local officials. To expedite effective and efficient implementation of this part, where appropriate, agencies are encouraged to pursue consultation actively with local officials and communities, as appropriate, to discuss development goals well ahead of specific space actions.

(a) Under multiple guiding authorities, acquiring agencies must consult with local officials to apply the principles outlined in this part properly. Consultation and consideration of local input must occur in urban areas, and agencies are encouraged to perform similar consultation in rural areas, as appropriate.

(b) Where a Federal location decision will include, be adjacent to or in a reasonable radius of, or occur in a state containing Tribal lands of federally-recognized American Indians or Native Alaskans, or where the location decision affects a property or place of traditional religious and cultural importance to Native Hawaiian Organizations, Federal agencies must consult their agency Tribal consultation policies to determine the appropriate level of engagement with the Tribal governments and organizations, including official offers to consult, listening sessions, or notifications.

(c) Where communities are likely to face displacement risks associated with a Federal location decision, based on agency analysis of existing data and consultation with local officials, or where communities have been harmed historically by inequity, such as persistent poverty or underinvestment, or environmental injustice, agency engagement should occur not only with relevant regional and local officials but also with members of the affected communities.

(d) Meaningful engagement with local stakeholders outside of government or those who have been historically left out of community and economic development planning requires agencies to identify and include community members in Federal location planning activities early enough in the process for them to have insight into and for their input to be reflected in the decision making process. This includes opportunities for significant participation through modes that reduce known barriers to participation, such as plain language use, translation, transportation, digital and non-digital access, culture, time of day, and availability of childcare and other supportive services.

§ 102–83.100 What flexibility do Federal agencies have to implement this part in high cost areas?

Agencies have flexibility in considering the differing costs among principal cities within a single CBSA and in setting delineated areas to

incorporate lower-cost markets. There may be some instances where the head of the responsible acquiring agency or the head of the agency's designee determines that cost and security issues take precedence over the hierarchy of consideration in this part. Federal agencies may deviate from the hierarchy only where doing so would represent significant cost savings or security advantages to the Government. In such cases, agencies must consult with and consider the recommendations of local officials, review and affirm this determination, and document the file accordingly. In every instance, agencies must seek to meet the intent of the governing authorities described in § 102–83.10, and they must incorporate their applicable process into their internal policies and procedures.

§ 102–83.105 Are Federal agencies required to give preference to historic properties when acquiring leased space?

Yes. Federal agencies must give a price preference to historic properties when acquiring leased space. See § 102–73.30 of this chapter for additional guidance.

§ 102–83.110 Does GSA provide assistance to Federal agencies by consulting with local officials to establish recommended delineated areas?

Yes. GSA may, at its discretion, assist agencies by consulting with local officials to establish recommended delineated areas for use in Federal location decisions. These GSA-recommended delineated areas may be proactively developed independent of a specific space requirement. These recommended delineated areas will take into consideration the factors discussed in this part. The final delineated area used in the space acquisition may differ from these recommended areas, depending on the agency mission requirements, CICA and other factors relevant to a specific space action.

§ 102–83.115 Are Federal agencies required to consider whether the CBA or other areas recommended by local officials will provide for adequate competition when acquiring leased space?

Yes. In accordance with CICA, Federal agencies must consider whether restricting the delineated area for obtaining leased space to CBAs or other areas recommended by local officials will provide for adequate competition when acquiring space. If a Federal agency determines that the delineated area must be expanded beyond the preferred areas to provide adequate competition, the agency may expand the delineated area in consultation with local officials. Federal agencies must continue to include the preferred area in such expanded areas.

§ 102–83.120 What information and data must agencies provide to the Administrator of General Services, or other acquiring agency head, to comply with the provisions of this part?

Efficient and effective space management of federally owned and leased facilities through the activities described in this part requires that Federal agencies cooperate with acquiring agencies and furnish any related data and information requested by the acquiring agencies, to the extent not prohibited by law. This includes information or data that allows for:

(a) Selecting, acquiring, managing, and disposing of Federal space in a manner that will foster the policies and programs of the Federal Government and improve the management and administration of Government activities;

(b) Issuing regulations, standards and criteria for the selection, acquisition and management of federally owned and leased space;

(c) Surveying space requirements, space utilization and daily occupancy data of executive agencies;

(d) Meeting essential space requirements in a manner that is economically feasible and prudent; and

(e) Making maximum use of existing federally controlled facilities that, in the acquiring agency head's judgment, are adequate or economically adaptable to meeting the space needs of executive agencies.

§ 102–83.125 Who must approve the final delineated area?

The Federal agency conducting the space acquisition must approve the final delineated area for the site acquisition or action. The acquiring agency must confirm that the final delineated area complies with all applicable laws, regulations and E.O.s.

§ 102–83.130 When is written justification for a delineated area in urban areas required?

If the delineated area identified is outside the CBA in a principal city, or differs from a GSA-recommended delineated area that has been developed in accordance with the guiding authorities in this part, an agency must demonstrate, in writing, that preference has been given to the CBA of a principal city or GSA's recommended delineated area, and that the agency considered the environmental and socioeconomic factors in this subpart. The agency justification also must address, at a minimum, the efficient performance of the mission(s) and program(s) of the agency, the nature and function of the facility or facilities involved and the convenience of the public being served.

§ 102–83.135 How will GSA negotiate changes to the final delineated area with requesting agencies?

For space acquisitions conducted by GSA, if, based on its review of a requesting agency's identified delineated area, GSA concludes that the requesting agency's identified delineated area should be modified, GSA will discuss its recommended changes with the requesting agency. If, after discussions, the requesting agency does not agree with GSA's delineated area recommendation, the requesting agency may appeal GSA's determination in accordance with § 102–83.140. If a requesting agency elects to ask for a review of GSA's delineated area recommendation, GSA will continue to work on the requirements development and other activities related to the requesting agency's space request. GSA will not issue a solicitation to satisfy an agency's space request until a final delineated area is determined through the appeal process.

§ 102–83.140 Where may Federal agencies appeal GSA decisions and recommendations concerning the delineated area?

Agencies may appeal decisions and recommendations, in writing, to the GSA Regional Commissioner of Public Buildings in the region where the space acquisition is to take place or to the GSA Regional Commissioner's designee. The written request for review must include all relevant facts and other considerations, and must justify the alternative delineated area identified by the requesting agency with regard to the location requirements set forth in all applicable statutes, E.O.s and regulations. Once submitted to the Regional Commissioner or the Regional Commissioner's designee, the requesting agency's appeal will proceed according to the process established internally by GSA.

§ 102–83.145 Do these regulations apply in GSA's National Capital Region?

The presence of the Federal Government in the National Capital Region is such that the distribution of Federal facilities has been, and will continue to be, a major influence in the character and extent of development in the National Capital Region. In view of the special nature of the National Capital Region and the preponderance of Federal space contained therein, these regulations will be applied in the National Capital Region in conjunction with regional plans and will guide the development of strategic plans for the

housing of Federal agencies within the National Capital Region.

Subpart C—Severability

§ 102–83.150 What portions of this part are severable?

All provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is GSA's intention that the remaining provisions will continue in effect.

[FR Doc. 2023–23477 Filed 10–23–23; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2360

[BLM_HQ_FRN_MO4500175868]

RIN 1004–AE95

Management and Protection of the National Petroleum Reserve in Alaska; Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On September 8, 2023, the Bureau of Land Management (BLM) published in the **Federal Register** a proposed rule that would revise the framework for designating and assuring maximum protection of Special Areas' significant resource values and protect and enhance access for subsistence activities throughout the National Petroleum Reserve in Alaska (NPR–A). The proposed rule would also incorporate aspects of the NPR–A Integrated Activity Plan approved in April 2022. The BLM has determined that it is appropriate to extend the comment period for the proposed rule by 10 days, until November 17, 2023, to allow for additional public comment.

DATES: The comment period for the proposed rule that originally was published on September 8, 2023, at 88 FR 62025 ends on November 7, 2023. Under this extension, comments must now be submitted on or before November 17, 2023. The BLM need not consider or include in the administrative record for the final rule comments that the BLM receives after the close of the comment period or comments delivered to an address other than those listed in the **ADDRESSES** section.

ADDRESSES: *Mail, personal, or messenger delivery:* U.S. Department of the Interior, Director (HQ–630), Bureau of Land Management, 1849 C St. NW, Room 5646, Washington, DC 20240, Attention: 1004–AE80. *Federal eRulemaking Portal: https://www.regulations.gov.* In the Search-box, enter ''RIN 1004–AE95'' and click the ''Search'' button. Follow the instructions at this website.

FOR FURTHER INFORMATION CONTACT: James Tichenor, Advisor—Office of the Director, at 202–573–0536 or *jtichenor@blm.gov* with a subject line of ''RIN 1004–AE95.'' For questions relating to regulatory process issues, contact Faith Bremner at *fbremner@blm.gov.* Individuals in the United States who are deaf, blind, 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:

Public Comment Procedures

If you wish to comment on this proposed rule, you may submit your comments to the BLM, marked with the number RIN 1004–AE95, by mail, personal or messenger delivery, or through *https://www.regulations.gov* (see the **ADDRESSES** section). Please note that comments on this proposed rule's information collection burdens should be submitted to the OMB as described in the **ADDRESSES** section. Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. The comments and recommendations that will be most useful and likely to influence agency decisions are:

1. Those supported by quantitative information or studies; and

2. Those that include citations to, and analyses of, the applicable laws and regulations.

The BLM is not obligated to consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**). Comments, including names and street addresses of respondents, will be available for public review at the physical location listed under **ADDRESSES** during regular business hours (7:45 a.m. to 4:15 p.m. EST), Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Background

The proposed rule was published on September 8, 2023 (88 FR 62025), with a 60-day comment period closing on November 7, 2023. Since publication, the BLM has received requests for extension of the comment period on the proposed rule. The BLM has determined that it is appropriate to extend the comment period for the docket until November 17, 2023, to allow for additional public comment.

Laura Daniel-Davis,

Principal Deputy Assistant Secretary, Land and Minerals Management.

[FR Doc. 2023–23427 Filed 10–23–23; 8:45 am]

BILLING CODE 4331–27–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[GN Docket No. 18–122; DA 23–958; FR ID 179691]

Wireless Telecommunications Bureau Seeks Comment on the C-Band RPC's Final Claims Submission Deadline Proposal

AGENCY: Federal Communications Commission.

ACTION: Notification, request for comments.

SUMMARY: In this document, the Wireless Telecommunications Bureau (WTB or Bureau) of the Federal Communications Commission (Commission) seeks comment on the C-band Relocation Payment Clearinghouse's (RPC) proposal to set final claims submission deadlines as part of the ongoing transition of the 3.7 GHz band. WTB also seeks comment on any other steps that the Bureau should take pursuant to its delegated authority to facilitate the conclusion of the C-band transition reimbursement program and wind down of the RPC's operations in an efficient and timely manner and in keeping with its remit to prevent fraud,

waste, and abuse, including proposals advanced in recent *ex parte* submissions by AT&T, Verizon, and SES.

DATES: Interested parties may file comments on or before November 8, 2023.

ADDRESSES: You may submit comments, identified by GN Docket No. 18–122, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial courier or by the U.S. Postal Service. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial deliveries (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service First-Class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, DA 20–304 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

People with Disabilities. To request materials in accessible formats (braille, large print, electronic files, audio format) for people with disabilities, send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Susan Mort of the Wireless Telecommunications Bureau, at (202) 418–2429 or *Susan.Mort@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document (*Public Notice*), in GN Docket No. 18–122; DA 23–958, released on October 13, 2023. The full text of this document is available for public inspection online at *https://docs.fcc.gov/public/attachments/DA-23-958A1.pdf.*

With this *Public Notice,* WTB seeks comment on the RPC's proposal that the Bureau establish one or more final claims submission deadlines by which eligible incumbents would be required to submit any outstanding transition-related claims to the RPC for processing. Specifically, the RPC proposed the following final claims submission deadlines: February 5, 2024, for all reimbursement claims for costs incurred and paid by claimants as of December 31, 2023, including all lump sum election claims by incumbent earth station operators; and September 30, 2024, for all reimbursement claims for costs incurred and paid by claimants after December 31, 2023, with the exhortation that claims be submitted to the RPC on a rolling basis within 30 days of being incurred. The Bureau seeks comment on the RPC's final claims submission deadline request and the proposed deadlines, and on any other steps the Bureau can take pursuant to its delegated authority to facilitate the conclusion of the C-band transition reimbursement program and wind down the RPC's operations in an efficient and timely manner.

Federal Communications Commission.

Amy Brett,

Acting Chief of Staff, Wireless Telecommunications Bureau.

[FR Doc. 2023–23390 Filed 10–23–23; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 88, No. 204
Tuesday, October 24, 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.

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 24, 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.

Food Safety and Inspection Service

Title: Public Health Information System.

OMB Control Number: 0583–0153.

Summary of Collection: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18 and 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, and properly labeled.

Need and Use of the Information: FSIS uses a Web-based system that improves FSIS inspection operations and facilitates industry members' applications for inspection, export, and import of meat, poultry, and egg products. Industry members use FSIS forms in PHIS. Industry is able to submit some of these forms through a series of screens in PHIS; other forms are available in PHIS only as electronic forms. To not collect the information would inhibit the ability of FSIS to ensure that meat, poultry, and egg products are safe, wholesome, and properly labeled.

Description of Respondents: Business or other for-profit.

Number of Respondents: 6,294.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 116,074.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–23394 Filed 10–23–23; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (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; 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 24, 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.

Rural Utilities Service

Title: Empowering Rural America Program.

OMB Control Number: 0572–0158.

Summary of Collection: The Empowering Rural America (New ERA) Program provides financial assistance to Eligible Entities, as described in Section C, to achieve the greatest reductions in GHG emissions through the cooperatives' voluntary transformation of rural electric systems in a way that promotes resiliency and reliability of rural electric systems and affordability for their members.

With the Inflation Reduction Act, the Biden-Harris Administration and the United States Congress are making the greatest investment in rural electrification since the New Deal. The Biden-Harris Administration understands the transformative nature

and special qualities provided by this appropriation. Energy produced will be clean, affordable, reliable, and owned by the people who live in rural America. As a result, this legislation and the funding opportunity here allows for a New ERA in rural communities.

Need and Use of the Information: Eligible applicants under the New ERA Program are electric cooperatives as described in section 501(c)(12) or 1381(a)(2) of the Internal Revenue Code of 1986 and is or has been a RUS (formerly the Rural Electrification Administration) electric loan borrower pursuant to the RE Act or is serving a predominantly rural area (or a wholly or jointly owned subsidiary of such electric cooperative). There are well over 900 rural electric cooperatives eligible for this program.

The application process for the New ERA Program will be conducted in two phases. Phase one will be a Letter of Interest (LOI) with sufficient information to determine a pool of prospective applicants which advance the goals of the statute, achieve policy objectives, meet minimum requirements, and are within the budget of the program. Those LOIs that meet the criteria will be issued an Invitation to Proceed to submit a full, complete New ERA application (phase two).

Applicants wishing to apply for the New ERA Program with an LOI and if successful, a complete application must submit requested data, proposals, certifications and agreements to the Agency thru an online application window. The information collected will be used to: determine applicant and project eligibility, assess the projects' technical and financial merit and evaluate the metrics that reflect achieving the greatest reductions in greenhouse gas emissions in order to rank the applications and determine which ones to offer an award. Lack of adequate information to make the determinations could result in the improper administration and appropriation of Federal funds.

Description of Respondents: State, Local, and Tribal Governments.

Number of Respondents: 250.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 185,514.

Rural Utilities Service

Title: Powering Affordable Clean Energy Program.

OMB Control Number: 0572–0159.

Summary of Collection: On August 16, 2022, Congress passed the Inflation Reduction Act (IRA) of 2022 (Pub. L. 117–169). Subtitle C, Section 22001 of IRA amended Section 9003 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103) by adding new subsection (h). Through the passing of IRA, the Powering Affordable Clean Energy (PACE) Program was established with the goal of supporting clean, affordable energy growth across America.

The PACE Program will be administered by the Rural Utilities Service (RUS), a Rural Development (RD) Agency of the United States Department of Agriculture (USDA), that provides mortgage loans and loan guarantees to electric systems to provide and improve electric service in rural areas pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.,* RE Act). Section 22001 of IRA provided the Agency with $1,000,000,000 in Budget Authority (BA), to remain available until September 30, 2031. With this BA, the Agency through the PACE Program, will provide loans to eligible entities, with varying levels of loan forgiveness, for Projects that generate and/or store electricity from Renewable Energy Resource (RER) systems.

Need and Use of the Information: The Application process for the PACE Program will be conducted in two phases. Phase one will be a Letter of Interest (LOI) with sufficient information to determine a pool of prospective applicants which advance the goals of the statute, achieve policy objectives, meet minimum requirements, and are within the budget of the program. Those LOIs that meet the criteria will be issued an Invitation to Proceed to submit a full, complete Application (phase two).

Applicants wishing to apply for the PACE Program with a LOI and if successful, a completed Application must submit requested data, proposals, certifications, and agreements to the Agency thru an online application window. The information collected will be used to determine a borrower's ability to meet financial obligations, includes analyses and document review by RUS regarding the applicant's historical, current, and projected costs, revenues, cash flows, assets, and other factors that may be relevant on a case-by-case basis. RUS recognizes that Projects outlined by applicants may vary in size, financial complexity, and administration; so, the respondent's burden may vary as well. The RUS Administrator maintains discretion to forego requirements for parts of the following information as required by the conditions among applicants.

Description of Respondents: State, Local, and Tribal Governments.

Number of Respondents: 250.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 23,333.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–23451 Filed 10–23–23; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2022–0073]

Addition of the Federal Democratic Republic of Nepal to the List of Regions Affected by African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have added the Federal Democratic Republic of Nepal to the Animal and Plant Health Inspection Service (APHIS) list maintained on the APHIS website of regions considered to be affected with African swine fever (ASF). We have taken this action because of the confirmation of ASF in the Federal Democratic Republic of Nepal.

DATES: The Federal Democratic Republic of Nepal was added to the APHIS list of regions considered affected with ASF effective May 23, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Amber Kerk, Staff Officer, Regionalization Evaluation Services, Strategy and Policy, Veterinary Services, APHIS, 920 Main Campus Drive, Venture II, 3rd Floor, Raleigh, NC 27606; phone: (608) 662–0625; email: *AskRegionalization@usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products to prevent the introduction into the United States of various animal diseases, including African swine fever (ASF). ASF is a highly contagious disease of wild and domestic swine that can spread rapidly with extremely high rates of morbidity and mortality. A list of regions where ASF exists or is reasonably believed to exist is maintained on the Animal and Plant Health Inspection Service (APHIS) website at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-*

information/animal-health-status-of-regions/. This list is referenced in § 94.8(a)(2) of the regulations.

Section 94.8(a)(3) of the regulations states that APHIS will add a region to the list referenced in § 94.8(a)(2) upon determining ASF exists in the region or having reason to believe the disease exists in the region, based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (WOAH),[1] or from other sources the Administrator determines to be reliable, or upon determining that there is reason to believe the disease exists in the region. Section 94.8(a)(1) of the regulations specifies the criteria on which the Administrator bases the reason to believe ASF exists in a region. Section 94.8(b) prohibits the importation of pork and pork products from regions listed in accordance with § 94.8 except if processed and treated in accordance with the provisions specified in that section or consigned to an APHIS-approved establishment for further processing. Section 96.2 restricts the importation of swine casings that originated in or were processed in a region where ASF exists, as listed under § 94.8(a).

On May 18, 2022, the veterinary authorities of the Federal Democratic Republic of Nepal reported to WOAH the occurrence of ASF in that country. In response to that report, on May 23, 2022, APHIS added the Federal Democratic Republic of Nepal to the list of regions where ASF exists or the Administrator has reason to believe that ASF exists, in compliance with § 94.8(a)(3). This notice serves as an official record and public notification of that action.

As a result, pork and pork products from Nepal, including casings, are subject to APHIS import restrictions designed to mitigate the risk of ASF introduction into the United States.

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

Authority: 7 U.S.C. 1633, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

[1] The World Organization for Animal Health internationally follows a British English spelling of ''organisation'' in its name; also, it was formerly the Office International des Epizooties, or OIE, but on May 28, 2022, the Organization announced that the acronym was changed from OIE to WOAH.

Done in Washington, DC, this 17th day of October 2023.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–23483 Filed 10–23–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2023–0076]

Notice of Request for Approval of an Information Collection; Comprehensive Aquaculture Health Program; Use of MI–CO Application

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request approval of a new information collection associated with the use of a mobile application to collect certain information needed to manage a comprehensive aquaculture health program.

DATES: We will consider all comments that we receive on or before December 26, 2023.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov*. Enter APHIS–2023–0076 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2023–0076, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the Comprehensive Aquaculture Health Program, contact Dr. Kathleen Hartman, Senior Veterinarian, Aquaculture Health, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737; (813) 671–5230 ext. 119; email: *kathleen.h.hartman@usda.gov*. For more information about the information collection process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483; email: *joseph.moxey@usda.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Comprehensive Aquaculture Health Program; Use of MI–CO Application.

OMB Control Number: 0579–XXXX.

Type of Request: Approval of a new information collection.

Abstract: The U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS) unit is responsible for, among other things, protecting the health of the nation's aquatic livestock and supporting safe trade of those animals and their products. This authority is provided under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*). Further, Executive Order 13921, Promoting American Seafood Competitiveness and Economic Growth, rescinded the 2008 National Aquatic Animal Health Plan, and authorized a new national aquaculture health plan establishing USDA as the competent authority for the protection, inspection, and certification of aquatic livestock health.

The National Aquaculture Health Plan and Standards (NAHPS) provides guidance for pathogen testing, reporting, and laboratory standards in addition to outlining health inspection options for aquatic livestock. One of these inspection options is the Comprehensive Aquaculture Health Program Standards (CAHPS). CAHPS was developed in partnership with the U.S. aquaculture industry as a voluntary program that establishes a framework to improve and verify the health of aquatic livestock produced in the United States. Principles outlined in the CAHPS provide for early disease detection, surveillance, risk mitigation, reporting, and response for the control of aquatic animal pathogens, especially those reportable to the World Organization for Animal Health (WOAH), and to prevent their dissemination via aquatic animal sale, movement, and trade.

VS and its CAHPS/aquaculture industry affiliates will use a mobile application provided through the MI-Corporation (MI–CO) to carry out CAHPS functions and evaluate and verify aquatic livestock health on premises. The application uses a MI–CO platform for a server/client-based mobile application that supports data

collection using forms that can be deployed to a mobile device, like a smartphone or tablet, and used in an internet-connected or disconnected environment. CAHPS participants will use the application to collect general participant and aquatic health team information; assess the risk of incursion and spread of aquatic pathogens of concern; carry out disease detection and surveillance and report laboratory test results; report any disease outbreaks and presence of pathogens of concern; and document outbreak response and recovery via surveillance and response plans. Participants can also log outbreak communication plans and biosecurity plans using the application and use a CAHPS Workbook as a template for CAHPS work.

The MI–CO app will retain information from inspection to inspection. VS will update participants' information annually. VS will not physically collect or remove from the premises any of the documentation unless the participant gives express permission to attach documents to their CAHPS portfolio in the app. VS personnel will annually review and enter information for every CAHPS participant to support compliance with CAHPS.

We are asking Office of Management and Budget (OMB) to approve our use of these information collection activities for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.96 hours per response.

Respondents: U.S. aquaculture producers and industry representatives.

Estimated annual number of respondents: 30.

Estimated annual number of responses per respondent: 13.

Estimated annual number of responses: 395.

Estimated total annual burden on respondents: 378 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 17th day of October 2023.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–23484 Filed 10–23–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2023–0072]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Animals and Poultry, Animal and Poultry Products, Certain Animal Embryos, Semen, and Zoological Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the importation of animals and poultry, animal and poultry products, certain animal embryos, semen, and zoological animals.

DATES: We will consider all comments that we receive on or before December 26, 2023.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2023–0072 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2023–0072, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on animals and poultry, animal and poultry products, certain animal embryos, and zoological animals, contact Dr. Alexandra MacKenzie, Senior Veterinary Medical Officer, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737; (301) 851–3411; *alexandra.mackenzie@usda.gov.* For more information about the information collection process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Importation of Animals and Poultry, Animal and Poultry Products, Certain Animal Embryos, Semen, and Zoological Animals.

OMB Control Number: 0579–0040.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) is authorized, among other things, to prohibit or restrict the importation of animals, animal products, and other articles into the United States to prevent the introduction of animal diseases and pests. Disease prevention is the most effective method for maintaining a healthy animal population and for enhancing APHIS' ability to compete in the world market of animal and animal product trade.

Among other things, APHIS' Veterinary Services is responsible for preventing the introduction of foreign or certain other communicable animal diseases into the United States and for rapidly identifying, containing, eradicating, or otherwise mitigating such diseases when feasible. In connection with this mission, APHIS collects information from individuals, businesses, and farms that are involved with importation of animals or poultry, animal or poultry products, or animal germplasm (semen, oocytes, embryos, and cloning tissues, as well as eggs for

hatching) into the United States, as well as from foreign countries and States to support these imports. Some of the information collection activities include agreements, permits, application and space reservation requests, inspections, registers, declarations of importation, requests for hearings, daily logs, additional requirements, application for permits, import health certificates, letters, written notices, daily record of horse activities, written requests, opportunities to present views, reporting, applications for approval of facilities, certifications, arrival notices, on-hold shipment notifications, reports, test submission forms, quarantine documents, affidavits, animal identification, written plans, checklists, specimen submissions, emergency action notifications, refusal of entry and order to dispose of fish, premises information, recordkeeping, and application of seals.

In addition, APHIS evaluates the animal health statuses of foreign regions and evaluates the risk of disease introduction via commodities to allow for the importation of animals and animal-related commodities into the United States by receiving and evaluating information collection activities. These information collection activities include recognition of the animal health status of a region, applications for recognition of the animal health status of a region, applications for recognition of a region as historically free of a disease, requests for additional information about the region, appeals of classifications of animal health status, and written recommendations and proof of implementation from foreign animal health authorities seeking to engage in the regionalization process.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.76 hours per response.

Respondents: Foreign animal health authorities; U.S. importers; foreign exporters; veterinarians and animal health technicians in other countries; State animal health authorities; shippers, owners and operators of foreign processing plants and farms; USDA-approved zoos, laboratories, and feedlots; private quarantine facilities; and other entities involved (directly or indirectly) in the importation of animals and poultry, animal and poultry products, zoological animals, and animal germplasm.

Estimated annual number of respondents: 73,769.

Estimated annual number of responses per respondent: 11.

Estimated annual number of responses: 795,301.

Estimated total annual burden on respondents: 600,320 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 16th day of October 2023.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–23450 Filed 10–23–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Land Between the Lakes Advisory Board

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Land Between the Lakes (LBL) Advisory Board (Board) will hold a public meeting according to the details shown below. The Board is authorized under the Charter for the Land Between the Lakes Advisory Board and managed in accordance with the Federal Advisory Committee Act (FACA). The purpose of the Board is to advise the Secretary of Agriculture on means of promoting public participation for the land and resource management plan for the Recreation Area; environmental education; an annual work plan for recreation and environment education areas in the Recreation Area, including the heritage program, with the non-appropriated amounts in the Land Between the Lakes Management Fund; an annual forest management and harvest plan for the Recreation Area; and the Land Between the Lakes Management Fund.

DATES: An in-person and virtual meeting will be held on November 8, 2023, 9 a.m.–4 p.m., Central Standard Time (CST).

Written and Oral Comments: Anyone wishing to provide in-person or virtual oral comments must pre-register by 11:59 p.m., CST on November 3, 2023. Written public comments will be accepted through 11:59 p.m., CST on November 3, 2023. Comments submitted after this date will be provided to the Forest Service, but the Board may not have adequate time to consider those comments prior to the meeting.

All board meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: This meeting will be held in-person at the Land Between the Lakes National Recreation Area Administration Building located at 100 Van Morgan Drive, Golden Pond, Kentucky 42211. The public may also join virtually via Microsoft Teams. Board information is located at: *https://landbetweenthelakes.us/about/working-together/advisory-board/or* by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: Written comments must be sent by email to *SM.FS.LBL_AdBoard@usda.gov or* via mail (*i.e.,* postmarked) to Land Between the Lakes National Recreation Area, Attention: Christine Bombard, 100 Van Morgan Drive, Golden Pond, Kentucky 42211. The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. CST November 3, 2023, and speakers can only register for one speaking slot. Oral comments must be sent by email to *SM.FS.LBL_AdBoard@usda.gov* or via mail (*i.e.,* postmarked) to Land Between the Lakes National Recreation Area, Attention: Christine Bombard, 100 Van Morgan Drive, Golden Pond, Kentucky 42211.

FOR FURTHER INFORMATION CONTACT: Christine Bombard, Board Liaison, by email at *SM.FS.LBL_AdBoard@usda.gov* or by phone at 270–924–2002.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss:

1. Recreation Enhancement Act;
2. Great American Outdoors Act Projects;
3. Heritage; and
4. Environmental Stewardship.

The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least one week prior to the meeting date to be scheduled on the agenda. Written comments may be submitted to the Forest Service up to 7 days after the meeting date listed under **DATES**.

Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, by or before the deadline, for all questions related to the meeting. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

Meeting Accommodations: The meeting location is compliant with the Americans with Disabilities Act, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation to the person listed under the **FOR FURTHER INFORMATION CONTACT** section or contact USDA's TARGET Center at (202) 720–2600 (voice and TTY) or USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Board. To ensure that the recommendations of the Board 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 13, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–23480 Filed 10–23–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket No.: RBS–23–BUSINESS–0022]

60-Day Notice of Proposed Information Collection: Rural Economic Development Loan and Grant Program; OMB Control No.: 0570–0035

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of, the United States Department of Agriculture (USDA) Rural Business-Cooperative Service (RBCS) announces its' intention to request a revision of a currently approved information collection and invites comments on this information collection.

DATES: Comments on this notice must be received by December 26, 2023, to be assured of consideration.

ADDRESSES: Comments may be submitted by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the ''Search Field'' box, labeled ''Search for dockets and documents on agency actions,'' enter the following docket number: (RBS–23–BUSINESS–0022), and click ''Search.'' To submit public comments, select the ''Comment'' button. Before inputting your comments, you may also review the ''Commenter's Checklist'' (optional). Insert your comments under the ''Comment'' title, click ''Browse'' to attach files (if applicable). Input your email address and select an identity category then click ''Submit Comment.'' Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''FAQ'' link.

FOR FURTHER INFORMATION CONTACT: Kimble Brown, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, STOP 1522, South Building, Washington, DC 20250–1522. Telephone: (202) 720–6780. Email *Kimble.Brown@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RBCS is submitting to OMB as a revision to an existing collection.

Title: Rural Economic Development Loan and Grant Program.

OMB Control Number: 0570–0035.

Expiration Date of Approval: August 31, 2024.

Type of Request: Revision of a currently approved information collection.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.26 hours per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 120.

Estimated Number of Responses per Respondent: 17.

Estimated Annual Reporting Number of Responses: 2,012.

Estimated Annual Reporting Burden on Respondents: 4,562.

Estimated Annual Recordkeeping Number of Responses: 90.

Estimated Annual Recordkeeping Burden on Respondents: 180.

Estimated Total Annual Number of Responses: 2,102.

Estimated Total Annual Burden on Respondents: 4,742.

Abstract: Under this program, loans and grants are provided to electric and telecommunications utilities that have borrowed funds from the Agency. The purpose of the program is to encourage these electric and telecommunications utilities to promote rural economic development and job creation projects such as business start-up costs, business expansion, community development, and business incubator projects. The utilities must use program loan funds to make a pass-through loan to an ultimate recipient such as a business. The utility is responsible for fully repaying its loan to the Government, even if the ultimate recipient does not repay its loan. The intermediary must use program grant funds, along with its required contribution, to create a revolving loan

fund that the utility will operate and administer. Loans to the ultimate recipient are made from the revolving loan fund for a variety of community development projects. The information requested is necessary and vital in order for the Agency to be able to make prudent and financial analysis decisions.

The information collected will be used to evaluate applications for funding consideration, conduct an environmental review, prepare legal documents, receive loan payments, oversee the operation of a revolving loan fund, monitor the use of RBS funds, and enforce other Government requirements such as compliance with civil rights regulations.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent by the Federal eRulemaking Portal: Go to *https://www.regulations.gov*. Follow the instructions for submitting comments.

Copies of this information collection can be obtained from Kimble Brown, Innovation Center, at (202) 720–6780, Email: *kimble.brown@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Karama Neal,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2023–23410 Filed 10–23–23; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Census Bureau

Performance Review Board Membership

AGENCY: Office of the Under Secretary for Economic Affairs, Department of Commerce.

ACTION: Notice.

SUMMARY: The Office of the Under Secretary for Economic Affairs (OUSEA) announces the appointment of members who will serve on the OUSEA Performance Review Board (PRB). The PRB is responsible for reviewing the appraisals and ratings recommended by the senior employees' supervisors and written responses from the senior employee, if any, as well as any other reviews requested, to ensure that recommended ratings are supported and appropriate in the OUSEA, Bureau of Economic Analysis and the US Census Bureau. The PRB provides recommendations to the Appointing Authority regarding the objectives and operation of the SES and ST performance appraisal and reward systems, as required. The purpose of the PRB is to provide fair and impartial review of senior executive service and senior professional performance ratings, bonus and pay adjustment recommendations and Presidential Rank Award nominations. The term of each PRB member will expire on December 31, 2025.

DATES: The date of service of appointees to the OUSEA Performance Review Board is based upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Latasha Ellis, SES Program Manager, Executive Resources Office, Human Resources Division, Census Bureau, 4600 Silver Hill Road, Washington, DC 20233, 301–763–9662.

SUPPLEMENTARY INFORMATION:

These appointments are announced in accordance with 5 U.S.C. 4314(c)(4).

The names and position titles of the members of the PRB are set forth below:

- Patricia Abaroa, Deputy Director, BEA
- Vipin Arora, Director, BEA
- Luis J. Cano, Chief Information Officer, Census Bureau
- Gregory Capella, Deputy Under Secretary, Bureau of Industry and Security
- Paul Farello, Associate Director for International Economics, BEA
- Douglas Follansbee, Chief Financial Officer, BEA
- Laura K. Furgione, Chief Administrative Officer, Census Bureau
- Thomas F. Howells III, Associate Director for Industry Accounts, BEA
- Kathleen James, Chief Administrative Officer, BEA
- Ron Jarmin, Deputy Director, Census Bureau
- Christa D. Jones, Chief of Staff, Census Bureau
- Ditas Katague, Associate Director for Communications, Census Bureau
- Sallie Keller, Associate Director for Research and Methodology, Census Bureau
- Zachary Learner, Director, Executive Secretariat, Office of the Secretary
- Edith J. McCloud, Senior Advisor to the Director, Office of Civil Rights
- Timothy Olson, Associate Director for Field Operations, Census Bureau
- Nick Orsini, Associate Director for Economic Programs, Census Bureau
- Mauricio Ortiz, Associate Director for Regional Economics, BEA
- Deborah Stempowski, Associate Director for Decennial Census, Census Bureau
- Victoria Velkoff, Associate Director for Demographic Programs, Census Bureau
- David Wasshausen, Associate Director for National Economic Accounts, BEA
- Oliver Wise, Chief Data Officer, OUSEA
- David R. Ziaya, Chief, Office of Program, Performance and Stakeholder Performance, and Stakeholder Integration, Census Bureau

Ron Jarmin, Deputy Director, Census Bureau, Chair, OUS/EA Performance Review Board approved the publication of this notice in the **Federal Register**.

Dated: October 10, 2023.

Shannon Wink,

Program Analyst, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2023–23384 Filed 10–23–23; 8:45 am]

BILLING CODE 3510–BS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–084; C–570–085]

Certain Quartz Surface Products From the People's Republic of China: Rescission of Antidumping and Countervailing Duty Changed Circumstances Reviews; Global Stone

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the changed circumstances reviews (CCR) of the antidumping duty (AD) and countervailing duty (CVD) orders on certain quartz surface products (quartz surface products) from the People's Republic of China (China) regarding quartz surface products imported by Global Stone Collection LLC (Global Stone) into the United States and exported by Bada Industries SDN BHD (Bada Industries).

DATES: Applicable October 24, 2023.

FOR FURTHER INFORMATION CONTACT: Ajay Menon, 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) 482–0208.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 2022, Commerce published in the **Federal Register** the final results of a scope ruling regarding imports of quartz surface products manufactured in China and further processed in Malaysia, finding that such imports are covered by the scope of the *Orders*.[1] Moreover, because exporters of quartz surface products from Malaysia export both subject and non-subject merchandise, Commerce established a scope certification process for all imports of quartz surface products from Malaysia. Commerce also determined that certain companies processing Chinese quartz slab in Malaysia, including Bada Industries, were ineligible to participate in this scope certification process, but indicated that they could request reconsideration of their exclusion from the certification process in a future segment of the proceeding.[2]

On June 26, 2023, based on a request filed by Global Stone,[3] Commerce initiated a CCR to determine whether Bada Industries is eligible to certify that its quartz surface products are not produced from Chinese-origin quartz slab.[4] On July 26, 2023, Global Stone filed a timely request for administrative review for its exporter, Bada Industries.[5] On September 11, 2023, Commerce initiated AD and CVD administrative reviews of Bada Industries, among other Malaysian exporters.[6]

Rescission of Review

Commerce has determined that a CCR is not the appropriate segment to reconsider ineligible parties' exclusion from a certification process, where that ineligibility was due to a party's failure to cooperate in a prior segment of a proceeding.[7] Commerce explained that an administrative review is the proper segment of a proceeding for a party deemed ineligible from participating in a certification process to request reconsideration of its eligibility to certify, absent evidence of a changed circumstance.[8] In light of *Solar Cells,* Commerce has reevaluated Global Stone's CCR request and determines that a party's newfound willingness to participate is not a changed circumstance sufficient to warrant such a review. Additionally, as noted above, Commerce recently initiated AD and CVD administrative reviews of Bada Industries, among other exporters.[9] As a result, consistent with *Solar Cells,* Commerce will reevaluate the eligibility of Bada Industries to participate in the certification process as part of these administrative reviews. Consequently, we are rescinding this CCR with respect to Bada Industries.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to 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 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 sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended and 19 CFR 351.213(d)(4).

Dated: October 19, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–23442 Filed 10–23–23; 8:45 am]

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[1] *See Certain Quartz Surface Products from the People's Republic of China: Final Scope Ruling on Malaysian Processed Quartz Slab and Recission of the Circumvention Inquiry,* 87 FR 64009, 64010 (October 21, 2022).

[2] *Id.,* 87 FR at 64010.

[3] *See* Global Stone's Letter, ''Request for Changed Circumstances Review of Bada Industries,'' dated May 11, 2023.

[4] *See Certain Quartz Surface Products from the People's Republic of China: Initiation of Antidumping and Countervailing Duty Changed Circumstances Reviews; Global Stone,* 88 FR 41377 (June 26, 2023) (*Initiation Notice*).

[5] *See* Global Stone's Letter, ''Request for Administrative Review—Quartz Surface Products from the People's Republic of China,'' dated July 26, 2023.

[6] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 62322, 62335 (September 11, 2023) (*Initiation of Reviews*).

[7] *See Antidumping and Countervailing Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Scope Determination and Final Affirmative Determinations of Circumvention With Respect to Cambodia, Malaysia, Thailand, and Vietnam,* 88 FR 57419 (August 23, 2023) (*Solar Cells*), and accompanying Vietnam Issues and Decision Memorandum at Comment 19 (finding that Commerce has no basis to conduct a changed circumstances review absent evidence of a changed circumstance).

[8] *Id.*

[9] *See Initiation of Reviews,* 88 FR at 62335.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–084; C–570–085]

Certain Quartz Surface Products From the People's Republic of China: Rescission of Antidumping and Countervailing Duty Changed Circumstances Reviews; AM Stone

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the changed circumstances reviews (CCR) of the antidumping duty (AD) and countervailing duty (CVD) orders on certain quartz surface products (quartz surface products) from the People's Republic of China (China) regarding quartz surface products imported by AM Stone & Cabinets, Inc. (AM Stone) into the United States and exported by Universal Quartz and Stone Industrial SDN BHD (Universal Quartz).

DATES: Applicable October 24, 2023.

FOR FURTHER INFORMATION CONTACT: Ajay Menon, 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) 482–0208.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 2022, Commerce published in the **Federal Register** the final results of a scope ruling regarding imports of quartz surface products manufactured in China and further processed in Malaysia, finding that such imports are covered by the scope of the *Orders*.[1] Moreover, because exporters of quartz surface products from Malaysia export both subject and non-subject merchandise, Commerce established a scope certification process for all imports of quartz surface products from Malaysia. Commerce also determined that certain companies processing Chinese quartz slab in Malaysia, including Universal Quartz, were

[1] *See Certain Quartz Surface Products from the People's Republic of China: Final Scope Ruling on Malaysian Processed Quartz Slab and Recission of the Circumvention Inquiry,* 87 FR 64009, 64010 (October 21, 2022).

ineligible to participate in this scope certification process, but indicated that they could request reconsideration of their exclusion from the certification process in a future segment of the proceeding.[2]

On June 26, 2023, based on a request filed by AM Stone,[3] Commerce initiated a CCR to determine whether Universal Quartz is eligible to certify that its quartz surface products are not produced from Chinese-origin quartz slab.[4] On July 26, 2023, AM Stone filed a timely request for administrative review for its exporter, Universal Quartz.[5] On September 11, 2023, Commerce initiated AD and CVD administrative reviews of Universal Quartz, among other Malaysian exporters.[6]

Rescission of Review

Commerce has recently determined that a CCR is not the appropriate segment to reconsider ineligible parties' exclusion from a certification process, where that ineligibility was due to a party's failure to cooperate in a prior segment of a proceeding.[7] Commerce explained that an administrative review is the proper segment of a proceeding for a party deemed ineligible from participating in a certification process to request reconsideration of its eligibility to certify, absent evidence of a changed circumstance.[8] In light of *Solar Cells,* Commerce has reevaluated AM Stone's CCR request and determines that a party's newfound willingness to participate is not a changed circumstance sufficient to warrant such a review. Additionally, as noted above, Commerce recently initiated AD and CVD administrative reviews of Universal Quartz, among other exporters.[9] As a result, consistent with *Solar Cells,* Commerce will reevaluate the eligibility of Universal Quartz to participate in the certification process as part of these administrative reviews. Consequently, we are rescinding this CCR with respect to Universal Stone.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to 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 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 sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended and 19 CFR 351.213(d)(4).

Dated: October 19, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–23443 Filed 10–23–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Rescission of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based upon the timely withdrawal of all review requests, the U.S. Department of Commerce (Commerce) is rescinding the administrative reviews covering the periods of review (POR) and the antidumping duty (AD) and countervailing duty (CVD) orders identified in the table below.

DATES: Applicable October 24, 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

Based upon timely requests for review, Commerce initiated administrative reviews of certain companies for the PORs and the AD and CVD orders listed in the table below, pursuant to 19 CFR 351.221(c)(1)(i).[1] All requests for these reviews have been timely withdrawn.[2]

Rescission of Reviews

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested the review withdraw their review requests within 90 days of the date of publication of the notice of initiation for the requested review. All parties withdrew their requests for the reviews listed in the table below within the 90-day deadline. No other parties requested administrative reviews of these AD/CVD orders for the PORs noted in the table. Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding, in their entirety, the administrative reviews listed in the table below.

	Period of review
AD Proceedings	
Bahrain: Common Alloy Aluminum Sheet, A–525–001	4/1/2022–3/31/2023
Cambodia: Mattresses, A–555–001	5/1/2022–4/30/2023

[2] *Id.,* 87 FR at 64010.

[3] *See* AM Stone's Letter, ''Request for Changed Circumstances Review of Universal Quartz,'' dated May 11, 2023.

[4] *See Certain Quartz Surface Products from the People's Republic of China: Initiation of Antidumping and Countervailing Duty Changed Circumstances Reviews; AM Stone,* 88 FR 41385 (June 26, 2023) (*Initiation Notice*).

[5] *See* AM Stone's Letter, ''Request for Administrative Review—Quartz Surface Products from the People's Republic of China,'' dated July 26, 2023.

[6] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 62322, 62335 (September 11, 2023) (*Initiation of Reviews*).

[7] *See Antidumping and Countervailing Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Scope Determination and Final Affirmative Determinations of Circumvention With Respect to Cambodia, Malaysia, Thailand, and Vietnam,* 88 FR 57419 (August 23, 2023) (*Solar Cells*), and accompanying Vietnam Issues and Decision Memorandum at Comment 19 (finding that Commerce has no basis to conduct a changed circumstances review absent evidence of a changed circumstance).

[8] *Id.*

[9] *See Initiation of Reviews,* 88 FR at 62335.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 21609 (April 11, 2023); *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 29881 (May 9, 2023); *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 38021 (June 12, 2023); *see also Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 44262 (July 12, 2023); and *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 51271 (August 3, 2023).

[2] The letters withdrawing the review requests may be found in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.*

	Period of review
Egypt: Common Alloy Aluminum Sheet, A–729–803	4/1/2022–3/31/2023
Iceland: Silicon Metal, A–400–001	4/1/2022–3/31/2023
India: Common Alloy Aluminum Sheet, A–533–895	4/1/2022–3/31/2023
Indonesia: Common Alloy Aluminum Sheet, A–560–835	4/1/2022–3/31/2023
Italy:	
Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel, A–475–838	6/1/2022–5/31/2023
Common Alloy Aluminum Sheet, A–475–842	4/1/2022–3/31/2023
Oman: Common Alloy Aluminum Sheet, A–523–814	4/1/2022–3/31/2023
The People's Republic of China:	
Aluminum Extrusions, A–570–967	5/1/2022–4/30/2023
Common Alloy Aluminum Sheet, A–570–073	2/1/2022–1/31/2023
Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, A–570–124	5/1/2022–4/30/2023
Difluoromethane, A–570–121	3/1/2022–2/28/2023
Drawn Stainless Steel Sinks, A–570–983	4/1/2022–3/31/2023
Small Diameter Graphite Electrodes, A–570–929	2/1/2022–1/31/2023
Stainless Steel Sheet and Strip, A–570–042	4/1/2022–3/31/2023
Turkey: Quartz Surface Products, A–489–837	6/1/2022–5/31/2023
CVD Proceedings	
India:	
Carbon and Alloy Steel Threaded Rod, C–533–888	1/1/2022–12/31/2022
Quartz Surface Products, C–533–890	1/1/2022–12/31/2022
The People's Republic of China:	
Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, C–570–125	1/1/2022–12/31/2022
Stainless Steel Sheet and Strip, C–570–043	1/1/2022–12/31/2022
Turkey: Quartz Surface Products, C–489–838	1/1/2022–12/31/2022

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping and/or countervailing duties on all appropriate entries during the PORs noted above for each of the listed administrative reviews at rates equal to the cash deposit of estimated antidumping or countervailing duties, as applicable, required at the time of entry, or withdrawal of merchandise from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this recission notice in the **Federal Register** for rescinded administrative reviews of AD/CVD orders on countries other than Canada and Mexico. For rescinded administrative reviews of AD/CVD orders on Canada or Mexico, Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of this recission notice in the **Federal Register**.

Notification to Importers

This notice serves as the only reminder to importers of merchandise subject to AD/CVD orders of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties and/or countervailing duties.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in these segments of these proceedings. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 19, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–23444 Filed 10–23–23; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD470]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

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

ACTION: Notice of issuance of letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico (GOM), notification is hereby given that a Letter of Authorization (LOA) has been issued to Murphy Exploration & Production Company (Murphy) for the take of marine mammals incidental to geophysical survey activity in the GOM.

DATES: The LOA is effective from November 1, 2023, through October 30, 2024.

ADDRESSES: The LOA, LOA request, and supporting documentation are available online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-*

gas-industry-geophysical-survey-activity-gulf-mexico. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Rachel Wachtendonk, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce 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 issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively ''industry operators''), in U.S. waters of the GOM over the course of 5 years (86 FR 5322, January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses. The rule became effective on April 19, 2021.

Our regulations at 50 CFR 217.180 *et seq.* allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

Summary of Request and Analysis

Murphy plans to conduct a vertical seismic profile (VSP) within Atwater Valley Block 138. The survey will occur at a water depth of 1,050 meters (m). Murphy plans to use a 12-element, 2,400 cubic inch (in^3) airgun array. The survey is planned to occur for 2 days during the period from November 1, 2023 to October 30, 2024. Please see Murphy's application for additional detail.

Consistent with the preamble to the final rule, the survey effort proposed by Murphy in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (86 FR 5322, January 19, 2021). In order to generate the appropriate take number for authorization, the following information was considered: (1) survey type; (2) location (by modeling zone [1]); (3) number of days; and (4) season.[2] The acoustic exposure modeling performed in support of the rule provides 24-hour exposure estimates for each species, specific to each modeled survey type in each zone and season.

No VSP surveys were included in the modeled survey types, and use of existing proxies (*i.e.,* two-dimensional (2D), three-dimensional narrow azimuth (3D NAZ), 3D wide-azimuth (WAZ), Coil) is generally conservative for use in evaluation of VSP survey effort. Summary descriptions of these modeled survey geometries are available in the preamble to the proposed rule (83 FR 29212, June 22, 2018). Coil was selected as the best available proxy survey type because the spatial coverage of the planned survey is most similar to that associated with the coil survey pattern.

For the planned survey, the seismic source array will be deployed from a stationary drilling rig at or near the borehole, with the seismic receivers (*i.e.,* geophones) deployed in the borehole on wireline at specified depth intervals. The coil survey pattern in the model was assumed to cover approximately 144 kilometers squared (km^2) per day (compared with approximately 795 km^2, 199 km^2, and 845 km^2 per day for the 2D, 3D NAZ, and 3D WAZ survey patterns, respectively). Among the different parameters of the modeled survey patterns (*e.g.,* area covered, line spacing, number of sources, shot interval, total simulated pulses), NMFS considers area covered per day to be most influential on daily modeled exposures exceeding Level B harassment criteria. Because Murphy's planned survey would not cover any additional area beyond that ensonified by the stationary source, the coil proxy is most representative of the effort planned by Murphy in terms of predicted Level B harassment.

In addition, all available acoustic exposure modeling results assume use of a 72 element, 8,000 in^3 array. Thus, estimated take numbers for this LOA are considered conservative due to the differences in both the airgun array (12 elements and 2,400 in^3), and in daily survey area planned by Murphy, as compared to those modeled for the rule.

The survey is planned to occur in Zone 5. The survey could take place in any season. Therefore, the take estimates for each species are based on the season that has the greater value for the species (*i.e.,* winter or summer).

Additionally, for some species, take estimates based solely on the modeling yielded results that are not realistically likely to occur when considered in light of other relevant information available during the rulemaking process regarding marine mammal occurrence in the GOM. The approach used in the acoustic exposure modeling, in which seven modeling zones were defined over the U.S. GOM, necessarily averages fine-scale information about marine mammal

[1] For purposes of acoustic exposure modeling, the GOM was divided into seven zones. Zone 1 is not included in the geographic scope of the rule.

[2] For purposes of acoustic exposure modeling, seasons include Winter (December–March) and Summer (April–November).

distribution over the large area of each modeling zone. This can result in unrealistic projections regarding the likelihood of encountering particularly rare species and/or species not expected to occur outside particular habitats. Thus, although the modeling conducted for the rule is a natural starting point for estimating take, our rule acknowledged that other information could be considered (see, *e.g.,* 86 FR 5322, (January 19, 2021), discussing the need to provide flexibility and make efficient use of previous public and agency review of other information and identifying that additional public review is not necessary unless the model or inputs used differ substantively from those that were previously reviewed by NMFS and the public). For this survey, NMFS has other relevant information reviewed during the rulemaking that indicates use of the acoustic exposure modeling to generate a take estimate for Rice's whales and killer whales produces results inconsistent with what is known regarding their occurrence in the GOM. Accordingly, we have adjusted the calculated take estimates for those species as described below.

NMFS' final rule described a ''core habitat area'' for Rice's whales (formerly known as GOM Bryde's whales) [3] located in the northeastern GOM in waters between 100–400 m depth along the continental shelf break (Rosel *et al.,* 2016). However, whaling records suggest that Rice's whales historically had a broader distribution within similar habitat parameters throughout the GOM (Reeves *et al.,* 2011; Rosel and Wilcox, 2014). In addition, habitat-based density modeling identified similar habitat (*i.e.,* approximately 100–400 m water depths along the continental shelf break) as being potential Rice's whale habitat (Roberts *et al.,* 2016), although the core habitat area contained approximately 92 percent of the predicted abundance of Rice's whales. See discussion provided at, *e.g.,* 83 FR 29228, 83 FR 29280 (June 22, 2018); 86 FR 5418 (January 19, 2021).

Although Rice's whales may occur outside of the core habitat area, we expect that any such occurrence would be limited to the narrow band of suitable habitat described above (*i.e.,* 100–400 m) and that, based on the few available records, these occurrences would be rare. Murphy's planned activities will occur in water depths of approximately 1,050 m in the central GOM. Thus, NMFS does not expect there to be the reasonable potential for take of Rice's whale in association with this survey and, accordingly, does not authorize take of Rice's whale through the LOA.

Killer whales are the most rarely encountered species in the GOM, typically in deep waters of the central GOM (Roberts *et al.,* 2015; Maze-Foley and Mullin, 2006). As discussed in the final rule, the density models produced by Roberts *et al.* (2016) provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. GOM. The predictions represent the output of models derived from multi-year observations and associated environmental parameters that incorporate corrections for detection bias. However, in the case of killer whales, the model is informed by few data, as indicated by the coefficient of variation associated with the abundance predicted by the model (0.41, the second-highest of any GOM species model; Roberts *et al.,* 2016). The model's authors noted the expected non-uniform distribution of this rarely-encountered species (as discussed above) and expressed that, due to the limited data available to inform the model, it ''should be viewed cautiously'' (Roberts *et al.,* 2015).

NOAA surveys in the GOM from 1992–2009 reported only 16 sightings of killer whales, with an additional 3 encounters during more recent survey effort from 2017–2018 (Waring *et al.,* 2013; *https://www.boem.gov/gommapps*). Two other species were also observed on fewer than 20 occasions during the 1992–2009 NOAA surveys (Fraser's dolphin and false killer whale [4]). However, observational data collected by protected species observers (PSOs) on industry geophysical survey vessels from 2002–2015 distinguish the killer whale in terms of rarity. During this period, killer whales were encountered on only 10 occasions, whereas the next most rarely encountered species (Fraser's dolphin) was recorded on 69 occasions (Barkaszi and Kelly, 2019). The false killer whale and pygmy killer whale were the next most rarely encountered species, with 110 records each. The killer whale was the species with the lowest detection frequency during each period over which PSO data were synthesized (2002–2008 and 2009–2015). This information qualitatively informed our rulemaking process, as discussed at 86 FR 5322, 86 FR 5334 (January 19, 2021), and similarly informs our analysis here.

The rarity of encounter during seismic surveys is not likely to be the product of high bias on the probability of detection. Unlike certain cryptic species with high detection bias, such as *Kogia* spp. or beaked whales, or deep-diving species with high availability bias, such as beaked whales or sperm whales, killer whales are typically available for detection when present and are easily observed. Roberts *et al.* (2015) stated that availability is not a major factor affecting detectability of killer whales from shipboard surveys, as they are not a particularly long-diving species. Baird *et al.* (2005) reported that mean dive durations for 41 fish-eating killer whales for dives greater than or equal to 1 minute in duration was 2.3–2.4 minutes, and Hooker *et al.* (2012) reported that killer whales spent 78 percent of their time at depths between 0–10 m. Similarly, Kvadsheim *et al.* (2012) reported data from a study of 4 killer whales, noting that the whales performed 20 times as many dives 1–30 m in depth than to deeper waters, with an average depth during those most common dives of approximately 3 m.

In summary, killer whales are the most rarely encountered species in the GOM and typically occur only in particularly deep water. This survey would take place in deep waters that would overlap with depths in which killer whales typically occur. While this information is reflected through the density model informing the acoustic exposure modeling results, there is relatively high uncertainty associated with the model for this species, and the acoustic exposure modeling applies mean distribution data over areas where the species is in fact less likely to occur. In addition, as noted above in relation to the general take estimation methodology, the assumed proxy source (72-element, 8,000-in^3 array) results in a significant overestimate of the actual potential for take to occur. NMFS' determination in reflection of the information discussed above, which informed the final rule, is that use of the generic acoustic exposure modeling results for killer whales will generally result in estimated take numbers that are inconsistent with the assumptions made in the rule regarding expected killer whale take (86 FR 5322, 86 FR 5403, January 19, 2021). In this case, use of the acoustic exposure modeling produces an estimate of one killer whale exposure. Given the foregoing, it is unlikely that any killer whales would be encountered during this at most 2-day

[3] The final rule refers to the GOM Bryde's whale (*Balaenoptera edeni*). These whales were subsequently described as a new species, Rice's whale (*Balaenoptera ricei*) (Rosel *et al.,* 2021).

[4] However, note that these species have been observed over a greater range of water depths in the GOM than have killer whales.

survey, and accordingly no take of killer whales is authorized through this LOA.

In addition, in this case, use of the exposure modeling produces results that are smaller than average GOM group sizes for one species (Maze-Foley and Mullin, 2006). NMFS' typical practice in such a situation is to increase exposure estimates to the assumed average group size for a species in order to ensure that, if the species is encountered, exposures will not exceed the authorized take number. However, other relevant considerations here lead to a determination that increasing the estimated exposures to the average group size would likely lead to an overestimate of actual potential take. In this circumstance, the very short survey duration (maximum of 2 days) and relatively small Level B harassment isopleths produced through use of the 12-element, 2,400-in^3 airgun array (compared with the modeled 72-element, 8,000 in^3 array) mean that it is unlikely that certain species would be encountered at all, much less that the encounter would result in exposure of a greater number of individuals than is estimated through use of the exposure modeling results. As a result, in this case NMFS has not increased the estimated exposure values to assumed average group sizes in authorizing take.

Based on the results of our analysis, NMFS has determined that the level of taking expected for this survey and authorized through the LOA is consistent with the findings made for the total taking allowable under the regulations for the affected species or stocks of marine mammals. See Table 1 in this notice and Table 9 of the rule (86 FR 5322, January 19, 2021).

Small Numbers Determination

Under the GOM rule, NMFS may not authorize incidental take of marine mammals in an LOA if it will exceed ''small numbers.'' In short, when an acceptable estimate of the individual marine mammals taken is available, if the estimated number of individual animals taken is up to, but not greater than, one-third of the best available abundance estimate, NMFS will determine that the numbers of marine mammals taken of a species or stock are small. For more information please see NMFS' discussion of the MMPA's small numbers requirement provided in the final rule (86 FR 5322, 86 FR 5438, January 19, 2021).

The take numbers for authorization, which are determined as described above, are used by NMFS in making the necessary small numbers determinations through comparison with the best available abundance estimates (see discussion at 86 FR 5322, 86 FR 5391, January 19, 2021). For this comparison, NMFS' approach is to use the maximum theoretical population, determined through review of current stock assessment reports (SAR; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and model-predicted abundance information (*https://seamap.env.duke.edu/models/Duke/GOM/*). For the latter, for taxa where a density surface model could be produced, we use the maximum mean seasonal (*i.e.,* 3-month) abundance prediction for purposes of comparison as a precautionary smoothing of month-to-month fluctuations and in consideration of a corresponding lack of data in the literature regarding seasonal distribution of marine mammals in the GOM. Information supporting the small numbers determinations is provided in Table 1.

TABLE 1—TAKE ANALYSIS

Species	Authorized take [1]	Abundance [2]	Percent abundance
Rice's whale	0	51	n/a
Sperm whale	53	2,207	2.4
Kogia spp	[3] 20	4,373	0.4
Beaked whales	232	3,768	6.2
Rough-toothed dolphin	40	4,853	0.8
Bottlenose dolphin	189	176,108	0.1
Clymene dolphin	112	11,895	0.9
Atlantic spotted dolphin	76	74,785	0.1
Pantropical spotted dolphin	510	102,361	0.5
Spinner dolphin	[4] 137	25,114	0.5
Striped dolphin	[4] 44	5,229	0.8
Fraser's dolphin	[4] 13	1,665	0.8
Risso's dolphin	33	3,764	0.9
Melon-headed whale	[4] 74	7,003	1.1
Pygmy killer whale	[4] 17	2,126	0.8
False killer whale	28	3,204	0.9
Killer whale	0	267	n/a
Short-finned pilot whale	[4] 21	1,981	1.1

[1] Scalar ratios were not applied in this case due to brief survey duration.
[2] Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Roberts *et al.,* 2016). For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For Rice's whale and killer whale, the larger estimated SAR abundance estimate is used.
[3] Includes 1 take by Level A harassment and 19 takes by Level B harassment.
[4] Modeled exposure estimate less than assumed average group size (Maze-Foley and Mullin, 2006).

Based on the analysis contained herein of Murphy's proposed survey activity described in its LOA application and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the affected species or stock sizes (*i.e.,* less than one-third of the best available abundance estimate) and therefore the taking is of no more than small numbers.

Authorization

NMFS has determined that the level of taking for this LOA request is consistent with the findings made for the total taking allowable under the incidental take regulations and that the

amount of take authorized under the LOA is of no more than small numbers. Accordingly, we have issued an LOA to Murphy authorizing the take of marine mammals incidental to its geophysical survey activity, as described above.

Dated: October 19, 2023.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–23455 Filed 10–23–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–C–2023–0020]

Formal Tribal Consultation on WIPO IGC Negotiations

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of Tribal Consultation meetings and request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO), Department of Commerce, announces a formal Tribal Consultation, and requests written comments on issues involving genetic resources (GR), traditional knowledge (TK), and traditional cultural expressions (TCEs). These topics are being discussed at the World Intellectual Property Organization (WIPO). Specifically, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore (traditional cultural expressions) (WIPO IGC) is undertaking negotiations regarding how best to protect GR, TK, and TCEs of Indigenous Peoples.

DATES: *Webinar Dates:* The webinar for federally recognized Tribal Nations and their proxies will be held on Tuesday, January 16, 2024, from 3 to 5 p.m. ET and Wednesday, January 17, 2024 from 3 to 5 p.m. ET. The webinar for state recognized Tribes and other Tribal members, Native Hawaiians and their representatives, and inter-tribal organizations, will be held on Friday, January 19, 2024, from 3 to 5 p.m. ET and Tuesday, January 23, 2024, from 3 to 5 p.m. ET. Please register in advance to participate in one of these webinars at: *https://cvent.me/bZRP3L.* After registering, you will receive a confirmation email containing information about joining the meeting. If you are unable to join via the platform, a call-in number also will be provided. The webinar for federally recognized Tribes is open only to federally recognized Tribal Nations and their proxies and is closed to the press. The webinar for state recognized Tribes and other Tribal members, Native Hawaiians and their representatives, and inter-tribal organizations is open only to these entities and communities and is also closed to the press.

Comment Deadline: Written comments pursuant to the questions in this Notice must be received by Friday, February 23, 2024.

ADDRESSES: Written comments may be submitted by email to: *TribalConsultWIPOIGC2023@uspto.gov.* Please use the heading ''WIPO IGC FORMAL TRIBAL CONSULTATION 2023'' in the subject line.

If electronic submission of comments is not feasible due to a lack of access to a computer and/or the internet, please submit comments by First-Class Mail or Priority Mail to: Susan Anthony, Tribal Affairs Liaison, Mail Stop OPIA, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22314–1450.

FOR FURTHER INFORMATION CONTACT: Susan Anthony, Tribal Affairs Liaison, Office of Policy and International Affairs (OPIA), USPTO, at *Susan.Anthony@uspto.gov* or at 571–272–8459. Please direct media inquiries to the USPTO's Office of the Chief Communications Officer at 571–272–8400. These webinars are closed to the media.

SUPPLEMENTARY INFORMATION: The USPTO has been actively engaged in discussions in the WIPO IGC, along with other Federal agencies, and has been responsible for leading the development of U.S. positions on WIPO IGC issues. The USPTO's announcement for formal Tribal Consultation on WIPO IGC issues aligns with the Federal Government's policies and relationship with Tribal Governments, including: Executive Order 13175; [1] President Biden's Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships; [2] President Biden's Memorandum on Uniform Standards for Tribal Consultation; [3] and the Tribal Consultation and Coordination Policy for the U.S. Department of Commerce (''Policy'').[4] The Policy requires that the Department and operating units engage in meaningful dialogue with Tribes regarding policies that have Tribal implications. This Tribal Consultation will consist of a webinar for federally recognized Tribal Nations and their proxies and a separate webinar for state recognized Tribes and other Tribal members, Native Hawaiians, and inter-tribal associations.

In addition to these webinars, the USPTO seeks written comments regarding the questions in this Notice. Written comments may include comments responsive to the questions in this Notice, comments responsive to issues discussed during the webinars, and any other related concerns.

WIPO is a specialized United Nations agency based in Geneva, Switzerland, that focuses on intellectual property (IP). Established in September 2000, the WIPO IGC serves as a forum where WIPO Member States [5] and accredited observers can discuss the intellectual property issues that arise in the context of access to GR and benefit-sharing, as well as the protection of TK and folklore/TCEs.

Since 2009, the WIPO IGC has been engaged in text-based negotiations on an international legal instrument for GR, TK, and TCEs. The U.S. understands the term ''international legal instrument(s)'' in the WIPO IGC mandate [6] to include declarations, recommendations, best practices, toolkits, and other forms of ''soft law'' and actively seeks practical recommendations in addressing the matters under discussion within the WIPO IGC. WIPO also has the authority to initiate norm-setting discussions and to propose international rules for adoption by a diplomatic conference or adoption by another WIPO body. ''International legal instrument(s)'' could also include a treaty or international agreement, although there is no requirement that prescribes this particular outcome. This request for comments seeks Tribal input on, among other topics, whether a treaty or forms of soft law are necessary to address issues regarding TK and TCEs.

The WIPO General Assembly, held in Geneva, Switzerland, on July 14–22, 2022, decided to convene a diplomatic conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources, based on document

[1] *www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-Indian-tribal-governments/.*

[2] *www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/.*

[3] *www.whitehouse.gov/briefing-room/presidential-actions/2022/11/30/memorandum-on-uniform-standards-for-tribal-consultation/.*

[4] *www.commerce.gov/sites/default/files/media/files/2013/tribal-consultation-final.pdf.*

[5] WIPO currently has 193 Member States: *www.wipo.int/members/en/.*

[6] The current ''IGC Mandate'' may be found at: *www.wipo.int/tk/en/igc.* As of this writing, the IGC Mandate covers the biennium 2024/2025.

WIPO/GRTKF/IC/43/5 (the Chair's text) and any other contributions by Member States. The diplomatic conference is to be held no later than 2024.[7] In September 2023, a special session of the IGC was held to close certain existing gaps in the text to the extent possible. The special session of the IGC was able to agree on only minor changes to the original Chair's text. Also in September 2023, a Preparatory Committee of the Diplomatic Conference convened and adopted rules of procedure for the diplomatic conference.[8] Tribes also may wish to review the USPTO **Federal Register** Notice on WIPO IGC Negotiations on Genetic Resources and associated Traditional Knowledge.

In July 2023, the WIPO General Assembly also decided to continue the WIPO IGC text-based negotiations on IP and the protection of TK and TCEs in the 2024–2025 biennium. Under its current mandate, the WIPO IGC meets three times per year, with each meeting typically lasting for one week, at the WIPO headquarters in Geneva, Switzerland.[9] Participants are WIPO Member States [10] and various accredited Observers.[11] The USPTO, in consultation with other Federal agencies,[12] has been leading the development of United States positions on issues before the WIPO IGC. This request for comments seeks Tribal input to inform the U.S. Government as it participates in the ongoing WIPO IGC meetings on TK/TCEs and in meetings related to the anticipated diplomatic conference in 2024 on GR and associated TK.

On June 28, 2022, the USPTO hosted a webinar providing background information on the WIPO IGC text-based negotiations to assist American Indians, Alaska Natives, and Native Hawaiians and their representatives in preparing for this Tribal Consultation. The webinar outlined the Federal Government's positions on issues involving IP and GR, TK, and TCEs, and opportunities for Tribal input with respect to the WIPO IGC and with the Federal Government. Links to this webinar and to WIPO IGC resources mentioned in the webinar can be found under ''Resources'' below.

Definitions. While ''Genetic Resources'' is defined in the Convention on Biological Diversity (CBD) as ''genetic material of actual or potential value'' and ''genetic material'' is defined as ''any material of plant, animal, microbial or other origin containing functional units of heredity,'' [13] the term GR has not been given an agreed upon definition in the WIPO IGC. Definitions of TK and TCEs are not the subject of international agreement and remain under discussion in the WIPO IGC. For purposes of providing supplementary information only, possible attributes of TK might include, but are not limited to, knowledge that is passed from generation to generation, in fixed or unfixed form, and linked with the national or social identity of Indigenous Peoples and local communities. TK might include know-how, skills, innovations, practices, teachings, and learning. Attributes of TCEs might include, but are not limited to, subject matter that is passed from generation to generation, usually in unfixed form but not necessarily, based on community-oriented creativity and generally not attributable to individual authors, and continuously used and developed within the community. TCEs might take the forms of literature, music, dance, games, mythology, rituals, and handicrafts. TCEs may also encompass religious and sacred texts, arts and customs, other expressions of faith, and ancient beliefs. Some forms of TCEs may be considered secret or sacred, while others may be routinely used commercially.

The issue of ''public domain'' is a fundamental concept in the WIPO IGC TCEs and TK discussions, defining the boundary between the interests of holders of exclusive rights and the ability of others, including the public, to access and use the subject matter to be protected. Each type of intellectual property—patent, trade secret, trademark, and copyright—recognizes a form of public domain. Various approaches to defining the public domain have been considered in the WIPO IGC, including in WIPO IGC 40: ''Public domain refers for the purposes of this instrument to tangible and intangible materials that by their nature are not or may not be protected by established intellectual property rights or related forms of protection by the legislation in the country where the use of such material is carried out.'' Indigenous Peoples within the WIPO IGC have expressed concern that defining the public domain is not susceptible to a uniform dividing line between protected and unprotected elements and must be more elastic. While WIPO IGC Member States generally have familiarity with the concept of public domain in intellectual property, they may not have experience in creating exclusive rights around TK or TCEs. Thus, taking TK or TCEs out of the public domain remains a principal issue of discussion within the WIPO IGC.

Request for information: While the USPTO welcomes any relevant comments on the topics described in this Request for Comments, the USPTO is particularly interested in comments responsive to the questions below. A non-exclusive list of WIPO IGC resources on the WIPO website—*WIPO.int*—and the USPTO website—*USPTO.gov*—follows the questions below and may provide useful background information in considering these questions. When responding to the questions, please identify yourself and either your Tribal Government or that you are a Native Hawaiian. If you are a Tribal or Native Hawaiian representative, please identify yourself, whom you represent, and your involvement to date, if any, in the WIPO IGC in person or virtually. Commenters need not respond to every question and may provide relevant information, even if not responsive to a particular question. For purposes of the Questions for Comment below, please note that ''Tribe'' is intended to refer to Tribal Nations, state recognized Tribes, other Tribes, and Native Hawaiians.

Questions for Comment

1. Please describe how Tribes protect genetic resources, traditional knowledge, and/or traditional cultural expressions.

2. Please describe your views on using the framework of intellectual property concepts and laws, such as patents, trademarks, copyrights, or trade secrets, to protect genetic resources, traditional knowledge, and/or traditional cultural expressions.

[7] The WIPO Press Release can be found at: *www.wipo.int/diplomatic-conferences/en/genetic-resources/index.html.*

[8] *Id.*

[9] The IGC resumed its negotiations in a hybrid format after a pause of two years caused by the COVID–19 pandemic, at the 42nd session, February 28 to March 4, 2022.

[10] See Member States at: *www.wipo.int/members/en/.*

[11] See Participating in the IGC at: *www.wipo.int/tk/en/igc/participation.html.* The Observers include Indigenous Peoples and local communities throughout the world. Among the Tribal Nations, the Tulalip Tribes of Washington, through its Governmental Affairs Department, is an accredited organization able to participate in person or virtually both orally and, through the Secretariat, in writing. Funding for Indigenous Peoples and local communities to participate in person may be available through the WIPO Voluntary Fund, upon timely application.

[12] These Federal agencies typically include the American Folklife Center at the Library of Congress, the International Trade Administration, the U.S. Department of Commerce, the U.S. Copyright Office, the U.S. Department of the Interior, and the U.S. Department of State.

[13] See Article 2 in Home | Convention on Biological Diversity at: *www.cbd.int.* The U.S. is not a member of the CBD, but accepts these definitions for purposes of the work in the WIPO IGC.

3. Please describe your views regarding using any other means to protect genetic resources, traditional knowledge, and/or traditional cultural expressions. Please also include your views regarding:

a. whether eligibility criteria should be used to determine which types of traditional knowledge, traditional cultural expressions, and/or genetic resources would be protected and, if so, what criteria should be used, and

b. what parameters, if any, should be placed on the scope or term of protection for traditional knowledge, traditional cultural expressions, and/or genetic resources.

4. Please describe your views regarding whether an international treaty should be pursued to protect genetic resources, traditional knowledge and/or traditional cultural expressions. If so, please describe your views on what essential elements or conditions would be necessary to include in an international treaty to ensure protection of genetic resources, traditional knowledge and/or traditional cultural expressions.

5. The WIPO IGC has not come to any conclusions about how to define ''traditional knowledge.'' Please describe how you would recommend defining ''traditional knowledge'' or, alternatively, please provide your views regarding the attributes of traditional knowledge.

6. The WIPO IGC has not come to any conclusions about how to define ''traditional cultural expressions.'' Please describe how you would recommend defining ''traditional cultural expressions'' or, alternatively, please provide your views regarding the attributes of traditional cultural expressions.

7. The WIPO IGC has not come to any conclusions about how to define ''public domain.''

a. Please describe how you would recommend defining ''public domain.''

b. Please share your views regarding how the concept of ''public domain'' relates to genetic resources, traditional knowledge, and/or traditional cultural expressions.

8. Please share your views regarding whether genetic resources, traditional knowledge, and/or traditional cultural expressions that have been widely diffused to the public are capable of protection, whether they should be protected, and, if so, how they should be protected, including any specific examples you may have. Please also share your views on whether there should be any exceptions to such protection.

9. Please share your views regarding whether genetic resources, traditional knowledge, and/or traditional cultural expressions that have been widely diffused to the public can continue to impact holders and, if so, please share any specific examples you may have.

10. Please describe your recommendations, if any, on how to identify traditional knowledge that has entered the public domain and, therefore, may be freely used by others.

11. Please describe your recommendations, if any, on how to identify traditional cultural expressions that have entered the public domain and, therefore, may be freely used by others.

12. Please describe your recommendations, if any, on how to identify genetic resources that have entered the public domain and, therefore may be freely used by others.

13. Please describe the circumstances, if any, in which a holder of a traditional cultural expression, genetic resource, and/or traditional knowledge might be interested in permitting third party use. Please include your views regarding:

a. what conditions or requirements a holder might place on third parties in exchange for granting permission for such use;

b. how a third party, interested in potential use, could determine whether something is a traditional cultural expression, genetic resource, or traditional knowledge, and who holds it; and

c. who, with respect to the holder of a traditional cultural expression, genetic resource, or traditional knowledge, would be the appropriate authority to control, or grant permission for, such third-party use.

14. Please describe real-world examples, if any, in which a Tribe has authorized others to commercially use its traditional cultural expressions, genetic resources, or traditional knowledge.

15. Please describe your views and any recommendations, including any real-world examples, regarding the use by third parties of genetic resources, traditional knowledge, and/or traditional cultural expressions for research.

16. Please describe your views and any recommendations, including any real-world examples, regarding the use of genetic resources, traditional knowledge, and/or traditional cultural expressions by archives, libraries, museums, or cultural institutions.

17. Please describe your views regarding how the unauthorized use of traditional knowledge, traditional cultural expressions, and/or genetic resources impacts Tribes, including any real-world examples.

18. Please provide your recommendations, including any real-world examples, regarding how best to address unauthorized uses of genetic resources, traditional knowledge, and/or traditional cultural expressions.

Resources

Below is a non-exclusive list of WIPO IGC resources on the World Intellectual Property Organization website, *WIPO.int*, that may be useful in answering the above questions. In addition, the USPTO hosted a webinar on June 28, 2022, providing information about the WIPO IGC text-based negotiations to assist American Indians, Alaska Natives, and Native Hawaiians in preparing for this Tribal Consultation. A recording of the webinar can be found here: *https://www.uspto.gov/ip-policy/patent-policy/uspto-formal-tribal-consultation-preview.* The *USPTO.gov* website also contains information about intellectual property, including ''IP eLearning modules'' on intellectual property protection and enforcement.

Report of Indigenous Expert Workshop on Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions, dated February 26, 2023, can be found here: *https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=601231.*

Documents for the WIPO IGC meeting on June 5–9, 2023, including the latest traditional knowledge (TK) and traditional cultural expressions (TCEs) texts, can be found here: *www.wipo.int/meetings/en/details.jsp?meeting_id=75419.*

IGC 47 Summary can be found here: *www.wipo.int/tk/en/news/igc/2023/news_0005.html.*

The Non-paper Chair's Text of a Draft International Legal Instrument relating to Intellectual Property and Traditional Knowledge/Traditional Cultural Expressions:

The First Draft, dated February 21, 2023, can be found here: *www.wipo.int/meetings/en/doc_details.jsp?doc_id=600911.*

The Second Draft, dated May 26, 2023, can be found here: *www.wipo.int/meetings/en/details.jsp?meeting_id=75419.*

WIPO IGC Press Release: WIPO Member States Approve Diplomatic Conferences for Two Proposed Accords, dated July 21, 2022, can be found here: *www.wipo.int/pressroom/en/articles/2022/article_0009.html.*

Text associated with the announcement of the Diplomatic

Conference on Intellectual Property and Genetic Resources: ''Substantive articles'' (Articles 1 through 9) from WIPO/GRTKF/IC/43/5 Chair's Text of a Draft International Legal Instrument relating to Intellectual Property, Genetic Resources and Traditional Knowledge associated with Genetic Resources: Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore: Forty-Third Session (*wipo.int*), as revised in the Special Session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, September 4–8, 2023, is included as the Annex to document WIPO/GRTKF/IC/SS/GE/23/4 on the Decisions adopted by the Committee on genetic resources and associated traditional knowledge, and can be found here: *www.wipo.int/meetings/en/doc_details.jsp?doc_id=620066.*

General Information on the Diplomatic Conference on Intellectual Property and Genetic Resources can be found here: *www.wipo.int/diplomatic-conferences/en/genetic-resources/index.html.*

Note that documents for all WIPO IGC meetings can be found here: *www.wipo.int/meetings/en/topic.jsp?group_id=110&items=10.*

WIPO Publication: Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions can be found here: *www.wipo.int/edocs/pubdocs/en/wipo_pub_933_2020.pdf.*

WIPO Publication: Protect and Promote Your Culture A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities can be found here: *www.wipo.int/publications/en/details.jsp?id=4195.*

WIPO Webinar Series: How to Protect and Promote Your Culture can be found here: *www.wipo.int/tk/en/protect_and_promote.html.* These webinars focus on intellectual property (IP) tools that can be used to protect and promote traditional knowledge (TK) and traditional cultural expressions (TCEs).

Documents describing key issues related to protecting traditional cultural expressions (TCE)/folklore and traditional knowledge (TK) can be found here: *www.wipo.int/tk/en/igc/issues.html.*

Presentations on Indigenous and Local Community Experiences can be found here: *www.wipo.int/tk/en/igc/panels.html.* See also Indigenous Peoples and Local Communities' Engagement: *www.wipo.int/tk/en/engagement.html.*

IGC Related Seminars, on intellectual property and genetic resources, on IP and traditional knowledge, and on IP and traditional cultural expressions can be found here: *www.wipo.int/tk/en/igc/related_seminars.html.*

Views from Speakers at the Seminar on Intellectual Property and Traditional Cultural Expressions, on June 8 and 9, 2017, can be found here: *www.wipo.int/tk/en/news/tk/2017/news_0009.html.*

P. Jaszi, ''Protecting traditional cultural expressions—some questions for lawmakers,'' WIPO Magazine, dated August 2017, can be found here: *www.wipo.int/export/sites/www/wipo_magazine/en/pdf/2017/wipo_pub_121_2017_04.pdf.*

Information on how to participate in the IGC, including virtually, can be found here: *www.wipo.int/tk/en/igc/participation.html.* Note that organizations requesting to be accredited as an observer at the IGC must complete an accreditation form and submit it to WIPO at least 60 days prior to the first session that it wishes to attend.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2023–23386 Filed 10–23–23; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–C–2023–0019]

WIPO IGC Negotiations on Genetic Resources and Associated Traditional Knowledge

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO), Department of Commerce, requests public comments on certain text-based negotiations before the World Intellectual Property Organization (WIPO) Intergovernmental Committee (IGC) on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore (Traditional Cultural Expressions). WIPO will organize a diplomatic conference to negotiate a treaty focusing on intellectual property (IP), genetic resources (GRs), and traditional knowledge (TK) associated with GRs no later than 2024. Public comments are requested regarding the negotiations on genetic resources and associated traditional knowledge.

DATES: The written comment period will begin on October 24, 2023, and end on January 22, 2024.

ADDRESSES: For reasons of Government efficiency, comments should be submitted through the Federal eRulemaking Portal at *https://www.regulations.gov.* To submit comments via the portal, enter docket number PTO–C–2023–0019 on the homepage and click ''Search.'' The site will provide a search results page listing all documents associated with this docket. Find a reference to this request for information and click on the ''Comment'' icon, complete the required fields, and enter or attach your comments. Attachments to electronic comments will be accepted in Adobe® portable document format or Microsoft Word® format. Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included.

Visit the Federal eRulemaking Portal (*www.regulations.gov*) for additional instructions on providing comments via the portal. If electronic submission of comments is not feasible due to a lack of access to a computer and/or the internet, please submit comments by First-Class Mail or Priority Mail to: Paolo M. Trevisan, Patent Attorney, Mail Stop OPIA, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Paolo M. Trevisan, Patent Attorney, USPTO, Office of Policy and International Affairs (OPIA), at 571–272–7110.

SUPPLEMENTARY INFORMATION: WIPO is a specialized United Nations agency based in Geneva, Switzerland, that focuses on intellectual property. Established in September 2000, the WIPO IGC serves as a forum where WIPO Member States [1] and accredited observers can discuss and address the intellectual property issues that arise in the context of access to GRs and benefit-sharing as well as the protection of TK and traditional cultural expressions (TCEs).

Since 2009, the WIPO IGC has been engaged in separate text-based negotiations on (1) an international legal instrument for the protection of genetic resources and associated traditional knowledge and (2) an international legal instrument for TK and TCEs. The United States understands the term ''international legal instrument'' in the

[1] WIPO currently has 193 Member States (*www.wipo.int/members/en/*).

WIPO IGC mandate [2] to include declarations, recommendations, best practices, toolkits, and other forms of ''soft law'' and actively seeks a practical outcome. WIPO also has the authority to initiate norm-setting discussions and to propose international rules for adoption by a diplomatic conference or by another WIPO body. Thus the phrase ''international legal instrument(s)'' could also include a treaty or international agreement, although there is no requirement that prescribes this particular outcome.

During the 42nd and 43rd sessions of the WIPO IGC held in Geneva in 2022, the IGC completed its designated sessions on Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources for the 2022/2023 biennium. These sessions made some progress and achieved a level of convergence around document WIPO/GRTKF/IC/43/4, the ''Consolidated Document Relating to Intellectual Property and Genetic Resources'' (the consolidated text). The consolidated text had been drafted and revised through negotiations between the WIPO Member States over an extended period of time, during multiple meetings of the IGC. This document reflected the many divisions and differences of views on key concepts and definitions among the participants to the sessions.

The previous Chair of the IGC, Mr. Ian Goss of Australia, drafted document IPO/GRTKF/IC/43/5, the ''Chair's Text of a Draft International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources'' (the Chair's text), on his own authority, based on his interpretation of discussions between Member States.

The current Chair, Ms. Lilyclaire Bellamy of Jamaica, made the Chair's text available to Member States during IGC 43 as a text for discussion but not for negotiation. Both the Chair's text and the consolidated text include provisions for a mandatory disclosure requirement of the country of origin/source of genetic resource(s) in a patent application where the claimed invention is based on genetic resources. While the term GR is defined in the Convention on Biological Diversity (CBD) [3] as ''all genetic material of actual or potential value,'' and that definition is used in the non-negotiated Chair's text with the footnote that it is '' . . . not intended to include ''human genetic resources''.'', the term GR has not been given an agreed definition in the consolidated text.

At its Fifty-Fifth (30th Extraordinary) Session, held in Geneva on July 14–22, 2022, the WIPO General Assembly decided to convene a diplomatic conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources, based on document WIPO/GRTKF/IC/43/5 (the Chair's text) and any other contributions by Member States. The diplomatic conference is to be held in 2024.

A Preparatory Committee of the Diplomatic Conference was convened in September 2023 to establish the procedures for the diplomatic conference and also consider ''administrative provisions and final clauses'' of the instrument drafted by the WIPO Secretariat (Articles 10 through 23). A special session of the IGC was also convened in September 2023, preceding the Preparatory Committee, to close any existing gaps in ''substantive articles'' (Articles 1 through 9) of the Chair's text to the extent possible. The Preparatory Committee and special session concluded with the adoption of rules of procedure for the diplomatic conference but with only minor changes to the ''substantive articles'' of the Chair's text and ''administrative provisions and final clauses'' from the WIPO Secretariat, reflecting the significant differences in interests between the parties involved, which will have to be addressed in further negotiations at next year's diplomatic conference.

Within the U.S. Government, the USPTO, based on authority delegated by the State Department, takes the lead in the WIPO IGC among other Federal agencies and coordinates and develops U.S. positions on issues before the WIPO IGC. The text-based negotiations before the WIPO IGC include the protection of genetic resources and associated traditional knowledge. These negotiations may result in changes to requirements for filing patent applications and for challenging patent rights.

The WIPO IGC will also continue its text-based negotiations on IP and the protection of TK and TCEs to the renewed mandate of the IGC for the biennium 2024/2025 as decided by the WIPO General Assembly at the 64th Series of Meetings of the Assemblies of the Member States of WIPO held July 6–14, 2023.

Request for Comments

This request for comments seeks public and stakeholder input to inform U.S. Government participation in the ongoing WIPO IGC meetings and in anticipation of a diplomatic conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources, expected to be held in 2024.

In addition, this request for comments seeks input to inform the U.S. Government as it participates in the ongoing WIPO IGC meetings on TK/TCEs.

The following is particularly useful in forming an understanding of the issues under discussion, and in answering the questions below.

Both the Chair's text and the consolidated text include provisions for mandatory disclosure requirements of the country of origin or source of GR and associated TK (ATK) in a patent application where the claimed invention is based on GR. Article 29.1 of the TRIPS Agreement provides that TRIPS member countries must require a patent applicant to disclose the invention in a manner that is sufficiently clear and complete for the invention to be carried out by a person skilled in the art. The term ''disclosure requirements,'' which is expected to be addressed by the diplomatic conference, generally refers to additional requirements that would include the source or origin of the GR and associated TK as part of the patent application. Details of the disclosure requirements have not been agreed to as part of the Chair's text nor the consolidated text.

These additional requirements to disclose the source or origin of the GR and associated TK as part of a patent application involve a number of issues that likely will be the subject of negotiations at the upcoming diplomatic conference, some of which are highlighted below.

A. Definition of Genetic Resources

''Genetic resources'' are defined in the Convention on Biological Diversity (CBD) as ''genetic material of actual or potential value'' wherein ''genetic material'' is defined as ''any material of plant, animal, microbial or other origin containing functional units of heredity.'' Agreement has yet to be reached by the

[2] The current ''IGC Mandate'' may be found at: Intergovernmental Committee (IGC) (*wipo.int*) (*www.wipo.int/tk/en/igc*). The current IGC Mandate covers the biennium 2024/2025. *https://www.wipo.int/export/sites/www/tk/en/igc/docs/igc-mandate-2024-2025.pdf.*

[3] See Article 2 in *Home | Convention on Biological Diversity* (*cbd.int*) (*www.cbd.int*). The United States is not a member of the CBD, but accepts these definitions for purposes of the work in the WIPO IGC.

IGC on the definition of ''genetic resources'' in the Chair's text or the consolidated text.

B. Content of Disclosure

The content of what is required to be disclosed in a patent application with respect to the mandatory disclosure requirements has been the topic of much debate in the IGC negotiations. Under different versions, patent applicants may be required to disclose:

- the country of origin of the GRs;
- the source of the GRs (for example, a gene bank that provided genetic material);
- the legal provenance of the GRs (the chain of custody pursuant to legal authority);
- the legal status of the GRs and/or ATK, such as compliance with any legal obligations relating to access and benefit-sharing or prior informed consent for accessing and using GRs; and
- a due diligence declaration that the applicant has complied with all applicable legal requirements concerning access to and use of GRs and/or ATK.

Agreement has yet to be reached on the definition of ''content.''

C. Disclosure Triggers

The application of patent disclosure requirements in the Chair's text and the consolidated text is dependent on a ''trigger'' or link between the claimed invention and relevant GRs or ATK—that is, the relationship with the subject matter of disclosure.

The trigger may bring about or give rise to the disclosure requirements in response to various situations, such as:

- whether the GR/ATK is incidental or material to the development of the invention;
- whether the GR/ATK is necessary to assess, understand, replicate, or carry out the invention, or the GR/ATK is in effect only a vehicle for a separate innovative concept;
- whether the GR/ATK contributes to one earlier step in a chain of innovations that over time culminated in the invention, or is a direct input to the claimed inventive step;
- whether particular qualities of the GR/ATK are essential to the invention; and
- whether a GR/ATK is used in a particular embodiment or one example in a description of the invention, but is not indispensable to arrive at or replicate the invention as claimed.

There has yet to be agreement on a definition of the ''trigger.''

D. Remedies and Sanctions

Agreement has yet to be reached regarding the sanctions and/or remedies for non-compliance with the disclosure requirements. A wide range of remedies and sanctions for non-compliance is provided in the national laws of jurisdictions across the globe. These range from administrative sanctions to the denial, revocation or finding of unenforceability of a patent.

Depending on the final form of this provision in the instrument which may result from the diplomatic conference, and its potential implementation in various countries, the sanctions could include rendering a patent unenforceable for non-compliance with the disclosure requirement. This could be analogous to the operation of the USPTO Rule 56 (37 CFR 1.56) relating to inequitable conduct.

Request for Comments

The USPTO welcomes any relevant comments on the topics described in this Request for Comments. However, the USPTO is particularly interested in comments responsive to the questions below. When responding to the questions, please identify yourself. Commenters need not respond to every question and may provide relevant information even if it is not responsive to a particular question.

Questions for Comment

Section I—Observations and Experiences

1. Have you or any of your members, partners, co-workers, legal representatives or clients filed for patent protection in a jurisdiction that requires disclosure of the source of genetic resources and associated traditional knowledge in a patent application seeking protection for inventions based on genetic resources (hereafter ''patent disclosure requirement'')? If yes, to the extent possible, please identify the jurisdiction(s) that required disclosure and describe the circumstances and your experiences associated with satisfying the patent disclosure requirement in that jurisdiction.

2. How would you characterize the level of difficulty in complying with the aforementioned patent disclosure requirement? Please describe any anticipated or unanticipated problems that resulted or may result from the disclosure itself or the associated requirement for the disclosure.

3. Please describe how your experiences with the patent disclosure requirement in the aforementioned jurisdiction or other jurisdictions across the globe affect your business. Where possible, please identify the jurisdiction as well as any relevant details of the patent disclosure requirement.

4. Please identify any type of patent disclosure requirement, in the context of Genetic Resources and Traditional Knowledge, you believe is necessary and any benefits or detriments stemming from a patent disclosure requirement.

5. Please identify any instances where you are aware of patent rights—yours, someone you represent or another party's—being impacted by the existence of a patent disclosure requirement, including but not limited to, any loss of rights, additional costs or other negative impacts.

6. Please share whether or not the existence of a patent disclosure requirement was (or is) a consideration in pursuing patent protection on an invention in a given jurisdiction. Please provide details in relation to relevant technologies where this may be a consideration as well as alternative actions you took or would take in lieu of pursuing patent protection in the jurisdiction.

Section II—Need and Effectiveness of a Patent Disclosure Requirement for Genetic Resources and Traditional Knowledge

7. Do you believe the patent system—through the use of a patent disclosure requirement in jurisdictions where such requirement exists—has been an effective regulator of access and benefit sharing for genetic resources? Please explain.

8. Do you believe that a patent disclosure requirement would enable interested groups to locate information on the use of a country's genetic resources? Please explain.

9. Where a claimed invention is based on genetic resources, please identify the appropriate range of subject matter of genetic resources that should be within the scope of a disclosure requirement.

10. Please comment on the effectiveness of the following options relating to disclosure of genetic resources and/or traditional knowledge associated with genetic resources in a patent application:

a) Disclosure when genetic resource information is material to patentability.

b) Voluntary disclosure of genetic resource information.

c) Disclosure requirement if the genetic resource information is known.

d) Mandatory disclosure requirement in all instances when an invention is based on genetic resources.

e) Disclosure of access and benefit sharing compliance.

f) Compliance/non-compliance with a disclosure requirement.

11. Please describe your views on what trigger mechanism should be used, if any, for a patent disclosure requirement pursuant to the Chair's text or the consolidated text.

12. Please describe your views on what a patent applicant should be compelled to disclose in a patent application, in the context of a patent disclosure requirement.

13. Please describe your views on whether a patent disclosure requirement should include provisions that impact the grant or the validity and enforceability of a patent in cases of non-compliance with a disclosure requirement.

14. Please describe your views on the current working text for an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources, which has been approved for consideration by the Diplomatic Conference. Please describe recommendations, if any, for additions, deletions or changes that you would recommend to Articles 1 through 9 (''substantive articles'') from the Chair's text and Articles 10 through 23 (''administrative provisions and final clauses'') drafted by the WIPO Secretariat, including whether any language from the ''consolidated text,'' a previous working text in these discussions, should be incorporated into or replace the current working text. These texts can be found at the links below:

a) Current working text ''substantive articles'' (Articles 1 through 9 from the WIPO IGC ''Chair's text''), as revised in the Special Session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, held in Geneva on September 4–8, 2023, is included as the Annex to document WIPO/GRTKF/IC/SS/GE/23/4 on the Decisions adopted by the committee on genetic resources and associated traditional knowledge, which can be found on the WIPO website, *https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=620066.*

b) Current working text ''administrative provisions and final clauses'' are contained in GRATK/PM/2, which can be found on the WIPO website, *https://www.wipo.int/edocs/mdocs/diplconf/en/gratk_pm/gratk_pm_2.pdf,* with a minor revision to delete ''to advise it on the matters referred to in Articles [7] and [9], and on any other matter'' in Article 11.2(e), as reflected in Summary Report of the Preparatory Committee, which can be found on the WIPO website, *https://www.wipo.int/edocs/mdocs/diplconf/en/gratk_pm/gratk_pm_5.pdf.*

c) The latest consolidated text, contained in the Annex to document WO/GRTKF/IC/43/4, which can be found on the WIPO website, *https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_43/wipo_grtkf_ic_43_4.pdf.*

15. Please describe whether you believe any additional requirements, in particular a mandatory disclosure requirement relating to genetic resources and associated traditional knowledge, would negatively impact your patent filing strategy in overseas markets, your ability to protect innovation, or your business and investment strategy.

Section III—Need and Effectiveness of Sui Generis Exclusive Rights, Intellectual Property Rights, or Other Methods for Protecting Traditional Knowledge and Traditional Cultural Expressions

16. Please describe your views and experiences regarding the use of *sui generis* exclusive rights to protect traditional knowledge and traditional cultural expressions.

17. Please describe your views and experiences regarding the use of intellectual property rights to protect traditional knowledge and traditional cultural expressions.

18. Please describe your views and experiences regarding the use of means or methods other than *sui generis* exclusive rights or intellectual property rights to protect traditional knowledge and traditional cultural expressions. Among other means and methods, this could include soft law, such as declarations, recommendations, best practices, toolkits, and voluntary codes of conduct.

19. Please provide your recommendations regarding how best to address unauthorized uses of traditional knowledge or traditional cultural expressions.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2023–23387 Filed 10–23–23; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (''PRA''), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Information and Regulatory Affairs (''OIRA''), of the Office of Management and Budget (''OMB''), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before November 24, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at *https://www.reginfo.gov/public/do/PRAMain.* Please find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the website's search function. Comments can be entered electronically by clicking on the ''comment'' button next to the information collection on the ''OIRA Information Collections Under Review'' page, or the ''View ICR—Agency Submission'' page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *https://www.reginfo.gov/public/do/PRAMain.*

In addition to the submission of comments to *https://Reginfo.gov* as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') by clicking on the ''Submit Comment'' box next to the descriptive entry for OMB Control No. 3038–0059, at *https://comments.cftc.gov/FederalRegister/PublicInfo.aspx.*

Or by either of the following methods:

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according

to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Andrew Stein, Assistant Chief Counsel, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418–6054, email: *astein@cftc.gov,* and refer to OMB Control No. 3038–0059.

SUPPLEMENTARY INFORMATION:

Title: Part 41 Relating to Security Futures Products (OMB Control No. 3038–0059). This is a request for extension of a currently approved information collection.

Abstract: Section 4d(c) of the Commodity Exchange Act (''CEA''), 7 U.S.C. 6d(c), requires the CFTC to consult with the Securities and Exchange Commission (''SEC'') and issue such rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations applicable to firms that are fully registered with the SEC as brokers or dealers and the CFTC as futures commission merchants, involving provisions of the CEA that pertain to the treatment of customer funds. The CFTC, jointly with the SEC, issued regulations requiring such dually-registered firms to make choices as to how its customers' transactions in security futures products will be treated, either as securities transactions held in a securities account or as futures transactions held in a futures account. How an account is treated is important in the unlikely event of the insolvency of the firm. Only securities accounts receive insurance protection under provisions of the Securities Investor Protection Act. By contrast, only futures accounts are subject to the protections provided by the segregation requirements of the CEA.

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.[2] The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 9, 2023 (88 FR 53871). The Commission did not receive any relevant comments pursuant to the 60-Day Notice.

Burden Statement: The respondent burden for this collection is estimated to average .9 hours per response. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Affected Entities: Entities potentially affected by this action are businesses and other for-profit institutions.

Respondents/Affected Entities: 9.

Estimated average burden hours per respondent: 52 hours (rounded).

Estimated total annual burden on respondents: 467 hours.

Frequency of collection: On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: October 18, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–23399 Filed 10–23–23; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

[2] 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting Notice—Military Justice Review Panel

AGENCY: General Counsel of the Department of Defense, Department of Defense (DoD).

ACTION: Notice of meeting.

SUMMARY: The DoD is publishing this notice to announce that the Military Justice Review Panel will host an open meeting on October 24–25, 2023. This meeting will be held virtually.

DATES: October 24, 2023—Open to the public from 2:30 p.m. to 4:30 p.m. (EST) and October 25, 2023—Open to the public from 11:15 a.m. to 1:00 p.m. (EST).

ADDRESSES: This virtual meeting can be accessed via the following dial-in number and links:

Dial-in: +1 646 828 7666, Meeting ID: 161 535 0618 Passcode: 654321. Link: *https://www.zoomgov.com/j/1615350618?pwd=NFowUHFKSVQvOUprZUFaOVd6RmxJZz09.*

Meeting ID: 161 535 0618 Passcode: 654321. For those who would like to attend, please send registration information to *whs.pentagon.em.mbx.mjrp@mail.mil,* providing your name, email, organization (if applicable), and telephone number.

FOR FURTHER INFORMATION CONTACT: Mr. Pete L. Yob, 703–693–3857 (Voice), *louis.p.yob.civ@mail.mil* (Email). Mailing address is MJRP, One Liberty Center, 875 N Randolph Street, Suite 150, Arlington, Virginia 22203. The most up-to-date changes to the meeting agenda can be found on the website: *https://mjrp.osd.mil.*

SUPPLEMENTARY INFORMATION: Pursuant to 5521 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017, as amended by § 531(k) of the FY 2018 NDAA, the Secretary of Defense established this panel to conduct independent periodic reviews and assessments of the operation of the Uniform Code of Military Justice (UCMJ). 10 U.S.C. 946. Art. 146 (effective Jan 1, 2019).

Purpose of the Meeting: Pursuant to UCMJ, Article 146, the Panel shall conduct independent periodic reviews and assessments of the operation of the UCMJ, including the review and assessment of the implementation of amendments made to the UCMJ and sentencing data. This will be the seventh meeting held by the MJRP. On Day 1, the Panel will hear from Service defense counsel. On Day 2, Panel members will hold two open sessions. The first session will be composed of Service trial counsel; and for the second open session, the Panel will receive a briefing from representatives from the Joint Service Committee on Military Justice on the recent military justice Executive Order.

Dated: October 19, 2023.

Natalie M. Ragland,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–23482 Filed 10–23–23; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0100]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness

(OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 26, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to, Assistant Secretary of Defense for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301, Ms. Kimberly Lahm, 703–681–8184, *dha.ncr.healthcare-ops.mbx.ha-womens-health-policy@health.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Understanding Service Member Experiences with Family Planning; OMB Control Number: 0704–SMFP.

Needs and Uses: The recent Supreme Court decision in *Dobbs* v. *Jackson Women's Health* removed the Constitutional right to abortion. In its wake, several states banned or severely restricted access to abortion, and several more states are poised to do so. In addition to restricting access to abortion, the Dobbs decision raises questions about miscarriage and infertility care. Several of the states that have severely restricted access to or banned abortion are also home to large military instillations. This raises questions about service member access to abortion care, as well as a range of family planning options. There is little existing research on service members' experiences with family planning.

Building on prior experience executing the DoD Women's Reproductive Health Survey (WRHS) and other research on the health and health behaviors of service members (*e.g.,* the Health Related Behaviors Survey [HRBS]), RAND National Defense Research Institute (NDRI) will conduct a series of focus groups with men and women across DoD service branches (Air Force, Army, Marine Corps, Navy, and Space Force) to augment this survey data and better understand how service members experience family planning both within the Military Health System and via community providers. These focus groups will also gather information on service members' experiences with any new policies that the DoD unveils in response to the Dobbs decision.

This study will highlight areas related to family planning that may threaten the DoD's ability to field a ready and lethal force. It will also point to areas where DoD may need to augment or develop care, programs, services, or policies that provide needed reproductive health care and family planning services to the force in order to maintain and enhance health, readiness, retention, and lethality.

Affected Public: Individuals and households.

Annual Burden Hours: 4,800.

Number of Respondents: 4,800.

Responses per Respondent: 1.

Annual Responses: 4,800.

Average Burden per Response: 1 hour.

Frequency: Once.

The purpose of the data collection effort is to better understand service members experiences with family planning services provided by both DoD and community providers. Respondents include approximately 4,800 active duty service members from all service branches (below the rank of flag officer) at 24 CONUS installations. Data will be collected via 60-minute focus group. These focus groups will be in-person, conducted separately by gender (*i.e.,* men vs women) and rank (*i.e.,* E1–E4, E5–E6, E7–E9/W1–W5, O1–O3, O4–O5, O6). Each group will be led by one facilitator and include one notetaker. Consent will be obtained verbally at the beginning of each session and each participant will receive an information sheet containing the consent information. A recruitment flyer will be used to assist installation POCs with recruitment.

Dedicated notetakers will take verbatim notes during each focus group and discussion. These notes will be immediately cleaned to remove any identifying information (*e.g.,* names, titles). Notes will be entered into a COTS software package for analyzing qualitative data (*e.g.,* NVivo) and will be stored on RAND-issued laptops and RAND servers, both of which require two-factor authentication. A Data Safety Plan has been approved for the study.

A six-item post-focus group survey will also be given to participants. The purpose is to collect sociodemographic and military characteristics that will be used to understand the representativeness of participants compared to the larger active-duty force. The survey will be paper-and-pencil and is anonymous. It should take no more than two minutes to complete. Data from the survey will be hand-entered into Excel and analyzed using the same software.

Dated: October 18, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–23407 Filed 10–23–23; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF ENERGY

[Docket No. 23–109–LNG]

Southern LNG Company, L.L.C.; Application for Long-Term Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations

AGENCY: Office of Fossil Energy and Carbon Management, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy and Carbon Management (FECM) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed by

Southern LNG Company, L.L.C. (Southern LNG) on September 25, 2023. Southern LNG requests authority to engage in additional long-term, multi-contract exports of domestically produced liquefied natural gas (LNG) from its existing LNG terminal, located in Chatham County, Georgia, and known as the Elba Island Terminal, in a volume equivalent to 28.25 billion cubic feet (Bcf) per year (Bcf/yr) of natural gas, to non-free trade agreement nations. Southern LNG filed the Application under section 3 of the Natural Gas Act (NGA).

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, December 26, 2023.

ADDRESSES:

Electronic Filing by email (Strongly encouraged): fergas@hq.doe.gov.

Postal Mail, Hand Delivery, or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy and Carbon Management, Forrestal Building, Room 3E–056, 1000 Independence Avenue SW, Washington, DC 20585.

Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit filings electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT:

Jennifer Wade or Peri Ulrey, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability, Office of Fossil Energy and Carbon Management, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–4749 or (202) 586–7893, *jennifer.wade@hq.doe.gov* or *peri.ulrey@hq.doe.gov.*

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Energy Delivery and Resilience, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793, *cassandra.bernstein@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Southern LNG is currently authorized to export domestically-produced LNG in a volume equivalent to 130 Bcf/yr of natural gas [1] to any countries with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas and with which trade is not prohibited by U.S. law or policy (non-FTA countries), through December 31, 2050, pursuant to NGA section 3(a).[2] Southern LNG is authorized to export this LNG from the existing Elba Island Terminal.

In this Application, filed in Docket No. 23–109–LNG, Southern LNG states that it filed an application in April 2023 with the Federal Energy Regulatory Commission (FERC) for authorization to modify its existing liquefaction facilities and install and operate a new condensate plant and liquid nitrogen vaporizers at the Elba Island Terminal. The modifications would increase the Terminal's authorized maximum LNG production capacity to 158.25 Bcf/yr of natural gas. The requested increase in authorized volume would align Southern LNG's total authorized volume with the additional volume that the Terminal could handle with FERC's approval. Thus, in light of the modifications, Southern LNG asks DOE to authorize the export of an additional 28.25 Bcf/yr of natural gas in the form of LNG from the Elba Island Terminal to non-FTA countries.

Southern LNG seeks the authorization on its own behalf and as agent for other entities who themselves hold title to the LNG. Southern LNG requests the authorization for a term to extend through December 31, 2050.

Additional details can be found in Southern LNG's Application, posted on the DOE website at: *https://www.energy.gov/sites/default/files/2023-10/2023%2009%2025%20SLNG%20Non%20FTA%20Long%20Term%20EOP%20Export%20Authorization%20Request.pdf.*

DOE Evaluation

In reviewing Southern LNG's Application, DOE will consider any issues required by law or policy. DOE will consider domestic need for the natural gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. As part of this analysis, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),[3] and DOE's response to public comments received on that Study.[4]

Additionally, DOE will consider the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014); [5]
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014); [6] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update,* 84 FR 49278 (Sept. 19, 2019), and DOE's response to public comments received on that study.[7]

Parties that may oppose this Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Interested parties will be provided 60 days from

[1] *S. LNG Co., L.L.C.,* DOE/FE Order No. 3956, Docket No. 12–100–LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Elba Island Terminal in Chatham County, Georgia to Non-Free Trade Agreement Nations (Dec. 16, 2016), *amended by* DOE/FE Order No. 3956–A, Order Extending Export Term for Authorizations to Free Trade and Non-Free Trade Agreement Nations Through December 31, 2050 (Dec. 30, 2020) (extending the export term through December 31, 2050).

[2] 15 U.S.C. 717b(a). Southern LNG notes that it is also authorized, in Docket No. 12–54–LNG (Order No. 3106, as amended), to export LNG from the Elba Island Terminal to FTA countries in a volume equivalent to 182.5 Bcf/yr of natural gas. Southern LNG's FTA exports are authorized pursuant to NGA section 3(c), 15 U.S.C. 717b(c), and are not at issue here.

[3] *See* NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018), *www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.*

[4] U.S. Dep't of Energy, Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments, 83 FR 67251 (Dec. 28, 2018).

[5] The Addendum and related documents are available at *www.energy.gov/fecm/addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[6] The 2014 Life Cycle Greenhouse Gas Report is available at *www.energy.gov/fecm/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

[7] U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update—Response to Comments, 85 FR 72 (Jan. 2, 2020). The 2019 Update and related documents are available at *https://fossil.energy.gov/app/docketindex/docket/index/21.*

the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to this proceeding evaluating Southern LNG's Application must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590, including the service requirements.

Filings may be submitted using one of the following methods:

(1) Submitting the filing electronically at *fergas@hq.doe.gov;*

(2) Mailing the filing to the Office of Regulation, Analysis, and Engagement at the address listed in the **ADDRESSES** section; or

(3) Hand delivering the filing to the Office of Regulation, Analysis, and Engagement at the address listed in the **ADDRESSES** section.

For administrative efficiency, DOE prefers filings to be filed electronically. All filings must include a reference to ''Docket No. 23–109–LNG'' or ''Southern LNG Application'' in the title line.

For electronic submissions: Please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner.

The Notice, and any filed protests, motions to intervene, notices of intervention, and comments will also be available electronically on the DOE website at *www.energy.gov/fecm/regulation.*

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

Signed in Washington, DC, on October 18, 2023.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability.

[FR Doc. 2023–23411 Filed 10–23–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ24–1–000]

Oncor Electric Delivery Company, LLC; Notice of Filing

Take notice that on October 11, 2023, Oncor Electric Delivery Company LLC submits tariff filing: Oncor TFO Tariff Rate Changes to be effective September 11, 2023.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://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, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *https://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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.*

Comment Date: 5 p.m. Eastern Time on November 1, 2023.

Dated: October 18, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–23465 Filed 10–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC24–8–000.

Applicants: Salt Creek Township Solar, LLC, BCD 2024 Fund 1 Lessee, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Salt Creek Township Solar, LLC.

Filed Date: 10/17/23.

Accession Number: 20231017–5175.

Comment Date: 5 p.m. ET 11/7/23.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24–10–000.

Applicants: Sunlight Storage II, LLC.

Description: Sunlight Storage II, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 10/17/23.

Accession Number: 20231017–5173.

Comment Date: 5 p.m. ET 11/7/23.

Docket Numbers: EG24–11–000.

Applicants: Willowbrook Solar I, LLC.

Description: Willowbrook Solar I, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 10/18/23.

Accession Number: 20231018–5081.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: EG24–12–000.

Applicants: Cedar Creek Wind, LLC.

Description: Cedar Creek Wind, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 10/18/23.

Accession Number: 20231018–5083.

Comment Date: 5 p.m. ET 11/8/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–126–003.

Applicants: Yellow Jacket Energy, LLC.

Description: Notice of Non-Material Change in Status of Yellow Jacket Energy, LLC.

Filed Date: 10/13/23.

Accession Number: 20231013–5211.

Comment Date: 5 p.m. ET 11/3/23.

Docket Numbers: ER24–129–000.

Applicants: Arizona Public Service Company.

Description: 205(d) Rate Filing: Rate Schedule No. 217, Exhibit B Revisions to be effective 12/17/2023.

Filed Date: 10/17/23.

Accession Number: 20231017–5161.

Comment Date: 5 p.m. ET 11/7/23.

Docket Numbers: ER24–130–000.

Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.

Description: 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2023–10–18_SA 4175 METC–DTE Electric E&P (J1916) to be effective 12/18/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5005.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–131–000.

Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.

Description: 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2023–10–18_SA 4176 METC–DTE Electric E&P (J1918) to be effective 12/18/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5010.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–132–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original NSA, Service Agreement No. 7122; Queue No. AF1–217 to be effective 12/18/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5023.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–133–000.

Applicants: Metropolitan Edison Company, PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Metropolitan Edison Company submits tariff filing per 35.13(a)(2)(iii: Met-Ed Amends 10 SAs (4580 4593 6285 6286 6293 6333 6337 6495 6496 6634) to be effective 12/31/9998.

Filed Date: 10/18/23.

Accession Number: 20231018–5038.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–134–000.

Applicants: Three Rivers District Energy, LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 12/18/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5040.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–135–000.

Applicants: AEP Texas Inc.

Description: 205(d) Rate Filing: AEPTX–STEC (Loxley) Facilities Development Agreement to be effective 9/28/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5041.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–136–000.

Applicants: Sunlight Storage II, LLC.

Description: Baseline eTariff Filing: Sunlight Storage II, LLC Application for Market-Based Rate Authorization to be effective 12/18/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5053.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–137–000.

Applicants: Midcontinent Independent System Operator, Inc., Union Electric Company.

Description: 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2023–10–18_SA 4177 Union Electric-WVPA TIA to be effective 10/15/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5054.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–138–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: ISO–NE; Revisions to Credit-Related Information Sharing to be effective 10/21/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5067.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–139–000.

Applicants: Cedar Creek Wind, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 12/18/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5071.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–140–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii: ATSI Submits One Construction Service Agreement No. 6645 to be effective 12/18/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5077.

Comment Date: 5 p.m. ET 11/8/23.

Docket Numbers: ER24–141–000.

Applicants: Duke Energy Carolinas, LLC.

Description: 205(d) Rate Filing: NCMPA1 RS No. 318 Amendment (2024 Confirmation) to be effective 1/1/2024.

Filed Date: 10/18/23.

Accession Number: 20231018–5096.

Comment Date: 5 p.m. ET 11/8/23.

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 18, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–23461 Filed 10–23–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas and Oil Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP24–3–000.

Applicants: Columbia Gas Transmission, LLC, Columbia Gulf Transmission, LLC.

Description: Columbia Gas Transmission, LLC et. al. submits Abbreviated Application for Amendment to Order Issuing Certificate and Authorizing Abandonment.

Filed Date: 10/10/23.

Accession Number: 20231010–5338.

Comment Date: 5 p.m. ET 10/31/23.

Docket Numbers: RP24–43–000.

Applicants: Southern LNG Company, L.L.C.

Description: 4(d) Rate Filing: SLNG Electric Power Cost Adjustment—2023 to be effective 12/1/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5035.

Comment Date: 5 p.m. ET 10/30/23.

Docket Numbers: RP24–44–000.

Applicants: Centra Pipelines Minnesota Inc.

Description: 4(d) Rate Filing: Updated Index of Shippers Dec 2023 to be effective 12/1/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5074.

Comment Date: 5 p.m. ET 10/30/23.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP23–1104–001.

Applicants: Trunkline Gas Company, LLC.

Description: Tariff Amendment: Revised Fuel Filing RP23–1104 to be effective 11/1/2023.

Filed Date: 10/18/23.

Accession Number: 20231018–5058.

Comment Date: 5 p.m. ET 10/30/23.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5 p.m. Eastern time on the specified comment date. The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number. eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *https://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202)502–6595 or *OPP@ferc.gov.*

Dated: October 18, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–23462 Filed 10–23–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2023–0067; FRL–10578–09–OCSPP]

Pesticide Product Registration; Receipt of Applications for New Uses (September 2023)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before November 24, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2023–0067, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Registration Division (RD) (7505T), main telephone number: (202) 566–2427, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).

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 in 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.*

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

Notice of Receipt—New Uses

1. *EPA Registration Number:* 71512–35. *Docket ID number:* EPA–HQ–OPP–2023–0246. *Applicant:* ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, Ohio 44077. *Active ingredient:* Tiafenacil. *Product type:* Herbicide. *Proposed uses:* Barley (crop subgroup 15–22B); canola, citrus (crop group 10–10); corn (sweet corn subgroup 15–22D); dry shelled beans except soybean (crop subgroup 6–22E); dry shelled peas (crop subgroup 6–22F); flax, grain sorghum (crop subgroup 15–22E); peanut, pome fruit (crop group 11–10); rapeseed (oilseed subgroup 20A); stone fruit (crop group 12–12); tree nuts (crop group 14–12); ornamentals, and industrial vegetative management/non-agricultural uses including: Private, public and military lands to airports, ditch banks, dry canals, fence rows, highway, railroad and utility rights-of-way, industrial sites, manufacturing sites, storage areas, and warehouse areas. *Contact:* RD.

2. *EPA Registration Numbers:* 71512–36 and 71512–37. *Docket ID number:* EPA–HQ–OPP–2023–0246. *Applicant:* ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, Ohio 44077. *Active ingredient:* Tiafenacil. *Product type:* Herbicide. *Proposed uses:* Barley (crop subgroup 15–22B); citrus fruit (crop group 10–10); corn (sweet corn subgroup 15–22D); pulses, dried shelled beans, except soybean (crop subgroup 6–22E); pulses, dried shelled peas (crop subgroup 6–22F); grain sorghum (crop subgroup 15–22E); peanut, pome fruit (crop group 11–10); rapeseed (oilseed subgroup 20A); stone fruit (crop group 12–12); tree nuts (crop group 14–12); industrial vegetative management/non-agricultural uses, ornamentals, and sucker control for grape. *Contact:* RD.

3. *EPA Registration Number:* 7969–275. *Docket ID number:* EPA–HQ–OPP–2023–0080. *Applicant:* BASF Corporation. P.O. Box 13528, Research Triangle Park, NC 27709–3528. *Active ingredient:* Saflufenacil. *Product type:* Herbicide. *Proposed uses:* Peppermint and spearmint; crop group use expansions to cereal grains (crop subgroups 15–22A through 15–22F and group 16–22); legume vegetables (crop subgroups 6–22A through 6–22F and group 7–22); citrus fruit (crop group 10–10); pome fruit (crop group 11–10); stone fruit (crop group 12–12); and tree nut (crop group 14–12). *Contact:* RD.

4. *EPA Registration Number:* 7969–276. *Docket ID number:* EPA–HQ–OPP–2023–0080. *Applicant:* BASF Corporation. P.O. Box 13528, Research Triangle Park, NC 27709–3528. *Active ingredient:* Saflufenacil. *Product type:* Herbicide. *Proposed uses:* Crop group use expansions to citrus fruit (crop group 10–10); pome fruit (crop group 11–10); stone fruit (crop group 12–12); and tree nut (crop group 14–12). *Contact:* RD.

5. *EPA Registration Number:* 7969–278. *Docket ID number:* EPA–HQ–OPP–2023–0080. *Applicant:* BASF Corporation. P.O. Box 13528, Research Triangle Park, NC 27709–3528. *Active ingredient:* Saflufenacil. *Product type:* Herbicide. *Proposed use:* Mint (peppermint and spearmint). *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 18, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023–23489 Filed 10–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2023–0061; FRL–10581–09–OCSPP]

Certain New Chemicals; Receipt and Status Information for September 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 9/1/2023 to 9/30/2023.

DATES: Comments identified by the specific case number provided in this document must be received on or before November 24, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2023–0061, 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 technical information contact: Jim Rahai, Project Management and Operations Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 9/01/2023 to 9/30/2023. The Agency is providing notice of receipt of PMNs,

SNUNs, and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

B. What is the Agency's authority for taking this action?

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN, or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *https://www.epa.gov/chemicals-under-tsca.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (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 in 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.*

II. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (see the **Federal Register** of May 12, 1995 (60 FR 25798) (FRL–4942–7)). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete

or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 09/01/2023 TO 09/30/2023

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–23–0005	1	08/30/2023	CBI	(G) Production of an enzyme	(G) Microorganisms transformed to express and enzyme.
J–23–0006	1	08/30/2023	CBI	(G) Production of an enzyme	(G) Microorganisms transformed to express and enzyme.
P–21–0143A ..	4	09/25/2023	CBI	(G) Coating and adhesive ingredient.	(G) Aliphatic Diisocyanate, homopolymer, aliphatic alcohol blocked.
P–21–0215A ..	2	09/01/2023	Coventya, Inc	(S) The PMN substance is used in a primarily aqueous alkaline electroplating solution that produces a nominal zinc (Zn) nickel (Ni) alloy deposit on iron bearing substrates.	(S) Pyridinium, 3-carboxy-1-methyl-, inner salt.
P–22–0011A ..	5	08/24/2023	Lord Corporation	(G) Functionalized rubber in resin side of two component epoxy modified acrylic adhesive.	(G) Alkadiene, homopolymer, hydroxy-terminated, bis[N-[2-[(1-oxo-2-propen-1-yl)oxylethyl]carbamates].
P–22–0024A ..	3	09/25/2023	CBI	(G) Ingredient in Industrial Coating.	(G) Amino salt, polymer with 1,6-diisocyanatohexane, oxime- and glycol ether-blocked.
P–22–0043A ..	3	09/13/2023	CBI	(G) Intermediate	(G) Fatty acids, hydroxyethoxy ethyl esters.
P–22–0151A ..	7	08/28/2023	CBI	(G) Surfactant for commercial applications.	(G) Glycolipids, sophorose-contg., yeast-fermented, from glycerides and carbohydrates.
P–22–0157A ..	2	09/01/2023	Evonik Corporation.	(S) Polyurethane catalyst	(S) 1,2-Ethanediamine, N1,N2-dimethyl-N1-(1-methylethyl)-N2-[2-[methyl(1-methylethyl)amino]ethyl]-.
P–22–0157A ..	3	09/07/2023	Evonik Corporation.	(S) Polyurethane catalyst	(S) 1,2-Ethanediamine, N1,N2-dimethyl-N1-(1-methylethyl)-N2-[2-[methyl(1-methylethyl)amino]ethyl]-.
P–22–0168	2	09/11/2023	Colonial Chemical, Inc.	(S) The product is used as a reaction intermediate to make surfactant end-products. It is not sold commercially or used outside of our manufacturing facility.	(G) Amides, alkyl, N-[3-(dimethylamino)propyl].
P–22–0168A ..	3	09/25/2023	Colonial Chemical, Inc.	(S) The product is used as a reaction intermediate to make surfactant end-products. It is not sold commercially or used outside of our manufacturing facility.	(G) Amides, alkyl, N-[3-(dimethylamino)propyl].
P–22–0175A ..	3	09/06/2023	Wacker Chemical Corporation.	(S) Polymer Resin Binder for composite stone (Engineered Stone).	(G) Modified Silsesquioxane, alkoxy-terminated.
P–23–0022A ..	2	09/08/2023	Cabot Corporation.	(G) Additive used in industrial applications.	(G) Multi-walled carbon nanotubes.
P–23–0023A ..	2	09/08/2023	Cabot Corporation.	(G) Additive used in industrial applications.	(G) Multi-walled carbon nanotubes.
P–23–0024A ..	2	09/08/2023	Cabot Corporation.	(G) Additive used in industrial applications.	(G) Multi-walled carbon nanotubes.
P–23–0033A ..	2	09/08/2023	Cabot Corporation.	(G) Additive used in industrial applications.	(G) Multi-walled carbon nanotubes.
P–23–0077A ..	3	08/31/2023	CBI	(G) Additive for industrial applications.	(G) Alkanepolyoxy acid, alkyl substituted.
P–23–0077A ..	4	09/01/2023	CBI	(G) Additive for industrial applications.	(G) Alkanepolyoxy acid, alkyl substituted.
P–23–0154A ..	3	09/20/2023	RWDC Industries	(G) The primary application areas for PHA are for food packaging and other uses where its biodegradable properties provide non-traditional end-of-use options.	(G) Vegetable oils, genetically modified Cupriavidus-fermented, polyhydroxyalkanoate copolymer.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 09/01/2023 TO 09/30/2023—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–23–0163	2	09/06/2023	CBI	(G) Surface coating	(S) 1,2-Ethanediamine, N1-[3-(trimethoxysilyl)propyl]-, hydrolysis products with 3-(trimethoxysilyl)-N-[3-(trimethoxysilyl)propyl]-1-propanamine, nitrates (salts).
P–23–0171	2	09/06/2023	Interplastic Corporation.	(G) Polyester Resin Additive	(S) 1,2,3-Propanetricarboxylic acid, 2-hydroxy-, octyl ester.
P–23–0172A ..	2	09/13/2023	CBI	(G) Photolithography	(G) Sulfonium, tricarbocyclic-, alkylcarbomocyclic-polyfluoro-heteropolycyclic-alkyl sulfonate (1:1), polymer with alkylaryl and carbomonocyclic alkyl alkanoate, di-Me 2,2′-(1,2-diazenediyl)bis[2-alkylalkanoate]-initiated.
P–23–0175	2	09/27/2023	CBI	(G) rinse material for photolithography.	(G) Bis(fluoroalkylsubstituted) sulfonyl sulfonamide.
P–23–0176	1	09/06/2023	CBI	(G) An ingredient used in the manufacture of photoresist.	(G) Sulfonium, bis(dihalo carbomonocycle)carbomonocycle-, salt with dihalo-sulfoalkyl trisubstituted benzoate.
P–23–0177	2	09/19/2023	Colonial Chemical, Inc.	(G) Corrosion inhibitor	(G) fatty acids, vegetable oil, reaction products with diethylenetriamine.
P–23–0178	1	09/07/2023	CBI	(S) Lens resins for photoelectric conversion adapters.	(S) Benzenamine, 4,4′-(9H-fluoren-9-ylidene)bis-.
P–23–0179	1	09/08/2023	CBI	(G) An ingredient used in the manufacture of photoresist.	(G) Sulfonium, bis(dihalocarbomonocycle)carbomonocycle-, salt with substituted-dihalobenzoate.
P–23–0181	1	09/13/2023	CBI	(G) Used as adhesive	(G) Alkanedioic acid, polymer with mixed alkanediol, polyalkyl glycol, carbomonocycle carbomonocycle, alkane carbopolycycle diisocyanate.
P–23–0182	1	09/15/2023	CBI	(G) Base oils in lubricants ...	(G) Cyclic ether, polymer with 2-methyloxirane and oxirane, monobutyl ether.
P–23–0183	2	09/22/2023	CBI	(G) Additive in paints, coatings and inks, paint removal formulations, wire coatings.	(G) Ethyl Modified Lactam.
P–23–0184	2	09/25/2023	CBI	(G) Intermediate	(G) Perfluorosulfonyl fluoride polymer, with perfluorodioxolane.
P–23–0185	2	09/25/2023	CBI	(G) Intermediate	(G) Perfluorosulfonic acid polymer, salt, with perfluorodioxolane.
P–23–0186	2	09/25/2023	CBI	(G) Dispersive Use	(G) Perfluorosulfonic acid polymer, with perfluorodioxolane.
P–23–0187	1	09/21/2023	CBI	(S) Polymer for use in powder and tablet laundry detergent formulations.	(G) Substituted benzenedicarboxylic acid, sodium salt, polymer with benzenedicarboxylic acids and 1,2-ethanediol.
P–23–0188	2	09/27/2023	CBI	(G) Destructive Use	(G) Alkenoic acid, 3-methyl-, 1,1-dimethyl-2-propen-1-yl ester; Alkenoic acid, 3-methyl-, 1,1-dimethyl-2-propen-1-yl ester;.
P–23–0189	1	09/25/2023	CBI	(G) Component in polymers	(G) Dimethanocarbopolycycle, alkyl-polyhydro-.
P–23–0191	1	09/25/2023	CBI	(G) Photolithography	(G) Sulfonium, tricarbocyclic-, heteroatom-substituted-(halocarbocyclic)carboxylate (1:1).

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED * FROM 09/01/2023 TO 09/30/2023

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
J–22–0023	09/28/2023	09/15/2023	N	(G) Microorganisms stably transformed to manufacture PHA.
J–22–0024	09/29/2023	09/20/2023	N	(G) Microorganisms stably transformed to manufacture PHA.

TABLE II—NOCS APPROVED * FROM 09/01/2023 TO 09/30/2023—Continued

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
J–22–0025	09/29/2023	09/29/2023	N	(G) Microorganisms stably transformed to manufacture PHA.
J–23–0004	09/18/2023	09/11/2023	N	(G) Genetically modified microorganism.
P–21–0073 ...	09/25/2023	09/07/2023	N	(S) 4-cyclohexanedicarboxylic acid, 1,4-dinonyl ester, branched and linear.
P–21–0175 ...	09/29/2023	09/22/2023	N	(G) Polycarbonate diol/benebiol nldb grade.
P–97–0954A	09/21/2023	10/23/2020	Amended generic chemical name.	(G) Isocyanic acid, polymethylenepolyphenylene ester, polymer with .alpha.,.alpha.′-[(1-methylethylidene)di-4,1-phenylene]bis[.omega.-hydroxypoly(oxyalkanediyl)] and 1,2-alkanediol, 2-alkoxyethanol-blocked.

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 09/01/2023 TO 09/30/2023

Case No.	Received date	Type of test information	Chemical substance
P–16–0543 ...	09/01/2023	Exposure Monitoring Report	(G) Halogenophosphoric acid metal salt.
P–16–0543 ...	09/01/2023	Exposure Monitoring Report	(G) Halogenophosphoric acid metal salt.
P–18–0304 ...	09/06/2023	Partition Coefficient (n-octanol/water), Shake Flask Method (OECD Test Guideline 107); Partition Coefficient (n-octanol/water), Estimation by Liquid Chromatography (OECD Test Guideline 117).	(G) Sulfonium, bis(dihalocarbomonocycle) carbomonocycle, salt with substituted heteropolycycle dihalo sulfoalkanoate (1:1).
P–22–0046 ...	09/01/2023	Published Studies on Allergenicity	(S) Fibroins.
P–22–0128 ...	09/20/2023	Mass Spectrometry, IR Spectrometry, NMR Testing Data.	(G) Alkyl cycloalkane, polyfluoro-.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: October 18, 2023.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2023–23471 Filed 10–23–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Petitions IV–2023–1 and –3; FRL–11352–01–R4]

Clean Air Act Operating Permit Program; Order on Petitions for Objection to State Operating Permits for Plains Marketing LP, Alabama Bulk Terminal Company LLC, Kimberly-Clark Corporation, Epic Alabama Maritime Assets LLC Alabama Shipyards LLC, and UOP LLC (Mobile County, Alabama)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petitions.

SUMMARY: The EPA Administrator signed an order dated September 18, 2023, granting in part and denying in part the petitions dated January 4 and 9, 2023, from Greater-Birmingham Alliance to Stop Pollution, Mobile Environmental Justice Action Coalition, Clean Healthy Educated Safe Sustainable Africatown, and Mobile Alabama NAACP Unit #5044 Environmental and Climate Justice Committee. The petitions requested that EPA object to Clean Air Act (CAA) title V operating permits issued by the Alabama Department of Environmental Management (ADEM) to Plains Marketing Mobile Terminal at Magazine Point, Alabama Bulk Terminal Blakeley Island Terminal, Kimberly-Clark Mobile Operations, Epic Alabama Maritime Assets LLC Alabama Shipyard LLC, and UOP LLC Mobile Plant, all located in Mobile County, Alabama.

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or *hofmeister.art@epa.gov.* The final order and petitions are available at: *https://www.epa.gov/title-v-operating-permits/title-v-petition-database.*

SUPPLEMENTARY INFORMATION: EPA received petitions from Greater-Birmingham Alliance to Stop Pollution, Mobile Environmental Justice Action Coalition, Clean Healthy Educated Safe Sustainable Africatown, and Mobile Alabama NAACP Unit #5044 Environmental and Climate Justice Committee dated January 4 and 9, 2023, requesting that EPA object to the issuance by ADEM of operating permit nos. 503–3013 to Plains Marketing Mobile Terminal at Magazine Point,

503–3035 to Alabama Bulk Terminal Blakeley Island Terminal, 503–2012 to Kimberly-Clark Mobile Operations, 503–6001 to Epic Alabama Maritime Assets LLC Alabama Shipyard LLC, and 503–8010 to UOP LLC Mobile Plant, all located in Mobile County, Alabama. On September 18, 2023, the EPA Administrator issued an order granting in part and denying in part the petitions. The order itself explains the bases for EPA's decision. Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request review of those portions of an order that deny issues in a petition. Any petition for review shall be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date this notice is published in the **Federal Register**.

Dated: October 4, 2023.

Jeaneanne Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2023–23446 Filed 10–23–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than November 8, 2023.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *Michael R. Mickelson, as trustee of the following trusts: the M.R. Mickelson Tama County Abstract Company Trust, the John M. Mickelson Trust f/b/o Benjamin J. Mickelson, John M. Mickelson Trust f/b/o Jonathan R. Mickelson, and the John M. Mickelson Trust f/b/o Elizabeth J. Mickelson, all of Eagle, Idaho; Elizabeth J. Mickelson, Missoula, Montana;, and Marjorie M. Mickelson, Ketchum, Idaho;* to form the Mickelson Family Control Group, a group acting in concert, to retain voting shares of Tama County Abstract Company, and thereby indirectly retain voting shares of The State Bank of Toledo, both of Toledo, Iowa.

Additionally, *Benjamin J. Mickelson and Jonathan R. Mickelson, both of Missoula, Montana, individually, and as co-trustees of the John Mickelson Trust f/b/o Elizabeth J. Mickelson, Eagle, Idaho;* to join the Mickelson Family Control Group, a group acting in concert, to acquire additional voting shares of Tama County Abstract Company, and thereby indirectly acquire additional voting shares of The State Bank of Toledo.

B. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Kimberly P. Thompson Irrevocable Trust, Katherine Thompson Investment Services Trust, Lawren K. Thompson Investment Services Trust, John P. Thompson Investment Services Trust, and John N. Thompson, as trustee to aforementioned trusts, all of Brentwood, Tennessee; Benjamin D. Thompson Investment Services Trust, Denver, Colorado, Julie C. Thompson Irrevocable Trust, Jack A. Thompson Investment Services Trust, and David W. Thompson, as trustee to the aforementioned trusts, Rhea Ellen Thompson Gift Trust, and Jack A. Thompson, as trustee, all of Edmonton, Kentucky; William C. Bishop, Bowling Green, Kentucky; and John D. Thompson, Edmonton, Kentucky;* a group acting in concert, to retain voting shares of Edmonton Bancshares, Inc., and thereby indirectly retain voting shares of Edmonton State Bank, both of Glasgow, Kentucky.

C. Federal Reserve Bank of Kansas Jeffrey Imgarten, Assistant Vice President 1 Memorial Drive, Kansas City, Missouri 64198–0001. Comments can also be sent electronically to *KCApplicationComments@kc.frb.org:*

1. *Oikonomia Financial Holdings, LLP, and The Randall B. Rush Revocable Trust, and Randall B. Rush, as trustee, all of Colorado Springs, Colorado; Wendy Fisher, Monument, Colorado; to acquire voting shares of Integrity Capital Holdings, Inc., and thereby indirectly acquire voting shares of Integrity Bank & Trust, both of Monument, Colorado.* In addition, *Christina Harrison, Fredericktown, Ohio; Kristen Schenk, St. Marys, Kansas; Kale Shank, Evansville, Indiana; Brett Wyss, Colorado Springs, Colorado; Derick Wyss, High Springs, Florida; Tiffany Decker, Monument, Colorado; and Evan Rodgers, Portland, Oregon;* to join the Rush Family Control Group, a group acting in concert, to retain voting shares of Integrity Capital Holdings, Inc., and thereby indirectly retain voting shares of Integrity Bank & Trust.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–23463 Filed 10–23–23; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0300; Docket No. 2023–0001; Sequence No. 9]

Information Collection; General Services Administration Acquisition Regulation; Implementation of Information Technology Security Requirements

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a renewal of the currently approved information collection requirement regarding implementation of GSA information technology security requirements.

DATES: Submit comments on or before December 26, 2023.

ADDRESSES: Submit comments identified by Information Collection 3090–0300, Implementation of Information Technology Security Provision, via *http://*

www.regulations.gov. Submit comments via the Federal eRulemaking portal by searching the OMB control number 3090–0300. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0300, Implementation of Information Technology Security Requirements''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0300, Implementation of Information Technology Security Requirements'' on your attached document.

Instructions: Please submit comments only and cite Information Collection 3090–0300, Implementation of Information Technology Security Requirements, in all correspondence related to this collection. Comments received generally will be posted without change to *regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Carroll, Procurement Analyst, at *GSARpolicy@gsa.gov* or 817–978–0609.

SUPPLEMENTARY INFORMATION:

A. Purpose

General Services Acquisition Regulations (GSAR) requires that contractors accessing information systems that support the operations and assets of GSA, another agency, contractor, or other source, to comply with GSA's IT security policies including GSA IT's security policies outlined in CIO 09–48, IT Security Procedural Guide: Security and Privacy IT Acquisition Requirements and CIO 12–2018, IT Policy Requirements Guide.

B. Annual Reporting Burden

Respondents: 117.
Responses per Respondent: 2.
Total Annual Responses: 234.
Hours per Response: 5.
Total Burden Hours: 1,170.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the GSAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the Regulatory Secretariat Division (MVCB), at *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–0300, Implementation of Information Technology Security Requirements, in all correspondence.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2023–23445 Filed 10–23–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Mine Safety and Health Research Advisory Committee

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with regulatory provisions, the Centers for Disease Control and Prevention (CDC) announces the following meeting of the Mine Safety and Health Research Advisory Committee (MSHRAC). This is a hybrid meeting, accessible both in person and virtually. It is open to the public and limited only by the space available and the number of web conference lines available. Time will be available for public comment.

DATES: The meeting will be held on November 15, 2023, from 8:30 a.m. to 1:30 p.m., EST.

ADDRESSES: National Mine Health & Safety Academy, 1301 Airport Road, Beaver, West Virginia 25813. The conference room accommodates approximately 49 people.

Please note that the meeting location is a federal facility and in-person access is limited to U.S. citizens unless prior authorizations, taking up to 30 to 60 days, have been made.

If you wish to attend the meeting either in person or virtually, please contact Ms. Berni Metzger by email at *Metzger@cdc.gov* or by phone at (412) 386–4541 at least 5 business days in advance of the meeting. If you are attending virtually, she will provide you with the Zoom web conference access information (500 web conference lines are available).

FOR FURTHER INFORMATION CONTACT: Steven Mischler, Ph.D., Designated Federal Officer, Mine Safety and Health Research Advisory Committee, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 626 Cochrans Mill Road, Pittsburgh, Pennsylvania 15236. Telephone: (412) 386–5688; Email: *SMischler@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Mine Safety and Health Research Advisory Committee is charged with providing advice to the Secretary, Department of Health and Human Services; the Director, Centers for Disease Control and Prevention; and the Director, National Institute for Occupational Safety and Health (NIOSH), on priorities in mine safety and health research, including grants and contracts for such research, 30 U.S.C. 812(b)(2), Section 102(b)(2).

Matters To Be Considered: The agenda will include discussions on NIOSH mining safety and health research organizational structure, capabilities, projects, and outcomes, as well as a verbal report from the Mace Development Workgroup. The meeting will also include an update from the NIOSH Associate Deputy Director, Mine Safety and Research. Agenda items are subject to change as priorities dictate.

Public Participation

Written Public Comment: The public may submit written comments or questions in advance of the meeting, to the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT** above). Written comments received in advance of the meeting will be included in the official record of the meeting, and questions will be answered during the oral comment period open to public participation.

Oral Public Comment: The meeting will include time for members of the public to make an oral comment. The public comment session will be held on November 15, 2023, at 12:50 p.m., EST, or the conclusion of the planned presentations, whichever comes first. Members of the public will be allocated 5 to 10 minutes each for presentations or comments, as a function of the number of commenters.

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. 2023–23459 Filed 10–23–23; 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 section 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)—CE24–034, Rigorous Evaluation of Policies for their Impacts on the Primary Prevention of Multiple Forms of Violence.

Date: February 27, 2024.

Time: 8 a.m.–5 p.m., EST.

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. 2023–23458 Filed 10–23–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Deputy Director for Infectious Diseases

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with regulatory provisions, the Centers for Disease Control and Prevention (CDC) announces the following meeting of the Board of Scientific Counselors, Deputy Director for Infectious Diseases (BSC, DDID). This virtual meeting is open to the public via Zoom, limited only by the number of web conference lines available (500 lines). Registration in advance is required by accessing the link below in the addresses section. Time will be available for public comment.

DATES: The meeting will be held on November 30, 2023, from 1:30 p.m. to 3 p.m., EST.

ADDRESSES: Zoom virtual meeting. Registration in advance is required by accessing the link at *https://cdc.zoomgov.com/webinar/register/WN_r2EU3xBTB6MBiQq_HdqNQ.* Instructions to access the meeting will be provided following registration.

FOR FURTHER INFORMATION CONTACT: Sarah Wiley, MPH, Senior Advisor, National Center for Emerging and Zoonotic Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H16–5, Atlanta, Georgia 30329–4037. Telephone: (404) 639–4840; Email: *SWiley@cdc.gov.*

SUPPLEMENTARY INFORMATION: *Purpose:* The Board of Scientific Counselors, Deputy Director for Infectious Diseases (BSC, DDID) provides advice and guidance to the Secretary, Department of Health and Human Services; the Director, Centers for Disease Control and Prevention (CDC); and the Directors of the National Center for Emerging and Zoonotic Infectious Diseases, the National Center for HIV, Viral Hepatitis, STD, and TB Prevention, the National Center for Immunization and Respiratory Diseases, concerning strategies, goals, and priorities for the programs and research within the national centers and monitors the overall strategic direction and focus of CDC's infectious disease programs and centers.

Matters To Be Considered: The agenda will include updates and discussions on recent outbreaks and disease surveillance strategies, as well as a brief report from one of the Board's workgroups: the Food Safety Modernization Act Surveillance Working Group. Agenda items are subject to change as priorities dictate.

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. 2023–23460 Filed 10–23–23; 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 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)—CE24–011, Grants to Support New Investigators in Conducting Research Related to Understanding Drug Use and Overdose Risk and Protective Factors (K01).

Date: March 5, 2024.

Time: 8:30 a.m.–5 p.m., EST.

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. 2023–23457 Filed 10–23–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Title IV–E Prevention Services Clearinghouse Handbook of Standards and Procedures, Draft Version 2.0

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF), within the U.S. Department of Health and Human Services (HHS), oversees the Title IV–E Prevention Services Clearinghouse. ACF seeks comments on proposed changes and clarifications to existing standards and procedures in the *Handbook of Standards and Procedures, Version 2.0.*

DATES: The deadline for comments on this notice is November 24, 2023.

ADDRESSES: Interested parties may submit written questions, comments, and supplementary documents by email to *preventionservices@abtassoc.com* with ''Title IV–E Prevention Services Clearinghouse FRN comment'' in the subject line. To ensure that your comments have maximum effect, please identify clearly the section of the draft *Handbook of Standards and Procedures, Version 2.0* that your comments address.

Readers are referred to the full version of the draft *Handbook of Standards and Procedures, Version 2.0* on the Clearinghouse website (*https://preventionservices.acf.hhs.gov/resources/comment-draft-handbook*).

SUPPLEMENTARY INFORMATION:

1.0 Background and Legislative Context

The Family First Prevention Services Act (FFPSA) was signed into law as part of the Bipartisan Budget Act (H.R. 1892) on February 9, 2018. FFPSA amended the Social Security Act (the Act) to enable use of Federal funds available under parts B and E of title IV of the Social Security Act to provide enhanced support to children and families and prevent foster care placements through the provision of evidence-based ''mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services.'' As described in the statutory language, these services and programs are intended ''for children who are candidates for foster care or who are pregnant or parenting foster youth and the parents or kin caregivers of the children.'' The Act requires an independent systematic review of evidence to designate programs and services as ''promising,'' ''supported,'' and ''well-supported'' practices.

In order to meet these requirements, ACF established the Title IV–E Prevention Services Clearinghouse (the Clearinghouse). The Clearinghouse carries out a systematic review process implemented by trained reviewers using consistent, transparent standards and procedures. The *Handbook of Standards and Procedures, Version 1.0* (*https://preventionservices.acf.hhs.gov/review-process*) provides a detailed description of the standards used to identify and review programs and services for the Clearinghouse and the procedures followed by the Clearinghouse staff. The *Handbook of Standards and Procedures, Version 1.0* was informed by public comments submitted in response to **Federal Register** Notice 83 FR 29122 (*https://www.federalregister.gov/documents/2018/06/22/2018-13420/decisions-related-to-the-development-of-a-clearinghouse-of-evidence-based-practices-in-accordance*), consultations with research and practice experts, and the review processes developed and used by other prominent evidence clearinghouses.

2.0 Overview of 2021 Request for Public Comment on Title IV–E Prevention Services Clearinghouse Handbook of Standards and Procedures, Version 1.0

ACF solicited feedback on the Prevention Services Clearinghouse *Handbook of Standards and Procedures, Version 1.0* (subsequently referred to as *Handbook Version 1.0*) through a **Federal Register** Notice 86 FR 37332 (*https://www.federalregister.gov/documents/2021/07/15/2021-15065/title-iv-e-prevention-services-clearinghouse-handbook-of-standards-and-procedures*) published on July 15, 2021. This comment period was open for 30 days and closed on August 16, 2021. One hundred four unique commenters submitted feedback, including 10 commenters from state and local child welfare agencies. Commenters included state and local government administrators, program and service developers, Federal staff, researchers and evaluators, foundation and non-profit organization staff, and other interested parties. ACF ensured the careful review and consideration of all of the comments in developing the draft *Handbook of Standards and Procedures, Version 2.0* (subsequently referred to as *Handbook Version 2.0*). Comments were considered within the context of the statutory requirements of FFSPA, the necessity to conduct a systematic, objective, and transparent evidence review, and resource considerations. The public comments informed discussions with a large number of experts whose comments were also considered in developing the proposed revisions.

Summary of Comments. Comments highlighted how the standards and procedures specified in *Handbook Version 1.0* might be revised to better reflect the goals and requirements of the *Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.* For example, commenters recommended prioritizing the review of programs and services that have been implemented and/or studied with diverse populations (Section 2.2). Commenters also recommended engaging diverse individuals and those with lived experience to inform the systematic review process and allowing greater flexibility for culturally adapted programs and services. Commenters

recommended providing additional detail to clarify the existing standards and procedures. For example, comments requested technical clarification regarding the definition of an available written protocol, manual, or other documentation (Section 2.1.2), determination of the length of time after the end of treatment (Section 6.2.3), determination of whether program or service or study adaptations are substantial (Section 4.1.6), and calculations of effect size and statistical significance (Section 5.1.0). Commenters recommended broadening the definitions of the program or service areas (Section 2.1.2) to be more inclusive regarding the types of programs and services that may be eligible for review. Commenters recommended broadening the definition of eligible comparison conditions (Section 4.1.4) and making the design and execution standards (Chapter 5), particularly those related to baseline equivalence (Section 5.7), more flexible. Finally, commenters provided recommendations to ACF that did not pertain to the Clearinghouse. For example, comments recommended ACF provide further support and investment in building evidence, particularly of programs and services designed to serve communities of color and others disproportionally represented in the child welfare system as well as for kinship navigator programs.

Summary of Proposed Revisions. The draft *Handbook Version 2.0* aims to be responsive to the diversity of comments received, to enhance the transparency of the systematic review process, and to support efforts to advance equity in accordance with the *Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.* For example, revised program or service area definitions (Section 2.1) are inclusive of a broader range of programs and services, new program or service prioritization criteria have been added to consider the child welfare relevance and diversity of populations served (Section 2.2) with similar criteria also added for study prioritization (Section 2.3), and the range of eligible comparison conditions for studies has been expanded to include studies that compare one intervention to another intervention (Section 4.1.7). Additional clarification and guidance are now provided on program or service and study adaptations, including new examples of how standards are applied to culturally adapted programs and services (Sections 2.3.2 and 4.1.9). Clarification is also provided that eligible outcomes and outcome measures may be defined differently across studies to reflect the different ages, backgrounds, cultures, locations, and contexts of the study participants, with examples provided (Section 4.1.8). Formulae used in effect size and statistical significance calculations are now provided directly in the Handbook (Chapter 6) and additional guidance and clarification is provided on design confounds, including clarification that studies with a single provider unit shared across the intervention and comparison conditions are not considered a confound (Section 5.9.3). A broader range of options is provided for establishing baseline equivalence and low attrition randomized group design contrasts are no longer assessed for baseline equivalence (Section 5.7). The Handbook now provides additional information on how the risk of harm assessment is conducted, with additional considerations for cases where the comparison group receives another intervention (Section 7.2.1). Further, additional clarification on how time since the end of treatment is calculated is provided (Section 7.2.3). The Handbook now clearly specifies how any member of the public can submit recommendations of programs or services for review or information about studies of those recommended programs and services to the Clearinghouse at any time (Chapters 1 and 3).

Additional Relevant Activities. The Clearinghouse also intends to conduct additional activities to be responsive to public comments and to support efforts to advance equity in accordance with the *Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.* First, the Clearinghouse is planning to display study participant characteristics on the program or service page of the Clearinghouse website. Display of participant characteristics is intended to promote transparency on the extent to which diverse populations are represented in research reviewed by the Clearinghouse. Second, the Clearinghouse plans to develop two new reports focused on equity. These two reports are intended to provide additional information about diverse populations included in studies of the programs and services that have been reviewed by the Clearinghouse and identify gaps in evidence. Third, enhanced activities are planned for future public calls for program and service recommendations in order to comprehensively identify culturally adapted and culturally grounded programs and services that may be eligible for review. The Clearinghouse plans to conduct targeted outreach to providers of culturally adapted and culturally grounded programs and services and community-based organizations serving diverse populations to improve engagement. The Clearinghouse also plans to clearly communicate in future public calls how the public, including community-based organizations and providers of culturally adapted and culturally grounded programs and services, can recommend programs and services and submit relevant studies of programs and services to the Clearinghouse. Further, the Clearinghouse plans to make future public call materials available in both English and Spanish. Fourth, the Clearinghouse intends to revise its author Reporting Guide to clarify recommended reporting related to culturally adapted and culturally grounded programs and services and the characteristics of their participants. Fifth, the Clearinghouse intends to revise existing resources for Clearinghouse users, such as its Frequently Asked Questions (FAQ) website section and fact sheet resources, with person-centered design principles to ensure information about the Clearinghouse and its standards and procedures are accessible. Sixth, the Clearinghouse plans to publicly post all programs and services that have been recommended for review and will continue to explore additional ways to improve transparency such as through data sharing.

A comprehensive list of specific revisions and clarifications to the Clearinghouse's Standards and Procedures is provided in the following section. Subsequent chapter and section numbers all refer to the chapter and section numbering for the draft *Handbook Version 2.0* unless the text explicitly indicates a reference to *Handbook Version 1.0* chapter and section numbering.

3.0 Revisions and Clarifications to the Clearinghouse's Standards and Procedures in the Draft Handbook Version 2.0

3.1 Introduction

The revised introduction includes a description of the Clearinghouse website and resources available on the website. This includes reference to the FAQ section that includes information on how members of the public can submit a program or service recommendation and how to provide information about studies to the Clearinghouse.

3.2 Chapter 1. Identify Programs and Services

Revisions clarify that all program and service recommendations are retained for consideration, including those submitted during public calls and ad hoc recommendations submitted to the Prevention Services Clearinghouse inbox. Revisions also clarify that any member of the public may submit a program or service recommendation at any time to the Clearinghouse via email and that suggested information to include as part of a program or service recommendation can be found on the FAQ section of the Clearinghouse website. Additionally, this section now indicates that all programs and services identified as potential candidates for review will be posted on the Clearinghouse website.

3.3 Chapter 2. Prioritize and Select Programs and Services

3.3.1 Revisions and Clarifications to Program or Service Area Definitions (Section 2.1.1)

Based on FRN feedback and consultation with experts in the fields of mental health, substance use, parenting and parent skill-based programs and services, kinship navigator programs, and child welfare, the draft *Handbook Version 2.0* revised and clarified the in-home parent-skill based and substance use prevention and treatment program or service area definitions, as noted below.

- *In-home parent skill-based programs and services.* The revised definition is more flexible and now indicates that eligible programs and services involve direct intervention with a parent or caregiver and target parenting skills or other skills that can be applied to where the child resides, including in the home. The revised definition also clarifies that delivery of programs and services can occur in the home or other settings and defines necessary content for a program or services to be considered ''skill-based.''

Revised examples of eligible and ineligible in-home skill-based programs and services are provided in Exhibit 2.3.

- *Substance use prevention and treatment programs and services.* The revised definition clarifies that programs or services:
- targeting recovery from substance use (as well as those targeting prevention, treatment, remediation, elimination and/or reduction of substance use or misuse) are eligible; and
- without client-oriented substance use prevention or treatment components, such as mass communications/media campaigns or interventions that solely target broader community-level or policy systems, remain *not* eligible.

Revised examples of eligible and not eligible programs and services are now provided in Exhibit 2.2. Specifically, one new example clarifies that programs or services targeting parents or caregivers aiming to prevent substance use among children and youth are eligible.

Minor wording changes were made to the kinship navigator program or service area definition for clarification purposes. Experts did not suggest any changes to eligible outcomes for kinship navigator programs and services.

No changes were made to the mental health prevention and treatment programs and services definition. New examples of eligible and ineligible programs and services are provided in Exhibit 2.1.

3.3.2 Clarifications to Available Protocols, Manuals, or Other Documentation (Section 2.1.2)

To be eligible for review by the Prevention Services Clearinghouse, programs and services must be clearly defined and replicable. To meet this criterion, programs and services must have available written or recorded protocols, manuals, or other documentation that describes how to implement or administer the practice (referred to subsequently in this notice as a ''manual'' for brevity). Revisions to this section clarify that materials to satisfy this requirement may be presented in a web-based format and that ''manual'' can include recorded videos or online learning systems if these materials describe how to implement or administer the practice. The Clearinghouse notes that, consistent with *Handbook Version 1.0,* there are no language requirements for manual eligibility.

3.3.3 Revisions and Clarifications to Program or Service Prioritization (Section 2.2)

As of July 2023, the Prevention Services Clearinghouse has reviewed 148 programs and services. Yet there remains a high volume of potentially eligible programs and services identified for review. As a result, the Prevention Services Clearinghouse must continue to prioritize programs and services for review. The draft *Handbook Version 2.0* continues to highlight the prioritization of programs and services with available evidence of eligibility and programs and services in active use (Section 2.2). New to this section is further clarification about additional prioritization considerations. These additional prioritization criteria were informed by recommendations from public comments and consultation with experts. Listed below are the additional prioritization criteria included in the draft *Handbook Version 2.0.*

- Number and source of program or service recommendations received;
- Child welfare relevance;
- Population(s) served;
- Previous evaluations and studies; and
- Implementation supports.

The Clearinghouse continues to prioritize programs and services in a way that ensures representation across the four program and service areas. Additional clarification is provided in draft *Handbook Version 2.0* noting that the Clearinghouse assesses prioritization criteria by examining publicly available information, other clearinghouses' websites, and materials submitted with program or service recommendations.

3.3.4 Clarifications on Program or Service Selection (Section 2.3.1)

Given the large volume of programs and services identified, resource considerations mean that not all programs and services can be selected for review at once. To help clarify the distinction between the prioritization and reviewing process, the draft *Handbook Version 2.0* adds a new section on selection of a program or service for review (Section 2.3.1). Based on the prioritization process, specific programs and services are selected for review at a given time, as indicated by publication on the *working list of programs and services planned for review* available on the Prevention Services Clearinghouse website. The final eligibility of a program or service for review by the Clearinghouse is determined after a program or service is selected for the working list.

3.3.5 Revisions to Program or Service Adaptations Criteria (Section 2.3.2)

Multiple public comments requested clarification regarding the program or service adaptation standards specified in *Handbook Version 1.0* (found in Section 4.1.6 of this version) and recommended increased inclusivity, particularly with respect to cultural adaptations. The Prevention Services Clearinghouse sought input from a range of experts specifically focusing on program or service adaptations, including those with expertise in cultural adaptations designed to serve historically underserved communities. Underserved communities, as articulated in the *Executive Order on Advancing Racial Equity and Support*

for Underserved Communities Through the Federal Government, include Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

To meet the eligibility criteria of being clearly defined and replicable, a program or service must have publicly available written or recorded protocols, manuals, or the documentation (hereafter referred to as ''manuals'') that describe how to implement the practice (Section 2.1.2). A new section (2.3.2) clarifies the procedures used to identify and review relevant manuals for a program or service. This includes procedures for identifying a primary manual for review and addressing cases with multiple potential manuals.

Many programs and services have multiple manuals, including *manual editions* (*e.g.,* editions of a manual as a program or service evolves over time or expands) and *manual variants* (*e.g.,* adaptations of a program or service or a manual to address new issues, different populations, or alternative approaches to delivering the program or service). This section clarifies the standard process by which the Prevention Services Clearinghouse assesses whether alternative manual editions or variants have any substantial adaptations, compared to the primary manual identified. This process consists of the following steps, followed as needed based on the nature of the program or service:

- *Step 1:* Determining whether the adaptation is explicitly prohibited in the primary program or service manual under review or is the result of adding another separate program or service to the existing program or service (*i.e.,* ''bundling'');
- *Step 2:* Determining whether the adaptation is explicitly allowed by the primary program or service manual under review;
- *Step 3:* Determining whether the adaptation substantially changes a program element in the primary program or service manual under review;
- *Step 4:* Gathering additional information and consulting with senior content experts on the Clearinghouse.

A revised table (Exhibit 2.4) classifies program elements and gives examples of acceptable and substantial adaptations—including expanded examples of adaptations that may be made in the process of culturally adapting a program or service. (These criteria and procedures are aligned with those used to assess any program or service adaptations identified in studies during the study eligibility process, described in Section 4.1.9). Manuals that are substantially adapted from a primary manual may be considered as a separate program or service when reviewing studies. Studies with these substantial adaptations would be ineligible in a review based on the primary manual identified for a particular program or service. Alternatively, manuals without substantial adaptations may be considered the same program or service when reviewing studies. Studies without substantial adaptations would be included in a review based on the primary manual.

3.4 Chapter 3. Literature Search

To help ensure identification of studies conducted with American Indian and Alaska Native populations, the draft *Handbook Version 2.0* adds Healthy Native Youth to its list of clearinghouses used to identify relevant research. The list of bibliographic databases has been trimmed for efficiency and resource considerations. Some databases in *Handbook Version 1.0* were largely providing duplicative results. This section clarifies that any publicly available research from program or service websites is incorporated into the search. Clarification is also provided on procedures for incorporation of research that is submitted to the Prevention Services Clearinghouse inbox ad hoc or during public calls.

3.5 Chapter 4. Study Eligibility Screening and Prioritization

3.5.1 Revision to Study Definition (Section 4.1)

In alignment with other Federal evidence clearinghouses, the Prevention Services Clearinghouse intends to focus on degree of sample overlap in applying its definition of a study as ''one research investigation of a defined subject sample, and the interventions, measures, and statistical analyses applied to that sample.'' Additional study definition criteria (based on the What Works Clearinghouse v4.0 study definition) in *Handbook Version 1.0* have been dropped in the draft *Handbook Version 2.0.*

3.5.2 Clarifications on Source of Publication Criteria (Section 4.1.2), Language of Publication (Section 4.1.3) and Location of Study (Section 4.1.4)

The draft *Handbook Version 2.0* clarifies the definition of ''publicly available'' and ''published'' for the source of publication standard (Section 4.1.2), in response to public comments. Dissertations, theses, and conference papers remain ineligible. Given the priority of reviewing a large number of programs and services, the Prevention Services Clearinghouse intends to continue to exclude such sources in the interests of efficiency.

Some public comments indicated confusion about whether studies conducted outside of the United States or those conducted in non-English-speaking countries are eligible. The draft *Handbook Version 2.0* clarifies that the standard from *Handbook Version 1.0* that studies must be available in English (Section 4.1.3) is inclusive of studies originally published in another language that have published English language translations available. The draft *Handbook Version 2.0* explicitly clarifies that studies conducted in any country are eligible (Section 4.1.4), as they were under *Handbook Version 1.0.*

3.5.3 Revisions to Study Design and Intervention Condition Criteria (Sections 4.1.5, 4.1.6)

The draft *Handbook Version 2.0* provides clarification on definitions for *randomized group designs* and *quasi-experimental group designs* with respect to eligible study designs (Section 4.1.5). It clarifies that single-group pretest-posttest designs and interrupted time series designs without comparison groups are not eligible. It also clarifies that group assignment must be exclusive for an outcome measured at a given point in time—that is, participants cannot be counted in both the intervention and comparison condition. The criterion for eligible intervention conditions—that the intervention group is offered an eligible program or service that is essentially the same for all participants in the group—remains the same as in *Handbook Version 1.0,* with minor clarifications, but is presented as a distinct subsection in the draft *Handbook Version 2.0* (Section 4.1.6) for clarity.

3.5.4 Revisions to Eligible Comparison Conditions (Section 4.1.7)

Many public comments requested expansion of eligible study comparison conditions beyond no or minimal treatment and treatment as usual to

include more active comparison conditions. Many experts also recommended that the Prevention Services Clearinghouse consider including active comparison conditions. One consideration voiced by multiple experts consulted is that active comparison conditions are increasingly recommended, particularly if there are other available interventions considered to be efficacious. Revision to this standard was considered in the context of the FFSPA legislative criterion that a program or service must be demonstrated as being superior to an appropriate comparison practice.

The draft *Handbook Version 2.0* allows for five types of eligible comparison conditions:

- *No intervention or wait list*—offered no services or services at a later date (clarifying that outcomes measured after a wait list group is offered the intervention are not eligible).
- *Minimal intervention*—including informational materials or psychoeducation, referrals to available services, or similar nominal services.
- *Placebo or attention control*—conditions designed to account for nonactive effects of treatment, such as participants' expectations, contact time with an interventionist, or the relationship between interventionist and participants; includes psychological or pharmacological placebos, attention placebos, and nonspecific therapy in which participants receive the same or similar amount of attention or contact as the participants in the intervention condition.
- *Treatment as usual*—The draft *Handbook Version 2.0* clarifies that both ''usual or typical services'' (*i.e.,* individuals do not receive anything they would not have been able to receive outside the context of the study) or ''services consistent with usual or typical services'' (*i.e.,* services as part of the study that are not offered in the community but are clearly described as consistent with the usual or typical services that would be received by individuals or families similar to those in the study) are considered eligible under treatment as usual. Therapeutic or pharmacological interventions that meet the definition of treatment as usual are eligible.
- *Head-to-head comparisons*—assigned to another intervention that is not a variant of the program or service under review (may also be referred to as alternative interventions, active interventions, or comparator interventions); excluded are comparisons to pharmacological interventions that do not meet the definition of treatment as usual above.

The draft *Handbook Version 2.0* indicates three types of comparison conditions that are explicitly not eligible for review and provides a rationale for each:

- *Intervention variants*—assigned to an intervention that is a variation of the intervention under review. Examples include dismantling studies (*e.g.,* full version of intervention compared to one lacking one or more components); bundled intervention studies (*e.g.,* full version of intervention compared to a version with a second intervention added); studies comparing different delivery modes, providers, dosage, or fidelity levels for the same intervention; sequencing studies (*e.g.,* both conditions receive the same interventions, but in a different order).
- *Population-level data or benchmarks*—constructed from population norms or statistics derived from other studies, surveys, censuses, or similar sources.
- *Comprised only of intervention refusers or dropouts*—composed entirely of individuals who were offered the intervention condition but refused the offer or dropped out of the intervention after being offered the intervention.

3.5.5 Revisions to Outcomes (Section 4.1.8)

Definitions of outcome domain, outcome, and outcome measurement have been provided for clarity. Clarifications have been included regarding eligible outcomes within the child safety and child permanency outcome domains and family functioning outcomes within the adult well-being outcome domain. The clarifications to the child safety and child permanency outcomes were previously described in the FAQ section of the Prevention Services Clearinghouse website. Additionally, eligible educational achievement and attainment outcomes in the child well-being outcome domain have been expanded to include school attendance and absenteeism as eligible outcomes. These outcomes, though not direct measures of educational achievement and attainment, are viewed as closely related and relevant outcomes. Clarification is provided that outcomes that are composites of one or more eligible outcomes within the eligible outcome domains are eligible; those that are composites of eligible and ineligible outcomes are not eligible. Clarification is also provided that eligible outcomes and outcome measures may be defined differently across studies to reflect the different ages, backgrounds, cultures, locations, and contexts of the study participants, with examples provided.

The Prevention Services Clearinghouse currently does not have measurement standards for assessing the validity or reliability of biomarker measures (*i.e.,* a physiological measure used as an indicator of a physical, psychological or emotional state), such as the use of cortisol as a measure of psychological stress. Expert consultations on biomarkers did not indicate a clear set of standards that could be broadly applied for review of such measures. As a result, the draft *Handbook Version 2.0* indicates that biomarker measures are not currently eligible for review as child well-being or adult well-being outcomes.

3.5.6 Revisions to Study Program or Service Adaptations Criteria (Section 4.1.9)

Consistent with *Handbook Version 1.0,* the draft *Handbook Version 2.0* indicates that, to be eligible for review, studies of a program or service must all represent similar implementations of the program or service selected for review. Revisions in the draft *Handbook Version 2.0* clarify that the process of assessing program or service adaptations for study eligibility is based on having identified a particular manual (or set of manuals) of the program or service under review (see Sections 2.3.1, 2.3.2).

The standard process used to identify whether program or service adaptations are present in the studies being screened for eligibility is clarified. The procedures and criteria for assessing whether adaptations identified in studies are acceptable or substantial mirror those specified in Section 2.3.2 for adaptations found in manual editions or variants. The end result of these procedures is the determination of study eligibility for the particular program or service under review (in Section 2.3.2, the end determination is whether two manuals are substantively similar or represent different programs or services). Studies with any substantial adaptations are ineligible for review as a study of the program or service under review (such studies may be eligible for review as a study of different program or service and its associated manual). Studies with only minor adaptations may potentially be eligible if all other study eligibility criteria are met.

3.5.7 Revisions to Study Review Prioritization Criteria (Section 4.2)

The Prevention Services Clearinghouse notes that study prioritization criteria are distinct from study eligibility criteria. When a

program or service has more than 15 studies eligible for review, study prioritization criteria are applied to order the review of eligible studies. The study prioritization process ensures efficiencies in the reviewing process to review a large number of programs and services.

The Prevention Services Clearinghouse notes that only 12 of the 148 programs and services reviewed as of July 2023 had more than 15 eligible studies identified, requiring the use of study prioritization criteria in these reviews to prioritize the first 15 eligible studies for review using the design and execution standards. Of these 12 programs and services, nine had 16 to 25 eligible studies, with a few having a much larger number of eligible studies (*e.g.,* 75 or 90). All other programs and services reviewed had 15 or fewer eligible studies, with all eligible studies reviewed using the design and execution standards. Therefore, as in *Handbook Version 1.0,* the study prioritization criteria continue to apply *only* when there are 15 or more eligible studies of a program or service in the draft *Handbook Version 2.0.*

Three modifications have been made to the process of assigning prioritization points for identifying the order in which studies are reviewed in the draft *Handbook Version 2.0.* First, given that programs or services must demonstrate sustained favorable effects 6 or 12 months beyond the end of treatment (Section 7.2.3) to receive a rating of supported or well-supported, the Prevention Services Clearinghouse intends to increase the prioritization points given to studies that include outcomes measured 6 or 12 months beyond the end of treatment to ensure that these studies are reviewed earlier when present, increasing the prioritization points for such studies to 3 and 6 points, respectively (compared to 1 and 2 points, respectively, in *Handbook Version 1.0*). Second, some public commenters and experts consulted noted the importance of statistical power for being able to detect intervention effects. The draft *Handbook Version 2.0* adds one prioritization score point for studies that report an analysis of statistical power. Third, many public comments recommended that points be awarded to studies based on populations served. The draft *Handbook Version 2.0* intends to add one prioritization score point for the child welfare relevance of populations served and two prioritization points for studies with samples from underserved communities. Prioritization points for studies with outcomes in multiple outcome domains have been decreased from a maximum of three to a maximum of one. The draft *Handbook Version 2.0* provides procedural details clarifying how ties in prioritization scores are resolved in cases where more than 15 eligible studies are identified.

The draft *Handbook Version 2.0* includes efficiency enhancements based on the study prioritization process for programs and services where more than 15 eligible studies are identified. If, after review of the first 15 eligible studies prioritized for review, a program or service has not achieved a rating of well-supported, additional studies are reviewed using the design and execution standards in their prioritized order until either no eligible studies remain that could result in further improvement to the program or service rating or all eligible studies have been reviewed. Determination of potential for program or service ratings to improve upon review of additional eligible studies is based on (1) the program rating from studies already reviewed using the design and execution standards and (2) the duration of effects examined in the remaining studies (as assessed according to study review prioritization criteria). Detailed examples of the application of this policy are described in Section 4.2. The draft *Handbook Version 2.0* retains the policy from *Handbook Version 1.0* of reviewing all studies against design and execution standards when 15 or fewer eligible studies are identified. All eligible studies are reviewed for risk of harm.

3.6 Chapter 5. Evidence Review Using the Design and Execution Standards

3.6.1 Revisions and Clarifications to Contrasts Rated, Design and Execution Rating Categories, Method of Assignment, and Integrity of Random Assignment (Sections 5.1 to 5.5)

The draft *Handbook Version 2.0* indicates that contrasts from all eligible comparison conditions (Section 5.1) will be rated, whereas under *Handbook Version 1.0,* only contrasts from the least-intensive eligible comparison condition for a particular contrast were rated if multiple comparison conditions were eligible for review (*Handbook Version 1.0,* Section 4.1.4). Given the priority of reviewing a large number of programs and services, the draft *Handbook Version 2.0* retains the policy from *Handbook Version 1.0* of only reviewing full-sample analyses and not reviewing subgroup or sensitivity analyses due to resource considerations. For any studies that receive a moderate or high design and execution rating and report subgroup analyses, the Clearinghouse intends to indicate whether subgroup analyses were conducted for informational purposes only. New and revised examples are provided to clarify integrity of randomization standards for individual and cluster-assignment designs.

3.6.2 Revisions and Clarifications to Attrition, Baseline Equivalence, and Pretest Standards (Sections 5.6 to 5.8)

Based on expert feedback, and in alignment with other Federal clearinghouses (in particular, the What Works Clearinghouse and Home Visiting Evidence of Effectiveness [HomVEE]), the draft *Handbook Version 2.0* no longer requires baseline equivalence to be established for a contrast from a low attrition randomized group design to receive a ''High'' support of causal evidence rating.

Public comments expressed a desire for greater flexibility regarding options for demonstrating baseline equivalence and reconsideration of participant sociodemographic characteristics that could be used to establish baseline equivalence when a pretest alternative is not available. Informed by expert consultations, the draft *Handbook Version 2.0* maintains a general preference for using the same (or nearly the same) measure as the outcome (*i.e.,* a ''direct pretest'') for baseline equivalence but now allows any eligible outcome measure demonstrated to be correlated with the outcome at a threshold of 0.60 or higher to be used to establish baseline equivalence (here referred to as a ''correlated pretest measure''). Also informed by expert feedback, when a correlated pretest measure or pretest alternative is not available, the draft *Handbook Version 2.0* provides greater flexibility in the form of two options for establishing equivalence on sociodemographic characteristics, allowing an expanded set of individual characteristics and the use of a set of neighborhood characteristics if only one individual characteristic is available. Option 1 requires demonstration of baseline equivalence on at least two of the following individual characteristics: race or ethnicity, socioeconomic status, household composition, or age. If only one of the four individual characteristics from Option 1 is available, baseline equivalence can still be established under Option 2 if equivalence is demonstrated on a measure of each of the following *neighborhood* characteristics: race or ethnicity, socioeconomic status, and household composition. When sociodemographics are used to establish

baseline equivalence, a new requirement indicates that study authors must clearly describe all criteria used to create the intervention and comparison groups and affirmatively indicate that the same or similar criteria were used to create each group.

Binary measures have different statistical properties than continuous measures that can potentially reduce their reliability as indicators of baseline equivalence—particularly when events are rare or in smaller samples. To address this, the draft *Handbook Version 2.0* indicates a preference for continuous correlated pretests over direct pretests when establishing baseline equivalence for a binary outcome. It also permits use of continuous pretest alternative measures when outcomes are binary, even if it was feasible to measure a direct pretest. Specifically, continuous measures that meet the correlated pretest measure or pretest alternative criteria are preferred over a direct pretest of the binary measure, when available.

3.6.3 Revisions and Clarifications to Statistical Model Standards (Section 5.9)

The statistical model standards (Section 5.9.1) have been revised in the draft *Handbook Version 2.0* to clarify procedures used when statistical models do not meet standards and alternative statistical models are not available or do not meet standards. In such cases, the Prevention Services Clearinghouse will seek to review the contrast based on unadjusted means and standard deviations and the statistical significance test procedures specified in Chapter 6.

The measurement reliability standard for inter-rater reliability in *Handbook Version 1.0* was revised in the draft *Handbook Version 2.0* (Section 5.9.2), with specific thresholds for inter-rater reliability (correlation), inter-rater agreement on the basis of percentage agreement (0.80 or higher), and inter-rater agreement based on kappa (0.60 or higher). These revised standards are aligned with current What Works Clearinghouse standards.

Some public comments expressed concern that confound standards prevent inclusion of studies conducted in rural or underserved areas where only a single service provider is available may not be able to meet standards. The draft *Handbook Version 2.0* clarifies that studies with a single person or administrative unit are not automatically confounded, with detailed clarifying examples added to this section. Specifically, if a single provider (or a single administrative unit) provides treatment or services to at least some participants in both the intervention and comparison condition, a design confound is *not* considered to be present. Expert feedback indicated that the confound standards in *Handbook Version 1.0* were appropriate causal evidence standards, informing the retention of these confound standards in the draft *Handbook Version 2.0.*

3.7 Chapter 6. Record and Characterize Impact Estimates

Public comments requested additional information about the formulae used for computing effect sizes and procedures used for determining statistical significance. The draft *Handbook Version 2.0* provides all standard formulae used in computing effect sizes reported and for computing statistical significance. For models that meet statistical model standards in the design and execution requirements (Section 5.9), the draft *Handbook Version 2.0* indicates that author-reported statistical significance is preferred in covariate-adjusted models and certain models for which the Prevention Services Clearinghouse does not currently have standards for computing statistical significance (*e.g.,* time-to-event models). When such models are not available or do not meet statistical model standards, the formulae provided are used to conduct a post-hoc statistical significance test based on the natural metric of the outcome reported (*e.g.,* continuous, binary, count, or time-to-event).

Clarification is provided on information needed and procedures used to compute effect sizes and statistical significance for repeated measures models (*e.g.,* growth curve models). In alignment with other Federal clearinghouses (in particular, What Works Clearinghouse, HomVEE), point-in-time estimates for each measurement time period are required. If such information is not reported, unadjusted means and standard deviations for each point in time are used (or requested if not reported), with appropriate post-hoc significance tests performed based on the natural metric of the outcome.

3.8 Chapter 7. Program or Service Ratings

3.8.1 Revisions and Clarifications to Program or Service Ratings (Section 7.1) and Risk of Harm (Section 7.2.1)

No changes were made to the criteria for promising, supported, or well-supported program or service ratings in the draft *Handbook Version 2.0* (Section 7.1). This section clarifies that intention of the Prevention Services Clearinghouse is for program or service ratings from reviews conducted under *Handbook Version 1.0* to be retained until such time that a program or service is re-reviewed under *Handbook Version 2.0* (see Section 8.5.1 below regarding re-review procedures).

A new standard specified in the risk of harm section (Section 7.2.1) of the draft *Handbook Version 2.0* is that contrasts in head-to-head comparison conditions or placebo or attention control comparison conditions where the comparison condition has any evidence for risk of harm cannot contribute to a promising, supported, or well-supported rating. If risk of harm is present in these kinds of comparison conditions, impact estimates are not clearly interpretable as evidence of intervention effectiveness—as it is possible that both the intervention and comparison condition could be made worse off than if they had not participated in the study at all. When risk of harm is not present in the comparison condition, favorable impacts can be interpreted as the intervention group being at least better off than they would have been if no treatment had been offered at all and can potentially contribute as evidence of effectiveness. Standard procedures for identifying potential risk of harm in comparison conditions are detailed in this section.

3.8.2 Revisions and Clarifications to Usual Care or Practice Settings Definition (Section 7.2.2)

The definition of usual care or practice settings (Section 7.2.2) in the draft *Handbook Version 2.0* has been clarified to indicate that community settings, such as schools, with embedded service providers that may provide eligible programs or services as part of their typical operations (*e.g.,* school counselors), are also considered usual care or practice settings. It clarifies that clinics that provide services solely for participants in research studies or clinical trials (*i.e.,* that do not provide any services to persons not participating in research studies as part of their typical operations) do not constitute usual care or practice settings.

3.8.3 Revisions and Clarifications to Beyond the End of Treatment (Section 7.2.3)

Some public comments requested clarification on how the Prevention Services Clearinghouse assesses the duration of sustained effects, particularly in cases where the end of

treatment is flexible across participants. Section 7.2.3 of the draft *Handbook Version 2.0* includes revisions to clarify the order of preference for information that may be provided in studies about the end of treatment and procedures for computing the duration of sustained effects when the duration of treatment is fixed, when the duration of treatment is defined and varies across participants, and when the duration of treatment is undefined. Treatment of boosters in computing the duration of sustained effects is now explicitly addressed. Detailed procedures and examples can be found in Section 7.2.3 of the draft *Handbook Version 2.0.*

3.9 Chapter 8. Prevention Services Clearinghouse Procedures

The draft *Handbook Version 2.0* represents the first update to the Handbook of Standards and Procedures since the beginning of the Title IV–E Prevention Services Clearinghouse in 2018. The basic procedures for identifying eligible studies (Section 8.3) and reviewing studies against the design and execution standards (Section 8.4) remain essentially the same, with minor clarifications to operational procedures. Author query policies (Section 8.4.2) have been clarified; new content has been added clarifying the reasons that the Prevention Services Clearinghouse may query program and service developers for information about programs or services (Section 8.4.3). New content and more substantive revisions are described below.

3.9.1 Selection of Handbook of Standards and Procedures Version To Use in Reviews (Section 8.2)

The intention of the Prevention Services Clearinghouse is to conduct reviews of any program or service not previously reviewed under *Handbook Version 1.0* solely under the standards and procedures specified in *Handbook Version 2.0* once it is finalized. Programs or services that are included on the working list prior to when *Handbook Version 2.0* is finalized may be reviewed under *Handbook Version 1.0* or *Handbook Version 2.0.* The version of the handbook used to conduct a review (or re-review) of a program or service will be clearly stated on the working list and on the program or service's review page on the Prevention Services Clearinghouse website.

3.9.2 Program and Service Re-Reviews and Study Re-Reviews (Sections 8.5.1, 8.5.2)

The Prevention Services Clearinghouse intends to conduct *program and service re-reviews* solely under *Handbook Version 2.0* after it is finalized (Section 8.5.1). The intention of the Prevention Services Clearinghouse is that all existing program and service ratings determined under *Handbook Version 1.0* will remain in effect until such time that a program or service re-review is conducted of a program or service.

Programs and services reviewed by the Prevention Services Clearinghouse under *Handbook Version 1.0* may be considered for re-review under *Handbook Version 2.0* if a re-review has the potential to change the program or service rating (Section 8.5.1). Program or service ratings could potentially change due to application of *Handbook Version 2.0* standards to studies already identified in a prior review (*e.g.,* studies previously ineligible now being eligible; studies being able to demonstrate baseline equivalence under revised standards) or the emergence of new evidence since the original review. The intention of the Prevention Services Clearinghouse is that the rating of a re-reviewed program or service would be based solely on the standards and procedures in *Handbook Version 2.0* (*i.e.,* the previously assigned rating would no longer be in effect).

The intention of the Prevention Service Clearinghouse is to conduct *study* re-reviews (*i.e.,* due to missing information or errors in the currently published review of an individual study) under the version of the handbook used to review the program or service (Section 8.5.2). That is, for a program or service reviewed under *Handbook Version 1.0* where the program or service has not been re-reviewed under *Handbook Version 2.0,* a study re-review would be conducted under *Handbook Version 1.0.* For a program or service where a program or service rating has been assigned using *Handbook Version 2.0,* study re-reviews would be conducted using *Handbook Version 2.0.* This policy is consistent with other Federal evidence clearinghouses with multiple handbook versions (*e.g.,* HomVEE). The Prevention Services Clearinghouse's intention is that the emergence of substantial new evidence that has the potential to change program or service ratings (*e.g.,* a newly published study) should be addressed through a *program or service* re-review. Similarly, cases where application of *Handbook Version 2.0* standards to a study reviewed under *Handbook Version 1.0* could affect the program or service rating are intended to be addressed through a program or service re-review. *Study* re-reviews are intended to be limited solely to addressing missing information or errors in studies already reviewed.

3.9.3 Manual Citation Updates (Section 8.5.3)

The Prevention Services Clearinghouse recognizes that program or service manuals may be updated in the course of time after a review of a program or service has been published. Should a new manual edition (as defined in Section 2.3.2) be published, the public may request consideration of an update to the manual citation used for the program or service as outlined in Section 8.5.3 of the draft *Handbook Version 2.0.* If updated manual editions do not have substantive modifications or adaptations from the manual reviewed (per the criteria specified in Section 2.3), a manual citation may be updated to reflect that a newer manual edition is in active use that is substantively similar to the original primary manual selected for the review of the program or service. In considering whether an update to a manual citation is warranted, the Prevention Services Clearinghouse must have sufficient information available to be able to apply the procedures specified in Section 2.3 for determining whether any substantive adaptations are present in the newer manual edition compared to the original edition reviewed. If the manual citation is updated, the original manual citation used to conduct the review of evidence for the program or service will also be noted for clarity.

4.0 Timeline for the Clearinghouse To Apply New Standards and Procedures

The Prevention Services Clearinghouse proposes to apply the standards and procedures upon publication of a final *Handbook Version 2.0.* The public will be clearly notified on the Prevention Services Clearinghouse website and via other avenues (*e.g.,* email to subscribers to the Prevention Services Clearinghouse email list) when the final published *Handbook Version 2.0* will go into effect for reviewing programs and services.

Per the procedures in Chapters 7 and 8 of the draft *Handbook Version 2.0,* all existing program and service ratings established under *Handbook Version 1.0* will remain in effect until such time that a program or service re-review is conducted of a program or service under *Handbook Version 2.0.*

5.0 Request for Information (RFI)

To facilitate the review of submissions, please identify the chapter, section, and/or page number of the draft *Handbook of Standards and Procedures, Version 2.0* (*https://*

preventionservices.acf.hhs.gov/resources/comment-draft-handbook) that your comments address. This RFI is for information and planning purposes only and should not be construed as a solicitation or as an obligation on the part of ACF or HHS. For more information about the Prevention Services Clearinghouse, visit: *https://preventionservices.acf.hhs.gov.*

Lauren Supplee,

Deputy Assistant Secretary for Planning, Research, and Evaluation.

[FR Doc. 2023–23391 Filed 10–23–23; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; Alzheimer's and Dementia Program Data Reporting Tool (ADP–DRT) OMB Control Number 0985–0022

AGENCY: Administration for Community Living, HHS.

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 (the 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 notice solicits comments on the proposed Revision for the information collection requirements related to Alzheimer's and Dementia Program Data Reporting Tool (ADP–DRT).

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by December 26, 2023.

ADDRESSES: Submit electronic comments on the collection of information to: Erin Long (*erin.long@acl.hhs.gov*). Address written comments on the collection of information to Administration for Community Living, Washington, DC 20201, Attention: Erin Long PRA comments Alzheimer's and Dementia Program Data Reporting Tool (ADP–DRT).

FOR FURTHER INFORMATION CONTACT: Erin Long, *erin.long@acl.hhs.gov,* 202–795–7389.

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 as 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) ways to enhance the quality, utility, and clarity of the information to be collected;

(3) 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;

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.

The Older American's Act requires ACL to evaluate ''demonstration projects that support the objectives of this Act, including activities to bring effective demonstration projects to scale with a prioritization of projects that address the needs of underserved populations, and promote partnerships among aging services, community-based organizations, and Medicare and Medicaid providers, plans, and health (including public health) systems. (Section 201 (42 U.S.C. 3011) Sec. 127. Research and Evaluation).

To fulfill the evaluation requirements and allow for optimal federal and state-level management of ACL's Alzheimer's Disease Program, specific information must be collected from grantees.

The current reporting tool is set to expire 12/31/2023. The Alzheimer's and Dementia Program (ADP) Project Officer has reviewed the current data collection procedures to ensure the acceptability of these items as appropriate and thorough evaluation of the program, while minimizing burden for grantees.

The result of this process is the proposed modifications to the existing data collection tool. ACL is aware that different grantees have different data collection capabilities. It is understood that, following the approval of the modified data collection tool, ACL will work with its grantees to offer regular training to ensure minimal burden.

To support alignment with Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, Executive Order 14075 on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals, and Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity and Sexual Orientation, ACL is adding three sexual orientation and gender identity (SOGI) items to the ADP–DRT. Understanding these disparities can and should lead to improved service delivery for ACL's programs and populations served.

The proposed data collection tools may be found on the ACL website for review at *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden:

ACL estimates the burden associated with this collection of information as follows:

Type of respondent	Form name	Number of respondents	Frequency of response	Average time per response (in hours)	Total burden hours (annual)
Grantee	ADSSP–DRT	69	2	6.64	916.32
Total					916.32

Dated: October 18, 2023.

Alison Barkoff,

Senior official performing the duties of the Administrator and the Assistant Secretary for Aging.

[FR Doc. 2023–23417 Filed 10–23–23; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; State Health Insurance Assistance Program Annual Sub-Recipients Report OMB Control Number 0985–0070

AGENCY: Administration for Community Living, HHS.

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, 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 notice solicits comments on the proposed Extension without change for the information collection requirements related to State Health Insurance Assistance Program Annual Sub-Recipients Report OMB Control Number 0985–0070.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by December 26, 2023.

ADDRESSES: Submit electronic comments on the collection of information to: *Margaret.Flowers@acl.hhs.gov.* Submit written comments on the collection of information to Administration for Community Living, 330 C Street SW, Washington, DC 20201, Attention: Margaret Flowers.

FOR FURTHER INFORMATION CONTACT: *Margaret.Flowers@acl.hhs.gov*, (202) 795–7315.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined as 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) ways to enhance the quality, utility, and clarity of the information to be collected;

(3) 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;

(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.

This information collection gathers sub-award data required from State Health Insurance Assistance Program (SHIP) grantees to provide the amount of federal funds provided annually to each sub-contractor and sub-grantee that are delivering SHIP services. Congress requires this data collection for program monitoring of the SHIP under the Bipartisan Budget Act of 2018, SEC. 50207 (b). Collection of this data allows ACL to communicate with Congress and the public on the SHIP network of agencies. The data collected is electronically posted on the ACL website to educate the network on who the SHIP state sub-recipients are and how much money they are receiving.

The proposed data collection tools may be found on the ACL website for review at *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden: ACL estimates the respondent burden hours to prepare and complete all reports associated with this collection will be hours.

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
	54	1	1	54
Total	54	1	1	54

Dated: October 18, 2023.

Alison Barkoff,

Senior official performing the duties of the Administrator and the Assistant Secretary for Aging.

[FR Doc. 2023–23418 Filed 10–23–23; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0053]

Communications From Firms to Health Care Providers Regarding Scientific Information on Unapproved Uses of Approved/Cleared Medical Products: Questions and Answers; Revised Draft Guidance for Industry; Availability; Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a revised draft guidance for industry entitled ''Communications From Firms to Health Care Providers Regarding Scientific Information on Unapproved Uses of Approved/Cleared Medical Products: Questions and Answers.'' This revised draft guidance, when finalized, will provide FDA's current thinking on common questions regarding certain communications by *firms* to *health care providers* (*HCPs*) of scientific information on *unapproved use(s)* of *approved/cleared medical products* (the scope of the italicized terms is further explained in the revised draft guidance). This revised guidance supersedes the revised draft guidance entitled ''Distributing Scientific and Medical Publications on Unapproved New Uses—Recommended Practices'' issued in 2014 (2014 revised draft guidance).

DATES: Submit either electronic or written comments on the draft guidance by December 26, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance. Submit electronic or written comments on the proposed collection of information in the draft guidance by December 26, 2023.

ADDRESSES: You may submit comments on any guidance 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–2008–D–0053 for ''Communications From Firms to Health Care Providers Regarding Scientific Information on Unapproved Uses of Approved/Cleared Medical Products: Questions and Answers.'' 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 draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Policy and Regulations Staff, (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: *With regard to the draft guidance:* Kathleen David, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Room 3203, Silver Spring, MD 20993–0002, 301–796–1200; Anne Taylor, 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; Ana Loloei, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5504, Silver Spring, MD 20993–0002, 301–796–8774; Office of Surveillance and Compliance, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl. (HFV–6), Rockville, MD 20855, 240–402–7082; Julie Finegan, Office of Policy, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4252, Silver Spring, MD 20993–0002, 301–827–4830.

With regard to the proposed collection of information: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10 a.m.–12 p.m., 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a revised draft guidance for industry entitled ''Communications From Firms to Health Care Providers Regarding Scientific Information on Unapproved Uses of Approved/Cleared Medical Products: Questions and Answers.'' Specifically, this revised draft guidance relates to *firms* sharing the following types of communications with *HCPs:*

- published scientific or medical journal articles (reprints),
- published clinical reference resources, as follows:
  - clinical practice guidelines (CPGs),
  - scientific or medical reference texts (reference texts),
  - materials from independent clinical practice resources, and
- firm-generated presentations of scientific information from an accompanying published reprint.

For the purposes of this revised draft guidance, these specific types of communications from *firms* to *HCPs* of *scientific information on unapproved uses* (SIUU) of *approved/cleared medical products* in combination with the disclosures recommended in the guidance are referred to as ''*SIUU communications.*'' We acknowledge that *firms* share *SIUU communications* through different media (*e.g.,* paper, digital), and the recommendations in this guidance apply regardless of the medium of the communication. Other communications by *firms* are not specifically addressed by this revised draft guidance, and we do not intend to convey any views on such communications in issuing this revised draft guidance.

This revised draft guidance represents a continuation of FDA's ongoing efforts to consider, develop, and refine its policies and recommendations relating to communications by *firms* about *unapproved uses* of their *approved/cleared medical products.* In 2009, FDA issued a final guidance for industry entitled ''Good Reprint Practices for the Distribution of Medical Journal Articles and Medical or Scientific Reference Publications on Unapproved New Uses of Approved Drugs and Approved or Cleared Medical Devices'' (74 FR 1694) to provide guidance to *firms* on distributing ''journal articles'' and ''scientific or medical reference publications.'' Then, FDA issued the 2014 revised draft guidance (79 FR 11793) to clarify the Agency's position on *firms* disseminating scientific or medical reference texts and CPGs that include information on *unapproved uses* of the *firm's* medical products and to provide additional explanation on these topics.

In developing this revised draft guidance, FDA considered stakeholder feedback, including comments received on the 2014 revised draft guidance. This revised draft guidance will supersede the 2014 revised draft guidance. Changes include a revised title, a question-and-answer format, and certain changes in scope.

The Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and their implementing regulations prohibit, among other things, the introduction (or causing the introduction) into interstate commerce of a medical product that fails to comply with applicable premarket requirements or is otherwise misbranded or adulterated. This prohibition includes introducing (or causing the introduction) into interstate commerce a medical product that is intended for a use that has not been approved or cleared by FDA, even if that same product is approved or cleared for a different use. These premarket requirements further multiple important government interests and distributing *approved/cleared medical products* for *unapproved uses* can undermine these interests. In certain circumstances, however, *HCPs* may be interested in scientific information about *unapproved uses* of *approved/cleared medical products* to inform clinical practice decisions for the care of an individual patient. In developing this draft guidance, FDA has sought to strike a careful balance between supporting *HCP* interest in scientific information about *unapproved uses* of *approved/cleared medical products* to inform clinical practice decisions for the care of an individual patient, and mitigating the potential that the government interests advanced by these statutory requirements will be undermined.

In light of those goals, FDA believes it is critical that *SIUU communications* be truthful, non-misleading, factual and unbiased and provide all information necessary for *HCPs* to interpret the strengths and weaknesses and validity and utility of the information in the *SIUU communication.* In addition, any study or analysis described in a *source publication* that serves as the basis for an *SIUU communication* should be scientifically sound. The studies or analyses should also provide information that is relevant to *HCPs* engaged in making clinical practice decisions for the care of an individual patient (as used in this revised draft guidance, ''clinically relevant''). The manner of presentation of *SIUU communications* is also critical to consider. This revised draft guidance provides recommendations addressing all of these considerations.

If a *firm* shares an *SIUU communication* with *HCPs* in a manner that is consistent with the recommendations in this revised draft guidance, FDA does not intend to use such communication standing alone as evidence of a new intended use.

This revised draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The revised draft guidance, when finalized, will represent the current thinking of FDA on ''Communications From Firms to Health Care Providers Regarding Scientific Information on Unapproved Uses of Approved/Cleared Medical Products: Questions and Answers.'' 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

Under the Paperwork Reduction Act of 1995 (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.

Recommendations for Drug and Device Manufacturer Communications With Payors, Formulary Committees, and Similar Entities; and Communications From Firms to Health Care Providers Regarding Scientific Information on Unapproved Uses of Approved/Cleared Medical Products

Questions and Answers

OMB Control Number 0910–0857—Revision

The revised draft guidance document, ''Communications From Firms to Health Care Providers Regarding Scientific Information on Unapproved Uses of Approved/Cleared Medical Products: Questions and Answers,'' discusses information disclosures that we recommend *firms* include in *SIUU communications* if the *firms* choose to publicly share such communications.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Recommended disclosure activity; guidance section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
A statement that the unapproved use(s) of the medical product has not been approved by FDA and that the safety and effectiveness of the medical product for the unapproved use(s) has not been established; Q2.	1,008	30	30,240	0.1 (6 minutes)	3,024
A statement disclosing the FDA-approved use(s) of the medical product, including any limitations of use specified in the FDA-required labeling; Q2.	1,008	27	27,216	0.1 (6 minutes)	2,721.6
A statement disclosing any limitations, restrictions, cautions, or warnings described in the FDA-required labeling about the unapproved use(s); Q2.	1,008	5	5,040	0.2 (12 minutes) ..	1,008
A copy of the most current FDA-required labeling (or a mechanism for obtaining this labeling, as appropriate); Q2.	1,008	27	27,216	0.1 (6 minutes)	2,721.6
A statement describing any contraindication(s) in the FDA-required labeling for the medical product; Q2.	1,008	3	3,024	0.1 (6 minutes)	302.4
A statement describing any serious, life-threatening, or fatal risks posed by the medical product that are in the FDA-required labeling for the medical product or known by the firm and that are relevant to the unapproved use(s). If a risk evaluation and mitigation strategy (REMS) has been established under 21 U.S.C. 355–1, the statement should disclose that fact and should describe the goal(s) of the REMS; Q2.	1,008	25	25,200	0.2 (12 minutes) ..	5,040
A statement identifying any authors, editors, or other contributors to publication(s) included in the SIUU communication who were employees of or consultants to or who received compensation from the firm at the time of writing, editing, or contributing to the publication, to the extent that a firm acting reasonably would know of such relationship; Q2.	1,008	20	20,160	0.2 (12 minutes) ..	4,032
In the case of an SIUU communication that is based on a source publication that is primarily focused on a particular scientific study or studies, for each such study where the following information is not included in the publication, provide a description of: —All material aspects of study design, methodology, and results; —All material limitations related to the study design, methodology, and results; and —When applicable, conclusions from other relevant studies that are contrary to, or cast doubt on, the results shared, including citations for any such studies; Q2.	1,008	20	20,160	2.75	55,440

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]—Continued

Recommended disclosure activity; guidance section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
The publication date of any referenced or included publication(s) (if not specified in the publication or citation); Q2.	1,008	3	3,024	0.1 (6 minutes)	302.4
When firms share an SIUU communication in the form of an unabridged CPG or reference text in its entirety that discusses a wide range of medical products and that discussion is not primarily focused on one or more of a firm's medical products, the firm should include, in lieu of some of the specific disclosures listed above, a more general statement in the SIUU communication, such as ''This [CPG/reference text] describes some uses of medical products that are not approved by the FDA and the safety and effectiveness of any unapproved use(s) have not been established.''; Q4.	1,008	3	3,024	0.1 (6 minutes)	302.4
When firms share an SIUU communication in the form of a firm-generated presentation of scientific information from an accompanying reprint that SIUU communication should clearly disclose what portions of the communication are firm-generated; Q4.	1,008	10	10,080	0.1 (6 minutes)	1,008
Total	.....	.....	174,384	.....	75,902.4

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a current listing of firms promoting approved/cleared human and animal drug products (747), combined with an estimated number of device firms marketing products (261), we assume 1,008 firms (''number of respondents'' in table (1) may each choose to publicly share 30 *SIUU communications* annually. Our estimate of the burden per disclosure (2.5 hours) reflects what we believe is the average burden based on the number and content and complexity of disclosures as recommended in the guidance.

III. Request for Comment on Other Issues for Consideration

FDA is interested in additional matters related to communications by *firms* about scientific information on *unapproved use(s)* of *approved/cleared medical products.* This revised draft guidance pertains to these communications by *firms* to *HCPs* engaged in making clinical practice decisions for the care of an individual patient. FDA is specifically seeking input on the following:

1. What considerations, if any, exist that are unique to communications of scientific information about *unapproved use(s)* of *approved/cleared medical products* by *firms* to researchers (including *HCPs* working in their capacity as researchers)?

2. What other factors should *firms* consider when sharing firm-generated presentations (as described in the draft guidance) to ensure that presentations are truthful, non-misleading, factual and unbiased and provide all information necessary for *HCPs* to interpret the strengths and weaknesses and validity and utility of the presented information?

IV. Electronic Access

Persons with access to the internet may obtain an electronic version of the draft guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances*, *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*, *https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry*, *https://www.fda.gov/regulatory-information/search-fda-guidance-documents*, or *https://www.regulations.gov*.

Dated: October 18, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–23372 Filed 10–23–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Request for Public Comment on Proposed Update to the Bright Futures Periodicity Schedule as Part of the HRSA-Supported Preventive Services Guidelines for Infants, Children, and Adolescents

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice seeks public comment on a proposed update to the Periodicity Schedule of the Bright Futures Recommendations for Pediatric Preventive Health Care (''Bright Futures Periodicity Schedule''), as part of the HRSA-supported preventive services guidelines for infants, children, and adolescents.

DATES: Members of the public are invited to provide written comments on the proposed update no later than November 24, 2023. All comments received on or before this date will be reviewed and considered by the Bright Futures Periodicity Schedule Working Group and provided for further consideration by HRSA in determining the recommended updates that it will support.

ADDRESSES: Members of the public interested in providing comments can do so by accessing the public comment web page at: *www.aap.org/en/forms/bright-futures-american-academy-of-pediatrics-recommendations-preventive-health-care/.*

FOR FURTHER INFORMATION CONTACT: Savannah Kidd, M.S., M.F.T.; Senior Public Health Analyst; Division of Child, Adolescent, and Family Health; Maternal and Child Health Bureau; HRSA; email: *SKidd@hrsa.gov,* telephone: 301–287–2601.

SUPPLEMENTARY INFORMATION: The Bright Futures Periodicity Schedule is maintained through a cooperative agreement, the Infant, Child, and Adolescent Preventive Services Program, for which the American Academy of Pediatrics (AAP) is the current recipient. When its preventive care and screening recommendations have been accepted by HRSA, the Bright Futures Periodicity Schedule is part of the HRSA-supported preventive services guidelines for infants, children, and adolescents. Under section 2713 of the Public Health Service Act (42 U.S.C. 300gg–13) and pertinent regulations, non-grandfathered group health plans and health insurance issuers must provide coverage, without cost sharing, for certain preventive services for plan years (in the individual market, policy years) that begin on or after the date that is 1 year after the date the recommendation or guideline is issued. These include HRSA-supported preventive health services provided for in the Bright Futures Periodicity Schedule as part of the HRSA-supported preventive services guidelines for infants, children, and adolescents under 42 U.S.C. 300gg–13(a)(3).

Through the Infant, Child, and Adolescent Preventive Services cooperative agreement, the AAP is required to administer a process for developing and regularly recommending, as needed, updates to the Bright Futures Periodicity Schedule through a comprehensive, objective, and transparent review of available evidence that incorporates opportunity for public comment. Accordingly, AAP reviews the evidence to determine whether updates are needed, develops recommended updates, seeks and considers public comments, and makes recommendations to HRSA. The proposed update to the Bright Futures Periodicity Schedule includes additions to existing footnotes, which provide up-to-date information and recommendations to providers but will not change the clinical recommendations and associated requirement for coverage without cost-sharing under section 2713 of the Public Health Service Act. The footnotes that AAP proposes to be revised are as follows:

1. Footnote 4, relating to the first week well-child visit, also called the 3–5 Day Visit, will be revised with an updated reference that aligns with the Bright Futures recommendation regarding providers helping families that choose to breastfeed.

2. Footnote 5, relating to Body Mass Index, is the *Clinical Practice Guideline for the Evaluation and Treatment of Children and Adolescents with Obesity* (*https://doi.org/10.1542/peds.2022-060640*) published in the January 2023 issue of Pediatrics. This updated reference aligns with the Bright Futures recommendation regarding measuring body mass index starting at the 24-month visit through the 21-year visit and provides non-stigmatizing recommendations for evaluating and treating children who are experiencing weight gains.

3. Footnote 14, relating to Behavioral/Social/Emotional Screening, is the U.S. Preventive Services Task Force Recommendation Statement, *Screening for Anxiety in Children and Adolescents* (*https://www.uspreventiveservicestaskforce.org/uspstf/recommendation/screening-anxiety-children-adolescents*) published in the October 2022 issue of the Journal of the American Medical Association. This additional reference aligns with the Bright Futures recommendation to use screening instruments to better identify children experiencing anxiety, followed by a confirmatory diagnostic assessment and follow-up.

4. Footnote 15, relating to Tobacco, Alcohol, or Drug Use Assessment, is the Centers for Disease Control and Prevention's *Evidence-Based Strategies for Preventing Opioid Overdose: What's Working in the United States* (*https://www.cdc.gov/drugoverdose/pdf/pubs/2018-evidence-based-strategies.pdf*) and the National Institute on Drug Abuse's policy brief, *Naloxone for Opioid Overdose: Life-Saving Science* (*https://nida.nih.gov/publications/naloxone-opioid-overdose-life-saving-science*). The proposed footnote aligns with the Bright Futures recommendation to assess patients for substance use with a validated screening tool. These additional references also describe the utility of prescribing Naloxone if there is concern for substance or opioid use.

5. Footnote 21, relating to Newborn Bilirubin Screening, is *Management of Hyperbilirubinemia in the Newborn Infant 35 or More Weeks of Gestation* (*https://doi.org/10.1542/peds.2022-058859*), published in the August 2022 issue of Pediatrics. This reference aligns with the Bright Futures recommendation for universal bilirubin screening for all newborn infants between 24 and 28 hours after birth.

6. Footnote 35, relating to Oral Health, is *Maintaining and Improving the Oral Health of Young Children* (*https://doi.org/10.1542/peds.2022-060417*), published in the December 2022 issue of Pediatrics. This reference aligns with the Bright Futures recommendation that every child has a dental home by 1 year of age. Additionally, the updated reference encourages providers to screen for social determinants of health, as well as access to medical and dental care, as they influence oral health status and oral health inequities.

With respect to Footnote 15, HRSA welcomes comment on the evidence regarding the effect of prescribing Naloxone in the setting of a primary care preventive visit on preventing or reducing opioid overdoses and opioid overdose deaths.

Authority: Section 2713(a)(3) of the Public Health Service Act, 42 U.S.C. 300gg–13(a)(3).

Carole Johnson,

Administrator.

[FR Doc. 2023–23396 Filed 10–23–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Findings of research misconduct have been made against Lara S. Hwa, Ph.D. (Respondent), who is an Assistant Professor, Department of Psychology and Neuroscience, Baylor University (BU), and formerly was a Postdoctoral Fellow, School of Medicine, University of North Carolina at Chapel Hill (UNC–CH). Respondent engaged in research misconduct in research supported by U.S. Public Health Service (PHS) funds, specifically National Institute on Alcohol Abuse and Alcoholism (NIAAA), National Institutes of Health (NIH), grants K99/R00 AA027576, T32 AA007573, F31 AA027129, F32 AA026485, R01 AA019454, U01 AA020911, R01 AA025582, and P60 AA011605 and included in two grant applications submitted for PHS funds, specifically K99 AA027576 submitted to NIAAA, NIH, and R01 DK136486 submitted to

the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), NIH. The administrative actions, including supervision for a period of four (4) years, were implemented beginning on August 24, 2023, and are detailed below.

FOR FURTHER INFORMATION CONTACT: Sheila Garrity, JD, MPH, MBA, Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 240, Rockville, MD 20852, (240) 453–8200.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Lara S. Hwa, Ph.D., Baylor University and University of North Carolina at Chapel Hill: Based on the report of an investigation conducted by BU and UNC–CH and additional analysis conducted by ORI in its oversight review, ORI found that Lara S. Hwa, Ph.D., who is an Assistant Professor, Department of Psychology and Neuroscience, BU, and formerly was a Postdoctoral Fellow, School of Medicine, UNC–CH, engaged in research misconduct in research supported by PHS funds, specifically NIAAA, NIH, grants K99/R00 AA027576, T32 AA007573, F31 AA027129, F32 AA026485, R01 AA019454, U01 AA020911, R01 AA025582, and P60 AA011605 and included in two grant applications submitted for PHS funds, specifically K99 AA027576 submitted to NIAAA, NIH, and R01 DK136486 submitted to NIDDK, NIH.

ORI found that Respondent engaged in research misconduct by knowingly or recklessly falsifying and/or fabricating data, methods, results, and conclusions in animal models of alcohol use disorders. Specifically, Respondent falsified and/or fabricated experimental timelines, group conditions, sex of animal subjects, mouse strains, and behavioral response data in the following two (2) published papers and two (2) PHS grant applications:

- Alcohol Drinking Alters Stress Response to Predator Odor via BNST Kappa Opioid Receptor Signaling in Male Mice. *Elife.* 2020 Jul 21;9:e59709. doi: 10.7554/eLife.59709 (hereafter referred to as ''*Elife* 2020''). Retraction in: *Elife.* 2021 Nov 2;10:e74986. doi: 10.7554/eLife.74986.
- Predator Odor Increases Avoidance and Glutamatergic Synaptic Transmission in the Prelimbic Cortex via Corticotropin-releasing Factor Receptor 1 Signaling. *Neuropyschopharmacology.* 2019 Mar;44(4):766–775. doi: 10.1038/s41386–018–0279–2 (hereafter referred to as ''*Neuropyschopharmacology* 2019'').
- K99/R00 AA027576, ''Long-term Alcohol Drinking Alters Stress Engagement of BNST Circuit Elements,'' submitted to NIAAA, NIH, Funding Period: September 20, 2019–August 31, 2024.
- R01 DK136486, ''Neuropeptide Characterization of Limited Access Sugar Drinking in Mice,'' submitted to NIDDK, NIH, administratively withdrawn on December 9, 2022.

Specifically, ORI finds that Respondent knowingly or recklessly:

- Falsified blood ethanol (alcohol) concentration results by using female dynorphin mice from an unrelated study to represent ethanol concentrations in male wildtype mice in Figure 1D of *Elife* 2020
- Falsified ethanol drinking ranges by including mice that drank outside of the range reported in Figures 2C, 4, and 6 of *Elife* 2020 and Figure 4 of K99 AA027576
- Falsified ethanol withdrawal times by including mice undergoing a broad range of withdrawal durations but reporting different withdrawal parameters in Figures 2C, 4, 6, and Figure 6–figure supplement 1 of *Elife* 2020 and Figure 4 of K99 AA027576
- Falsified and/or fabricated mouse behavioral data by selectively switching, omitting, or altering raw data by:
  - —Switching mouse location data from tracking software for water and ethanol treatment groups in Figures 1F, 1G, and 1H of *Elife* 2020
  - —Reporting unrelated heatmap images of mouse spatial location from a separate previous study to falsely demonstrate representative heatmap images for experimental conditions reported in Figure 1F of *Elife* 2020
  - —Falsifying or fabricating mouse location data for 2,4,5, trimethyl-3-thiazoline (TMT) (*i.e.,* predator odorant) contact values in Figures 1G, 3E, and 5I of *Elife* 2020
- Falsified immunolabeling results for *c-Fos* positive nuclei values by selectively switching or omitting raw data reported in mouse prelimbic and infralimbic subregions in mice previously exposed to H2O (control), vanilla (novel odorant), or TMT in Figures 2b, 2c, and 2d of *Neuropsychopharmacology* 2019
- Falsified sample size by duplicating four (4) data points to falsely report spontaneous excitatory post-synaptic current (sEPSC) frequency datapoints of electrophysiological recordings of eight (8) animal subjects in the water and NBI27914 treatment group in Figure 5f of *Neuropyschopharmacology* 2019 and Figure 6 of R01 DK136486

Respondent entered into a Voluntary Settlement Agreement (Agreement) and voluntarily agreed to the following:

(1) Respondent will have her research supervised for a period of four (4) years beginning on August 24, 2023 (the ''Supervision Period''). Prior to the submission of an application for PHS support for a research project on which Respondent's participation is proposed and prior to Respondent's participation in any capacity in PHS-supported research, Respondent will submit a plan for supervision of Respondent's duties to ORI for approval. The supervision plan must be designed to ensure the integrity of Respondent's research. Respondent will not participate in any PHS-supported research until such a supervision plan is approved by ORI. Respondent will comply with the agreed-upon supervision plan.

(2) The requirements for Respondent's supervision plan are as follows:

i. A committee of 2–3 senior faculty members at the institution who are familiar with Respondent's field of research, but not including Respondent's supervisor or collaborators, will provide oversight and guidance for a period of four (4) years from the effective date of the Agreement. The committee will review primary data from Respondent's laboratory on a quarterly basis and submit a report to ORI at six (6) month intervals setting forth the committee meeting dates and Respondent's compliance with appropriate research standards and confirming the integrity of Respondent's research.

ii. The committee will conduct an advance review of each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved. The review will include a discussion with Respondent of the primary data represented in those documents and will include a certification to ORI that the data presented in the proposed application, report, manuscript, or abstract are supported by the research record.

(3) During the Supervision Period, Respondent will ensure that any institution employing her submits, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the

data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported and not plagiarized in the application, report, manuscript, or abstract.

(4) If no supervision plan is provided to ORI, Respondent will provide certification to ORI at the conclusion of the Supervision Period that her participation was not proposed on a research project for which an application for PHS support was submitted and that she has not participated in any capacity in PHS-supported research.

(5) During the Supervision Period, Respondent will exclude herself voluntarily from serving in any advisory or consultant capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee.

(6) Respondent will request that the following paper be corrected or retracted:

• *Neuropyschopharmacology.* 2019 Mar;44(4):766–775. doi: 10.1038/s41386–018–0279–2. Respondent will copy ORI and the Research Integrity Officer at UNC–CH on the correspondence with the journal.

Dated: October 19, 2023.

Sheila Garrity,

Director, Office of Research Integrity, Office of the Assistant Secretary for Health.

[FR Doc. 2023–23464 Filed 10–23–23; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Biomaterials, Instrumentation, Gene and Drug Delivery.

Date: December 8, 2023.

Time: 10:00 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joseph D. Mosca, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 408–9465, *moscajos@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 19, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–23422 Filed 10–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Respiratory Sciences.

Date: December 14, 2023.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 19, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–23424 Filed 10–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Human Genome Research Institute, Center for Inherited Disease Research Access Committee, November 3, 2023, 11:30 a.m. to 12:30 p.m., National Institutes of Health, National Human Genome Research Institute, 6700B Rockledge Drive, Room 3172, Bethesda, MD 20892, which was published in the **Federal Register** on September 28, 2023, FR DOC 2023–21148, 88 FR 66863.

The National Human Genome Research Institute, Center for Inherited Disease Research Access Committee meeting is being rescheduled due to panel member availability. The meeting date and time has been changed to November 9, 2023, from 2:00 p.m. to 3:00 p.m. This meeting will be closed to the public.

Dated: October 19, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–23423 Filed 10–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–22–510 NIDDK Short-Term Research Experience Program to Unlock Potential (STEP–UP).

Date: November 13, 2023.

Time: 10:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NIDDK, Democracy II, Suite 7000A, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John F. Connaughton, Ph.D., Chief, Scientific Review Branch, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7007, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 19, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–23454 Filed 10–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Institute Special Emphasis Panel, Catalyze Enabling Technologies, December 4, 2023, 10 a.m. to 12 p.m., National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD, 20892, which was published in the **Federal Register** on September 28, 2023, FR Doc 2023–21890, 88 FR 68127.

The National Heart, Lung, and Blood Institute Special Emphasis Panel, Catalyze Enabling Technologies meeting is being amended due to a change of the meeting date and time formats. The meeting will be held on December 5, 2023, from 12 p.m. to 2 p.m. This meeting is closed to the public.

Dated: October 18, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–23383 Filed 10–23–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Agency Information Collection Activities: Contractor Fitness/Security Screening Request Form; OMB Control No. 1601–NEW

AGENCY: Department of Homeland Security (DHS).

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this information collection request (ICR) in the **Federal Register** on August 15, 2023, for a 60-day public comment period. No comments were received by DHS. The purpose of this notice is to allow additional 30-days for public comments.

DATES: Comments are encouraged and will be accepted until November 24, 2023. This process is conducted in accordance with 5 CFR 1320.1.

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.

The Office of Management and Budget is particularly interested in comments which:

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

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

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

SUPPLEMENTARY INFORMATION: This information collection will be used to initiate the fitness screening process for determining if a person invited to perform work under a contract for the Department of Homeland Security (DHS), is fit to perform such work and eligible for access to DHS resources, based on the risk levels of the designated position. The respondent provides and/or verifies biographical information to complete Section II of DHS Form 11000–25.

This collection of information is necessary to initiate the contractor fitness screening process for determining whether a person (*i.e.,* the respondent) who has been invited to perform work under a contract for, or on behalf of the Department of Homeland Security (DHS), should be deemed fit to perform such work and eligible for logical and/or physical access to DHS resources based on the risk levels of the designated position. The respondent is responsible for providing and/or verifying information to complete Section II of DHS Form 11000–25; the remaining sections of DHS Form 11000–25 (Sections I, III, and IV) are completed by DHS federal employees. Authorities that that support this information collection include:

- Executive Order (E.O.) 9397, *Numbering System for Federal Accounts Relating to Individual Persons, as amended by E.O. 13478, Amendments to E.O. 9397 Relating to Federal Agency Use of Social Security Numbers*
- E.O. 10577, *Amending the Civil Service Rules and Authorizing a New Appointment System for the Competitive Service*
- E.O. 13467, *Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information*
- E.O. 13764, *Amending the Civil Service Rules, Executive Order 13488, and Executive Order 13467 To Modernize the Executive Branch-Wide Governance Structure and Processes for Security Clearances, Suitability and Fitness for Employment, and Credentialing, and Related Matters*
- Title 5, Code of Federal Regulations (CFR), Part 731, *Suitability*
- Title 5, CFR, Part 732, *National Security Positions*

- Federal Acquisition Regulation (FAR) 52.204–2, *Security Requirements*
- FAR 52.204–9, *Personal Identity Verification of Contractor Personnel*
- Homeland Security Presidential Directive 12

This is a new information collection. DHS collects this information from the respondent, so Personnel Security entities can initiate the appropriate screening process for determining whether the respondent should be deemed fit to perform work under a contract for, or on behalf of DHS, and eligible for logical and/or physical access to DHS resources based on the risk levels of the designated position.

This information collection utilizes an automated technological solution (*i.e.,* Personnel Security Forms application) which negates the need for a paper-based DHS Form 11000–25, thereby reducing the burden on the respondent during the initiation phase of the contractor fitness screening process. After receiving an invitation to perform work under a contact, the respondent (*i.e.,* DHS contractor applicant) submits and verifies certain biographical information (*e.g.,* full name, position title, SSN, gender, date and place of birth, U.S. citizenship status, telephone number, and email address) through a public facing web portal. Once the information intake is complete, the Personnel Security Forms application produces an automated electronic version of the DHS Form 11000–25 for use by the appropriate Personnel Security entities to make a fitness determination. This information collection does not have an impact on small businesses or other small entities.

The information collection for DHS Form 11000–25 is voluntary; however, failure to provide this information may delay or prevent an individual's fitness determination and eligibility for physical and logical access to federally controlled facilities or information systems.

There is no assurance of confidentiality provided to the respondents. Consistent with DHS' information sharing mission, all or a portion of the information collection may be disclosed outside DHS consistent with the routine uses set forth in Privacy Impact Assessment, *DHS/ALL/PIA–038, Integrated Security Management System (ISMS),* and System of Record Notice, *DHS/ALL–023 Department of Homeland Personnel Security Management.*

This is a new collection.

The Office of Management and Budget is particularly interested in comments which:

5. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

6. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

7. Enhance the quality, utility, and clarity of the information to be collected; and

8. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security (DHS).

Title: Contractor Fitness/Security Screening Request Form.

OMB Number: 1601–NEW.

Frequency: Annually.

Affected Public: Individuals or Households.

Number of Respondents: 45,000.

Estimated Time per Respondent: 15 mins.

Total Burden Hours: 11,250 hrs.

Robert Porter Dorr,

Executive Director, Business Management Directorate.

[FR Doc. 2023–23406 Filed 10–23–23; 8:45 am]

BILLING CODE 9112–FL–P

DEPARTMENT OF HOMELAND SECURITY

Agency Information Collection Activities: Personal Identity Verification Official (PIV–O) Credential and Shield Request, OMB Control No. 1601–NEW

AGENCY: Department of Homeland Security (DHS).

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, DHS will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this information collection request (ICR) in the **Federal Register** on August 15, 2023, for a 60-day public comment period. No comments were received by DHS. The purpose of this notice is to allow additional 30-days for public comments.

DATES: Comments are encouraged and will be accepted until November 24, 2023. This process is conducted in accordance with 5 CFR 1320.1.

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.

The Office of Management and Budget is particularly interested in comments which:

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

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

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

SUPPLEMENTARY INFORMATION: Department of Homeland Security (DHS) Form 11000–16 is used to request a DHS Personal Identity Verification Official (PIV–O) credential, and if applicable, a shield (*i.e.,* metallic law enforcement or non-law enforcement badge) to accompany the credential, for DHS employees, contractors, and affiliates authorized to perform specific official functions pursuant to law, statute, regulation, or DHS Directive. This collection of information, using Department of Homeland Security (DHS) Form 11000–16, is necessary to support *Homeland Security Presidential Directive 12: Policy for a Common Identification Standard for Federal Employees and Contractors,* issued on August 27, 2004, which mandates a federal standard for secure and reliable forms of identification. The collection is used in accordance with System of Record Notice *DHS/ALL–026 Department of Homeland Security*

Personal Identity Verification Management System and Department policy to request a DHS Personal Identity Verification Official (PIV–O) credential, and if applicable, a shield (*i.e.,* metallic law enforcement or non-law enforcement badge) to accompany the credential. A DHS PIV–O credential describes authorities delegated to specific DHS employees, contractors, and affiliates who interact with the public or federal, state, local, or tribal entities to perform authorized official functions pursuant to law, statute, regulation, or DHS Directive.

The collection of information is obtained from (or on behalf of) the respondent, who may be a current or prospective DHS contractor (*i.e.,* member of the public). The information is collected electronically using a fillable PDF form submitted to the respective DHS credentialing office. The respondent is responsible for only completing Sections 1, 2, and 3 of DHS Form 11000–16; the remaining sections of the form (Sections 4, 5, and 6) are completed by DHS federal employees. Qualified personnel within the DHS credentialing office holding a requisite role in the Identity and Credential System(s) of Record use the collected information to adjudicate the action requested in Section 1 of the DHS Form 11000–16, and as necessary, enroll, identify, and retrieve the applicant's record in the DHS Identity and Credential System(s) of Record.

The collection of information is obtained from the respondent electronically using a fillable PDF form: upon completion, the form is submitted to the respective DHS Component credentialing office in accordance with internal procedures.

This information collection does not have an impact on small businesses or other small entities.

Collection of the information on DHS Form 11000–16 is voluntary; however, failure to provide the information requested may prevent the respondent (*i.e.,* applicant) from receiving the requested DHS PIV–O credential and/or shield.

There is no assurance of confidentiality provided to the respondents. Consistent with DHS's information sharing mission, this information collection may be shared with Federal, state, local, tribal, foreign or international government agencies, including other DHS Components and offices. This sharing will only take place after DHS determines that the receiving entity has a need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in Privacy Impact Assessment, *DHS/ALL/PIA–014 Personal Identity Verification/Identity Management System (PIV/IDMS)* and System of Records Notice, *DHS/ALL–026 Department of Homeland Security Personal Identity Verification Management System.*

This is a new collection.

The Office of Management and Budget is particularly interested in comments which:

5. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

6. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

7. Enhance the quality, utility, and clarity of the information to be collected; and

8. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security (DHS).

Title: Personal Identity Verification Official (PIV–O) Credential and Shield Request.

OMB Number: 1601–NEW.

Frequency: Annually.

Affected Public: Individuals or Households.

Number of Respondents: 1,500.

Estimated Time per Respondent: 15 mins.

Total Burden Hours: 375 hrs.

Robert Porter Dorr,

Executive Director, Business Management Directorate.

[FR Doc. 2023–23405 Filed 10–23–23; 8:45 am]

BILLING CODE 9112–FL–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6382–N–01]

Federal Housing Administration (FHA): Home Equity Conversion Mortgage (HECM) HECM for Purchase—Acceptable Monetary Investment Funding Sources and Interested Party Contributions

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: This notice serves to inform members of the public and affected program participants of changes to the Federal Housing Administration's (FHA) Home Equity Conversion Mortgage (HECM) for Purchase program that HUD intends to make in a future update to HUD's Single Family Housing Policy Handbook. Pursuant to the FHA Commissioner's (''Commissioner'') regulatory authority, FHA will expand the list of acceptable funding sources used to satisfy the borrower's monetary investment requirement and will permit additional interested party contributions. This notice also informs the public that FHA will remove existing restrictions that prohibit the borrower from accepting cash from a seller or another person or entity that financially benefits from the HECM for Purchase transaction. This notice seeks public comment on these changes.

DATES: Comment Due Date: November 24, 2023.

FOR FURTHER INFORMATION CONTACT: Mary Jo Sullivan, Acting Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 9266, Washington, DC 20410–9000, telephone number 202–402–2378 (this is not a toll-free number); email address *sffeedback@hud.gov.* HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit: *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION:

I. Background: Statutory Authority, Regulations, and Administrative Guidance

Section 2122(a)(9) of the Housing and Economic Recovery Act of 2008 (HERA) amended Section 255 of the National

Housing Act to authorize the Department of Housing and Urban Development (HUD) to insure HECMs used for the purchase of a 1- to 4-family dwelling unit, one unit of which will serve as the borrower's principal residence. In 2008, based on the authority in section 255, FHA implemented the HECM for Purchase program through Mortgagee Letter (ML) 2008–33, permitting mortgagees to originate HECM for Purchase transactions. ML 2008–33 was superseded by Mortgage Letter 2009–11, which required borrowers to satisfy a monetary investment using cash on hand or cash from the sale or liquidation of the mortgagor's assets, or certain additional funding sources defined in HUD Handbook 4155.1 REV–5, section 2–10.

FHA through ML 2009–11, however, prohibited certain funding sources for the borrower's required monetary investment. Specifically, borrowers were prohibited from satisfying the monetary investment requirement using sweat equity, trade equity, rent credit, or cash or its equivalent, in whole or in part, received from the seller or any other person or entity that financially benefits from the HECM for Purchase transaction, or any third party or entity that is reimbursed, directly or indirectly, by the seller or any other person or entity that financially benefits from the HECM for Purchase transaction. Additionally, ML 2009–11 prohibited seller contributions, also known as seller concessions, in any HECM for Purchase transaction. Seller concessions were defined as the use of loan discount points, interest rate buy-downs, closing cost down payment assistance, builder incentives, gifts or personal property given by the seller, or any other party involved in the transaction. These limitations on funding sources and interested party contributions redirected expenses customarily paid by the seller or other interested parties to the HECM for Purchase borrower.

On January 19, 2017, FHA codified the requirements for the HECM for Purchase program, and other program changes, in the ''Federal Housing Administration (FHA): Strengthening the Home Equity Conversion Mortgage Program'' Final Rule (82 FR 7094) (''the final rule'') amending 24 CFR part 206. The final rule changed the funding source restrictions from ML 2009–11, to permit interested party contributions to pay fees required to be paid by the seller under state or local law, for fees that are customarily paid by a seller in the locality of the subject property, and for purchase of the Home Warranty policy by the seller (24 CFR 206.44(c)(1)).

FHA also codified three permitted funding sources for the borrower's required monetary investment: cash on hand, cash from the sale or liquidation of the borrower's assets, and HECM proceeds. The final rule codified regulatory provisions that grant the Commissioner the authority to permit additional funding sources and interested party contributions through future notice in the **Federal Register**, 24 CFR 206.44(b)(4) and (c)(2), respectively. Based on the foregoing regulatory authority, FHA is issuing this notice to permit additional funding sources and interested party contributions in HECM for Purchase transactions.

II. This Notice

HECM for Purchase requires Borrowers to contribute substantial liquid assets to meet the negotiated contract sales price for the property plus standard origination fees and charges. By expanding the list of permitted interested party contributions, FHA is more closely aligning its HECM interested party contribution policies with FHA's forward mortgage programs, while meaningfully increasing the sources of funds available for HECM borrowers to satisfy their capital requirements to originate a HECM for Purchase.

For example, a borrower purchasing a property in the state of Arizona with a HECM for Purchase, where:

- Contract sales price is $491,974.00;
- Borrower's Closing Costs are $20,300.00;
- Appraised Value is $492,000.00; and
- Principal Limit is $189, 902.00 (maximum proceeds available to borrower from the HECM).

Under current policy, the total amount of cash *due from the borrower* at closing to complete this transaction is $322,372 ($491,974 plus $20,300 minus $189,902). Under the proposed notice, interested parties could contribute up to 6 percent of the sales price, or $29,518.44, toward the borrower's monetary requirements, reducing the total amount due from the borrower at closing from $322,372 to $292,853.56.

Therefore, pursuant to the Commissioner's authority under 24 CFR 206.44(b)(4) and 206.44(c)(2), HUD is, through this notice, informing the public and program participants of changes to the FHA's HECM program, which HUD intends to make effective in a future update to HUD's Single Family Housing Policy Handbook.

For the HECM for Purchase program, FHA will permit the use of an ''interested party contribution,'' up to six percent of the sales price. ''Interested party contribution'' will be defined as a payment by an interested party [1] or combination of parties, toward the borrower's origination fees, other closing costs including any items paid outside of closing, prepaid items, and discount points. The six percent limit may be applied towards but may not exceed the cost of: origination fees; other closing costs paid outside of closing, such as a credit report and appraisal; prepaid items; discount points; interested party payment for permanent and temporary interest rate buydowns; and payment of the initial mortgage insurance premium.

Through this notice, FHA will permit additional funding sources that may be used to satisfy the borrower's monetary investment including premium pricing; [2] gifts; disaster relief grants; and employer assistance. These permitted sources are in addition to cash on hand, cash from the sale or liquidation of the borrower's assets, and HECM proceeds that are already permitted by regulation.

Premium pricing credits from the mortgagee or third-party originator will be excluded from the six percent interested party contribution limit, provided the mortgagee or third-party originator is not the seller, real estate agent, builder, or developer. Fees required to be paid by a seller under state or local law or customarily paid by a seller in the subject property locality, including real estate agent commissions or fees, and the purchase of the Home Warranty policy by the seller are already permitted under § 206.44(c)(1) [3] and will be excluded from the six percent interested party contribution limit. Further, as with FHA's policy for forward-mortgages, FHA will exclude the satisfaction of a Property Assessed Clean Energy (''PACE'') lien or obligation against the property by the property seller from the definition of an interested party contribution in the HECM for Purchase program.

This document seeks comment from interested members of the public on this document generally, and on the issues

[1] ''Interested Parties'' refer to sellers, real estate agents, builders, developers, Mortgagees, Third-Party Originators, or other parties with an interest in the transaction.

[2] ''Premium Pricing'' refers to the aggregate credits from a mortgagee or third-party originator at the interest rate chosen.

[3] 24 CFR 206.44(c)(1) permits interested party contributions that are defined as fees required to be paid by a seller under state or local law, fees customarily paid by a seller in the subject property locality, or the purchase of the Home Warranty policy by the seller.

discussed previously in this notice. HUD will carefully consider the public comments received through this solicitation as part of a future policy update.

Julia R. Gordon,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2023–23429 Filed 10–23–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0191; Docket ID: BOEM–2023–0004]

Agency Information Collection Activities; Negotiated Noncompetitive Agreement for the Use of Sand, Gravel, and/or Shell Resources on the Outer Continental Shelf

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) proposes this information collection request (ICR) to renew Office of Management and Budget (OMB) control number 1010–0191.

DATES: Comments must be received by the OMB desk officer no later than November 24, 2023.

ADDRESSES: Submit your written comments on this ICR to the OMB desk officer for the Department of the Interior at *www.reginfo.gov/public/do/PRAMain.* From the *www.reginfo.gov/public/do/PRAMain* landing page, find this information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments by parcel delivery service or U.S. mail to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov.* Please reference OMB control number 1010–0191 in the subject line of your comments. You may also comment by searching the docket number ''BOEM–2023–0004'' at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Anna Atkinson by email at *anna.atkinson@boem.gov,* or by telephone at 703–787–1025. 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 of 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 of 1995, BOEM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps BOEM assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand BOEM's information collection requirements and provide the requested data in the desired format.

Title of Collection: ''30 CFR part 583, Negotiated Noncompetitive Agreements for the Use of Outer Continental Shelf Sand, Gravel, and/or Shell Resources.''

Abstract: Part 583 in title 30 of the Code of Federal Regulations addresses the use of Outer Continental Shelf (OCS) sand, gravel, and shell resources for shore protection, beach restoration, or coastal wetlands restoration projects undertaken by Federal, State, or local government agencies, or for use in construction projects authorized by or funded in whole or in part by the Federal Government.

The OCS Lands Act, 43 U.S.C. 1331 *et seq.,* authorizes the Secretary of the Interior to prescribe rules and regulations to administer leasing of mineral resources on the OCS. Section 1337(k)(2) of title 43 authorizes the Secretary to ''. . . negotiate with any person an agreement for the use of Outer Continental Shelf sand, gravel and shell resources—(i) for use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or (ii) for use in a construction project . . . that is funded in whole or in part by or authorized by the Federal Government.'' The Secretary delegated this authority to BOEM.

This ICR allows BOEM to collect information from an applicant requesting a non-competitive, negotiated agreement. This information is used to determine if the applicant is qualified to enter into such an agreement and to determine if the requested action is warranted.

OMB Control Number: 1010–0191.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal, State, or local governments.

Total Estimated Number of Annual Responses: 45 responses.

Total Estimated Number of Annual Burden Hours: 299 hours (Hours are same as currently approved).

Respondent's Obligation: Required to retain or obtain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: BOEM has identified no non-hour paperwork cost burdens for this collection.

A **Federal Register** notice with a 60-day public comment period on the proposed ICR was published on May 26, 2023 (88 FR 34182). BOEM did not receive any comments.

BOEM is again soliciting comments on the proposed ICR. BOEM is especially interested in public comments addressing the following issues: (1) is the collection necessary to the proper functions of BOEM; (2) what can BOEM do to ensure that this information is processed and used in a timely manner; (3) is the burden estimate accurate; (4) how might BOEM enhance the quality, utility, and clarity of the information to be collected; and (5) how might BOEM minimize the burden of this collection on the respondents, including minimizing the burden through the use of information technology?

Comments submitted in response to this notice are a matter of public record and will be available for public review on *www.reginfo.gov.* You should be aware that your entire comment—including your address, phone number, email address, or other personally identifiable information included in your comment—may be made publicly available at any time. In order for BOEM to consider withholding from disclosure your personal identifying information, you must identify, in a cover letter, any information contained in your comment that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm. Note that BOEM will make available for public inspection all comments in their entirety (except for proprietary information submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses).

Even if BOEM withholds your information in the context of this ICR, your comment is subject to the Freedom

of Information Act (FOIA) (5 U.S.C. 552). If your submission is requested under FOIA, your information will only be withheld if a determination is made that one of the FOIA exemptions to disclosure applies. Such a determination will be made in accordance with the Department's FOIA implementing regulations (43 CFR part 2) and applicable law.

BOEM protects proprietary information in accordance with FOIA and DOI's implementing regulations.

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.*).

Karen Thundiyil,

Chief, Office of Regulations, Bureau of Ocean Energy Management.

[FR Doc. 2023–23414 Filed 10–23–23; 8:45 am]

BILLING CODE 4340–98–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–585–586 and 731–TA–1383–1384 (Review)]

Stainless Steel Flanges From China and India; Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing and antidumping duty orders on stainless steel flanges from China and India would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on May 1, 2023 (88 FR 26592) and determined on August 4, 2023 that it would conduct expedited reviews (88 FR 63124, September 14, 2023).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on October 19, 2023. The views of the Commission are contained in USITC Publication 5467 (October 2023), entitled *Stainless Steel Flanges from China and India: Investigation Nos. 701–TA–585–586 and 731–TA–1383–1384 (Review).*

By order of the Commission.

Issued: October 19, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–23486 Filed 10–23–23; 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] Commissioner Randolph J. Stayin not participating.

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–582 and 731–TA–1377 (Review)]

Ripe Olives From Spain; Notice of Commission Determinations To Conduct Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of the countervailing duty order and the antidumping duty order on ripe olives from Spain would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

DATES: October 6, 2023.

FOR FURTHER INFORMATION CONTACT: Caitlyn Hendricks (202–205–2058), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On October 6, 2023, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)).[1] The Commission found that both the domestic and respondent interested party group responses to its notice of institution (88 FR 42751, July 3, 2023) were adequate, and determined to conduct full reviews of the orders on imports from Spain. A record of the Commissioners' votes will be available from the Office of the Secretary and at the Commission's website.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: October 19, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–23431 Filed 10–23–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–382 and 731–TA–800, 801, and 803 (Fourth Review)]

Stainless Steel Sheet and Strip From Japan, South Korea, and Taiwan Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing duty order on stainless steel sheet and strip from South Korea and the antidumping duty orders on stainless steel sheet and strip from Japan, South Korea, and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on September 1, 2022 (87 FR 53780) and determined on December 5, 2022, that it would conduct full reviews (87 FR 78994, December 5, 2022). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given

[1] Commissioner Randolph J. Stayin did not participate.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Jason E. Kearns and Randolph J. Stayin not participating.

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 March 7, 2023 (88 FR 15456). The Commission conducted its hearing on August 17, 2023. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on October 18, 2023. The views of the Commission are contained in USITC Publication 5466 (October 2023), entitled *Stainless Steel Sheet and Strip from Japan, South Korea, and Taiwan: Investigation Nos. 701–TA–382 and 731–TA–800, 801, and 803 (Fourth Review).*

By order of the Commission.

Issued: October 18, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–23401 Filed 10–23–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1086]

Special Surveillance List of Chemicals, Products, Materials and Equipment Used in the Manufacture of Controlled Substances and Listed Chemicals

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice.

SUMMARY: The Controlled Substances Act provides for civil penalties for the distribution of a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, if that distribution was made with reckless disregard for the illegal uses to which such laboratory supply will be put. The term *laboratory supply* is defined as a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals. The Drug Enforcement Administration is hereby publishing a final notice to update the Special Surveillance List.

DATES: This Special Surveillance List is effective October 24, 2023.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act (CSA), as amended by the Comprehensive Methamphetamine Control Act of 1996 (MCA), provides for the publication of a Special Surveillance List by the Attorney General.[1] The Special Surveillance List identifies laboratory supplies which are used in the manufacture of controlled substances and listed chemicals. The CSA defines ''laboratory supply'' as ''a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals.'' [2] The CSA provides for a civil penalty of not more than $250,000 for the distribution of a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, if that distribution was made with ''reckless disregard'' for the illegal uses to which such a laboratory supply will be put.[3] The CSA further states that, for purposes of 21 U.S.C. 842(a)(11), ''there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer.'' [4]

The publication of the Special Surveillance List serves two purposes. First, it informs individuals and firms of the potential use of the items on the list in the manufacture of controlled substances and listed chemicals. Second, it reminds individuals and firms that civil penalties may be imposed on them if they distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, in violation of the CSA, with reckless disregard for the illegal uses to which such a laboratory supply will be put.[5] The publication of the updated Special Surveillance List provides an increased level of public awareness and law enforcement control to prevent the diversion of laboratory supplies used for the manufacture of listed chemicals and controlled substances.

The first Special Surveillance List was published in 1999 and has not been updated since.[6] Although the CSA does not require notice and comment for changes to the Special Surveillance List, DEA provided notice of proposed changes and an opportunity for the public to comment because the list has not been updated in over 23 years.[7]

Comments Received

DEA received 29 comments in response to the notice of proposed updates to the Special Surveillance List, all of which were in opposition to the proposed changes. According to the commenters, the update to the Special Surveillance List will further regulate the chemical industry, which would impose additional regulatory burdens on small businesses. Several commenters also objected to the addition of three chemicals to the Special Surveillance List: sodium borohydride, propiophenone, and propionyl chloride.

DEA Response: As explained in the notice of proposed updates to the Special Surveillance List, the updates do not impose any new regulatory burden on the public, and they do not impose any recordkeeping or reporting requirements for any of the laboratory supplies. The chemicals that are being added to the Special Surveillance List are not themselves being regulated as listed chemicals or controlled substances under the CSA. The Special Surveillance List is being updated to reflect changes in the chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals, to include additional laboratory supplies that are used in the illicit manufacture of controlled substances and listed chemicals.

Several commenters objected to the addition of three chemicals to the Special Surveillance List: sodium borohydride, propiophenone, and propionyl chloride. These objections were devoid of acknowledgement that

[1] 21 U.S.C. 842(a).

[2] Id.

[3] 21 U.S.C. 842(c)(2)(C). This civil monetary penalty has been adjusted for inflation. For penalties assessed after January 30, 2023, with respect to violations occurring after November 2, 2015, the maximum penalty is $470,640. 88 FR 5776, 5780 (Jan. 30, 2023).

[4] 21 U.S.C. 842(a).

[5] 21 U.S.C. 842(a)(11).

[6] 64 FR 25910 (May 13, 1999).

[7] 88 FR 39479 (June 16, 2023).

these chemicals are used in the illicit manufacture of controlled substances and listed chemicals. Specifically, sodium borohydride is a reducing agent and can be used in the illicit manufacture of fentanyl and fentanyl analogues. Propionyl chloride is a chemical that can be used in the illicit manufacture of fentanyl and fentanyl analogues. Propiophenone is a chemical that can be used in the illicit manufacture of several substituted cathinones that are controlled in schedule I of the CSA.

In developing the updated Special Surveillance List, DEA consulted with federal, state, local, and foreign law enforcement officials, forensic laboratory authorities, intelligence groups, drug profiling programs, and international organizations. DEA examined clandestine laboratory seizure reports and drug profiling reports for information regarding: (1) illicit drug production methods; (2) chemicals actually used in the clandestine production of controlled substances and listed chemicals; and (3) the role and importance of chemicals used in the synthesis of controlled substances and listed chemicals. The updated Special Surveillance List includes chemicals used in the production of synthetic drugs such as fentanyl, amphetamine, methamphetamine, PCP, LSD, and other controlled substances and listed chemicals.

DEA is updating the Special Surveillance List by adding the following laboratory supplies to the existing Special Surveillance List:

Chemicals, including their salts whenever the existence of such salts is possible

(2-nitroprop-1-en-1-yl)benzene (1-phenyl-2-nitropropene; P2NP)
1-(4-bromophenyl)propan-1-one
1-(4-chlorophenyl)propan-1-one
1-(4-methylphenyl)propan-1-one
1-benzylpiperidin-4-one (*N*-benzyl-4-piperidone)
1-chloro-*N*-methyl-1-phenylpropan-2-amine (chloroephedrine; chloropseudoephedrine)
1-phenylbutan-1-one
1-phenylpentan-1-one
1-phenylpropan-1-one
2-bromo-1-(4-chlorophenyl)propan-1-one
2-bromo-1-(4-methoxyphenyl)propan-1-one
2-bromo-1-(4-methylphenyl)propan-1-one
2-bromo-1-phenylpentan-1-one
2-bromo-1-phenylpropan-1-one
3-methyl-3-phenyloxirane-2-carboxylic acid (BMK glycidic acid; P2P glycidic acid) and its esters (*e.g.* methyl 3-methyl-3-phenyloxirane-2-carboxylate (BMK methyl glycidate); ethyl 3-methyl-3-phenyloxirane-2-carboxylate (BMK ethyl glycidate))
phenethyl bromide ((2-bromoethyl)benzene)
3-oxo-2-phenylbutanoic acid and its esters (*e.g., alpha*-phenylacetoacetic acid; ethyl 3-oxo-2-phenylbutanoate (EAPA))
5-(2-nitroprop-1-en-1-yl)benzodioxole (3,4-methylenedioxyphenyl-2-nitropropene; 3,4–MDP2NP)
azobisisobutyronitrile
butane-1,4-diol (1,4-butanediol)
ethyl 3-oxo-4-phenylbutanoate
ethyl-3-(1,3-benzodioxol-5-yl)-2-methyloxirane-2-carboxylate (3,4–MDP–2–P ethyl glycidate)
methyl 2-(1,3-benzodioxol-5-yl)-3-oxobutanoate (MAMDPA; MDMAPA)
propionyl chloride
sodium borohydride
sodium triacetoxyborohydride
tert-butyl 4-((4-fluorophenyl)amino)piperidine-1-carboxylate (*para*-fluoro 1-boc-4-AP)
thioglycolic acid and its esters (*e.g.,* methyl thioglycolate)

In addition to the chemicals listed above, DEA is updating the listing of tableting machines under equipment to explicitly include punches and dies. DEA updates the listing of tableting machines to read as follows:

Equipment

tableting machines, including punches and dies

The Special Surveillance List continues to include all listed chemicals as specified in 21 CFR 1310.02(a) or (b). DEA is removing two individually listed chemicals from the Special Surveillance List (hypophosphorus acid and red phosphorus), given that those chemicals have since been added to List I and are, therefore, automatically included as laboratory supplies. The phrase ''all listed chemicals'' includes all chemical mixtures and all over-the-counter (OTC) pharmaceutical products and dietary supplements which contain a listed chemical, regardless of their dosage form or packaging and regardless of whether the chemical mixture, drug product or dietary supplement is exempt from regulatory controls. The following is the updated Special Surveillance List for laboratory supplies used in the manufacture of controlled substances and listed chemicals, including the additions listed above:

Special Surveillance List Published Pursuant to 21 U.S.C. 842(a)

Chemicals, Including Their Salts Whenever the Existence of Such Salts is Possible

The Special Surveillance List of laboratory supplies which are used in the manufacture of controlled substances and listed chemicals includes all listed chemicals as specified in 21 CFR 1310.02(a) or (b). This includes all chemical mixtures and all over-the-counter (OTC) products and dietary supplements which contain a listed chemical, regardless of their dosage form or packaging and regardless of whether the chemical mixture, drug product or dietary supplement is exempt from regulatory controls. In addition, the Special Surveillance List includes the following:

(2-nitroprop-1-en-1-yl)benzene (1-phenyl-2-nitropropene; P2NP)
1-(4-bromophenyl)propan-1-one
1-(4-chlorophenyl)propan-1-one
1-(4-methylphenyl)propan-1-one
1,1′-carbonyldiimidazole
1,1-dichloro-1-fluoroethane (*e.g.,* Freon 141B)
1-benzylpiperidin-4-one (*N*-benzyl-4-piperidone)
1-chloro-*N*-methyl-1-phenylpropan-2-amine (chloroephedrine; chloropseudoephedrine)
1-phenylbutan-1-one
1-phenylpentan-1-one
1-phenylpropan-1-one
2,5-dimethoxyphenethylamine
2-bromo-1-(4-chlorophenyl)propan-1-one
2-bromo-1-(4-methoxyphenyl)propan-1-one
2-bromo-1-(4-methylphenyl)propan-1-one
2-bromo-1-phenylpentan-1-one
2-bromo-1-phenylpropan-1-one
3-methyl-3-phenyloxirane-2-carboxylic acid (BMK glycidic acid; P2P glycidic acid) and its esters (*e.g.,* methyl 3-methyl-3-phenyloxirane-2-carboxylate (BMK methyl glycidate); ethyl 3-methyl-3-phenyloxirane-2-carboxylate (BMK ethyl glycidate))
3-oxo-2-phenylbutanoic acid and its esters (*e.g.,* alpha-phenylacetoacetic acid; ethyl 3-oxo-2-phenylbutanoate (EAPA))
5-(2-nitroprop-1-en-1-yl)benzodioxole (3,4-methylenedioxyphenyl-2-nitropropene; 3,4-MDP2NP)
ammonia gas
ammonium formate
azobisisobutyronitrile
bromobenzene
butane-1,4-diol (1,4-butanediol)
cyclohexanone
diethylamine and its salts
ethyl 3-oxo-4-phenylbutanoate
ethyl-3-(1,3-benzodioxol-5-yl)-2-methyloxirane-2-carboxylate (3,4-MDP-2-P ethyl glycidate)
formamide
formic acid
lithium aluminum hydride
lithium metal
magnesium metal (turnings)
mercuric chloride
methyl 2-(1,3-benzodioxol-5-yl)-3-oxobutanoate (MAMDPA; MDMAPA)
N-methylformamide
organomagnesium halides (Grignard reagents) (*e.g.,* ethylmagnesium bromide and phenylmagnesium bromide)
ortho-toluidine
phenethyl bromide ((2-bromoethyl)benzene)
phenylethanolamine and its salts
phosphorus pentachloride
potassium dichromate
propionyl chloride
pyridine and its salts
sodium borohydride
sodium dichromate
sodium metal
sodium triacetoxyborohydride
tert-butyl 4-((4-fluorophenyl)amino)piperidine-1-carboxylate (*para*-fluoro 1-boc-4-AP)
thioglycolic acid and its esters (*e.g.,* methyl thioglycolate)
thionyl chloride
trichloromonofluoromethane (*e.g.,* Freon-11, Carrene-2)

trichlorotrifluoroethane (*e.g.,* Freon 113)

Equipment

hydrogenators
tableting machines, including punches and dies
encapsulating machines
22 liter heating mantels

The Attorney General has delegated authority under the CSA and all subsequent amendments to the CSA to the Administrator of the DEA pursuant to 28 CFR 0.100. The Special Surveillance List may be updated as needed to reflect changes in the chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals by publication of a notice in the **Federal Register**. DEA will disseminate the updated Special Surveillance List as widely as possible. In addition, the Special Surveillance List will be available on the DEA Diversion Control homepage at *https://www.deadiversion.usdoj.gov/*.

Regulatory Analyses

The updated Special Surveillance List applies to all individuals and firms which distribute the listed chemicals and laboratory supplies (chemicals, products, materials, or equipment) on the list. As noted above, the Special Surveillance List serves two purposes. First, it informs individuals and firms of the potential use of the items on the list in the manufacture of controlled substances and listed chemicals. Second, it reminds individuals and firms that civil penalties may be imposed on them if they distribute a laboratory supply to a person with reckless disregard for the illegal use to which such a laboratory supply will be put.

This update provides an increased level of law enforcement control to prevent the diversion of laboratory supplies used for the manufacture of listed chemicals and controlled substances. It does not impose any new regulatory burden on the public as there are no corresponding recordkeeping or reporting requirements of the laboratory supplies. However, it does impose potential civil penalties for the distribution of a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, if that distribution was made with reckless disregard for the illegal uses to which such laboratory supply will be put. This update fulfills the requirement imposed by section 205 of the MCA that the Attorney General shall publish a Special Surveillance List which contains chemicals, products, materials, or equipment used in the manufacture of listed chemicals and controlled substances.

* * * * *

Signing Authority

This document of the Drug Enforcement Administration was signed on October 18, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Scott Brinks,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–23478 Filed 10–23–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

President's Committee on the International Labor Organization Charter Renewal

AGENCY: Bureau of International Labor Affairs, Labor.

ACTION: Notice of charter renewal.

SUMMARY: On September 29, 2023, President Biden continued the President's Committee on the International Labor Organization (ILO) for two years through September 30, 2025. In response, and pursuant to the Federal Advisory Committee Act (FACA), the Department of Labor will renew the committee's charter by November 1, 2023.

FOR FURTHER INFORMATION CONTACT: Sarah Morgan, Director, Office of International Relations, Bureau of International Labor Affairs, U.S. Department of Labor, telephone (202) 693–8647, *Morgan.Sarah.A@dol.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The President's Committee on the International Labor Organization was established in 1980 by Executive Order (E.O.) 12216 to monitor and assess the work of the ILO and make recommendations to the President regarding United States policy towards the ILO. The committee is chaired by the Secretary of Labor and the Department of Labor's Bureau of International Labor Affairs is responsible for providing the necessary support for the committee. The committee is composed of seven *ex officio* members: The Secretary of Labor, the Secretary of State, the Secretary of Commerce, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, and one representative each from organized labor and the business community, designated by the Secretary of Labor. The labor and business members are the presidents of the American Federation of Labor and Congress of Industrial Organizations and the United States Council for International Business, respectively, as the most representative organizations of U.S. workers and employers engaged in ILO matters.

Authority: The authority for this notice is granted by FACA (5 U.S.C. 10) and E.O. 14109 of September 29, 2023.

Thea Mei Lee,

Deputy Undersecretary for International Affairs.

[FR Doc. 2023–23409 Filed 10–23–23; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0042]

Gear Certification Standard (29 CFR Part 1919); Extension of the Office of Management and Budget (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval for the information collection requirements specified in its Gear Certification Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by December 26, 2023.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the

docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number OSHA–2010–0042 for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates.

For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The following sections describe who use the information collected under each requirement, as well as how they use it. The purposes of these requirements are to address the burden hours associated with gathering information to complete the OSHA 70 Form. The OSHA 70 Form is used by applicants seeking accreditation from OSHA to be able to test or examine certain equipment and material handling devices as required under the maritime regulations, part 1915 (Shipyard Employment), part 1917 (Marine Terminals), and part 1918 (Longshoring). The OSHA 70 Form application for accreditation provides an easy means for companies to apply for accreditation.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection, and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements contained in the Gears Certification Standard. The agency is requesting that there is no change in burden hours in the information collection requirements of this standard. The costs are adjusted due to updated calculations.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Gear Certification Standard (29 CFR part 1919).

OMB Control Number: 1218–0003.

Affected Public: Business or other for-profits.

Number of Respondents: 664.

Frequency of Responses: Varies.

Total Responses: 5,035.

Average Time per Response: Varies.

Estimated Total Burden Hours: 109.

Estimated Cost (Operation and Maintenance): $2,612,500.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at 202–693–1648. or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (OSHA–2010–0042). You may supplement electronic submissions by uploading document files electronically.

Comments and submissions are posted without change at *http://www.regualtions.gov*. Therefore, OSHA cautions commenters about submitting personal information such as Social Security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regualtions.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link.

Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8–2020 (85 FR 58393).

Signed at Washington, DC, on October 17, 2023.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–23473 Filed 10–23–23; 8:45 am]

BILLING CODE 4510–26–P

MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

Sunshine Act Meetings

TIME AND DATE: 1:00 p.m. to 5:00 p.m. (MST–AZ), Tuesday, November 7, 2023, and 9:00 a.m. to 11:15 a.m. (MST–AZ), Wednesday, November 8, 2023.

PLACE: Morris K. Udall and Stewart L. Udall Foundation, 434 E University Blvd., Suite 300, Tucson, AZ, 85705.

STATUS: This meeting of the Board of Trustees will be open to the public. Members of the public who would like to attend this meeting may request remote access by contacting David Brown at *brown@udall.gov* prior to November 7, 2023, to obtain the teleconference connection information.

MATTERS TO BE CONSIDERED: Tuesday, November 7, 2023: (1) Call to Order and Chair's Remarks; (2) Trustee Remarks; (3) Executive Director's Remarks; (4) Consent Agenda Approval (Minutes of the April 20–21, 2023, Board of Trustees Meeting; Board Reports submitted for Data and Information Technology, Education Programs, Finance and Internal Controls, John S. McCain III National Center for Environmental Conflict Resolution, and Udall Center for Studies in Public Policy, including the Native Nations Institute for Leadership, Management, and Policy and The University of Arizona Libraries, Special Collections; and Board takes notice of any new and updated personnel policies and internal control methodologies); (5) Board Officer Elections; and (6) John S. McCain III National Center for Environmental Conflict Resolution Overview. Wednesday, November 8, 2023: (7) The University of Arizona Fiscal Year 2024 Program Work Plan and Funding (including resolutions regarding Allocation of Funds to the Udall Center for Studies in Public Policy and The University of Arizona Libraries, Special Collections and Funds Set Aside for the Native Nations Institute for Leadership, Management, and Policy, a program of the Udall Center for Studies in Public Policy); (8) Cybersecurity Updates; (9) Legislative Updates; and (10) Other Business (including timing, location, and topical focus of the Spring 2024 and Fall 2024 Board of Trustees Meetings).

CONTACT PERSON FOR MORE INFORMATION: David P. Brown, Executive Director, 434 E University Blvd., Suite 300, Tucson, AZ, 85705, (520) 901–8560.

Dated: October 20, 2023.

David P. Brown,

Executive Director, Morris K. Udall and Stewart L. Udall Foundation.

[FR Doc. 2023–23603 Filed 10–20–23; 4:15 pm]

BILLING CODE 6820–FN–P

NATIONAL SCIENCE FOUNDATION

Privacy Act of 1974; System of Records

AGENCY: National Science Foundation.

ACTION: Notice of a new system of records.

SUMMARY: The National Science Foundation (NSF) is establishing a new system of records, NSF–80, Education and Training Application Data System (ETAP), subject to the Privacy Act of 1974. This new system of records shall contain records about individuals interested in participating in NSF education and training activities, and individuals engaged in the planning, management, and implementation of those activities. These records will bolster the agency's capacity to conduct robust evidence-building activities, including monitoring, targeted research, and rigorous evaluation of its education and training activities.

DATES: This system notice is effective as of October 24, 2023. The routine uses described in this notice will take effect on November 24, 2023, unless modified by a subsequent notice to incorporate comments received from the public. Submit comments on or before November 24, 2023.

ADDRESSES: You may submit comments, identified as ''SORN NSF–80 (ETAP),'' by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* Dorothy Aronson, Senior Agency Official for Privacy, *daronson@nsf.gov.* Include ''SORN NSF–80 (ETAP)'' in the subject line of the message.
- *Mail:* Dorothy Aronson, Senior Agency Official for Privacy, Office of Information and Resource Management, National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314.

Instructions: NSF will post all comments on the NSF's website (*https://www.nsf.gov*). All comments submitted in response to this Notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: If you wish to submit general questions about this new system of records, please contact Dorothy Aronson, Senior Agency Official for Privacy, at *daronson@nsf.gov* or by telephone at 703–292–4299 or NSF FOIA/PA Officer, Sandra Evans, at *sevans@nsf.gov,* or by telephone at 703–292–8060.

SUPPLEMENTARY INFORMATION: NSF supports students and early career professionals at all stages of their academic journey through a wide range of opportunities that foster professional growth, facilitating exposure to and induction into the practice of science. The new system of records, NSF–80, Education and Training Application Data System (ETAP), will be used to collect, maintain, and manage individual applications to education and training opportunities funded by NSF, allow tracking of participants' program experiences and career outcomes over time, and provide high-quality data that NSF can use to respond to Administration priorities, the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), the America COMPETES Reauthorization Act of 2010, and the CHIPS+ Act.

SYSTEM NAME AND NUMBER:

Education and Training Application Data System Records (ETAP), NSF–80.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314.

SYSTEM MANAGER(S):

Chief Evaluation Officer and Division Director, Division of Information Systems, NSF.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 1862 & 1870; 44 U.S.C. 3101; Pub. L. 105–277, t. 4, sec. 414, as amended, codified at 8 U.S.C. 1101 note (NSF S–STEM Program); and other program statutes, including 42 U.S.C. 1862p–6, 42 U.S.C. 1862p–7, 42 U.S.C. 1862p–13, 42 U.S.C. 1862p–15, 42 U.S.C. 1862t, 42 U.S.C. 1869c, 42 U.S.C.1885a.

PURPOSE(S) OF THE SYSTEM:

(1) To provide high-quality data that NSF can use for robust evidence-building activities including monitoring, targeted research, and rigorous evaluations of its activities, including programs.

(2) To provide the public with a transparent, accessible, and centralized location of information on NSF education and training opportunities

and reduce burden on individuals (mostly students), who will be able to use a common application to apply to multiple training opportunities funded by NSF.

(3) To lower barriers to entry into NSF programs for new and aspiring Principal Investigators (PIs), who will be able to leverage a robust and secure data collection system, free of charge, to manage applications to their projects, and reduce administrative costs for existing PIs.

(4) To provide NSF's community of stakeholders (including PIs, Co–PIs, and NSF program officers and leadership) with timely access to data analytics on applicants and participants to inform decision making and support improvement efforts.

(5) To enable longitudinal tracking of outputs and outcomes to assess the effectiveness of NSF's education and training activities and inform decisions.

(6) To provide demographic data that NSF can use to ensure equitable representation of groups that are traditionally underrepresented in science, technology, engineering, and mathematics (STEM).

(7) To recognize the achievements of distinguished individuals, their actions, products, or ideas and disseminate information of relevant opportunities to support individuals' careers in STEM.

(8) To support NSF efforts to disseminate information about the agency's education and training opportunities, as appropriate, and about the effectiveness of its activities.

(9) To provide data that may be used for NSF compliance with applicable laws and policies, and conflict of interest management.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on members of the public interested in participating in education and training opportunities supported by NSF. These include individuals who apply to, participate in, and/or are supported by NSF education and training programs, projects and activities, including but not limited to students, other youth and early career individuals, teachers, higher education faculty, mentors, administrators, and parents/legal guardians (where applicable). The system also maintains information on individuals engaged in the management and implementation of those opportunities, including PIs and Co–PIs of NSF awards and their designees involved in recruitment and selection of program participants. The system covers these individuals only to the extent that the records are about the individual and are retrieved from the system by that individual's name or other personally assigned identifier.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records vary by categories of individuals and, for applicants, the type of education and training opportunities to which they are applying. Records may include information such as individuals' names, contact information, date of birth, demographic information, parental education and occupation, higher education degree information, school/institution names, academic records, college financial aid information, prior research experiences, work experience (if a teacher: including school name, teaching grade and subject, years of teaching experience, teaching certification), awareness of a given program, opportunity applying for, preferences for data sharing with other NSF opportunities for which they have not applied, additional materials requested by PIs (which may include personal statement, transcripts, CV or résumé, references' contact information, and other materials), reference letters of support (relationship with applicant, applicant skills and abilities assessments, and letter of recommendation), admission decisions, acceptances, participation, and NSF funding, program experiences (weeks spent in program, support from faculty and staff, program activities, type of mentor, time spent with mentor, experiences with mentor, benefits of program, satisfaction with experience) and feedback, and employment information. In addition, records may include information about the opportunity, including its NSF award/proposal ID and its associated metadata, such as opportunity name, location, external website link, application window, application type (open competition or invitation-only), opportunity start and end date, description of the opportunity, eligibility requirements and certification, fields of study, and research topics or keywords.

RECORD SOURCE CATEGORIES:

Individuals registering with NSF (1) to apply and participate in NSF education and training opportunities (*e.g.,* prospective applicants and participants), or (2) to create, manage, or administer such opportunities (*e.g.,* PIs, Co–PIs, and their designated individuals, NSF staff and external qualified reviewers). System data on individuals may be collected from the individuals directly, from third-party individuals or entities, or be derived from other related NSF systems of records (*e.g.,* PI and reviewer files, see NSF–50 and –51, respectively).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The following NSF standard routine uses apply:

1. Members of Congress. Information from a system may be disclosed to congressional offices in response to inquiries from the congressional offices made at the request of the individual to whom the record pertains.

2. Freedom of Information Act/Privacy Act Compliance. Information from a system may be disclosed to the Department of Justice or the Office of Management and Budget in order to obtain advice regarding NSF's obligations under the Freedom of Information Act and the Privacy Act.

3. Counsel. Information from a system may be disclosed to NSF's legal representatives, including the Department of Justice and other outside counsel, where the agency is a party in litigation or has an interest in litigation and the information is relevant and necessary to such litigation, including when any of the following is a party to the litigation or has an interest in such litigation: (a) NSF, or any component thereof; (b) any NSF employee in his or her official capacity; (c) any NSF employee in his or her individual capacity, where the Department of Justice has agreed to, or is considering a request to, represent the employee; or (d) the United States, where NSF determines that litigation is likely to affect the agency or any of its components.

4. National Archives, General Services Administration. Information from a system may be disclosed to representatives of the General Services Administration and the National Archives and Records Administration (NARA) during the course of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

5. Response to an Actual or Suspected Compromise or Breach of Personally Identifiable Information. NSF may disclose information from the system to appropriate agencies, entities, and persons when: (1) NSF suspects or has confirmed that there has been a breach of the system of records; (2) NSF has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals; NSF (including its information systems, programs, and operations); the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is

reasonably necessary to assist in connection with NSF efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm. Furthermore, NSF may disclose information from the system to another Federal agency or Federal entity, when NSF determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in: (1) Responding to a suspected or confirmed breach; or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

6. Courts. Information from a system may be disclosed to the Department of Justice or other agencies in the event of a pending court or formal administrative proceeding, when the information is relevant and necessary to that proceeding, for the purpose of representing the government, or in the course of presenting evidence, or the information may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery.

7. Contractors. Information from a system may be disclosed to contractors, agents, experts, consultants, or others performing work on a contract, service, cooperative agreement, job, or other activity for NSF and who have a need to access the information in the performance of their duties or activities for NSF.

8. Audit. Information from a system may be disclosed to government agencies and other entities authorized to perform audits, including financial and other audits, of the agency and its activities.

9. Law Enforcement. Information from a system may be disclosed, where the information indicates a violation or potential violation of civil or criminal law, including any rule, regulation or order issued pursuant thereto, to appropriate Federal, State, or local agencies responsible for investigating, prosecuting, enforcing, or implementing such statute, rule, regulation, or order.

10. Disclosure When Requesting Information. Information from a system may be disclosed to Federal, State, or local agencies which maintain civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

11. To the news media and the public when: (1) A matter has become public knowledge, (2) the NSF Office of the Director determines that disclosure is necessary to preserve confidence in the integrity of NSF or is necessary to demonstrate the accountability of NSF's officers, employees, or individuals covered by this system, or (3) the Office of the Director determines that there exists a legitimate public interest in the disclosure of the information, except to the extent that the Office of the Director determines in any of these situations that disclosure of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

In addition to the above standard routine uses, information may be routinely disclosed:

12. To PIs, Co–PIs, and their designated individuals (for opportunities funded through NSF awards), and NSF staff and external qualified reviewers (for opportunities administered by NSF) for their assessment of applicants or nominees (and their application materials, where applicable), including in the case of individuals who have expressed interest in such opportunity or provided consent to be contacted by opportunities they have not applied for, as part of the application review process and to support operations; and to other Government agencies or other entities needing information regarding the applicants or nominees as part of a joint application review process, or in order to coordinate programs or policy.

13. To NSF partners, affiliates, or grantees, as well as other entities to merge records, to carry out studies for, or to otherwise assist NSF with program management, implementation, evaluation, or reporting.

14. To applicants (including the individual nominee or ultimate participant), their nominators or reference writers, and the institution they are applying to, attending, planning to attend, or employed by, who may be given information (such as name, field of study, and other information directly relating to the NSF opportunity, review status including the admission decision, time of participation, whether receiving international travel allowance or a mentoring assistantship), for purposes of facilitating application review and admissions decisions, administering the program or award, and supporting dissemination and student engagement activities.

15. To the Department of Treasury for preparation of checks or electronic fund transfer authorizations in the case of participants receiving stipends directly from the Government.

16. To the National Student Clearinghouse, for tracking applicants and participants through their postsecondary enrollment and graduation trajectories, and other third-party entities, for the purposes of validating contact information, disambiguating records, or cross-checking of information, and tracking education or employment outcomes.

17. To an agency or other organization or unit, such as the National Center for Science and Engineering Statistics (NCSES), for the purposes of merging or linking needed data for monitoring, research, or evaluation purposes, to the extent authorized by applicable privacy and security laws, regulations, and NSF policies and guidance.

18. To the public, about an individual's involvement with NSF education and training programs (*e.g.,* participant name, baccalaureate institution, current institution, and field of study) for purposes of media releases or other public announcements about these programs. Other information about the individual's involvement in these programs may be publicly disclosed with written consent of that individual (or, where applicable, the individual's legal guardian or other legal representative).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored on electronic digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name, date of birth, email, identification number, zip code, state, or institution.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

This System of Records is governed by one or more general and/or NSF-specific (Record Group RG–0307) records retention schedules approved by the National Archives and Records Administration (NARA) and applicable to NSF proposal, reviewer, and grant files and related administrative records. These schedules can be found at *https://archives.gov*.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The National Science Foundation's IT Security and Privacy program includes policies, plans, training, and technical safeguards to protect sensitive information, including personally

identifiable information (PII). NSF routinely reviews PII in IT systems in addition to monitoring technical, physical, and administrative controls in place to assure that PII is appropriately protected. NSF's major applications and general support systems are assessed and authorized by NSF's continuous monitoring and ongoing authorization program. The authorization process requires a thorough security and privacy control review.

All NSF systems are covered by a system security plan, and major applications and general support systems are authorized to operate. Applications and devices hosted on the NSF network are subjected to extensive vulnerability scanning and compliance checking against standard security configurations. Robust virus protection capabilities, anti-malware, and network intrusion detection and prevention devices provide 24/7 protection against external threats. NSF's strong access controls ensure that resources are made available only to authorized users, programs, processes or systems by reference to rules of access that are defined by attributes and policies.

NSF uses the capabilities of a Trusted internet Connections (TIC) compliant provider for routing agency network traffic and uses the federally provided intrusion detection system (IDS), including advanced continuous monitoring and risk management analysis. NSF has a well-established computer security incident response program. NSF's incident response procedures include a strong digital forensics capability to investigate and review data and identify relevant evidence and malicious activity.

RECORD ACCESS PROCEDURES:

Follow the procedures found at 45 CFR part 613 (NSF Privacy Act Regulations).

CONTESTING RECORD PROCEDURES:

Follow the procedures found at 45 CFR part 613.

NOTIFICATION PROCEDURES:

See 45 CFR part 613.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: October 18, 2023.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2023–23487 Filed 10–23–23; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m. EDT, November 14, 2023.

PLACE: Virtual.

STATUS: The *one* item may be viewed by the public through webcast only.

MATTER TO BE CONSIDERED:

69859 Highway Investigative Report—Multivehicle Crash at Signalized Intersection, North Las Vegas, Nevada, January 29, 2022

FOR MORE INFORMATION CONTACT:

Candi Bing at (202) 590–8384 or by email at *bingc@ntsb.gov*.

Media Information Contact: Sarah Sulick by email at *sarah.sulick@ntsb.gov* or at (202) 314–6100.

This meeting will take place virtually. The public may view it through a live or archived webcast by accessing a link under ''Upcoming Events'' on the NTSB home page at *www.ntsb.gov*.

There may be changes to this event due to the evolving situation concerning the novel coronavirus (COVID–19). Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov*.

The National Transportation Safety Board is holding this meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b).

Dated: October 20, 2023.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2023–23535 Filed 10–20–23; 11:15 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0181]

Proposed Revision to Standard Review Plan Branch Technical Position 7–19, Guidance for Evaluation of Defense In Depth and Diversity To Address Common-Cause Failure Due to Latent Design Defects in Digital Safety Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-draft branch technical position revision; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on draft NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,'' Branch Technical Position (BTP) 7–19, Revision 9, ''Guidance for Evaluation of Defense In Depth and Diversity To Address Common-Cause Failure Due to Latent Design Defects in Digital Safety Systems.'' The NRC seeks comments on the proposed draft BTP 7–19 revision of the Standard Review Plan (SRP) that provides the NRC staff with guidance for evaluating an applicant's assessment of the adequacy of defense in depth and diversity (D3) for a proposed digital instrumentation and control (DI&C) system.

DATES: Submit comments by November 24, 2023. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0181. 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: Ekaterina Lenning, Office of Nuclear Reactor Regulation, telephone: 301–415–3151, email: *Ekaterina.Lenning@nrc.gov,* Brent Ballard, Office of Nuclear Reactor Regulation, telephone: 301–415–0680, email: *Brent.Ballard@nrc.gov,* and Carla Roque-Cruz, Office of Nuclear Reactor Regulation, telephone: 301–415–1455, email: *Carla.Roque-Cruz@nrc.gov.* All 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–2023–0181 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–2023–0181.
- *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 draft BTP 7–19, Revision 9, ''Guidance for Evaluation of Defense In Depth and Diversity to Address Common-Cause Failure Due to Latent Design Defects in Digital Safety Systems'' is available in ADAMS under Accession No. ML23222A237.
- *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–2023–0181 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

The NRC seeks public comment on the draft BTP 7–19 Revision 9, ''Guidance for Evaluation of Defense In Depth and Diversity to Address Common-Cause Failure Due to Latent Design Defects in Digital Safety Systems.'' This draft revision BTP 7–19, provides the NRC staff with guidance for evaluating an applicant's assessment of the adequacy of D3 for a proposed DI&C system. The applicant performs this D3 assessment to identify and address potential common-cause failures (CCFs) in a proposed DI&C system and to evaluate the effects of any unprevented CCFs on plant safety.

The purpose of this proposed update is to implement the expanded policy in SRM–SECY–22–0076, ''Expansion of Current Policy on Potential Common-Cause Failures in Digital Instrumentation and Control Systems,'' (ADAMS Accession Nos. ML23145A181 and ML23145A182) for addressing DI&C CCFs. The proposed update provides guidance for the review of risk-informed D3 assessments, in addition to the existing guidance for assessments based on best-estimate methods. The proposed update also provides review guidance for design techniques or mitigating measures, other than diversity, to address the effects of a DI&C CCF.

Following NRC staff evaluation of public comments, the NRC intends to finalize BTP 7–19, Revision 9 in ADAMS and post it on the NRC's public website at *https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800.* The SRP is guidance for the NRC staff. The SRP is not a substitute for the NRC regulations, and compliance with the SRP is not required.

III. Backfitting, Forward Fitting, and Issue Finality

The guidance in this draft SRP is updated to implement the Commission's policies in SRM–SECY–22–0076 for review of applicant assessments of defense in depth and diversity to prevent or mitigate common-cause failure of digital instrumentation and control systems used in light-water nuclear power reactors. Issuance of this draft SRP, if finalized, would not constitute backfitting as defined in section 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Backfitting'' (the Backfit Rule), 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 an approval under 10 CFR part 52; and would not constitute forward fitting as that term is defined and described in MD 8.4. The NRC staff's position is based upon the following considerations.

1. The draft SRP positions, if finalized, would not constitute backfitting or forward fitting or affect issue finality, inasmuch as the SRP would be internal guidance to the NRC staff.

The SRP provides guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance, without further NRC action, are not matters that meet the definition of backfitting or forward fitting or affect the issue finality of a 10 CFR part 52 approval.

2. Current or future applicants are not—with limited exceptions not applicable here—within the scope of the backfitting and issue finality regulations and forward fitting policy.

Applicants are not, with certain exceptions, within the scope of the Backfit Rule or any issue finality provisions under 10 CFR part 52. The backfitting and issue finality regulations include language delineating when those provisions begin; in general, they begin after the issuance of a license, permit, or other approval. Furthermore, neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions discussed further in this notice—were intended to apply to NRC actions that substantially change the expectations of current and future applicants.

The exceptions to the general principle are applicable when an applicant references a 10 CFR part 52 license (*e.g.,* an early site permit) and/or NRC regulatory approval (*e.g.,* a design certification rule) with specified issue finality provisions or a construction permit under 10 CFR part 50. The NRC staff does not, at this time, intend to impose the positions represented in the draft SRP (if finalized) in a manner that would constitute backfitting or affect the issue finality of a 10 CFR part 52 approval. If, in the future, the staff seeks to impose a position in the draft SRP (if finalized) in a manner that constitutes backfitting or affects the issue finality of a 10 CFR part 52 approval, then the staff would need to address the Backfit Rule, or the criteria described in the applicable issue finality provision.

The Commission's forward fitting policy generally does not apply when an applicant files an initial licensing action for a new facility. Nevertheless, the NRC staff does not, at this time, intend to impose the positions represented in the draft SRP (if finalized) in a manner that would constitute forward fitting. If, in

the future, the staff seeks to impose a position in the draft SRP (if finalized) in a manner that constitutes forward fitting, then the staff would need to address the forward fitting criteria in MD 8.4.

Dated: October 19, 2023.

For the Nuclear Regulatory Commission.

Gerond A. George,

Chief, Licensing Project Branch, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–23426 Filed 10–23–23; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Senior Executive Service-Performance Review Board

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the OPM Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Kimberly Sylke, OPM Human Resources, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415, (202) 606–1048.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor and considers recommendations to the appointing authority regarding the performance of the senior executive.

The following have been designated as members of the Fiscal Year 2023 Performance Review Board of the U.S. Office of Personnel Management:

Robert Shriver, Deputy Director, Chair
Laurie Bodenheimer, Associate Director, Healthcare and Insurance
Carmen Garcia, Chief Human Capital Officer
Veronica Hinton, Associate Director, Workforce Policy and Innovation
Jane Lee, Senior Advisor to the Director
Lisa Loss, Director, Suitability Executive Agent Programs
Webb Lyons, General Counsel
Kathryn Malague, Chief Management Officer
Margaret Pearson, Associate Director, Retirement Services
Alethea Predeoux, Chief of Staff

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

[FR Doc. 2023–23441 Filed 10–23–23; 8:45 am]

BILLING CODE 6325–45–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–16 and CP2024–16; MC2024–17 and CP2024–17; MC2024–18 and CP2024–18; MC2024–19 and CP2024–19; MC2024–20 and CP2024–20]

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 26, 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
II. Docketed Proceeding(s)

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).:* MC2024–16 and CP2024–16; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 76 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 18, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 26, 2023.

2. *Docket No(s).:* MC2024–17 and CP2024–17; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 77 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 18, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 26, 2023.

3. *Docket No(s).:* MC2024–18 and CP2024–18; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 78 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 18, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105;

[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).

Public Representative: Christopher C. Mohr; *Comments Due:* October 26, 2023.

4. *Docket No(s).:* MC2024–19 and CP2024–19; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 79 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 18, 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 26, 2023.

5. Docket No(s).: MC2024–20 and CP2024–20; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 80 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 18, 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 26, 2023.

This Notice will be published in the **Federal Register**.

Mallory S. Richards,

Attorney-Advisor.

[FR Doc. 2023–23475 Filed 10–23–23; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: October 24, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 12, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 28 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–7 and CP2024–7.

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–23437 Filed 10–23–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & Commercial ePacket Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & Commercial ePacket contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: October 24, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 16, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & Commercial ePacket Contract 2 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–13 and CP2024–13.

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–23438 Filed 10–23–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: October 24, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 16, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 29 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–12 and CP2024–12.

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–23440 Filed 10–23–23; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

In accordance with the requirement of section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Medical Reports; OMB 3220–0038.

Under sections 2(a)(1)(iv) and 2(a)(1)(v) of the Railroad Retirement Act (RRA) (45 U.S.C.231a), annuities are payable to qualified railroad employees whose physical or mental condition makes them unable to (1) work in their regular occupation (occupational disability) or (2) work at all (total disability). The requirements for establishing disability and proof of continuing disability under the RRA are prescribed in 20 CFR 220.

Annuities are also payable to (1) qualified spouses and widow(ers) under sections 2(c)(1)(ii)(C) and 2(d)(1)(ii) of

the RRA who have a qualifying child who became disabled before age 22; (2) surviving children on the basis of disability under section 2(d)(1)(iii)(C), if the child's disability began before age 22; and (3) widow(er)s on the basis of disability under section 2(d)(1)(i)(B). To meet the disability standard, the RRA provides that individuals must have a permanent physical or mental condition that makes them unable to engage in any regular employment.

Under section 2(d)(1)(v) of the RRA, annuities are also payable to remarried widow(er)s and surviving divorced spouses on the basis of, among other things, disability or having a qualifying disabled child in care. However, the disability standard in these cases is that found in the Social Security Act. That is, individuals must be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment. The RRB also determines entitlement to a Period of Disability and entitlement to early Medicare based on disability for qualified claimants in accordance with section 216 of the Social Security Act.

When making disability determinations, the RRB needs evidence from acceptable medical sources. The RRB currently utilizes Forms G–3EMP, Report of Medical Condition by Employer; G–197, Authorization to Disclose Information to the Railroad Retirement Board; G–250, Medical Assessment; G–250A, Medical Assessment of Residual Functional Capacity; G–260, Report of Seizure Disorder; RL–11B, Disclosure of Hospital Medical Records; RL–11D, Disclosure of Medical Records from a State Agency; RL–11D1, Request for Medical Evidence from Employers, and RL–250, Request for Medical Assessment, to obtain the necessary medical evidence. One response is requested of each respondent. Completion is required for all forms to obtain benefits except Form RL–11D1, which is voluntary. The RRB proposes no changes to Form G–3EMP, G–197, G–250, G–250A, G–260, RL–11B, RL–11D, RL–11D1, and RL–250.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–3EMP	600	10	100
G–197	6,000	10	1,000
G–250	11,950	30	5,975
G–250A	50	20	17
G–260	100	25	42
RL–11B	5,000	10	833
RL–11D	250	10	42
RL–11D1	600	20	200
RL–250	11,950	10	1,992
Total	36,500	.....	10,201

2. Title and purpose of information collection: Report of Stock Options and Other Payments; OMB 3220–0203.

The Railroad Retirement Board (RRB) is directed by 45 U.S.C. 231f(c)(2) to establish a financial interchange (FI) between the railroad retirement and social security systems to place the Social Security Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) Trust Funds and the Centers for Medicare and Medicaid Services (CMS) Hospital Insurance (HI) Trust Fund in the same condition they would have been had railroad employment been covered by the Social Security Act and Federal Insurance Contributions Act (FICA). Each year, the RRB estimates the benefits and expenses that would have been paid by these trust funds, as well as the payroll taxes and income taxes that would have been received by them. To make these estimates, the RRB requires information on all earnings data that are not taxable under the Railroad Retirement Tax Act (RRTA) but would be taxable under FICA.

The payroll information collected from the BA–15 is essential for the calculation of payroll taxes and benefits used by the FI. Failure to collect NQSOs and ratification payment information will result in understating the payroll taxes that should have been collected and the benefit amounts that would have been payable under the Social Security Act for FI purposes. Accurate compensation file tabulations are also an integral part of the data needed to estimate future tax revenues and corresponding FI amounts. Without information on NQSOs and ratification payments, the amount of funds to be transferred between the RRB, SSA and CMS cannot be determined.

Form BA–15, Report of Stock Options and Other Payments, to request employer information and report identifying information as well as each employee's social security number, name, and compensation information, which will be reported annually in a quarterly breakdown. The RRB receives Form BA–15 by secure Email, File Transfer Protocol (FTP), or via CD–ROM. The RRB proposes minor non-burden impacting changes to the Form BA–15:

- remove the word ''ratification'' and replace with ''other'' in the first paragraph of the form and section 24–27 of the Form tab,
- remove the word ''ratification'' and replace with ''other'' in the Instructions tab for number 14–17 & 24–27,
- remove the word ''ratification'' and replace with ''other'' in the Data Layout tab for 28–31, and
- remove the first row titled ''Column'' in the Data Layout tab.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
BA–15 (by secure E-mail, FTP, or CD–ROM)—Positive	50	300	250
BA–15 (by secure E-mail, FTP, or CD–ROM)—Negative	550	15	137.5

ESTIMATE OF ANNUAL RESPONDENT BURDEN—Continued

Form No.	Annual responses	Time (minutes)	Burden (hours)
Total	600		388

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Kennisha Money at (312) 469–2591 or *Kennisha.Money@rrb.gov.* Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to *Brian.Foster@rrb.gov.* Written comments should be received within 60 days of this notice.

Brian Foster,

Clearance Officer.

[FR Doc. 2023–23380 Filed 10–23–23; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35033; File No. 812–15426]

Brookfield Infrastructure Income Fund, Inc. and Brookfield Asset Management Private Institutional Capital Adviser (Canada), L.P.

October 18, 2023.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares of beneficial interest with varying sales loads and to impose early withdrawal charges and asset-based distribution and/or service fees.

APPLICANTS: Brookfield Infrastructure Income Fund, Inc. and Brookfield Asset Management Private Institutional Capital Adviser (Canada), L.P.

FILING DATES: The application was filed on January 20, 2023, and amended on June 23, 2023, September 21, 2023, and October 11, 2023.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the relevant Applicant with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on November 13, 2023, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Brian F. Hurley, Esq., Brookfield Infrastructure Income Fund, Inc., Brookfield Place, 250 Vesey Street, New York, NY 10281–1023; and Michael R. Rosella, Esq. and Thomas D. Peeney, Esq., Paul Hastings LLP, 200 Park Avenue, New York, NY 10166.

FOR FURTHER INFORMATION CONTACT: Kieran G. Brown, Senior Counsel, or Terri Jordan, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and condition, please refer to Applicants' third amended and restated application, dated October 11, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–23389 Filed 10–23–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98768; File No. SR–NASDAQ–2023–041]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Purge Ports for Equities Trading

October 18, 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 17, 2023, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish Purge Ports for equities trading, as described below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 establish a new port type, ''Purge Port,'' which is a function enabling Exchange Participants (the ''Participants'') to cancel all open orders or a subset of open orders (per MPID, buy or sell side of the order, or ticker symbol) across multiple protocols through a single cancel message.[3] The Exchange also proposes to amend the Pricing Schedule in Equity 7, Section 3 to set fees for Purge Ports and to waive the fees for the Purge Ports in the Exchange's Test Facility for the first two months a Participant uses them in the Test Facility. Finally, the Exchange proposes to make functional enhancements to its Order entry protocols to include a function enabling Participants to cancel, through a single cancel message, all open orders or a subset of open orders (per MPID, buy or sell side of the order, or ticker symbol) entered through that port (the ''purging functionality''). The Exchange notes that its sister exchange, Nasdaq PHLX, LLC, recently filed with the SEC a proposal to adopt similar functionality and pricing.[4]

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 Participant the ability to accomplish a specific function, such as order entry, order cancellation, access to execution reports, and other administrative information.

The proposed Purge Ports are designed to assist Participants, including Market Makers,[5] 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 Participant detects market indications that may influence the execution potential of their orders, the Participant may use the proposed Purge Ports to reduce uncertainty and to manage risk by purging all orders in a number of securities. This would allow the Participant to seamlessly avoid unintended executions, while continuing to evaluate the market, their positions, and their risk levels. While Purge Ports will be available to all Participants, the Exchange anticipates they will be used primarily by firms that conduct business activity that exposes them to a large amount of risk across a number of securities. The proposed purging functionality will operate similar to a Purge Port, by allowing a Participant to purge all orders or a subset of open orders (per MPID, buy or sell side of the order, or ticker symbol) open on that port. The only material difference for a Participant, between relying on the purging functionality as opposed to using a Purge Port, is that Purge Port requires a Participant to send one message to accomplish desired cancellation of orders or a subset thereof as described above, while the purging functionality requires a Participant to send multiple messages (which could be sent simultaneously) to accomplish the same task.[6]

Participants may currently cancel individual orders through the existing functionality of the RASH Order entry protocol,[7] FIX Order entry protocol [8] and the OUCH Order entry protocol.[9] In addition to the current functionality, which is being retained, the Exchange now proposes to expand the ability of Participants to cancel orders through the new purge functionality, which would enable them to cancel all open orders or a subset of open orders (per MPID, buy or sell side of the order, or ticker symbol) entered through a single port; and through the proposed Purge Ports, which would enable them to cancel all open orders, or a subset of open orders (per MPID, buy or sell side of the order, or ticker symbol) across multiple protocols through a single cancel message.

The Exchange notes that dedicated Purge Ports are not a new functionality for equities exchanges; Nasdaq PHLX, LLC and other equity exchanges already offer similar functionality.[10] The Exchange also notes that the proposed Purge Ports increase efficiency of already existing functionality enabling the cancellation of orders. Nasdaq operates highly performant systems with significant throughput and determinism which allows participants to enter, update and cancel orders at high rates. In that regard, Participants can cancel orders in rapid succession across their order entry ports.[11] In addition, the Exchange provides a similar ability to mass cancel orders through the Nasdaq Kill Switch, which is an optional tool offered at no charge that enables Participants to establish pre-determined levels of risk exposure, which can be used to cancel all open orders. Similarly, Participants may use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to immediately cancel all pending Exchange orders except for good-till-canceled orders. Accordingly, the Exchange believes that the purge functionality and 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 proposes to provide the purging functionality without charging any additional fees. All existing ports will be enhanced with the purging functionality and will continue to be subject to the existing fee schedule without any changes.

The Exchange proposes to adopt a fee for Purge Ports of $500 per port/per month. As stated above, the Exchange believes that Participants would benefit from a dedicated purge mechanism. Only firms that request Purge Ports would be subject to the proposed fees, and other firms can continue to operate

[3] Purge Ports will be available for RASH, FIX and OUCH protocols.

[4] *See* Securities Exchange Act Release No. 34–97825 (June 30, 2023); 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[5] Members seeking to become registered as an Exchange Market Maker must comply with the applicable requirements of General 3, Section 1. *See* Equity 2, Section 4.

[6] The Exchange expects the purging functionality to remain substantially similar to Purge Ports, as described above, and would offer the purging functionality as long as it offers Purge Ports.

[7] The RASH Order entry protocol is a proprietary protocol that allows members to enter Orders, cancel existing Orders and receive executions. RASH allows participants to use advanced functionality, including discretion, random reserve, pegging and routing.

[8] Financial Information eXchange (FIX) is a vendor-neutral standard message protocol that defines an electronic message exchange for communicating securities transactions between two parties.

[9] The OUCH Order entry protocol is a proprietary protocol that allows subscribers to quickly enter orders into the System and receive executions. OUCH accepts limit Orders from members, and if there are matching Orders, they will execute. Non-matching Orders are added to the Limit Order Book, a database of available limit Orders, where they are matched in price-time priority. OUCH only provides a method for members to send Orders and receive status updates on those Orders.

[10] *See* Securities Exchange Act Release No. 84405 (October 11, 2018), 83 FR 52598 (October 17, 2018) (SR–CboeEDGA–2018–016). Explaining its decision to waive the 30-day operative delay of this proposed rule change, the Commission stated that it believed that purge ports may be a helpful tool for managing the risk associated with trading equities, and that this can be important both for individual market participants and the market in general.

[11] 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.

in exactly the same manner as they do today without dedicated Purge Ports, but with the additional purging functionality.

The Exchange proposes to waive the applicable $300 per Purge Port, per month fees for Participants that use their Exchange access protocols connection through the Exchange's Testing Facility to test the new Purge Ports. The fees will be waived for the first two calendar months from the date the participant first receives access to Purge Ports in the Test Facility. A Participant may choose to conduct testing for OUCH, FIX and RASH protocols simultaneously or at different times. If a Participant chooses to conduct tests for their protocols separately, the fees will be waived each time.

After the two months of service, a Participant will be expected to have fully tested the new Purge Ports and will be charged for any fees incurred for using the Exchange's Testing Facility ports thereafter.

Implementation

The Exchange will issue an Equity Trader Alert to members announcing the exact date the Exchange will implement the Purge Ports and the purging functionality, as described above.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[13] 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 proposal is also 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 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 Participants a new optional service promotes choice, flexibility, efficiency, and competition. The Exchange believes the new features may enhance participants' ability to manage orders, which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that the purging functionality and the Purge Ports would 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 quote and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers' resources. Although dedicated Purge Ports are a new functionality for the Exchange,[14] similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated equities and options exchanges, and other equities exchanges.[15] 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 Market Makers that have heightened quoting obligations that are not applicable to other market participants.

The proposed rule change will not relieve Market Makers of their quoting obligations or firm quote obligations under Regulation NMS Rule 602.[16] Specifically, any interest that is executable against a Participant's or Market Maker's quotes and orders that is received by the Exchange prior to the time of the removal of orders request will automatically execute. Market Makers that purge their orders 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.[17]

Dedicated Purge Ports, which were originally introduced for options trading, subsequently became a feature in the equities market. The Exchange, therefore, is not the first equities exchange to offer this functionality to Participants and to charge associated fees.[18]

The Exchange believes the proposed fee for Purge Ports is reasonable. The Exchange currently charges $400 per port/per month for logical ports. The Exchange believes it is reasonable to charge $500 per month for the proposed Purge Ports, which is $100 more than the fee for a logical port, 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. Nasdaq also believes that a Participant that chooses to utilize a Purge Port may, in the future, reduce their need for additional logical 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. In addition, the proposed purging functionality will allow Participants to achieve essentially the same outcome without paying for a dedicated Purge Port. 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 (per MPID, buy or sell side of the order, or ticker symbol). 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 Participants are able to rely on currently available services both free and those they receive when using existing trading protocols, which will include the proposed purging functionality. If the value of the efficiency introduced through the Purge Port functionality is not worth the proposed fees, Participants will simply continue to rely on the existing functionality and the proposed purging functionality and not pay for Purge Ports. In that regard, Participants

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* footnote 6, above.

[15] *See* 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).

[16] 17 CFR 242.602.

[17] *See* Equity 2, Section 5.

[18] Cboe charges $650 per port/per month for Purge Ports that have substantially similar functionality. This fee is also $100 more than the fee for a logical port on its exchange. *See,* Cboe EDGA U.S. Equities Exchange Fee Schedule.

already can cancel orders individually and by utilizing Nasdaq protocols that allow them to develop proprietary systems that can send cancel messages at a high rate.[19] In addition, the Exchange already provides similar ability to mass cancel orders through the Nasdaq Kill Switch, which is an optional tool offered at no charge that enables Participants to establish pre-determined levels of risk exposure, and can be used to cancel all open orders. Similarly, Participants may use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to immediately cancel all pending Exchange orders except for good-till-canceled orders. Finally, the proposed 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 introduced by the Purge Port functionality 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 the proposed 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 the purging functionality and the Purge Ports at the Exchange 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 Exchange 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 first equities exchange to develop and offer dedicated Purge Ports for equities trading, and the proposed rate is the same or lower than that charged by other equities exchanges for similar functionality. Generally speaking, restricting the Exchange's ability to offer new services and charge fees for these new services discourages innovation and competition. Specifically in this case, the Exchange's inability to introduce 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 serves to restrict competition in the market—especially when other exchanges assess 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 Participants that choose to use the optional Purge Ports. The proposed Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Participant is required or under any regulatory obligation to utilize them. All Participants that voluntarily select this service option will be charged the same amount for the same services. All Participants have the option to select any connectivity option, and there is no differentiation among Participants with regard to the fees charged for the services offered by the Exchange.

The Exchange believes that the proposal to waive the applicable $300 per Purge Port, per month fees for Participants that conduct tests of their Exchange access protocols connection through the Exchange's Testing Facility to test the new Purge Ports functionality is reasonable and not unfairly discriminatory. Importantly, the Exchange believes the two month waiver of the fee will encourage testing of the new optional Purge Ports, which will allow participants to evaluate whether the new optional service is of value to them and if so will help them better implement them into their workflow. All Participants will be notified about the availability of the new Purge Port functionality and have access to test it but will not be required to use it. Moreover, the fees for the RASH, FIX and OUCH ports will remain the same and apply to all Participants in the same manner. Based on the Exchange's experience, we anticipate that Participants will complete testing the new Purge Ports within two months from initiating such tests and thus will not incur any fees related to testing the functionality of Purge Ports.

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. To the contrary, the Exchange believes the proposed rule change will enhance competition because it will enable the Exchange to innovate and offer similar equities Purge Port functionality to that offered by other equity exchanges and on options markets today. The proposed Purge Ports are completely voluntary and will be made available to all members on an equal basis at the same cost. While the Exchange believes that the proposed Purge Ports provide a valuable service, Participants can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Participant is required or under any regulatory obligation to utilize Purge Ports. Accordingly, the Exchange believes that the proposed rule change is designed to offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

The Exchange is also allowing the Participants to test this new functionality for free by providing a two month waiver in the Exchange's Test Facility. Accordingly, the Exchange believes that the proposed rule change is designed to offer optional risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[20] and

[19] 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.

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

subparagraph (f)(6) of Rule 19b–4 thereunder.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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–NASDAQ–2023–041 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NASDAQ–2023–041. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2023–041 and should be submitted on or before November 14, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

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[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98771; File No. SR–NYSEAMER–2023–50]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE American Options Proprietary Market Data Fee Schedule

March 18, 2023.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 16, 2023, NYSE American LLC (''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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Proprietary Market Data Fee Schedule (''Fee Schedule'') to introduce a data product to be known as the NYSE Options Open-Close Intra-Day Volume Summary (''Intra-Day Volume Summary'') that would be available for purchase by any market participant, *i.e.,* members[4] and non-members, on an ad-hoc basis and to adopt fees for such product. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to introduce a data product to be known as the Intra-Day Volume Summary that would be available for purchase by market participants on an ad-hoc basis and to adopt fees for such product.[5]

More specifically, the Exchange proposes to offer an ad-hoc historic monthly Intra-Day Volume Summary market data product that provides a volume summary of trading activity on the Exchange at the option level by origin (Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker[6]), side of the market (buy or sell), contract volume, and

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] References to ''member organization'' as used in Exchange rules include American Trading Permit (''ATP'') Holders, which are registered brokers or dealers approved to effect transactions on the Exchange's options marketplace. Under the Exchange's rules, an ATP Holder has the status as a ''member'' of the Exchange as that term is defined in Section 3 of the Act. *See* Rule 900.2NY.

[5] The Exchange previously adopted a subscription-based market data product known as the NYSE Options Open-Close Volume Summary that market participants can purchase on a subscription basis. *See* Securities Exchange Act Release No. 93803 (December 16, 2021), 86 FR 72647 (December 22, 2021) (SR–NYSEAMER–2021–46). The purpose of this filing is to introduce a historic monthly report of the NYSE Options Open-Close Volume Summary that would be available for purchase by any market participant on an ad-hoc basis.

[6] The terms Customer, Professional Customer, Firm and Market Maker are defined in Rule 900.2NY.

transaction type (opening or closing). The Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The ad-hoc historic monthly Intra-Day Volume Summary is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange proposes to offer data beginning November 2023 and would contain all series in an underlying security if it has volume.[7]

The Exchange anticipates a wide variety of market participants to purchase the ad-hoc historic monthly Intra-Day Volume Summary, including, but not limited to, individual customers, buy-side investors, investment banks and academic institutions. For example, academic institutions may utilize the proposed product to promote research and studies of the options industry to the benefit of all market participants. The Exchange believes the proposed product may also provide helpful trading information regarding investor sentiment and may be used to create and test trading models and analytical strategies. The ad-hoc historic monthly Intra-Day Volume Summary is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential customers may purchase it on an ad-hoc basis only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar product,[8] including the Exchange's affiliate, NYSE Arca, Inc. (''NYSE Arca'').[9] As such, the ad-hoc historic monthly Intra-Day Volume Summary is subject to direct competition from similar intra-day options trading summaries offered by other exchanges. All of these exchanges offer essentially the same intra-day options trading summary information for purchase on an ad-hoc basis, and generally differ solely in the amount of history available for purchase.[10]

The Exchange proposes to provide in its Fee Schedule that market participants may purchase the ad-hoc historic monthly Intra-Day Volume Summary for a specified month (historical data). The Exchange proposes to assess a fee of $1,000 per request per month for an ad-hoc request of historical Intra-Day Volume Summary covering all Exchange-listed securities. An ad-hoc request can be for any number of months beginning with November 2023 for which the data is available.[11] The proposed fee for ad-hoc requests for the historic monthly Intra-Day Volume Summary will apply to all market participants. The Exchange notes that other exchanges provide a similar data product[12] that may be purchased on an ad-hoc basis. The proposed fee is comparably priced to at least one other exchange that sells a market data product similar to Intra-Day Volume Summary that may be purchased on an ad-hoc basis.[13]

The Exchange intends to offer the historic monthly Intra-Day Volume Summary on an ad-hoc basis and charge the proposed fees effective November 1, 2023.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for ad-hoc historic monthly Intra-Day Volume Summary is consistent with Section 6(b) of the Act[16] in general, and furthers the objectives of Section 6(b)(4) of the Act[17] in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data.

The Exchange believes that the proposed ad-hoc historic monthly Intra-Day Volume Summary market data product would further broaden the availability of U.S. options market data to investors consistent with the principles of Regulation NMS. The proposed rule change would benefit investors by providing access to historic data, which as noted above, may promote better informed trading, as well as research and studies of the options industry. Particularly, information regarding opening and closing activity across different options series may indicate investor sentiment, which can be helpful research and/or trading information. Customers of the historic data product may be able to enhance their ability to analyze options trade and volume data, and create and test trading models and analytical strategies. The Exchange believes ad-hoc historic monthly Intra-Day Volume Summary would provide a valuable tool that customers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. Moreover, other exchanges offer a similar data product.[18]

[7] The specifications for the ad-hoc historic monthly Intra-Day Volume Summary can be found at *https://www.nyse.com/market-data/historical/open-close-volume-summary.*

[8] *See e.g.,* Securities Exchange Act Release Nos. 89496 (August 6, 2020), 85 FR 48743 (August 12, 2020) (SR–C2–2020–010) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Introduce a New Data Product To Be Known as Intraday Open-Close Data); and 97723 (June 14, 2023), 88 FR 40358 (June 21, 2023) (SR–BOX–2023–16) (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 Offer Ad-Hoc Historical Requests for the Intraday Open-Close Data Report and Adopt Fees for This Data). The ad-hoc historic monthly Intra-Day Volume Summary report contains the same information that is provided in the monthly subscription-based market data product known as the NYSE Options Open-Close Volume Summary. *See,* note 5, *supra.*

[9] *See* Securities Exchange Act Release No. 97841 (July 5, 2023), 88 FR 44176 (July 11, 2023) (SR–NYSEArca–2023–46).

[10] For example, Nasdaq PHLX LLC offers history for its intra-day data starting in January 2009 for purchase on an ad-hoc basis while Intra-Day Volume Summary history is only offered starting in August 2022. *See https://www.nasdaqtrader.com/micro.aspx?id=photo.*

[11] For example, a customer that requests historical Intra-Day Volume Summary for the months of November 2023 and December 2023, would be assessed a total of $2,000.

[12] *See e.g.,* Cboe LiveVol, LLC Market Data Fees available at *https://www.cboe.com/us/options/membership/fee_schedule/ctwo/.* Cboe C2 Options (''C2'') offers Open-Close Data: Intraday Ad-hoc Request (historical data) and assesses a fee of $500 per request per month. Cboe EDGX Exchange, Inc. (''EDGX'') similarly offers Open-Close Data: Intraday Ad-hoc Request (historical data) and assesses a fee of $500 per request per month. *See https://www.cboe.com/us/options/membership/fee_schedule/edgx/.* Nasdaq ISE, LLC (''ISE'') offers Nasdaq ISE Open/Close Trade Profile Intraday Ad-Hoc Request (historical data) and assesses a fee of $1,000 per request per month, $2,000 per request per quarter and $8,000 per request per year. *See* Sec. 10, Market Data, at *https://listingcenter.nasdaq.com/rulebook/ise/rules/ise-options-7.*

[13] *See* ISE fees, note 12, *supra.*

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4).

[18] *See,* notes 8 and 9, *supra.*

The Exchange operates in a highly competitive market. Indeed, there are currently 17 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[19] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in July 2023, the Exchange had less than 12% market share of executed volume of multiply-listed equity and ETF options trades.[20]

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [21]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system ''evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed'' and that the SEC wield its regulatory power ''in those situations where competition may not be sufficient,'' such as in the creation of a ''consolidated transactional reporting system.'' [22]

The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [23] More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:

> the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[24]

Making similar historic data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. In the event that a market participant views one exchange's historic data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of the ad-hoc historic monthly Intra-Day Volume Summary data product.

The Exchange believes its proposal to provide the ad-hoc historic monthly Intra-Day Volume Summary is reasonable as the proposed fee is comparable to the fee charged by at least one other exchange that provides a similar historic data product.[25] Indeed, proposing fees that are excessively higher than established fees for similar historic data products would simply serve to reduce demand for the Exchange's historic data product, which as noted, is entirely optional. Like the ad-hoc historic monthly Intra-Day Volume Summary, other exchanges offer similar historic data products that each provide insight into trading on those markets and may likewise aid in assessing investor sentiment. Although each of these similar historic data products provide only proprietary trade data and not trade data from other exchanges, it is possible investors are still able to gauge overall investor sentiment across different options series based on open and closing interest on any one exchange. Similarly, market participants may be able to analyze options trade and volume data, and create and test trading models and analytical strategies using only the ad-hoc historic monthly Intra-Day Volume Summary data relating to trading activity on one or more of the other markets that provide similar historic data products. As such, if a market participant views another exchange's data as more attractive than the Exchange's offering, then such market participant can merely choose not to purchase the Exchange's historic data product and instead purchase another exchange's historic product, which offer similar data points, albeit based on that other market's trading activity.

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a historic market data product that is designed to aid investors by providing insight into trading on the Exchange. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better-informed trading decisions. As noted above, customers may also use such data to create and test trading models and analytical strategies.

Selling historic market data, such as the ad-hoc historic monthly Intra-Day Volume Summary, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in attracting customers to the Exchange's historic data product, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, customers can diminish or discontinue their use of the historic data and/or avail themselves of similar products offered by other exchanges.[26] The Exchange therefore believes that the proposed fees reflect the competitive environment and would be properly and equally assessed to all customers. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all customers who choose to purchase such data. The proposed fees would not differentiate between customers that purchase the ad-hoc historic monthly Intra-Day Volume Summary, and are set at a modest level that would allow any interested market participant to purchase such data based on their business needs. Nothing in this proposal treats any category of market participant any differently from any other category of market participant. The ad-hoc historic monthly Intra-Day Volume Summary is available to all

[19] The Options Clearing Corporation (''OCC'') publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[20] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, *see id.,* the Exchange's market share in equity-based options increased slightly from 11.30% for the month of July 2022 to 11.50% for the month of July 2023.

[21] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[22] *NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

[23] *Id.* at 535.

[24] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (ArcaBook Approval Order).

[25] *See,* note 12, *supra.*

[26] *See,* notes 8 and 9, *supra.*

market participants, *i.e.,* members and non-members, and all market participants would receive the same information in the data feed.

As noted above, the Exchange anticipates a wide variety of market participants to purchase the ad-hoc historic monthly Intra-Day Volume Summary data product, including but not limited to individual customers, buy-side investors, investment banks and academic institutions. As such, the Exchange anticipates that the historic data product may be used not just for commercial or monetizing purposes, but also for educational use and research. The Exchange reiterates that the decision as to whether or not to purchase the ad-hoc historic monthly Intra-Day Volume Summary is entirely optional for all potential customers. Indeed, no market participant is required to purchase the historic data product, and the Exchange is not required to make the historic data product available to market participants. Rather, the Exchange is voluntarily making the historic data product available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential customers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

In sum, the fierce competition for order flow constrains any exchange from pricing its historic market data at a supra-competitive price, and constrains the Exchange here in setting its fees for the ad-hoc historic monthly Intra-Day Volume Summary data product.

The proposed fees are therefore reasonable because in setting them, the Exchange is constrained by the availability of numerous substitute venues offering historic market data products and trading.[27] Such substitutes need not be identical, but only substantially similar to the product at hand. More specifically, in setting fees for the ad-hoc historic monthly Intra-Day Volume Summary data product, the Exchange is constrained by the fact that, if its pricing is unattractive to customers, customers have their pick of an increasing number of alternative venues to use instead of the Exchange.[28] Because of the availability of substitutes, an exchange that overprices its historic market data products stands a high risk that customers may substitute another source of market data information for its own. Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing. The existence of numerous alternatives to the Exchange ensures that the Exchange cannot set unreasonable fees for historic market data without suffering the negative effects of that decision in the fiercely competitive market in which it operates.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange also does not believe the proposed fees would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable historic data product and adopt fees to better compete with the Exchange's offering. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a historic data product similar to those offered by other options exchanges.[29] The Exchange is offering the ad-hoc historic monthly Intra-Day Volume Summary in order to keep pace with changes in the industry and evolving customer needs, and believes the data product will contribute to robust competition among national securities exchanges.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price the ad-hoc historic monthly Intra-Day Volume Summary is constrained by competition among exchanges that offer similar historic data products to their customers. As discussed above, there are currently a number of similar products available to market participants and investors. A number of U.S. options exchanges offer a historic market data product that is substantially similar to the Exchange's offering, which the Exchange must consider in its pricing discipline in order to compete effectively. For example, proposing fees that are excessively higher than established fees for similar historic data products would simply serve to reduce demand for the Exchange's historic data product, which as discussed, market participants are under no obligation to utilize or purchase. In this competitive environment, potential purchasers are free to choose which, if any, similar historic data product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees would apply uniformly to any customer, in that the Exchange would not differentiate between customers that purchase the ad-hoc historic monthly Intra-Day Volume Summary and all customers would receive the same information in the data feed. The Exchange believes the proposed fees are set at a modest level that would allow interested customers to purchase such data based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[30] and Rule 19b–4(f)(6) thereunder.[31]

A proposed rule change filed under Rule 19b–4(f)(6)[32] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[33] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any

[27] *See,* notes 8 and 9, *supra.*

[28] *See,* note 12, *supra.*

[29] *See,* notes 8 and 9, *supra.*

[30] 15 U.S.C. 78s(b)(3)(A)(iii).

[31] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange 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.

[32] 17 CFR 240.19b–4(f)(6).

[33] 17 CFR 240.19b–4(f)(6)(iii).

new or novel issues.[34] Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[35]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2023–50 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEAMER–2023–50. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEAMER–2023–50 and should be submitted on or before November 14, 2023

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Sherry R. Haywood,

Assistant Secretary.

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[34] *See supra,* notes 8–10 and 12.

[35] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[36] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–420, OMB Control No. 3235–0479]

Proposed Collection; Comment Request; Extension Rule: 15c2–7

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 15c2–7 (17 CFR 240.15c2–7) 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 15c2–7 places disclosure requirements on broker-dealers who have correspondent relationships, or agreements identified in the Rule, with other broker-dealers. Whenever any such broker-dealer enters a quotation for a security through an inter-dealer quotation system, Rule 15c2–7 requires the broker-dealer to disclose these relationships and agreements in the manner required by the Rule. The inter-dealer quotation system must also be able to make these disclosures public in association with the quotation the broker-dealer is making.

When Rule 15c2–7 was adopted in 1964, the information it requires was necessary for execution of the Commission's mandate under the Securities Exchange Act of 1934 to prevent fraudulent, manipulative, and deceptive acts by broker-dealers. In the absence of the information collection required under Rule 15c2–7, investors and broker-dealers would have been unable to accurately determine the market depth of, and demand for, securities in an inter-dealer quotation system.

There are approximately 3,493 broker-dealers registered with the Commission. Any of these broker-dealers could be potential respondents for Rule 15c2–7, so the Commission is using that figure to represent the number of respondents. Rule 15c2–7 applies only to quotations entered into an inter-dealer quotation system, such as OTC Link, operated by OTC Markets Group Inc. (''OTC Link''). According to a representative of OTC Link, it has not received any Rule 15c2–7 notices since the previous PRA extension for Rule 15c2–7 in 2020; nor does OTC Link anticipate receiving any Rule 15c2–7 notices. However, because such notices could be made, the Commission estimates that one filing is made annually pursuant to Rule 15c2–7.

Based on prior industry reports, the Commission estimates that the average time required to enter a disclosure pursuant to the Rule is .75 minutes, or 45 seconds. The Commission sees no reason to change this estimate. We estimate that impacted respondents spend a total of .0125 hours per year to comply with the requirements of Rule 15c2–7 (1 notice (x) 45 seconds/notice).

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 26, 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 19, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–23416 Filed 10–23–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98770; File No. SR–BX–2023–026]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Purge Ports for Equities Trading

October 18, 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 10, 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 establish Purge Ports for equities trading, as described below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to establish a new port type, ''Purge Port,'' which is a function enabling Exchange Participants (the ''Participants'') to cancel all open orders or a subset of open orders (per MPID, buy or sell side of the order, or ticker symbol) across multiple protocols through a single cancel message.[3] The Exchange also proposes to amend the Pricing Schedule in Equity 7, Section 115 to set fees for Purge Ports and to waive the fees for the Purge Ports in the Exchange's Test Facility for the first two months a Participant uses them in the Test Facility. Finally, the Exchange proposes to make functional enhancements to its Order entry protocols to include a function enabling Participants to cancel, through a single cancel message, all open orders or a subset of open orders (per MPID, buy or sell side of the order, or ticker symbol) entered through that port (the ''purging functionality''). The Exchange notes that its sister exchange, Nasdaq PHLX, LLC, recently filed with the SEC a proposal to adopt similar functionality and pricing.[4]

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 Participant the ability to accomplish a specific function, such as order entry, order cancellation, access to execution reports, and other administrative information.

The proposed Purge Ports are designed to assist Participants, including Market Makers[5] 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 Participant detects market indications that may influence the execution potential of their orders, the Participant may use the proposed Purge Ports to reduce uncertainty and to manage risk by purging all orders in a number of securities. This would allow the Participant to seamlessly avoid unintended executions, while continuing to evaluate the market, their positions, and their risk levels. While Purge Ports will be available to all Participants, the Exchange anticipates they will be used primarily by firms that conduct business activity that exposes them to a large amount of risk across a number of securities. The proposed purging functionality will operate similar to a Purge Port, by allowing a Participant to purge all orders or a subset of open orders (per MPID, buy or sell side of the order, or ticker symbol) open on that port. The only material difference for a Participant, between relying on the purging functionality as opposed to using a Purge Port, is that Purge Port requires a Participant to send one message to accomplish desired cancellation of orders or a subset thereof as described above, while the purging functionality requires a Participant to send multiple messages (which could be sent simultaneously) to accomplish the same task.[6]

Participants may currently cancel individual orders through the existing functionality of the RASH Order entry protocol,[7] FIX Order entry protocol[8] and the OUCH Order entry protocol.[9] In addition to the current functionality, which is being retained, the Exchange now proposes to expand the ability of Participants to cancel orders through the new purge functionality, which would enable them to cancel all open orders or a subset of open orders (per MPID, buy or sell side of the order, or ticker symbol) entered through a single port; and through the proposed Purge Ports, which would enable them to cancel all open orders, or a subset of open orders (per MPID, buy or sell side of the order, or ticker symbol) across multiple

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Purge Ports will be available for RASH, FIX and OUCH protocols.

[4] *See* Securities Exchange Act Release No. 34–97825 (June 30, 2023); 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[5] Members seeking to become registered as an Exchange Market Maker must comply with the applicable requirements of General 3, Section 1. *See* Equity 2, Section 4.

[6] The Exchange expects the purging functionality to remain substantially similar to Purge Ports, as described above, and would offer the purging functionality as long as it offers Purge Ports.

[7] The RASH Order entry protocol is a proprietary protocol that allows members to enter Orders, cancel existing Orders and receive executions. RASH allows participants to use advanced functionality, including discretion, random reserve, pegging and routing.

[8] Financial Information eXchange (FIX) is a vendor-neutral standard message protocol that defines an electronic message exchange for communicating securities transactions between two parties.

[9] The OUCH Order entry protocol is a proprietary protocol that allows subscribers to quickly enter orders into the System and receive executions. OUCH accepts limit Orders from members, and if there are matching Orders, they will execute. Non-matching Orders are added to the Limit Order Book, a database of available limit Orders, where they are matched in price-time priority. OUCH only provides a method for members to send Orders and receive status updates on those Orders.

protocols through a single cancel message.

The Exchange notes that dedicated Purge Ports are not a new functionality for equities exchanges, as Nasdaq PHLX, LLC and other equity exchanges already offer similar functionality.[10] The Exchange also notes that the proposed 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. In that regard, Participants can cancel orders in rapid succession across their order entry ports.[11] In addition, the Exchange provides a similar ability to mass cancel orders through the BX Kill Switch, which is an optional tool offered at no charge that enables Participants to establish pre-determined levels of risk exposure, which can be used to cancel all open orders. Similarly, Participants may use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to immediately cancel all pending Exchange orders except for good-till-canceled orders. Accordingly, the Exchange believes that the purge functionality and 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 proposes to provide the purging functionality without charging any additional fees. All existing ports will be enhanced with the purging functionality and will continue to be subject to the existing fee schedule without any changes.

The Exchange proposes to adopt a fee for Purge Ports of $500 per port/per month. As stated above, the Exchange believes that Participants would benefit from a dedicated purge mechanism. Only firms that request Purge Ports would be subject to the proposed fees, and other firms can continue to operate in exactly the same manner as they do today without dedicated Purge Ports, but with the additional purging functionality.

The Exchange proposes to waive the applicable $300 per Purge Port, per month fees for Participants that use their Exchange access protocols connection through the Exchange's Testing Facility to test the new Purge Ports. The fees will be waived for the first two calendar months from the date the participant first receives access to Purge Ports in the Test Facility. A Participant may choose to conduct testing for OUCH, FIX and RASH protocols simultaneously or at different times. If a Participant chooses to conduct tests for their protocols separately, the fees will be waived each time.

After the two months of service, a Participant will be expected to have fully tested the new Purge Ports and will be charged for any fees incurred for using the Exchange's Testing Facility ports thereafter.

Implementation

The Exchange will issue an Equity Trader Alert to members announcing the exact date the Exchange will implement the Purge Ports and the purging functionality, as described above.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[13] 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 proposal is also 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 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 Participants a new optional service promotes choice, flexibility, efficiency, and competition. The Exchange believes the new features may enhance participants' ability to manage orders, which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that the purging functionality and the Purge Ports would 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 quote and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers' resources. Although dedicated Purge Ports are a new functionality for the Exchange,[14] similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges, and other equities exchanges.[15] 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 Market Makers that have heightened quoting obligations that are not applicable to other market participants.

The proposed rule change will not relieve Market Makers of their quoting obligations or firm quote obligations under Regulation NMS Rule 602.[16] Specifically, any interest that is executable against a Participant's or Market Maker's quotes and orders that is received by the Exchange prior to the time of the removal of orders request will automatically execute. Market Makers that purge their orders 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.[17]

Dedicated Purge Ports, which were originally introduced for options trading, subsequently became a feature in the equities market. The Exchange, therefore, is not the first equities exchange to offer this functionality to Participants and to charge associated fees.[18]

[10] *See* Securities Exchange Act Release No. 84405 (October 11, 2018), 83 FR 52598 (October 17, 2018)(SR–CboeEDGA–2018–016). Explaining its decision to waive the 30-day operative delay of this proposed rule change, the Commission stated that it believed that purge ports may be a helpful tool for managing the risk associated with trading equities, and that this can be important both for individual market participants and the market in general.

[11] 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.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* footnote 6, above.

[15] *See* 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).

[16] 17 CFR 242.602.

[17] *See* Equity 2, Section 5.

[18] Cboe charges $650 per port/per month for Purge Ports that have substantially similar functionality. This fee is also $100 more than the

The Exchange believes the proposed fee for Purge Ports is reasonable. The Exchange currently charges $400 per port/per month for logical ports. The Exchange believes it is reasonable to charge $500 per month for the proposed Purge Ports, which is $100 more than the fee for a logical port, 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 Participant that chooses to utilize a Purge Port may, in the future, reduce their need for additional logical 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. In addition, the proposed purging functionality will allow Participants to achieve essentially the same outcome without paying for a dedicated Purge Port. 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 (per MPID, buy or sell side of the order, or ticker symbol). 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 Participants are able to rely on currently available services both free and those they receive when using existing trading protocols, which will include the proposed purging functionality. If the value of the efficiency introduced through the Purge Port functionality is not worth the proposed fees, Participants will simply continue to rely on the existing functionality and the proposed purging functionality and not pay for Purge Ports. In that regard, Participants already can cancel orders individually and by utilizing Nasdaq protocols that allow them to develop proprietary systems that can send cancel messages at a high rate.[19] In addition, the Exchange already provides similar ability to mass cancel orders through the BX Kill Switch, which is an optional tool offered at no charge that enables Participants to establish pre-determined levels of risk exposure, and can be used to cancel all open orders. Similarly, Participants may use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to immediately cancel all pending Exchange orders except for good-till-canceled orders. Finally, the proposed 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 introduced by the Purge Port functionality 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 the proposed 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 the purging functionality and the Purge Ports at the Exchange 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 Exchange 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 first equities exchange to develop and offer dedicated Purge Ports for equities trading, and the proposed rate is the same or lower than that charged by other equities exchanges for similar functionality. Generally speaking, restricting the Exchange's ability to offer new services and charge fees for these new services discourages innovation and competition. Specifically in this case, the Exchange's inability to introduce 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 serves to restrict competition in the market—especially when other exchanges assess 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 Participants that choose to use the optional Purge Ports. The proposed Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Participant is required or under any regulatory obligation to utilize them. All Participants that voluntarily select this service option will be charged the same amount for the same services. All Participants have the option to select any connectivity option, and there is no differentiation among Participants with regard to the fees charged for the services offered by the Exchange.

The Exchange believes that the proposal to waive the applicable $300 per Purge Port, per month fees for Participants that conduct tests of their PSX [sic] access protocols connection through the Exchange's Testing Facility to test the new Purge Ports functionality is reasonable and not unfairly discriminatory. Importantly, the Exchange believes the two month waiver of the fee will encourage testing of the new optional Purge Ports, which will allow participants to evaluate whether the new optional service is of value to them and if so will help them better implement them into their workflow. All Participants will be notified about the availability of the new Purge Port functionality and have access to test it but will not be required to use it. Moreover, the fees for the RASH, FIX and OUCH ports will remain the same and apply to all Participants in the same manner. Based on the Exchange's experience, we anticipate that Participants will complete testing the new Purge Ports within two months from initiating such tests and thus will not incur any fees related to testing the functionality of Purge Ports.

fee for a logical port on its exchange. *See,* Cboe EDGA U.S. Equities Exchange Fee Schedule.

[19] 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.

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. To the contrary, the Exchange believes the proposed rule change will enhance competition because it will enable the Exchange to innovate and offer similar equities Purge Port functionality to that offered by other equity exchanges and on options markets today. The proposed Purge Ports are completely voluntary and will be made available to all members on an equal basis at the same cost. While the Exchange believes that the proposed Purge Ports provide a valuable service, Participants can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Participant is required or under any regulatory obligation to utilize Purge Ports. Accordingly, the Exchange believes that the proposed rule change is designed to offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

The Exchange is also allowing the Participants to test this new functionality for free by providing a two month waiver in the Exchange's Test Facility. Accordingly, the Exchange believes that the proposed rule change is designed to offer optional risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [20] and subparagraph (f)(6) of Rule 19b–4 thereunder.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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–BX–2023–026 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–2023–026. 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–2023–026 and should be submitted on or before November 14, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–23402 Filed 10–23–23; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 12239]

Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: Exhibition of "Head of a Woman (Fernande)" Object

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary exhibition or display in the Department of Modern and Contemporary Art of The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its 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. 2023–23420 Filed 10–23–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12234]

Department of State Performance Review Board Members

ACTION: Notice of members for the Performance Review Board.

SUMMARY: The Department of State (DOS) announces the persons who will serve on the Senior Executive Service 2023 Performance Review Board.

DATES: This appointment is effective October 2, 2023.

FOR FURTHER INFORMATION CONTACT: Patricia Wai, Deputy Director Bureau of Global Talent Management, Division of Civil Service Talent Management, Department of State, 2401 E Street NW, Washington, DC 20037, 202–663–2147.

SUPPLEMENTARY INFORMATION: This action is being taken in accordance with title 5, U.S.C., section 4314 (c)(4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The membership of the Department of State Performance Review Board is as follows:

Sherry Hannah—Chair

Anne Joyce

Jeanne Juliao

Eric Stein

Roland deMarcellus

Jeremy Bernton

Suzanne George

Mark Iozzi

Kim R. Bruner,

Director, Bureau of Global Talent Management, Civil Service Talent Management, Department of State.

[FR Doc. 2023–23397 Filed 10–23–23; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

[Public Notice: 12238]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Rembrandt: Etchings From the Museum Boijmans Van Beuningen'' 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 ''Rembrandt: Etchings from the Museum Boijmans Van Beuningen'' at the Worcester Art Museum, Worcester, Massachusetts, 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. 2023–23425 Filed 10–23–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2023–0038]

Initial Decision That Certain Frontal Driver and Passenger Air Bag Inflators Manufactured by ARC Automotive Inc. and Delphi Automotive Systems LLC Contain a Safety Defect; Extension of Written Submission Deadline

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Extension of deadline for written submissions in response to agency's Initial Decision That Certain Frontal Driver and Passenger Air Bag Inflators Manufactured by ARC Automotive Inc. and Delphi Automotive Systems LLC Contain a Safety Defect.

SUMMARY: On September 22, 2023, NHTSA received a request to extend the period during which manufacturers and any interested person may submit written information in response to the agency's Initial Decision published on September 8, 2023. The original written submission deadline was October 20, 2023. NHTSA is extending the deadline to December 4, 2023.

DATES: The written submission deadline related to the Initial Decision published on September 8, 2023, at 88 FR 62140, is extended to December 4, 2023.

ADDRESSES: You may submit written submissions to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

• *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number. Note that all written submissions received will be posted without change to *https://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below. We will consider all written submissions received before the close of business on Monday, December 4, 2023.

Docket: For access to the docket to read background documents or written submissions received, go to *https://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

Privacy Act: In accordance with 49 U.S.C. 30118(b)(1), NHTSA will make a final decision only after providing an opportunity for manufacturers and any interested person to present information, views, and arguments. DOT posts written submissions submitted by manufacturers and interested persons, without edit, including any personal information the submitter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 Federal Docket Management System (FDMS)), which can be reviewed at *www.transportation.gov/privacy.*

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you must submit your request directly to NHTSA's Office of the Chief Counsel. Requests for confidentiality are governed by 49 CFR part 512. NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information (CBI) to the agency under part 512. If you would like to submit a request for confidential treatment, you may email your submission to Ashley Simpson in the Office of the Chief Counsel at *Ashley.Simpson@dot.gov* or you may contact her for a secure file transfer link. At this time, you should not send a duplicate hardcopy of your electronic CBI submissions to DOT headquarters. If you claim that any of the information or documents provided to the agency constitute confidential business information within the meaning of 5 U.S.C. 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. 1905, you must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with part 512, to the Office of the Chief Counsel. Your request must include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR 512.8) and a certificate, pursuant to § 512.4(b) and part 512, appendix A. In addition, you should submit a copy, from which you have redacted the claimed confidential business information, to the Docket at the address given above.

FOR FURTHER INFORMATION CONTACT: Ashley Simpson, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (202) 366–8726.

SUPPLEMENTARY INFORMATION: On September 5, 2023, NHTSA issued an Initial Decision That Certain Frontal Driver and Passenger Air Bag Inflators Manufactured by ARC Automotive Inc. and Delphi Automotive Systems LLC Contain a Safety Defect pursuant to 49 U.S.C. 30118(a) and 49 CFR 554.10. 88 FR 62140 (Sept. 8, 2023). More specifically, NHTSA initially determined that certain air bag inflators manufactured by ARC Automotive Inc. (ARC) and Delphi Automotive Systems LLC (Delphi) through January 2018 may rupture when the vehicle's air bag is commanded to deploy, causing metal debris to be forcefully ejected into the passenger compartment of the vehicle, and that these rupturing air bag inflators pose an unreasonable risk of serious injury or death to vehicle occupants. In accordance with 49 U.S.C. 30118(b)(1) and 49 CFR 554.10(c)(4), the Initial Decision provided manufacturers and any interested person an opportunity to present information, views, and arguments in response to the Initial Decision at a public meeting and/or by submitting written information to the Agency. The Initial Decision scheduled the public meeting for October 5, 2023 and set a deadline for written submissions of October 20, 2023. At the October 5 public meeting, NHTSA announced that it was granting a request to extend the written submission date to December 4, 2023.

Written Submission Deadline Extension Request

On September 22, 2023, NHTSA received a joint request from 13 manufacturers asking NHTSA to extend the period for written submissions by 45 days. The requestors noted the significant size of the investigative file to which they, along with other affected manufacturers, were provided access.[1] The requestors claimed that, in order to meaningfully respond to the Initial Decision, they needed more time to adequately review the information in the investigative file. A copy of the extension request and NHTSA's response will be added to the public docket.

Extension of Written Submission Deadline

After consideration of the request, NHTSA acknowledged the significant size of the investigative file. To ensure there is sufficient opportunity to present information, views, and arguments in response to the Initial Decision, NHTSA has granted the requested 45-day extension of the deadline to provide written submissions. The prior deadline of October 20, 2023 has been extended, and written submissions from any interested person are now due before the close of business on December 4, 2023.

Authority: 49 U.S.C. 30118(a), (b); 49 CFR 554.10; delegations of authority at 49 CFR 1.50(a) and 49 CFR 501.8.

Cem Hatipoglu,

Acting Associate Administrator for Enforcement.

[FR Doc. 2023–23474 Filed 10–23–23; 8:45 am]

BILLING CODE 4910–59–P

[1] The invesigative file for this matter contains a significant amount of confidential business information. Manufacturers with potential legal obligations under the Vehicle Safety Act and NHTSA regulations that could result from any recall order issued by NHTSA were provided a non-public investigative file.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST 2023–0067]

Privacy Act of 1974; System of Records

AGENCY: Office of the Departmental Chief Information Officer, Office of the Secretary of Transportation, DOT.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Transportation (DOT) proposes to establish a new system of records (hereafter referred to as ''Notice'') titled, ''Department of Transportation, Federal Aviation Administration DOT/FAA 857 Accidents, Incidents and Investigations.'' This system of records supports the FAA's mission of aviation safety by investigating and sharing accident and incident information with stakeholders, including the National Transportation Safety Board (NTSB). The information maintained in this system includes several kinds of records

such as toxicology reports, autopsy reports, incident and accident reports (including small Unmanned Aircraft System (small UAS) accident reports), maintenance records, responses to regulatory and statutory non-compliance determinations, data request logs, medical case reviews, and other records that support FAA accidents, incidents and investigations. Other information included are toxicology records regarding investigations of accidents or incidents for other modes of transportation and special requests from transportation entities from foreign governments.

DATES: Submit comments on or before November 24, 2023. The Department may publish an amended Systems of Records Notice considering any comments received. This new system will be effective immediately upon publication. The routine uses will be effective November 24, 2023.

ADDRESSES: You may submit comments, identified by docket number DOT–OST–2023–0067 by any of the following methods:

- *Federal e-Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.
- *Instructions:* You must include the agency name and docket number DOT–OST–2023–0067. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: For questions, please contact Karyn Gorman, Departmental Chief Privacy Officer, Privacy Office, Department of Transportation, Washington, DC 20590; *privacy@dot.gov;* or 202–366–3140.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, DOT proposes to issue a new system of records notice titled, ''DOT/FAA 857 Accidents, Incidents and Investigations.'' Records covered by this Notice were previously covered under DOT/FAA 847, Aviation Records on Individuals, 75 FR 68849, November 9, 2010. To provide the public with greater transparency and accountability to its business processes and data collection, FAA created this new Notice to group records more precisely and consolidate records with similar purposes, authorities, categories of individuals, categories of records, records sources, and retention timeframes. This system of records covers all facets of aviation accidents, incidents and other accidents or incidents-related investigations with stakeholders.

Accidents and Incidents Investigations

An accident is an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and until such time as all such persons have disembarked, and in which any person suffers death or serious injury, or in which the aircraft receives substantial damage. Incidents are events that do not meet aircraft damage or personal injury thresholds contained in the National Transportation Safety Board (NTSB). When a civil aviation accident or incident occurs, the FAA conducts an investigation at the site of the accident or incident. Information collected by the FAA during the investigation is entered into FAA Form 8020–23, FAA Accident/Incident Report, and that information is exchanged as needed with FAA systems in order to determine if a particular airman was involved in a prior accident or incident, to further investigate aircraft parts safety and provide analysis to address safety issues regarding aircraft. Concurrently, the FAA provides a specimen collection kit to a medical examiner or coroner to collect autopsy specimen(s) from deceased airmen or non-airmen involved in the accident or incident. The medical examiner or coroner sends the collected autopsy specimens or samples to AAM–610 for them to perform a toxicological analysis. In addition, the FAA occasionally performs toxicology studies on living individuals to be tested directly by the FAA. Also, the FAA also has authority to conduct accident and incident investigations pertaining to commercial space. While most records related to commercial space investigations pertain to business entities rather than individuals, the FAA could perform toxicology studies on individuals involved in commercial space accidents or incidents. Finally, at times, the NTSB or other foreign or domestic government entities provide the FAA samples from individuals involved in aviation or non-aviation transportation accidents or incidents. The toxicological analysis determines the presences of toxic gases, alcohol, and/or drugs in fluids and tissues of individuals involved in the accident or incident, and FAA uses the results of the toxicological analysis to make a determination of medical factors involved in the accident or incident. Or, if the toxicology analysis was performed on behalf of another entity, the FAA provides the toxicology results and other information pertaining to the toxicology analysis to the requesting entity. With respect to aviation accidents, the NTSB is responsible for conducting investigation to determine the probable cause of transportation accidents or incidents. This Notice does not cover the NTSB investigation.

This system of records covers certificated airmen, including remote pilots in command (remote PICs), non-certified individuals and non-airmen. Certificated airmen may include certain designees, check airmen, pilots, mechanics, and remote pilots. Remote PICs are those who operate small UAS and are subject to accident reporting required under 14 CFR part 107. Non-certified individuals may include individuals who may have been in control of the aircraft at the time of the accident. Non-airmen may include individuals involved in transportation accidents or incidents involving other modes of transportation, including commercial space.

The system of records maintains records such as toxicology reports, autopsy reports, accident and incident reports (including small UAS accident reports required under 14 CFR part 107), aircraft maintenance records, engineering analyses, responses to regulatory and statutory non-compliance determinations, data request logs, medical case reviews, witness statements, and other records that support FAA accidents, incidents and investigations.

This system maintains records about individuals which may include: names, dates of birth, social security number, driver license number, contact information (email address, phone number, home/business address), accident location (city/state/zip code), small UAS accident report reference

number, small UAS Registration Service (sUASRS) registration number, airman/remote pilot certificate number, NTSB investigation number, federal tracking number (FTN), and medical examiner case number. Records created or compiled for investigative purposes are exempted from certain access and disclosure requirements of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2).[1]

DOT has included both system specific and departmental general routine uses, as they align with the purpose of this system of records to support the FAA's mission of aviation safety. As recognized by the Office of Management and Budget (OMB) in its Privacy Act Implementation Guidance and Responsibilities (65 FR 19746 (July 9, 1975)), the routine uses include proper and necessary uses of information in the system, even if such uses occur infrequently. The system specific routine uses include the following:

1. To users of FAA's Skywatch system, including the Department of Defense (DoD), the Department of Homeland Security (DHS), the Department of Justice (DOJ) and other authorized government users, information on airman, aircraft and operator records available for their use in managing, tracking and reporting aviation-related security events.

2. To the NTSB investigators and medical officers who use the data in their efforts to determine the cause of transportation accidents and incidents.

3. To Medical Examiners or Coroners who use FAA toxicology results in their medical examiner's report.

4. To Federal, State, local and Tribal law enforcement and security agencies, information about airmen, when engaged in an official investigation or security threat assessment in which airmen are involved, or which affect the safety of transportation or national security.

5. To Federal, State, local, Tribal, and foreign government agencies who use toxicology services provided by the FAA, information pertaining to the toxicology study requested by the agency.

Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A ''System of Records'' is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a System of Records Notice (SORN) identifying and describing each System of Records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (*e.g.,* to determine if the system contains information about them and to contest inaccurate information). In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

Department of Transportation (DOT)/Federal Aviation Administration (FAA) 857 Accidents, Incidents and Investigations.

SECURITY CLASSIFICATION:

Sensitive, unclassified

SYSTEM LOCATION:

(1) Toxicology/Autopsy records: Civil Aerospace Medical Institute, Mike Monroney Aeronautical Center, 6500 S. MacArthur Blvd., Oklahoma City, Oklahoma 73169;

(2) Air Traffic Organization Application Portal (AAP) records: William J. Hughes Technical Center in Atlantic City, New Jersey;

(3) Accident/Incident records: Airmen Records Building, Enterprise Data Center, Mike Monroney Aeronautical Center, 6500 S. MacArthur, Oklahoma City, Oklahoma 73169;

(4) Small UAS records: Amazon Web Services US East/West Public Cloud;

(5) Future Flight Services Program: 43881 Devin Shafron Drive Suite 150 Ashburn, VA 20147 and 5300 Alliance Gateway Freeway Suite 500 Fort Worth, TX 76177; and

(6) Operational and Supportability Implementation System: Twenty-five sites that include: FAA Support Facilities Washington, DC 20024 and Anchorage, AK, Flight Service Stations (FSSs) various locations, Second Level Support Facilities Egg Harbor Township, NJ 08405 and Oklahoma City, OK 73169 and Vendor Support Facilities, Melbourne FL 32902.

SYSTEM MANAGER(S):

(1) Toxicology/Autopsy records: Manager, Office of Aerospace Medicine (AAM)-610, Bioaeronautical Sciences Research Branch, Mike Monroney Aeronautical Center, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169. Contact information for system manager is *9-AVS-AAM612-kmrt-service@faa.gov.*

(2) Air Traffic Organization Application Portal (AAP) records: William J. Hughes Technical Center in Atlantic City, New Jersey. Contact information for system manager is available at *https://www.faa.gov/about/office_org/field_offices/fsdo/.*

(3) Accident/Incident records: Manager, Enterprise Data Center, Airmen Records Building, Mike Monroney Aeronautical Center, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169, contact information for system manager is available at *https://www.faa.gov/about/office_org/field_offices/fsdo/.*

(4) Small UAS records: Manager, Amazon Web Services US East/West Public Cloud. Contact information for system manager is *UAShelp@faa.gov.*

(5) Future Flight Services Program: Manager, AJR–B2 In-Service Manager, 950 L'Enfant Plaza SW, Washington, DC 20024. Contact information for system manager is 202–267–6447.

(6) Operational and Supportability Implementation System: Manager, AJR–B2 In-Service Manager, 950 L'Enfant Plaza SW, Washington, DC 20024. Contact information for system manager is 202–267–6447.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 40101, 40113, 44701, 44703, 45101–106, 51 U.S.C. 50917.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to support the FAA's mission of aviation safety by collecting, maintaining and sharing information related to aviation accidents, incidents and other investigations with stakeholders in order to facilitate risk-based decision making to reduce accidents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on certificated airmen including remote PICs; non-certificated individuals; and non-airmen involved in transportation incidents and/or accidents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system consist of reports specific to aviation accidents and incidents; other transportation-related accidents and incidents; and small UAS accidents which includes the following: names; dates of birth; social security number; driver license number; airmen certification number; contact

[1] eCFR: 43 CFR part 2 subpart K—Privacy Act.

information (email address, phone numbers, and home/business address); aircraft registration number; aircraft tail number; calls sign; sUASRS registration number; unique accident report reference number; locations of accident (including but not limited to city, state, and zip code); certificate/license issue; rating types; dates and types of pilot training received in the last 24 months; dates hired (air carrier only); airman medical history (airman medical information, airman medications, and airman self-reported pathologies); NTSB investigation number; FTN; case tracking number (including NTSB identity numbers); medical examiner case number; medical information of individuals (contained in autopsy, hospital, or toxicology reports); photos of accident scenes; witness statements; physical specimens/remains (received in toxicology kits); medical findings from reports; medical certification examinations and medical examiner (license or certification) numbers.

RECORD SOURCE CATEGORIES:

Sources of records include: certificated airmen including remote PICs; non-certificated individuals; non-airmen; small UAS operators; crew members; passengers; persons on the ground and witnesses; FAA employees and contractors; first responders; Federal/State/local/Tribal law enforcement officials; NTSB employees; and medical professionals (including pathologists, medical examiners, physicians and laboratory specialists).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside of DOT FAA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

System Specific Routine Uses:

1. To users of FAA's Skywatch system, including the Department of Defense (DoD), the Department of Homeland Security (DHS), the Department of Justice (DOJ) and other authorized government users, information on airman, aircraft and operator records available for their use in managing, tracking and reporting aviation-related security events.

2. To the NTSB investigators and NTSB medical officers who use the data in their efforts to determine the cause of transportation accidents and incidents.

3. To Medical Examiners or Coroners who use FAA toxicology results in their medical examiner's report.

4. To Federal, State, local and Tribal law enforcement and security agencies, information about airmen, when engaged in an official investigation or security threat assessment in which airmen are involved, or which affect the safety of transportation or national security.

5. To Federal, State, local, Tribal, and foreign government agencies who use toxicology services provided by the FAA, information pertaining to the toxicology study requested by the agency.

Departmental Routine Uses:

6. In the event that a system of records maintained by DOT to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

7. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DOT decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

8. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

9a. Routine Use for Disclosure for Use in Litigation. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or other Federal agency conducting litigation when (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof, in his/her official capacity, or (c) Any employee of DOT or any agency thereof, in his/her individual capacity where the Department of Justice has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that litigation is likely to affect the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other Federal agency conducting the litigation is deemed by DOT to be relevant and necessary in the litigation, provided, however, that in each case, DOT determines that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

9b. Routine Use for Agency Disclosure in Other Proceedings. It shall be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which DOT or any agency thereof, appears, when (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof in his/her official capacity, or (c) Any employee of DOT or any agency thereof in his/her individual capacity where DOT has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that the proceeding is likely to affect the United States, is a party to the proceeding or has an interest in such proceeding, and DOT determines that use of such records is relevant and necessary in the proceeding, provided, however, that in each case, DOT determines that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

10. The information contained in this system of records will be disclosed to the Office of Management and Budget, OMB in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

11. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In such cases, however, the Congressional office does not have greater rights to records than the individual. Thus, the disclosure may be withheld from delivery to the individual where the file contains investigative or actual information or other materials which are being used, or are expected to be used, to support prosecution or fines against the individual for violations of a statute, or of regulations of the Department based on statutory authority. No such

limitations apply to records requested for Congressional oversight or legislative purposes; release is authorized under 49 CFR 10.35(9).

12. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

13. DOT may make available to another agency or instrumentality of any government jurisdiction, including State and local governments, listings of names from any system of records in DOT for use in law enforcement activities, either civil or criminal, or to expose fraudulent claims, regardless of the stated purpose for the collection of the information in the system of records. These enforcement activities are generally referred to as matching programs because two lists of names are checked for match using automated assistance. This routine use is advisory in nature and does not offer unrestricted access to systems of records for such law enforcement and related antifraud activities. Each request will be considered on the basis of its purpose, merits, cost effectiveness and alternatives using Instructions on reporting computer matching programs to the Office of Management and Budget, OMB, Congress, and the public, published by the Director, OMB, dated September 20, 1989.

14. It shall be a routine use of the information in any DOT system of records to provide to the Attorney General of the United States, or his/her designee, information indicating that a person meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by DOT to the Attorney General, or his/her designee, it shall be a routine use of the information in any DOT system of records to make any disclosures of such information to the National Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

15a. To appropriate agencies, entities, and persons when (1) DOT suspects or has confirmed that there has been a breach of the system of records; (2) DOT has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOT (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

15b. To another Federal agency or Federal entity, when DOT determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

16. DOT may disclose records from this system, as a routine use, to the Office of Government Information Services for the purpose of (a) resolving disputes between FOIA requesters and Federal agencies and (b) reviewing agencies' policies, procedures, and compliance in order to recommend policy changes to Congress and the President.

17. DOT may disclose records from this system, as a routine use, to contractors and their agents, experts, consultants, and others performing or working on a contract, service, cooperative agreement, or other assignment for DOT, when necessary to accomplish an agency function related to this system of records.

18. DOT may disclose records from this system, as a routine use, to an agency, organization, or individual for the purpose of performing audit or oversight operations related to this system of records, but only such records as are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under section (b)(1) of the Privacy Act.

19. DOT may disclose from this system, as a routine use, records consisting of, or relating to, terrorism information (6 U.S.C. 485(a)(5)), homeland security information (6 U.S.C. 482(f)(1)), or Law enforcement information (Guideline 2 Report attached to White House Memorandum, ''Information Sharing Environment, November 22, 2006) to a Federal, State, local, Tribal, Territorial, foreign government and/or multinational agency, either in response to its request or upon the initiative of the Component, for purposes of sharing such information as is necessary and relevant for the agencies to detect, prevent, disrupt, preempt, and mitigate the effects of terrorist activities against the territory, people, and interests of the United States of America, as contemplated by the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458) and Executive Order 13388 (October 25, 2005).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in a hard copy format and electronically in databases.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are primarily retrieved by personal identifiers, such as names, social security number, airman/remote pilot certificate number, driver license number, FTN, case number, reference number or accident/incident location.

POLICIES AND PRACTICE FOR RETENTION AND DISPOSAL OF RECORDS:

The FAA has developed new records retention and disposition schedules for Accident and Incident Investigation Reports and UAS Accident Reporting. The new records retention and disposition schedules are pending approval of National Archives and Records Administration, and FAA will maintain the records indefinitely until NARA's approval. FAA is proposing to maintain the Accident and Incident Investigation Report records until pilot is deceased or has reached 99 years of age. UAS Accident Reporting records will be destroyed 3 years after a case is completed and closed.

For Toxicology Reports and Autopsy Records, the FAA is developing a new records retention schedule. The proposed schedule will include hard copy file destruction 5 years after cut off with all electronic file destruction 50 years after cut off. These electronic toxicology records must be maintained for 50 years so that the FAA can conduct research and trend analysis studies. All records will be maintained indefinitely until NARA approves the new retention schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DOT FAA automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of whether this system of records contains information about them may contact the System Manager at the address provided in the section ''System Manager''. When seeking records about yourself from this system of records or any other Departmental system of records your request must conform to the Privacy Act regulations set forth in 49 CFR part 10. You must sign your request and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

CONTESTING RECORDS PROCEDURES:

''Record Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Records created or compiled for investigatory purposes are exempted from certain access and disclosure requirements of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2).[2]

HISTORY:

None.

Issued in Washington, DC.

Karyn Gorman,

Departmental Chief Privacy Officer.

[FR Doc. 2023–23421 Filed 10–23–23; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing updates to the identifying information of one person currently included in OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Bradley Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://ofac.treasury.gov*).

Notice of OFAC Actions

On October 18, 2023, OFAC updated the entry on the SDN List for the following person, whose property and interests in property subject to U.S. jurisdiction continue to be blocked under the relevant sanctions authority listed below.

Individual

1. CAMARA, Sadio, Bamako, Mali; Malibougou, Kati, Koulikoro, Mali; DOB 22 Mar 1979; POB Kati, Koulikoro, Mali; nationality Mali; citizen Mali; alt. citizen France; Gender Male; Passport DA0004031 (Mali) expires 15 Oct 2015 (individual) [RUSSIA–EO14024] (Linked To: PRIVATE MILITARY COMPANY 'WAGNER').

—to—

CAMARA, Sadio, Bamako, Mali; Malibougou, Kati, Koulikoro, Mali; DOB 22 Mar 1979; POB Kati, Koulikoro, Mali; nationality Mali; citizen Mali; Gender Male; Passport DA0004031 (Mali) expires 15 Oct 2015 (individual) [RUSSIA–EO14024] (Linked To: PRIVATE MILITARY COMPANY 'WAGNER').

Designated pursuant to section 1(a)(vi) of Executive Order 14024 of April 15, 2021, ''Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation,'' 86 FR 20249, 3 CFR, 2021 Comp., p. 542 (Apr. 15, 2021) (E.O. 14024) for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, Private Military Company 'WAGNER' (Wagner) a person whose property and interests in property are blocked pursuant to E.O. 14024.

Dated: October 18, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–23408 Filed 10–23–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and vessels that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. The vessel placed on the SDN List has been identified as property in which a blocked person has an interest. OFAC is also updating one or more other SDN Update entries.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Bradley T. Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On October 18, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810–AL–P

[2] eCFR: 43 CFR part 2 subpart K—Privacy Act.

Individuals

1. ASHTIANI, Mohammad-Reza (a.k.a. ASHTIANI, Mohammed Reza Gharayi), Iran; DOB 1960; alt. DOB 1961; POB Tehran, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male (individual) [IRAN-EO13876] [IRAN-CON-ARMS-EO] (Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

   Designated pursuant to section 1(a)(v) of Executive Order 13949 of September 21, 2020, "Blocking Property of Certain Persons With Respect to the Conventional Arms Activities of Iran," 85 FR 60043 ("E.O. 13949"), for having acted or purported to act for or on behalf of, directly or indirectly, MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS, a person whose property and interests in property are blocked pursuant to E.O. 13949.

2. DAMAVANDIAN, Ghassem (Arabic: قاسم دماوندیان) (a.k.a. DAMAVANDIAN, Qassem), Iran; DOB 02 May 1968; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport G9336_77 (Iran) expires 27 Oct 2019; National ID No. 0052944492 (Iran) (individual) [NPWMD] [IFSR] [IRAN-CON-ARMS-EO] (Linked To: QODS AVIATION INDUSTRIES).

   Designated pursuant to section 1(a)(v) of E.O. 13949 for having acted or purported to act for or on behalf of, directly or indirectly, QODS AVIATION INDUSTRIES, a person whose property and interests in property are blocked pursuant to E.O. 13949.

3. GHALANDARI, Seyed Hamzeh, Tehran, Iran; DOB 16 Jul 1984; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport D10009455 (Iran) (individual) [IRAN-CON-ARMS-EO] (Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

   Designated pursuant to section 1(a)(v) of E.O. 13949 for having acted or purported to act for or on behalf of, directly or indirectly, MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS, a person whose property and interests in property are blocked pursuant to E.O. 13949.

4. GHOREISHI, Seyed Hojatollah (Arabic: سید حجت اله قریشی) (a.k.a. GHOREISHI, Sayyid Hojatollah; a.k.a. GHOREISHI, Sayyid Hojjatollah; a.k.a. GHOREISHI, Seyed

Hojjatollah; a.k.a. GHOREISHI, Seyyed Hojatollah; a.k.a. GHOREISHI, Seyyed Hojjatollah; a.k.a. GHOREISZI, Seyed Hojjatollah E.; a.k.a. QOREISHI, Seyyed Hojatollah; a.k.a. QORESHI, Seyyed Hojatollah; a.k.a. QUREISHI, Seyed Hojjatollah), Iran; DOB 27 Sep 1964; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport D10003923 (Iran) expires 15 Aug 2023 to 15 Aug 2024; alt. Passport N42881363 (Iran) expires 10 Oct 2022; alt. Passport D9021706 (Iran) expires 14 Jul 2021; alt. Passport D10007155 (Iran) expires 17 Aug 2025; alt. Passport A59655618 (Iran) expires 15 Sep 2027; National ID No. 5929869741 (Iran) (individual) [NPWMD] [IFSR] [IRAN-CON-ARMS-EO] (Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS; Linked To: QODS AVIATION INDUSTRIES).

Designated pursuant to section 1(a)(v) of E.O. 13949 for having acted or purported to act for or on behalf of, directly or indirectly, MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS, a person whose property and interests in property are blocked pursuant to E.O. 13949.

5. REIHANI, Jaber (Arabic: جابر ریحانی) (a.k.a. REYHANI, Jaber), Iran; Venezuela; DOB 28 Aug 1968; POB Sarab, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 1652948600 (Iran) (individual) [IRAN-CON-ARMS-EO] (Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

   Designated pursuant to section 1(a)(v) of E.O. 13949 for having acted or purported to act for or on behalf of, directly or indirectly, MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS, a person whose property and interests in property are blocked pursuant to E.O. 13949.

6. MATINKIA, Alireza (a.k.a. "KIA, Matin"), Tehran, Iran; DOB 06 Sep 1967; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 145691535 (Iran) (individual) [NPWMD] [IFSR] (Linked To: SABERIN KISH COMPANY).

   Designated pursuant to section 1(a)(iii) of Executive Order 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters," 70 FR 38567, 3 CFR, 2005 Comp., p. 170 ("E.O. 13382"), for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, SABERIN KISH COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

7. LIN, Jinghe (Chinese Simplified: 林敬鹤) (a.k.a. JING HE, Lin; a.k.a. "LAM, Gary"; a.k.a. "NG, Ken"), China; DOB 03 Dec 1982; nationality China; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 350500198212032535 (China) (individual) [NPWMD] [IFSR] (Linked To: MATINKIA, Alireza).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, MATINKIA, Alireza, a person whose property and interests in property are blocked pursuant to E.O. 13382.

8. ANBARAN, Armin Ghorsi (Arabic: آرمین قرصی عنبران) (a.k.a. ANBARAN, Armin Ghorssi), Tehran, Iran; DOB 21 Sep 1983; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0065911601 (Iran) (individual) [NPWMD] [IFSR] (Linked To: FANAVARAN SANAT ERTEBATAT COMPANY).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, FANAVARAN SANAT ERTEBATAT COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

9. HEMSI, Hosein (Arabic: حسین حمصی) (a.k.a. HOMSI, Hosein), Tehran, Iran; DOB 27 Oct 1982; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0532987276 (Iran) (individual) [NPWMD] [IFSR] (Linked To: FANAVARAN SANAT ERTEBATAT COMPANY).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, FANAVARAN SANAT ERTEBATAT COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

10. LI, Yongxin (a.k.a. "LEE, Emma"), China; DOB 24 Feb 1987; nationality China; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Female (individual) [NPWMD] [IFSR] (Linked To: RAYAN ROSHD AFZAR COMPANY).

    Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, RAYAN ROSHD AFZAR COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

11. YUNG, Yiu Wa (Chinese Traditional: 容耀華) (a.k.a. "YUNG, Stephen"), Hong Kong, China; DOB 21 Oct 1960; nationality China; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Identification Number C536975 (Hong Kong) (individual) [NPWMD] [IFSR] (Linked To: LI, Yongxin).

    Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, LI, Yongxin, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Entities

1. QODS AVIATION INDUSTRIES (a.k.a. GHODS AVIATION INDUSTRIES; a.k.a. LIGHT AIRPLANES DESIGN AND MANUFACTURING INDUSTRIES; a.k.a. QODS RESEARCH CENTER), P.O. Box 15875-1834, Km 5 Karaj Special Road, Tehran, Iran; Unit (or Suite) 207, Saleh Blvd, Tehran, Iran; Unit 207, Tarajit Maydane Taymori (or Teimori) Square, Basiri Building, Tarasht, Tehran, Iran; Additional Sanctions

Information - Subject to Secondary Sanctions; National ID No. 14005441856 (Iran); Registration Number 483250 (Iran) [NPWMD] [IFSR] [IRAN-CON-ARMS-EO] [RUSSIA-EO14024] (Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

Designated pursuant to section 1(a)(v) of E.O. 13949 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS, a person whose property and interests in property are blocked pursuant to E.O. 13949.

2. ELECTRO OPTIC SAIRAN INDUSTRIES CO. (Arabic: صنايع الكترو اپتيک صاايران) (a.k.a. ESFAHAN OPTIC INDUSTRY; a.k.a. ESFAHAN OPTICS INDUSTRY; a.k.a. ISFAHAN OPTIC INDUSTRIES COMPANY; a.k.a. ISFAHAN OPTICAL INDUSTRY; a.k.a. ISFAHAN OPTICS INDUSTRIES; a.k.a. ISFAHAN OPTICS INDUSTRY; a.k.a. ISHAHAN OPTICS INDUSTRIES CO.; a.k.a. SANAYE-E OPTIKE ESFAHAN; a.k.a. SANOYE ELEKTRONIK SAIRAN; a.k.a. "ISFAHAN OPTICS"; a.k.a. "SAPA"), P.O. Box 81465-313, Kaveh Ave, Isfahan, Iran; Kaveh Street, Isfahan 814651117, Iran; Website https://sapa.ir; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 1985; National ID No. 10260437477 (Iran); Registration Number 22928 (Iran) [NPWMD] [IFSR] (Linked To: IRAN ELECTRONICS INDUSTRIES).

Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, IRAN ELECTRONICS INDUSTRIES, a person whose property and interests in property are blocked pursuant to E.O. 13382.

3. SABERIN KISH COMPANY (Arabic: شرکت صابرین کیش) (a.k.a. SABERIN KISH CO.; a.k.a. TEJARAT PAYDAR OFOGH), Kish Island, Iran; Number 9, Bahard First, Resalat Square, Hengam Street, Tehran 1677745783, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 30 Oct 2001; National ID No. 10861528470 (Iran); Registration Number 1205 (Iran) [NPWMD] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, ISLAMIC REVOLUTIONARY GUARD CORPS, a person whose property and interests in property are blocked pursuant to E.O. 13382.

4. DALI RF TECHNOLOGY CO., LIMITED, Room 604, 6/F, Easey Commercial Building, Nos. 253-261, Hennessy Road, Wanchai, Hong Kong, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 14 Jan 2014; Registration Number 2026173 (Hong Kong) [NPWMD] [IFSR] (Linked To: LIN, Jinghe).

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, LIN, Jinghe, a person whose property and interests in property are blocked pursuant to E.O. 13382.

5. NANXIGU TECHNOLOGY CO., LIMITED (Chinese Traditional: 南溪毅科技有限公司), 223-06, 2/F Mega Cube, No. 8, Wang Kwong Road, Kowloon Bay, Hong Kong, China; Flat C, 23/F, Lucky Plaza, 315-321, Lockhart Road, Wan Chai, Hong Kong, China; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 28 Mar 2017; Registration Number 2510730 (Hong Kong) [NPWMD] [IFSR] (Linked To: MATINKIA, Alireza).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, MATINKIA, Alireza, a person whose property and interests in property are blocked pursuant to E.O. 13382.

6. FANAVARAN SANAT ERTEBATAT COMPANY (Arabic: شركت فن آوران صنعت ارتباطات) (a.k.a. FANAVARAN COMMUNICATION INDUSTRY COMPANY; a.k.a. "COMMUNICATION INDUSTRY TECHNOLOGISTS"), Yousef Abad Neighborhood, Kordestan Express Way, Seyyed Sohrab Akhlaqi 37 Street, Number 38, First Floor, Tehran, Tehran 1436613193, Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 06 Jun 2005; Registration Number 247799 (Iran); alt. Registration Number 10102884046 (Iran) [NPWMD] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS AEROSPACE FORCE SELF SUFFICIENCY JIHAD ORGANIZATION).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, ISLAMIC REVOLUTIONARY GUARD CORPS AEROSPACE FORCE SELF SUFFICIENCY JIHAD ORGANIZATION, a person whose property and interests in property are blocked pursuant to E.O. 13382.

7. ICGOO ELECTRONICS LIMITED (Chinese Traditional: 創新在線電子有限公司), Unit 1-4, 8/F, Block B, Chung Mei Centre, 15B Hing Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Website www.icgoo.net; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 28 Aug 2014; Registration Number 2138580 (Hong Kong) [NPWMD] [IFSR] (Linked To: RAYBEAM OPTRONICS CO. LTD.).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, RAYBEAM OPTRONICS CO. LTD., a person whose property and interests in property are blocked pursuant to E.O. 13382.

8. SARMAD ELECTRONIC SEPAHAN COMPANY (Arabic: شركت سرمد الكترونيک سپاهان) (a.k.a. SARMAD ELECTRONICS SEPAHAN PRIVATE LIMITED COMPANY; a.k.a. SEPAHAN SARMAD ELECTRONIC), First Floor, No. 20, 7(28) Mir Emad Street, Mir Emad Street Shamshad, Central Sector, Isfahan City, Isfahan Province 8138961456, Iran; Organization Established Date 08 Jul 2000; Identification Number 10260371950 (Iran); Registration Number 16257 (Iran) [NPWMD] [IFSR] (Linked To: QODS AVIATION INDUSTRIES).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, QODS AVIATION INDUSTRIES, a person whose property and interests in property are blocked pursuant to E.O. 13382.

On October 18, 2023, OFAC also identified the following vessel as property in which a blocked person has an interest under the relevant sanctions authority listed below.

Vessel

1. PARNIA General Cargo Iran flag; Additional Sanctions Information—Subject to Secondary Sanctions; Vessel Year of Build 1999; Vessel Registration Identification IMO 9167265 (vessel) [IRAN] [NPWMD] [IFSR] [IRAN–CON–ARMS–E.O.] (Linked To: ISLAMIC REPUBLIC OF IRAN SHIPPING LINES; Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

Identified pursuant to E.O. 13949 as property in which MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS, a person whose property and interests in property are blocked pursuant to E.O. 13949, has an interest.

On October 18, 2023, OFAC published the following revised information for the entries on the SDN List for the following persons blocked under the relevant sanctions authorities listed below.

Individual:

1. LIU, Baoxia (Chinese Simplified: 刘保霞) (a.k.a. "LAU, Emily"; a.k.a. "LIU, Emily"), Beijing, China; DOB 10 Sep 1981; POB Shandong, China; nationality China; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Female; Passport G28882492 (China) expires 04 May 2018; National ID No. 370724198109101905 (China) (individual) [NPWMD] [IFSR] (Linked To: SHIRAZ ELECTRONICS INDUSTRIES).

   Designated pursuant to section 1(a)(iii) of E.O. 13382 on July 18, 2017, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, SHIRAZ ELECTRONICS INDUSTRIES, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Entities

1. RAYBEAM OPTRONICS CO. LTD. (Chinese Simplified: 三河市戎邦光电设备股份有限公司), 10-D, Blessgo Industrial Park, Yanjiao High and New Tech Zone, Beijing 101601, China; 10-D Blessgo Industrial Park, Yanjiao Economic Development Zone,

   Sanhe, Hebei Province, China; Website www.raybeam.cn; Additional Sanctions Information - Subject to Secondary Sanctions; Registration Number 131082000061293 (China); Unified Social Credit Code (USCC) 9113100033607322XK (China) [NPWMD] [IFSR] (Linked To: LIU, Baoxia).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 on July 18, 2017, for being owned or controlled by LIU, Baoxia, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. SUNWAY TECH CO., LTD (Chinese Simplified: 北京旭润科技有限公司), No. 1724, Xiao Ying Rd, Si Fang Building, Chao Yang District, Beijing, China; No. 302-71, District 6, Xinggu Economic Development Zone, Pinggu District, Beijing 101200, China; Website www.sunwaytech.cn; Additional Sanctions Information - Subject to Secondary Sanctions; Registration Number 110117010279470 (China); Unified Social Credit Code (USCC) 91110117663725176G (China) [NPWMD] [IFSR] (Linked To: SHIRAZ ELECTRONICS INDUSTRIES; Linked To: LIU, Baoxia).

   Designated pursuant to sections 1(a)(iii) and 1(a)(iv) of E.O. 13382 on July 18, 2017, for having provided, or attempted to provide, financial, material, technological, or other support for, or goods or services in support of, SHIRAZ ELECTRONICS INDUSTRIES, a person whose property and interests in property are blocked pursuant to E.O. 13382, and for being owned or controlled by LIU, Baoxia, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Dated: October 18, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–23403 Filed 10–23–23; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Income, Gift and Estate Tax.

DATES: Written comments should be received on or before January 22, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–1360-Income, Gift and Estate Tax'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Income, Gift and Estate Tax.

OMB Number: 1545–1360.

Regulation Project Number: TD 8612.

Abstract: This regulation concerns the availability of the gift and estate tax marital deduction when the donee spouse or the surviving spouse is not a United States citizen. The regulation provides guidance to individuals or fiduciaries: (1) For making a qualified domestic trust election on the estate tax return of a decedent whose surviving spouse is not a United States citizen in order that the estate may obtain the marital deduction, and (2) for filing the annual returns that such an election may require.

Current Actions: There are no changes being made to this regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,300.

Estimated Time per Respondent: 2 hours, 40 minutes.

Estimated Total Annual Burden Hours: 6,150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 16, 2023.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2023–23447 Filed 10–23–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 15597

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Foreclosure Sale Purchaser Contact Information Request.

DATES: Written comments should be received on or before December 26, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–2199—Foreclosure Sale Purchaser Contact Information Request'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Foreclosure Sale Purchaser Contact Information Request.

OMB Number: 1545–2199.

Form Number: 15597.

Abstract: Form 15597, Foreclosure Sale Purchaser Contact Information Request, is information requested of individuals or businesses that have purchased real property at a third-party foreclosure sale. If the IRS has filed a ''Notice of Federal Tax Lien'' publically notifying a taxpayer's creditors that the taxpayer owes the IRS a tax debt, AND a creditor senior to the IRS position later forecloses on their creditor note (such as the mortgage holder of a taxpayers primary residence) THEN the IRS tax claim is discharged or removed from the property (if the appropriate foreclosure rules are followed) and the foreclosure sale purchaser buys the property free and clear of the IRS claim EXCEPT that the IRS retains the right to ''redeem'' or buy back the property from the foreclosure sale purchaser w/in 120 days after the foreclosure sale. Collection of this information is authorized by 28 U.S.C. 2410 and IRC 7425.

Current Actions: There are no changes to the burden previously approved by OMB.

Type of Review: Extension of a previously approved collection.

Affected Public: Individuals or households, Business or other for-profit groups, Not-for-profit institutions,

Farms, Federal Government, State, Local, or Tribal Governments.

Estimated Number of Responses: 150.

Estimated Time per Respondent: 4.08 hours.

Estimated Total Annual Burden Hours: 613.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 16, 2023.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2023–23448 Filed 10–23–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunity Title: Notice of Allocation Availability (NOAA) Inviting Applications for the Calendar Year (CY) 2023 Allocation Round of the New Markets Tax Credit (NMTC) Program.

Announcement Type: Announcement of NMTC Allocation availability.

Dates:

TABLE 1—CY 2023 ALLOCATION ROUND NMTC PROGRAM CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline/date	Time (eastern time—ET)	Submission method
Community Development Entity (CDE) Certification Application.	November 8, 2023	11:59 p.m. ET	Electronically via the Awards Management Information System (AMIS).
Request to modify CDE certification service area.	November 8, 2023	11:59 p.m. ET	Electronically via AMIS.
Subsidiary CDE Certification Application for meeting Qualified Equity Investment (QEI) issuance thresholds.	November 8, 2023	11:59 p.m. ET	Electronically via AMIS.
CY 2023 Application Registration	November 15, 2023	5:00 p.m. ET	Electronically via AMIS.
Last date to contact CDFI Fund staff	December 15, 2023	5:00 p.m. ET	Electronically via AMIS.
CY 2023 Allocation Application (including required Attachments).	December 19, 2023	5:00 p.m. ET	Electronically via AMIS.
Amendment request to add Subsidiary CDEs to Allocation Agreements for meeting QEI issuance thresholds.	January 21, 2024	11:59 p.m. ET	Electronically via AMIS.
Amendment request to remove a Controlling Entity from Allocation Agreement(s).	January 21, 2024	11:59 p.m. ET	Electronically via AMIS.
QEI Issuance and making Qualified Low Income Community Investments (QLICIs) by.	March 21, 2024	11:59 p.m. ET	Not Applicable.
Report QEIs and certify QLICIs by	March 28, 2024	11:59 p.m. ET	Electronically via AMIS.

Executive Summary: This NOAA is issued in connection with the CY 2023 allocation round (Allocation Round) of the New Markets Tax Credit Program (NMTC Program), as authorized by Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (Pub. L. 106–554) as amended. Through the NMTC Program, the Community Development Financial Institutions Fund (CDFI Fund) provides authority to certified CDEs to offer an incentive to investors in the form of tax credits over seven years, which is expected to stimulate the provision of private investment capital that, in turn, will facilitate economic and community development in Low-Income Communities. Through this NOAA, the CDFI Fund announces the availability of $5 billion of NMTC Allocation authority in this Allocation Round.

In this NOAA, the CDFI Fund specifically addresses how a CDE may apply to receive an allocation of NMTCs, the competitive procedure through which NMTC Allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities.

I. Allocation Availability Description

A. *Programmatic changes from the CY 2022 allocation round*:

1. Prior QEI Issuance Requirements: Prior-year NMTC Allocatees will be subject to minimum thresholds for QEI issuance and closing of QLICIs with respect to their prior-year NMTC Allocations. These thresholds and deadlines have been revised in comparison to the CY 2022 NOAA. See Section III. A.5(a) of this NOAA for additional details.

II. Allocation Information

A. Allocation amounts: Pursuant to the Taxpayer Certainty and Disaster Tax Relief Act of 2020, the CDFI Fund expects that it may allocate to CDEs the authority to issue to their investors the aggregate amount of $5 billion in equity as to which NMTCs may be claimed, as permitted under IRC 45D(f)(1)(D). Pursuant to this NOAA, the CDFI Fund anticipates that it may issue up to $100 million in tax credit investment authority per Allocatee. The CDFI Fund, in its sole discretion, reserves the right to allocate amounts in excess of or less than the anticipated maximum allocation amount should the CDFI

Fund deem it appropriate. The CDFI Fund reserves the right to allocate NMTC authority to any, all, or none of the entities that submit applications in response to this NOAA, and in any amounts it deems appropriate.

B. Type of award: NMTC Program awards are made in the form of allocations of tax credit investment authority.

C. Program guidance and regulations: This NOAA describes application and NMTC Allocation requirements for this Allocation Round of the NMTC Program and should be read in conjunction with: (i) the final NMTC Program Income Tax Regulations issued by the Internal Revenue Service (IRS) (26 CFR 1.45D–1, published on December 28, 2004), as amended and related guidance, notices and other publications; and (ii) the application and related materials for this Allocation Round. All such materials may be found on the CDFI Fund's website at *https://www.cdfifund.gov.* The CDFI Fund requires Applicants to review these documents. Capitalized terms used, but not defined, in this NOAA have the respective meanings assigned to them in the NMTC Program Allocation Application, Internal Revenue Code (IRC) 45D or the IRS NMTC regulations. In the event of any inconsistency between this NOAA, the Allocation Application, and guidance issued by the CDFI Fund thereto, IRC 45D or the IRS NMTC Regulations, the provisions of IRC 45D and the IRS NMTC Regulations shall govern.

D. Allocation Agreement: Each Allocatee must sign an Allocation Agreement, which must be countersigned by the CDFI Fund, before the NMTC Allocation is effective. The Allocation Agreement contains the terms and conditions of the NMTC Allocation. For further information, see Section VI.B of this NOAA.

E. Statutory and national policy requirements: The CDFI Fund will manage and administer the NMTC Program in a manner so as to ensure that NMTC Allocations associated programs are implemented in full accordance with the U.S. Constitution, Federal Law, statutory, and public policy requirements: including, but not limited to, those protecting free speech; religious liberty; public welfare; the environment; and prohibiting discrimination.

III. Eligibility

A. Eligible Applicants: IRC 45D specifies certain eligibility requirements that each Applicant must meet to be eligible to apply for an allocation of NMTCs. The following sets forth additional detail and certain additional dates that relate to the submission of applications under this NOAA for the available NMTC Allocation authority.

1. CDE certification: For purposes of this NOAA, the CDFI Fund will not consider an application for an allocation of NMTCs unless: (a) the Applicant is certified as a CDE at the time the CDFI Fund receives its NMTC Program Allocation Application; or (b) the Applicant submits an application for certification as a CDE through AMIS by the deadline in Table 1. Applicants for CDE certification may obtain information regarding CDE certification and the CDE Certification Application process in AMIS on the CDFI Fund's website at *https://www.cdfifund.gov/programs-training/certification/cde/Pages/default.aspx.*

The CDFI Fund will not provide NMTC Allocation authority to Applicants that are not certified as CDEs or to entities that are certified as Subsidiary CDEs.

If an Applicant that has already been certified as a CDE wishes to change its designated CDE Service Area for this Allocation Round, then it must submit a CDE Service Area Amendment Application to request such a change from the CDFI Fund, and the application must be received by the CDFI Fund by the deadline listed in Table 1. A request to change a CDE's Service Area will need to include the revised service area designation and updated accountability information that demonstrates that the CDE has the required representation from Low-Income Communities in the revised CDE Service Area.

2. Repayment or Refinancing of QEI with QLICI Proceeds: An applicant must commit that it will not permit the use of the proceeds of QEIs to make QLICIs in Qualified Active Low-Income Community Businesses (QALICBs) where QLICI proceeds are used, in whole or in part, to repay or refinance a debt or equity provider whose capital was used to fund the QEI, or are used to repay or refinance any Affiliate of such a debt or equity provider, except where: (i) the QLICI proceeds are used to repay or refinance documented reasonable expenditures that are directly attributable to the qualified business of the QALICB, and such reasonable expenditures were incurred no more than 24 months prior to the QLICI closing date; or (ii) no more than five percent of the total QLICI proceeds from the QEI are used to repay or refinance documented reasonable expenditures that are directly attributable to the qualified business of the QALICB. Refinance includes transferring cash or property, directly or indirectly, to the debt or equity provider or an Affiliate of the debt or equity provider.

3. Do Not Pay: The CDFI Fund will contact the Do Not Pay Business Center to ensure that an Applicant, its Controlling Entity, and any Affiliate(s) are not prohibited from receiving federal funds. An Applicant, its Controlling Entity, and any Affiliate(s) reported by the Do Not Pay Business Center as having a pending or delinquent debt to the Federal government will be required to demonstrate that it has resolved such pending or delinquent debt. Applicants that fail to demonstrate resolution of such pending or delinquent debt to the Federal government will be found ineligible to receive an allocation.

4. Controlling Entities: An organization that was a Controlling Entity to an Allocatee in a prior round(s) and subsequently separated from that Allocatee, as a result of an amendment to the Allocation Agreement(s), may not claim the NMTC-related track record of such Allocatee.

5. Prior award recipients or Allocatees: Applicants must be aware that success in a prior application or allocation round of any of the CDFI Fund's programs is not indicative of success under this NOAA. For purposes of this NOAA, and eligibility determinations, the CDFI Fund will consider an Affiliate to be any entity that meets the definition of Affiliate as defined in the NMTC Allocation Application materials, or any entity otherwise identified as an Affiliate by the Applicant in its NMTC Allocation Application materials.

Prior award recipients of any CDFI Fund program are eligible to apply under this NOAA, except as follows:

(a) Prior Allocatees and Qualified Equity Investment (QEI) issuance and Qualified Low Income Community Investment (QLICI) requirements: CDEs that are Allocatees under the CY 2018 to the CY 2022 rounds must finalize at least the percentage of QEIs noted in Table 2 for each NMTC Allocation round and use at least the percentage of those QEIs designated in Schedule 1, section 3.2(j) of their Allocation Agreements to make QLICIs by the deadline in Table 1. CDEs that are Allocatees under the CY 2018 to the CY 2022 allocation rounds and CDEs that are Allocatees designated as Rural CDEs in their CY 2022 Allocation Agreement must meet the following thresholds.

TABLE 2—QEI ISSUANCE AND QLICI REQUIREMENTS

Prior round allocation	Finalized QEI requirement (%)	Rural CDE Finalized QEI requirement (%)	QLICIs
CY 2018	100	100	As stated in Schedule 1, Section 3.2(j) of the applicable Allocation Agreement.
CY 2019	90	90	
CY 2020	70	70	
CY 2021	40	40	
CY 2022	20	0	

In addition to the requirements noted above, a CDE is not eligible to receive an NMTC Allocation pursuant to this NOAA if an Affiliate of the Applicant is a prior Allocatee and has not met the minimum QEI issuance and QLICI thresholds as set forth in Table 2 for Allocatees in the prior allocation rounds of the NMTC Program.

For purposes of this section of the NOAA, the CDFI Fund will only recognize as ''finalized'' those QEIs that have been properly reported in AMIS Allocation and QEI Tracking System for Qualified Equity Investments (AQEIs) by the deadline in Table 1. Allocatees and their Subsidiary Allocatees, if any, are advised to access AMIS to record each QEI that they issue to an investor in exchange for cash. Furthermore, the CDFI Fund will only recognize QLICIs that have been certified in AMIS by the deadline in Table 1. Instructions on recording a QEI and QLICIs in AMIS are available at *https://www.cdfifund.gov/amisreporting.* Applicants may be required, upon notification from the CDFI Fund, to submit documentation to substantiate the required QEI issuance and QLICI thresholds.

Any prior Allocatee that requires action by the CDFI Fund (*i.e.,* certifying a subsidiary entity as a CDE; adding a subsidiary CDE to an Allocation Agreement; etc.) in order to meet the QEI issuance requirements above must submit a CDE Certification Application for Subsidiary CDEs and/or Allocation Agreement amendment requests by the respective deadlines in Table 1, in order to guarantee that the CDFI Fund completes all necessary approvals prior to the QEI issuance deadline in Table 1. Applicants for Subsidiary CDE certification may obtain information regarding CDE certification and the CDE Certification Application process in AMIS on the CDFI Fund's website at *https://www.cdfifund.gov/programs-training/certification/cde/Pages/default.aspx.*

(b) Pending determination of noncompliance or default: If an Applicant is a prior award recipient or Allocatee under any CDFI Fund program and if: (i) it has demonstrated noncompliance with a previous assistance or award agreement or default under a previous Allocation Agreement or pursuant to any other agreement under any CDFI Fund program; and (ii) the entity has been given a timeframe to cure the noncompliance or default, the CDFI Fund will consider the Applicant's application under this NOAA during the time period given for the entity to cure the noncompliance or default, and until such time as the CDFI Fund makes a final determination that the entity is in noncompliance or default. Further, if an Affiliate of the Applicant is a prior CDFI Fund award recipient or Allocatee and if such entity: (i) has demonstrated noncompliance with a previous assistance or award agreement or default under a previous Allocation Agreement or pursuant to any other agreement under any CDFI Fund program; and (ii) the entity has been given a timeframe to cure the noncompliance or default, then the CDFI Fund will consider the Applicant's application under this NOAA during the time period given for the entity to cure the noncompliance or default, and until such time as the CDFI Fund makes a final determination that the entity is in noncompliance or default.

(c) Noncompliance or default status: The CDFI Fund will not consider an application submitted by an Applicant that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program if, as of the application deadline of this NOAA: (i) the CDFI Fund has made a final determination that such Applicant is noncompliant with a previously executed assistance or award agreement, or in default of a previously executed Allocation Agreement or any other agreement under any CDFI Fund program; and (ii) the CDFI Fund has provided written notification of such final determination to the Applicant; and (iii) the default occurs during the time period beginning 12 months prior to the application deadline and ending with the CY 2023 allocation award announcement. Further, the CDFI Fund will not consider an application submitted by an Applicant with an Affiliate that is a prior award recipient or Allocatee under any CDFI Fund Program if, as of the application deadline of this NOAA: (i) the CDFI Fund has made a final determination that such Affiliate is noncompliant with a previously executed assistance or award agreement, or in default of a previously executed Allocation Agreement or any other agreement under any CDFI Fund program; (ii) the CDFI Fund has provided written notification of such final determination to the Affiliate; and (iii) the noncompliance or default occurs during the time period beginning 12 months prior to the application deadline and ending with the CY 2023 allocation award announcement.

(d) Contacting the CDFI Fund: Accordingly, Applicants that are prior award recipients and/or Allocatees under any CDFI Fund program are advised to comply with the requirements specified in assistance, allocation and/or award agreement(s). All outstanding reports and compliance questions should be directed to the Office of Compliance Monitoring and Evaluation (OCME) through a Service Request initiated in AMIS. Requests submitted less than 30 calendar days prior to the application deadline may not receive a response before the application deadline.

The CDFI Fund will respond to Applicants' reporting, compliance and CDE certification inquiries Monday through Friday, between the hours of 9:00 a.m. and 5:00 p.m. ET, starting the date of publication of this NOAA through the ''Last date to contact CDFI Fund staff'' specified in Table 1. Inquiries received after the ''Last date to contact the CDFI Fund staff'' will be responded to after the Allocation Application deadline.

6. Failure to accurately respond to a question in the Assurances and Certifications section of the application, submit the required written explanation, or provide any updates: In its sole discretion, the CDFI Fund may deem the

Applicant's application ineligible, if the CDFI Fund determines that the Applicant inaccurately responded to a question, accurately responded to a question, but failed to submit a required written explanation, or failed to notify the CDFI Fund of any changes to the information submitted between the date of application and the date the Allocatee executes the Allocation Agreement, with respect to the Assurances and Certifications. In making this determination, the CDFI Fund will take into consideration, among other factors, the materiality of the question, the substance of any supplemental responses provided, and whether the information in the Applicant's supplemental responses would have a material adverse effect on the Applicant, its financial condition or its ability to perform under an Allocation Agreement, should the Applicant receive an allocation.

7. Entities that propose to transfer NMTCs to Subsidiary CDEs: Both for-profit and non-profit CDEs may apply for NMTC Allocation authority, but only a for-profit CDE is permitted to provide NMTCs to its investors. A non-profit Applicant wishing to apply for an NMTC Allocation must demonstrate, prior to entering into an Allocation Agreement with the CDFI Fund, that: (i) it controls one or more Subsidiary CDEs that are for-profit entities; and (ii) it intends to transfer the full amount of any NMTC Allocation it receives to said Subsidiary CDEs.

An Applicant wishing to transfer all or a portion of its NMTC Allocation to a Subsidiary CDE is not required to create the Subsidiary prior to submitting an NMTC Allocation Application to the CDFI Fund. However, the Subsidiary entities must be certified as CDEs by the CDFI Fund, and enjoined as parties to the Allocation Agreement at closing or by amendment to the Allocation Agreement after closing.

The CDFI Fund requires a non-profit Applicant to submit a CDE Certification Application to the CDFI Fund on behalf of at least one for-profit Subsidiary within 45 days after the non-profit Applicant receives notification from the CDFI Fund of its allocation award, as such Subsidiary must be certified as a CDE prior to entering into an Allocation Agreement with the CDFI Fund. The CDFI Fund reserves the right to rescind the award if a non-profit Applicant that does not already have a certified for-profit Subsidiary CDE fails to submit a CDE Certification Application for one or more for-profit Subsidiaries within 45 days of the date it receives notification from the CDFI Fund of its allocation award.

8. *Entities that submit applications together with Affiliates; applications from common enterprises:*

(a) As part of the Allocation Application review process, the CDFI Fund will evaluate whether Applicants are Affiliates, as such term is defined in the Allocation Application. If an Applicant and its Affiliate(s) wish to submit Allocation Applications, they must do so collectively, in one application; an Applicant and its Affiliate(s) may not submit separate Allocation Applications. If Affiliated entities submit multiple applications, the CDFI Fund will reject all such applications received, except for those state-owned or state-controlled governmental Affiliated entities. In the case of state-owned or state-controlled governmental entities, the CDFI Fund may accept applications submitted by different government bodies within the same state, but only to the extent the CDFI Fund determines that the business strategies and/or activities described in such applications, submitted by separate entities, are distinctly dissimilar and/or are operated and/or managed by distinctly dissimilar personnel, including staff, board members and identified consultants. In such cases, the CDFI Fund reserves the right to limit award amounts to such entities to ensure that the entities do not collectively receive more than the $100 million cap.

If the CDFI Fund determines that the applications submitted by different government bodies in the same state are not distinctly dissimilar and/or operated and/or managed by distinctly dissimilar personnel, it will reject all such applications.

(b) For purposes of this NOAA, the CDFI Fund will also evaluate whether each Applicant is operated or managed as a ''common enterprise'' with another Applicant in this Allocation Round using the following indicia, among others: (i) whether different Applicants have the same individual(s), including the Authorized Representative, staff, board members and/or consultants, involved in day-to-day management, operations and/or investment responsibilities; (ii) whether the Applicants have business strategies and/or proposed activities that are so similar or so closely related that, in fact or effect, they may be viewed as a single entity; and/or (iii) whether the applications submitted by separate Applicants contain significant narrative, textual or other similarities such that they may, in fact or effect, be viewed as substantially identical applications. In such cases, the CDFI Fund will reject all applications received from such entities.

(c) Furthermore, an Applicant that receives an NMTC Allocation in this Allocation Round (or its Subsidiary Allocatee) may not become an Affiliate of or member of a common enterprise (as defined above) with another Applicant that receives an NMTC Allocation in this Allocation Round (or its Subsidiary Allocatee) at any time after the submission of an Allocation Application under this NOAA. This prohibition, however, generally does not apply to entities that are commonly controlled solely because of common ownership by QEI investors. This requirement will also be a term and condition of the Allocation Agreement (see Section VI.B of this NOAA and additional application guidance materials on the CDFI Fund's website at *https://www.cdfifund.gov* for more details).

9. Entities created as a series of funds: An Applicant whose business structure consists of an entity with a series of funds must apply for CDE certification for each fund. If such an Applicant represents that it is properly classified for Federal tax purposes as a single partnership or corporation, it may apply for CDE certification as a single entity. If an Applicant represents that it is properly classified for Federal tax purposes as multiple partnerships or corporations, then it must submit a CDE Certification Application for the Applicant and each fund it would like to participate in the NMTC Program, and each fund must be separately certified as a CDE. Applicants should note, however, that receipt of CDE certification as a single entity or as multiple entities is not a determination that an Applicant and its related funds are properly classified as a single entity or as multiple entities for Federal tax purposes. Regardless of whether the series of funds is classified as a single partnership or corporation or as multiple partnerships or corporations, an Applicant may not transfer any NMTC Allocations it receives to one or more of its funds unless the fund is a certified CDE that is a Subsidiary of the Applicant, enjoined to the Allocation Agreement as a Subsidiary Allocatee.

10. Entities that are Bank Enterprise Award Program (BEA Program) award recipients: An insured depository institution investor (and its Affiliates and Subsidiaries) may not receive an NMTC Allocation in addition to a BEA Program award for the same investment in a CDE. Likewise, an insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a BEA Program award in addition to an NMTC Allocation for the same investment in a CDE.

IV. Application and Submission Information

A. Address to request application package: Applicants must submit applications electronically under this NOAA, through the CDFI Fund's AMIS. Following the publication of this NOAA, the CDFI Fund will make the electronic Allocation Application available on its website at *https://www.cdfifund.gov.*

B. Application content requirements: Detailed application content requirements are found in the application related to this NOAA. Applicants must submit all materials described in and required by the application by the applicable deadlines. Applicants will not be afforded an opportunity to provide any missing materials or documentation, except, if necessary and at the request of the CDFI Fund. Electronic applications must be submitted solely by using the format made available via AMIS. Additional information, including instructions relating to the submission of supporting information (*e.g.,* the Controlling Entity's representative signature page, Assurances and Certifications supporting documents, investor letters, organizational charts), is set forth in further detail in the CY 2023 NMTC Application—AMIS Navigation Guide for this Allocation Round. An application must include a valid and current Employer Identification Number (EIN) issued by the Internal Revenue Service (IRS) and assigned to the Applicant and, if applicable, its Controlling Entity. Electronic applications without a valid EIN are incomplete and cannot be transmitted to the CDFI Fund. For more information on obtaining an EIN, please contact the IRS at (800) 829–4933 or *www.irs.gov.* Do not include any personal Social Security Numbers as part of the application.

C. NMTC Application Registration (Application Registration): CY 2023 Allocation Round Applicants are first required to complete and save the Application Registration section of the NMTC Allocation Application in AMIS by the Application Registration deadline in order to be able to submit the remaining sections of the CY 2023 Allocation Application by the Application deadline. Applicants that do not complete and save the Application Registration by the Application Registration deadline, will not be able to subsequently submit a CY 2023 Allocation Application in AMIS.

An Applicant may not submit more than one application in response to this NOAA. In addition, as stated in Section III.A.8 of this NOAA, an Applicant and its Affiliates must collectively submit only one Allocation Application; an Applicant and its Affiliates may not submit separate Allocation Applications except as outlined in Section III.A.8 above. Once an application is submitted, an Applicant will not be allowed to change any element of its application.

D. Form of application submission: Applicants may only submit applications under this NOAA electronically via AMIS. Applications and required attachments sent by mail, facsimile, or email will not be accepted. Submission of an electronic application will facilitate the processing and review of applications and the selection of Allocatees; further, it will assist the CDFI Fund in the implementation of electronic reporting requirements.

Electronic applications must be submitted solely by using the CDFI Fund's website and must be sent in accordance with the submission instructions provided in the CY 2023 NMTC Application—AMIS Navigation Guide for this Allocation Round. AMIS will only permit the submission of applications in which all required questions and tables are fully completed. Additional information, including instructions relating to the submission of supporting information (*e.g.,* the Controlling Entity's representative signature page, Assurances and Certifications supporting documents, investor letters, and organizational charts) is set forth in further detail in the CY 2023 NMTC Application—AMIS Navigation Guide for this Allocation Round.

E. Application submission dates and times: Electronic applications must be received by the Allocation Application deadline in Table 1. Electronic applications cannot be transmitted or received after Allocation Application deadline in Table 1. In addition, Applicants must electronically submit supporting information (*e.g.,* the Controlling Entity's representative signature page, investor letters, and organizational charts). The Controlling Entity's representative signature page, investor letters, and organizational charts must be submitted on or before the Application deadline in Table 1. For details, see the instructions provided in the CY 2023 NMTC Application—AMIS Navigation Guide for this Allocation Round on the CDFI Fund's website.

Applications and other required documents received after this date and time will be rejected. Please note that the document submission deadlines in this NOAA and/or the Allocation Application are strictly enforced.

F. Intergovernmental Review: Not applicable.

G. Funding Restrictions: For allowable uses of investment proceeds related to an NMTC Allocation, please see 26 U.S.C. 45D and the final regulations issued by the Internal Revenue Service (26 CFR 1.45D–1, published December 28, 2004 and as amended) and related guidance. Please see Section I, above, for the Programmatic Changes of this NOAA.

H. Paperwork Reduction: Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. Pursuant to the Paperwork Reduction Act, the application has been assigned the following control number: 1559–0016.

V. Application Review Information

A. Review and selection process: All Allocation Applications will be reviewed for eligibility and completeness. To be complete, the application must contain, at a minimum, all information described as required in the application form. An incomplete application will be rejected. Once the application has been determined to be eligible and complete, the CDFI Fund will conduct the substantive review of each application in two parts (Phase 1 and Phase 2) in accordance with the criteria and procedures generally described in this NOAA and the Allocation Application.

In Phase 1, two reviewers will evaluate and score the Business Strategy and Community Outcomes sections of each application. An Applicant must exceed a minimum overall aggregate base score threshold and exceed a minimum aggregate section score threshold in each scored section in order to advance from the Phase 1 to the Phase 2 part of the substantive review process. In Phase 2, the CDFI Fund will rank Applicants and determine the dollar amount of allocation authority awarded in accordance with the procedures set forth below.

B. Criteria:

1. Business Strategy (25-point maximum):

(a) When assessing an Applicant's business strategy, reviewers will consider, among other things: the Applicant's products, services and investment criteria; a pipeline of potential business loans or investments consistent with an Applicant's request for an NMTC Allocation; the prior performance of the Applicant or its Controlling Entity, particularly as it

relates to making similar kinds of investments as those it proposes to make with the proceeds of QEIs; the Applicant's prior performance in providing capital or technical assistance to disadvantaged businesses or communities; and the extent to which the Applicant intends to make QLICIs in one or more businesses in which persons unrelated to the entity hold a majority equity interest.

Under the Business Strategy criterion, an Applicant will generally score well to the extent that it will deploy debt or investment capital in products or services which are flexible or non-traditional in form and on better terms than available in the marketplace. An Applicant will also score well to the extent that, among other things: (i) it has identified a set of clearly-defined potential borrowers or investees; (ii) it describes the due diligence it will conduct prior to making QLICIs to determine whether a QALICB will remain financially viable and operational; (iii) it has a track record of successfully deploying loans or equity investments and providing services similar to those it intends to provide with the proceeds of QEIs; (iv) its projected dollar volume of NMTC Allocation deployment is supported by its track record of deployment; and (v) in the case of an Applicant proposing to purchase loans from CDEs, the Applicant will require the CDE selling such loans to re-invest the proceeds of the loan sale to provide additional products and services to Low-Income Communities.

(b) Priority Points: In addition, as provided by IRC 45D(f)(2), the CDFI Fund will ascribe additional points to entities that meet one or both of the statutory priorities. First, the CDFI Fund will give up to five additional points to any Applicant that has a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities. Second, the CDFI Fund will give five additional points to any Applicant that intends to satisfy the requirement of IRC 45D(b)(1)(B) by making QLICIs in one or more businesses in which persons unrelated (within the meaning of IRC 267(b) or IRC 707(b)(1)) to an Applicant (and the Applicant's Subsidiary CDEs, if the Subsidiary Allocatee makes the QLICI) hold the majority equity interest. Applicants may earn points for one or both statutory priorities. Thus, Applicants that meet the requirements of both priority categories can receive up to a total of ten additional points. A record of having successfully provided capital or technical assistance to disadvantaged businesses or communities may be demonstrated either by the past actions of an Applicant itself or by its Controlling Entity (*e.g.,* where a new CDE is established by a nonprofit corporation with a history of providing assistance to disadvantaged communities). An Applicant that receives additional points for intending to make investments in unrelated businesses and is awarded an NMTC Allocation must meet the requirements of IRC 45D(b)(1)(B) by investing substantially all of the proceeds from its QEIs in unrelated businesses. The CDFI Fund will include an Applicant's priority points when ranking Applicants during Phase 2 of the review process, as described below.

2. Community Outcomes (25-point maximum): In assessing the potential benefits to Low-Income Communities that may result from the Applicant's proposed investments, reviewers will consider, among other things, the degree to which the Applicant is likely to: (i) achieve significant and measurable community development outcomes in its Low-Income Communities; (ii) invest in particularly economically distressed markets including areas identified in the Allocation Application; (iii) engage with local communities regarding investments; and (iv) involve community representatives in the governing board and/or advisory board in approving investment criteria or decisions.

An Applicant will generally score well under this section to the extent that, among other things: (a) it will generate clear and well supported community development outcomes; (b) it has a track record of producing quantitative and qualitative community outcomes that are similar to those projected to be achieved with an NMTC Allocation; (c) it commits to working in particularly economically distressed or otherwise underserved communities as identified in the Allocation Application; (d) its activities are part of a broader community or economic development strategy; (e) it demonstrates a track record of community engagement around past investment decisions; and (f) it ensures that an NMTC investment into a project or business is supported by and will be beneficial to Low-Income Persons and residents of Low-Income Communities, including how input received through community engagement and data analysis inform its investment decisions.

C. Phase 2 Evaluation:

1. Application Ranking and Anomaly Reviews: Using the numeric scores from Phase 1, Applicants are ranked on the basis of each Applicant's combined scores in the Business Strategy and Community Outcomes sections of the application plus one half of the priority points. If, in the case of a particular application, a reviewer's total base score or section score(s) (in one or more of the two application scored sections) varies significantly from the other reviewer's total base scores or section scores for such application, the CDFI Fund may, in its sole discretion, obtain the evaluation and numeric scoring of an additional third reviewer to determine whether the anomalous score should be replaced with the score of the additional third reviewer.

2. Late Reports: In the case of an Applicant or any Affiliates that have previously received an award or NMTC Allocation from the CDFI Fund through any CDFI Fund program, the CDFI Fund will deduct up to five points from the Applicant's rank score for the Applicant's (or its Affiliate's) failure to meet any of the reporting deadlines set forth in any assistance, award or Allocation Agreement(s), if the reporting deadlines occurred during the period from January 27, 2022 to the application deadline in this NOAA.

3. Prior Year Allocatees: In the case of Applicants (or their Affiliates) that are prior year Allocatees, the CDFI Fund will review the activities of the prior year Allocatee to determine whether the entity has: (a) effectively utilized its prior-year NMTC Allocations in a manner generally consistent with the representations made in the relevant Allocation Application (including, but not limited to, the proposed product offerings, business type, fees and markets served (*i.e.* service area) and notable relationships); (b) issued QEIs and closed QLICIs in a timely manner; and (c) substantiated a need for additional NMTC Allocation authority. The CDFI Fund will use this information in determining whether to reject or reduce the allocation award amount of its NMTC Allocation Application.

An Applicant will be evaluated more favorably under Part V. of the Application to the extent that it clearly explains: (i) how it ensures that the NMTCs allocated to QALICBs did not exceed the amount necessary to assure QALICB feasibility; (ii) the community outcomes or benefits that were generated as a result of the transaction; (iii) source(s) and amount(s) of leveraged debt from all sources; (iv) the NMTC-related fees and third-party expenses paid by the *QALICB* or the *QALICB's Affiliate*s, including actions taken to control expenses paid by *QALICBs* and investors; and (v) quantifies the value of the investment

acquired by the *QALICBs* at the end of the seven-year credit period, to the extent the *Applicant's* past transactions have been structured to allow *QALICBs* to acquire a portion of *QLICIs* at the end of the seven-year credit period. An Applicant will also be evaluated favorably to the extent the activities undertaken with the NMTC dollars are consistent with the business strategy presented in the relevant Allocation Application (*e.g.* product offerings; business type; fees and markets served; notable relationships, etc.).

4. Management Capacity: In assessing an Applicant's management capacity, the CDFI Fund will consider, among other things, the current and planned roles, as well as qualifications of the Applicant's (and Controlling Entity's, if applicable): principals; board members; management team; and other essential staff or contractors, with specific focus on: experience in providing loans; equity investments or financial counseling and other services, including activities similar to those described in the Applicant's business strategy; asset management and risk management experience; experience with fulfilling compliance requirements of other governmental programs, including other tax credit programs; and the Applicant's (or its Controlling Entity's) financial health. CDFI Fund evaluators will also consider the extent to which an Applicant has protocols in place to ensure ongoing compliance with NMTC Program requirements and the Applicant's projected income and expenses related to managing an NMTC Allocation.

An Applicant will be generally evaluated more favorably under this section to the extent that its management team or other essential personnel have experience in: (a) identifying and underwriting loans and/or equity investments or providing financial counseling and other services in Low-Income Communities, if applicable, particularly those likely to be served with QLICIs from the Applicant; (b) asset and risk management; and (c) fulfilling government compliance requirements, particularly tax credit program compliance. An Applicant will also be evaluated favorably to the extent it clearly explains its due diligence when providing businesses with financing or investment; demonstrates strong financial health and a high likelihood of remaining a going-concern, including support from the Controlling Entity, if applicable; it clearly explains its NMTC fees as well as levels of income and expenses; has policies and systems in place to ensure portfolio quality, ongoing compliance with NMTC Program requirements; and, if it is a Federally-insured financial institution, has its most recent Community Reinvestment Act (CRA) rating as ''outstanding.''

5. Capitalization Strategy: When assessing an Applicant's capitalization strategy, the CDFI Fund will consider, among other things: the key personnel of the Applicant (or Controlling Entity) and their track record of raising capital, particularly from for-profit investors; the extent to which the Applicant has secured investments or commitments to invest in NMTC (if applicable), or indications of investor interest commensurate with its requested amount of NMTC Allocations, or, if a prior Allocatee, the track record of the Applicant or its Affiliates in raising Qualified Equity Investments in the past five years; the Applicant's strategy for identifying additional investors, if necessary, including the Applicant's (or its Controlling Entity's) prior performance with raising equity from investors, particularly for-profit investors; the distribution of the economic benefits of the tax credit; and the extent to which the Applicant intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC 45D(b)(1)(B) and the IRS regulations.

An Applicant will be evaluated more favorably under this section to the extent that: (a) it or its Controlling Entity demonstrate a track record of raising investment capital; (b) it has secured investor commitments, or has a reasonable strategy for obtaining such commitments, or, if it or its Affiliates is a prior Allocatee with a track record in the past five years of raising Qualified Equity Investments and; (c) it generally demonstrates that the economic benefits of the tax credit will be passed through to a QALICB; and (d) it intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC 45D(b)(1)(B) and the IRS regulations. In the case of an Applicant proposing to raise investor funds from organizations that also will identify or originate transactions for the Applicant or from Affiliated entities, said Applicant will be evaluated more favorably to the extent that it will offer products with more favorable rates or terms than those currently offered by its investor(s) or Affiliated entities and/or will target its activities to areas of greater economic distress than those currently targeted by the investor or Affiliated entities.

6. Contacting Applicants: As a part of the substantive review process, the CDFI Fund may permit the NMTC Allocation recommendation panel member(s) to request information from Applicants for the sole purpose of obtaining, clarifying or confirming application information or omission of information. In no event shall such contact be construed to permit an Applicant to change any element of its application. At this point in the process, an Applicant may be required to submit additional information about its application in order to assist the CDFI Fund with its final evaluation process. If the Applicant (or the Controlling Entity or any Affiliate) has previously been awarded an NMTC Allocation, the CDFI Fund may also request information on the use of those NMTC Allocations, to the extent that this information has not already been reported to the CDFI Fund. Such requests must be responded to within the time parameters set by the CDFI Fund. The selecting official(s) will make a final allocation determination based on an Applicant's file, including, without limitation, eligibility under IRC 45D, the reviewers' scores and the amount of NMTC Allocation authority available.

7. Award Decisions: The CDFI Fund will award allocations in descending order of the final rank score, subject to Applicants meeting all other eligibility requirements; provided, however, that the CDFI Fund, in its sole discretion, reserves the right to reject an application and/or adjust award amounts as appropriate based on information obtained during the review process.

D. Allocations serving non-metropolitan counties: As provided for under Section 102(b) of the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432), the CDFI Fund shall ensure that Non-Metropolitan counties receive a proportional allocation of QEIs under the NMTC Program. The CDFI Fund will endeavor to ensure that 20 percent of the QLICIs to be made using QEI proceeds are invested in Non-Metropolitan counties. In addition, the CDFI Fund will ensure that the proportion of Allocatees that are Rural CDEs is, at a minimum, equal to the proportion of Applicants in the highly qualified pool that are Rural CDEs. A Rural CDE is one that has a track record of at least three years of direct financing experience, has dedicated at least 50 percent of its direct financing dollars to Non-Metropolitan counties over the past five years, and has committed that at least 50 percent of its NMTC financing dollars with this NMTC Allocation will be deployed in such areas. Non-Metropolitan counties are counties not contained within a Metropolitan Statistical Area, as such term is defined

in OMB Bulletin No. 20–01 (Revised Delineations of Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and Guidance on Uses of the Delineations of These Areas) and applied using 2020 census tracts.

Applicants that meet the minimum scoring thresholds will be advanced to Phase 2 review and will be provided with ''preliminary'' awards, in descending order of final rank score, until the available allocation authority is fulfilled. Once these ''preliminary'' award amounts are determined, the CDFI Fund will then analyze the Allocatee pool to determine whether the two Non-Metropolitan proportionality objectives have been met.

The CDFI Fund will first examine the ''preliminary'' awards and Allocatees to determine whether the percentage of Allocatees that are Rural CDEs is, at a minimum, equal to the percentage of Applicants in the highly qualified pool that are Rural CDEs. If this objective is not achieved, the CDFI Fund will provide awards to additional Rural CDEs from the highly qualified pool, in descending order of their final rank score, until the appropriate percentage balance is achieved. In order to accommodate the additional Rural CDEs in the Allocatee pool within the available NMTC Allocation limitations, a formula reduction may be applied as uniformly as possible to the allocation amount for all Allocatees in the pool that have not committed to investing a minimum of 20 percent of their QLICIs in Non-Metropolitan counties.

The CDFI Fund will then determine whether the pool of Allocatees will, in the aggregate, invest at least 20 percent of their QLICIs (as measured by dollar amount) in Non-Metropolitan counties. The CDFI Fund will first apply the ''minimum'' percentage of QLICIs that Allocatees indicated in their applications would be targeted to Non-Metropolitan areas to the total NMTC Allocation award amount of each Allocatee (less whatever percentage the Allocatee indicated would be retained for non-QLICI activities), and total these figures for all Allocatees. If this aggregate total is greater than or equal to 20 percent of the QLICIs to be made by the Allocatees, then the pool is considered balanced and the CDFI Fund will proceed with the NMTC Allocation process. However, if the aggregate total is less than 20 percent of the QLICIs to be made by the Allocatees, the CDFI Fund will consider requiring any or all of the Allocatees to direct up to the ''maximum'' percentage of QLICIs that the Allocatees indicated would be targeted to Non-Metropolitan counties, taking into consideration their track record and ability to deploy dollars in Non-Metropolitan counties. If the CDFI Fund cannot meet the goal of 20 percent of QLICIs in Non-Metropolitan counties by requiring any or all Allocatees to commit up to the maximum percentage of QLICIs that they indicated would be targeted to Non-Metropolitan counties, the CDFI Fund may add additional highly qualified Rural CDEs (in descending order of final rank score) to the Allocatee pool. In order to accommodate any additional Allocatees within the allocation limitations, a formula reduction will be applied as uniformly as possible, to the allocation amount for all Allocatees in the pool that have not committed to investing a minimum of 20 percent of their QLICIs in Non-Metropolitan counties.

E. Right of rejection: The CDFI Fund reserves the right to reject any NMTC Allocation Application in the case of a prior CDFI Fund award recipient, if such Applicant has failed to comply with the terms, conditions, and other requirements of the prior or existing assistance or award agreement(s) with the CDFI Fund or any other agreement under any CDFI Fund program. The CDFI Fund reserves the right to reject any NMTC Allocation Application in the case of a prior CDFI Fund Allocatee, if such Applicant has failed to comply with the terms, conditions, and other requirements of its prior or existing Allocation Agreement(s) with the CDFI Fund. The CDFI Fund reserves the right to reject any NMTC Allocation Application in the case of any Applicant, if an Affiliate of the Applicant has failed to meet the terms, conditions and other requirements of any prior or existing assistance agreement, award agreement, Allocation Agreement, or any other agreement under any CDFI Fund program with the CDFI Fund.

The CDFI Fund reserves the right to reject or reduce the allocation award amount of any NMTC Allocation Application in the case of a prior Allocatee, if such Applicant has failed to use its prior NMTC Allocation(s) in a manner that is generally consistent with the business strategy (including, but not limited to, the proposed product offerings, business type, fees, markets served (*i.e.* service area), and notable relationships) set forth in the Allocation Application(s) related to such prior NMTC Allocation(s) or such Applicant has been found by the IRS to have engaged in a transaction or series of transactions designed to achieve a result that is inconsistent with the purposes of IRC 45D. The CDFI Fund also reserves the right to reject or reduce the allocation award amount of any NMTC Allocation Application in the case of an Affiliate of the Applicant that is a prior Allocatee and has failed to use its prior NMTC Allocation(s) in a manner that is generally consistent with the business strategy (including, but not limited to, the proposed product offerings, business type, fees, markets served (*i.e.,* service area), and notable relationships) set forth in the Allocation Application(s) related to such prior NMTC Allocation(s) or has been found by the IRS to have engaged in a transaction or series of transactions designed to achieve a result that is inconsistent with the purposes of IRC 45D.

The CDFI Fund reserves the right to reject an NMTC Allocation Application if information (including, but not limited to, administrative errors; submission of inaccurate information; or omission of information) comes to the attention of the CDFI Fund that adversely affects an Applicant's eligibility for an award, adversely affects the CDFI Fund's evaluation or scoring of an application, adversely affects the CDFI Fund's prior determinations of CDE certification, or indicates fraud or mismanagement on the part of an Applicant, its Affiliate(s), or the Controlling Entity, if such fraud or mismanagement by the Affiliate(s) or Controlling Entity would hinder the Applicant's ability to perform under the Allocation Agreement. If the CDFI Fund determines that any portion of the application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the application.

The CDFI Fund reserves the right to reject any NMTC Allocation Application if additional information is obtained that, after further due diligence and in the discretion of the CDFI Fund, would hinder the Applicant's ability to effectively perform under the Allocation Agreement.

In the case of Applicants (or the Controlling Entity, or Affiliates) that are regulated or receive oversight by the Federal government or a state agency (or comparable entity), the CDFI Fund may request additional information from the Applicant regarding Assurances and Certifications or other information about the ability of the Applicant to effectively perform under the Allocation Agreement. The NMTC Allocation recommendation panel or selecting official(s) reserve(s) the right to consult with and take into consideration the views of the appropriate Federal banking and other regulatory agencies. In the case of Applicants (or Affiliates of Applicants) that are also Small Business Investment Companies,

Specialized Small Business Investment Companies or New Markets Venture Capital Companies, the CDFI Fund reserves the right to consult with and take into consideration the views of the Small Business Administration. An Applicant that is or is affiliated with an insured depository institution will not be awarded an NMTC Allocation if it has a composite rating of ''5'' on its most recent examination, performed in accordance with the Uniform Financial Institutions Rating System.

Furthermore, the CDFI Fund will not award an NMTC Allocation to an Applicant that is an insured depository institution or is an Affiliate of an insured depository institution, if during the time period beginning with the application deadline and ending with the execution of the CY 2023 Allocation Agreement; the Applicant received any of the following: 1. CRA assessment rating of below ''Satisfactory'' on its most recent examination; 2. A going concern opinion on its most recent audit; or 3. A Prompt Corrective Action directive from its regulator.

The CDFI Fund reserves the right to conduct additional due diligence on all Applicants, as determined reasonable and appropriate by the CDFI Fund, in its sole discretion, related to the Applicant, Affiliates, the Applicant's Controlling Entity and the officers, directors, owners, partners and key employees of each. This includes the right to consult with the IRS if the Applicant (or the Controlling Entity, or Affiliates) has previously been awarded an NMTC Allocation.

F. Allocation Announcement: Each Applicant will be informed of the CDFI Fund's award decision through an electronic notification whether selected for an allocation or not selected for an allocation, which may be for reasons of application incompleteness, ineligibility, or substantive issues. Eligible Applicants that are not selected for an allocation based on substantive issues may receive information on the score ranges of applications that are selected for an allocation. This information will be provided in a format and within a timeframe to be determined by the CDFI Fund, based on available resources.

The CDFI Fund further reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If said changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information regarding the changes through the CDFI Fund's website.

The CDFI Fund reserves the right, in its sole discretion, to rescind an allocation made under this NOAA, should an Allocatee be identified as ineligible due to pending or delinquent debt to the Federal government in the Do Not Pay database.

There is no right to appeal the CDFI Fund's NMTC Allocation decisions. The CDFI Fund's NMTC Allocation decisions are final.

VI. Award Administration Information

A. Allocation Award Compliance

1. Failure to meet reporting requirements: If an Allocatee, or an Affiliate of an Allocatee, is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed assistance, allocation, or award agreement(s) or any other agreement under any CDFI Fund program as of the date the CDFI Fund provides notification of an NMTC Allocation award or thereafter, the CDFI Fund reserves the right, in its sole discretion, to reject the application, delay entering into an Allocation Agreement, and/or impose limitations on an Allocatee's ability to issue QEIs to investors until said prior award recipient or Allocatee is current on the reporting requirements in the previously executed assistance, allocation, or award agreement(s) or any other agreement under any CDFI Fund program. Please note that the automated systems the CDFI Fund uses for receipt of reports submitted electronically typically acknowledges only a report's receipt; such an acknowledgment does not warrant that the report received was complete and therefore met reporting requirements.

2. Pending determination of noncompliance or default: If an Allocatee is a prior award recipient or Allocatee under any CDFI Fund program and if: (i) it has demonstrated noncompliance with a previous assistance or award agreement or a default under an Allocation Agreement or any other agreement under any CDFI Fund program; and (ii) the entity has been given a timeframe to cure the noncompliance or default, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, during the time period given for the entity to cure the noncompliance or default and until such time as the CDFI Fund makes a final determination that the entity is in noncompliance or default, and determination of remedies, if applicable, in the sole determination of the CDFI Fund. Further, if an Affiliate of an Allocatee is a prior CDFI Fund award recipient or Allocatee and if such entity: (i) has demonstrated noncompliance under a previous assistance or award agreement or default under a previous Allocation Agreement or any other agreement under any CDFI Fund program; and (ii) the entity has been given a timeframe to cure the noncompliance or default, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, during the time period given for the entity to cure the noncompliance or default and until such time as the CDFI Fund makes a final determination that the entity is in noncompliance or default, and determination of remedies, if applicable, in the sole determination of the CDFI Fund. If the prior award recipient, Allocatee or Affiliate of the Allocatee in question is unable to satisfactorily resolve the issues of noncompliance or default, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the award notification made under this NOAA.

3. Determination of noncompliance or default status: If prior to entering into an Allocation Agreement through this NOAA, the CDFI Fund has made a final determination that an Allocatee that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program is (i) noncompliant with a previously executed assistance or award agreement, or is in default of a previously executed Allocation Agreement or any other agreement under any CDFI Fund program; (ii) the CDFI Fund has provided written notification of such determination to such organization; and (iii) the noncompliance or default occurs during the time period beginning 12 months prior to the application deadline and ending with the execution of the CY 2023 Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, or to terminate and rescind the NMTC Allocation made under this NOAA.

Furthermore, if prior to entering into an Allocation Agreement through this NOAA: (i) the CDFI Fund has made a final determination that an Affiliate of an Allocatee that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund programs is in noncompliance of a previously executed assistance or award agreement or in default of a previously executed

Allocation Agreement(s) or any other agreement under any CDFI Fund program; (ii) the CDFI Fund has provided written notification of such determination to such organization; and (iii) the default occurs during the time period beginning 12 months prior to the application deadline and ending with the execution of the CY 2023 Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, or to terminate and rescind the NMTC Allocation made under this NOAA.

B. Allocation Agreement: Each Allocatee (including their Subsidiary Allocatees) must enter into an Allocation Agreement with the CDFI Fund. The Allocation Agreement will set forth certain required terms and conditions of the NMTC Allocation which may include, but are not limited to, the following: (i) the amount of the awarded NMTC Allocation; (ii) the approved uses of the awarded NMTC Allocation (*e.g.,* loans to or equity investments in QALICBs, loans to or equity investments in other CDEs); (iii) the approved service area(s) in which the proceeds of QEIs may be used, including the dollar amount of QLICIs that must be invested in Non-Metropolitan counties; (iv) commitments to specific innovative investments discussed by the Allocatee in its Allocation Application; (v) the time period by which the Allocatee may obtain QEIs from investors; (vi) reporting requirements for the Allocatee; and (vii) a requirement to maintain certification as a CDE throughout the term of the Allocation Agreement. If an Allocatee represented in its NMTC Allocation Application that it intends to invest substantially all of the proceeds from its investors in businesses in which persons unrelated to the Allocatee hold a majority equity interest, the Allocation Agreement will contain a covenant to that effect. In addition to entering into an Allocation Agreement, each Allocatee must furnish to the CDFI Fund an opinion from its legal counsel or a similar certification, the content of which will be further specified in the Allocation Agreement, to include, among other matters, an opinion that an Allocatee (and its Subsidiary Allocatees, if any): (i) is duly formed and in good standing in the jurisdiction in which it was formed and the jurisdiction(s) in which it operates; (ii) has the authority to enter into the Allocation Agreement and undertake the activities that are specified therein; (iii) has no pending or threatened litigation that would materially affect its ability to enter into and carry out the activities specified in the Allocation Agreement; and (iv) is not in default of its articles of incorporation, bylaws or other organizational documents, or any agreements with the Federal government.

If an Allocatee identifies Subsidiary Allocatees, the CDFI Fund reserves the right to require an Allocatee to provide supporting documentation evidencing that it Controls such entities prior to entering into an Allocation Agreement with the Allocatee and its Subsidiary Allocatees. The CDFI Fund reserves the right, in its sole discretion, to rescind its NMTC Allocation award if the Allocatee fails to return the Allocation Agreement, signed by the authorized representative of the Allocatee, and/or provide the CDFI Fund with any other requested documentation, including an approved legal opinion, within the deadlines set by the CDFI Fund.

C. Fees: The CDFI Fund reserves the right, in accordance with applicable Federal law and, if authorized, to charge allocation reservation and/or compliance monitoring fees to all entities receiving NMTC Allocations. Prior to imposing any such fee, the CDFI Fund will publish additional information concerning the nature and amount of the fee.

D. Reporting: The CDFI Fund will collect information, on at least an annual basis from all Allocatees and/or CDEs that are recipients of QLICIs, including such audited financial statements and opinions of counsel as the CDFI Fund deems necessary or desirable, in its sole discretion. The CDFI Fund will require the Allocatee to retain information as the CDFI Fund deems necessary or desirable and shall provide such information to the CDFI Fund when requested to monitor each Allocatee's compliance with the provisions of its Allocation Agreement and to assess the impact of the NMTC Program in Low-Income Communities. The CDFI Fund may also provide such information to the IRS in a manner consistent with IRC 6103 so that the IRS may determine, among other things, whether the Allocatee has used substantially all of the proceeds of each QEI raised through its NMTC Allocation to make QLICIs. The Allocation Agreement shall further describe the Allocatee's reporting requirements. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after due notice to Allocatees.

VII. Agency Contacts

The CDFI Fund will provide programmatic and information technology support related to the Allocation Application Mondays through Fridays, between the hours of 9:00 a.m. and 5:00 p.m. ET through the last day to contact the CDFI Fund. The CDFI Fund will not respond to phone calls emails, or Service Requests in AMIS concerning the application that are received after the last day to contact the CDFI Fund. The CDFI Fund will respond to such phone calls, emails, or Service Requests in AMIS after the Allocation Application deadline in Table 1. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at *https://www.cdfifund.gov.* The CDFI Fund will post on its website responses to questions of general applicability regarding the NMTC Program.

A. Information technology support: Technical support can be obtained by calling (202) 653–0422 or by submitting a Service Request in AMIS. People who have visual or mobility impairments that prevent them from accessing the Low-Income Community maps using the CDFI Fund's website should call (202) 653–0422 for assistance. These are not toll free numbers.

B. Programmatic support: If you have any questions about the programmatic requirements of this NOAA, contact the CDFI Fund's NMTC Program Manager by submitting a Service Request in AMIS; or by telephone at (202) 653–0421. These are not toll free numbers.

C. Administrative support: If you have any questions regarding the administrative requirements of this NOAA, contact the CDFI Fund's NMTC Program Manager by submitting a Service Request in AMIS, or by telephone at (202) 653–0421. These are not toll free numbers.

D. IRS support: For questions regarding the tax aspects of the NMTC Program, contact James Holmes and Dillon Taylor, Office of the Chief Counsel (Passthroughs and Special Industries), IRS, by telephone at (202) 317–4137, or by facsimile at (855) 591–7867. These are not toll free numbers. Applicants wishing for a formal ruling request should see IRS Internal Revenue Bulletin 2020–1, issued January 4, 2020.

VIII. Information Sessions

In connection with this NOAA, the CDFI Fund may conduct one or more information sessions that will be produced in Washington, DC and

broadcast over the internet via webcasting as well as telephone conference calls. For further information on these upcoming information sessions, please visit the CDFI Fund's website at *https://www.cdfifund.gov.*

Authority: 26 U.S.C. 45D; 31 U.S.C. 321; 26 CFR 1.45D–1.

Marcia Sigal,

Acting Director, Community Development Financial Institutions Fund.

[FR Doc. 2023–23485 Filed 10–23–23; 8:45 am]

BILLING CODE 4810–05–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In accordance with section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Iraq
Kuwait
Lebanon
Libya
Qatar
Saudi Arabia
Syria
Yemen

Lindsay Kitzinger,

International Tax Counsel (Tax Policy).

[FR Doc. 2023–23412 Filed 10–23–23; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

Announcement of Public Listening Session To Inform VA's Plan To Assess the Current Scientific Literature and Historical Detailed Claims Data Regarding Certain Adverse Health Conditions Associated With Military Environmental Exposures and To Solicit Public Comment

AGENCY: Department of Veterans Affairs.

ACTION: Notice of public listening session.

SUMMARY: The Department of Veterans Affairs (VA) is announcing a virtual listening session for the public to provide feedback on VA's plan to assess the scientific literature and historical claims data regarding certain adverse health conditions associated with military environmental exposures. VA's assessment will consider the possibility of a relationship between acute leukemias, chronic leukemias and multiple myeloma and exposure to fine particulate matter ($PM_{2.5}$) from airborne hazards and open burn pits for Veterans who were deployed in the Southwest Asia theater of operations or are covered Veterans, as defined by law. VA previously announced its plan in the **Federal Register** on July 26, 2023. During the listening session, Veterans Health Administration (VHA) subject matter experts will listen to public feedback and may ask questions but will not share proposals for specific conditions nor address the merits of any comments provided.

DATES: VA will hold the listening session on November 7, 2023. The session will start at 1:30 p.m. Eastern Standard Time (EST) and end at 3 p.m. EST and focus on VA's plan posted within the **Federal Register** notice on July 26, 2023. Individuals/organizations can sign up using the link below:

- *November 7, 2023*—Notice of Plans for the Department of Veterans Affairs to Assess the Current Scientific Literature and Historical Detailed Claims Data Regarding Acute Leukemias, Chronic Leukemias, and Multiple Myeloma and the Association with Military Environmental Exposures. Registration link: *https://veteransaffairs.webex.com/weblink/register/r11a011e8ad468c564c6a613e929a67c7.*

Note: The listening session will have closed captioning available. The webinar will be recorded and transcribed.

FOR FURTHER INFORMATION CONTACT: Dr. Peter D. Rumm, MD, MPH, Director of Policy, Health Outcomes Military Exposures, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, at 202–461–7297. This is not a toll-free number.

ADDRESSES: The session will be held virtually using Webex. Registration is required. Individuals may listen in or comment verbally or in writing. (See additional information below).

SUPPLEMENTARY INFORMATION: On July 26, 2023, VA published a notice in the **Federal Register** about its planned scientific assessment of the possibility of a relationship between acute leukemias, chronic leukemias, and multiple myeloma outside of the head and neck and exposure to $PM_{2.5}$ from airborne hazards and open burn pits experienced by Veterans who served in the Southwest Asia theater of operations or who are covered Veterans, as defined by law (meaning generally those who served in Somalia, Afghanistan, Djibouti, Egypt, Jordan, Lebanon, Syria, Yemen and Uzbekistan) (88 FR 48291). The Notice was published in accordance with 38 U.S.C. 1172(a)(1), as created by section 202 of the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act.

VA continues to review and assess information about military environmental exposure incidents, emerging scientific evidence regarding toxic substances and adverse health outcomes in deployed and non-deployed Veterans. Additionally, active epidemiological surveillance and ongoing monitoring of military exposures in collaboration with the Department of Defense are underway. If the scientific review concludes a possible association between military environmental exposure and an adverse health outcome is present, this may lead to additional research or be subject to a **Federal Register** notice and comment process, as required by section 1172. VA will publish other notices of this type as it reviews adverse health conditions and their possible association with military environmental exposures to provide health care, services and benefits to Veterans.

This listening session aims to allow individuals to share their research, input and comments on certain adverse health conditions associated with military environmental exposure. Participants can also share their recommendations on other conditions that would benefit from review.

Registration: Individuals interested in attending must register with Webex for the listening session. We will ask attendees if they want to provide verbal or written feedback during registration so we can coordinate enough time for verbal comments. However, verbal participation is not required to complete registration. If you wish to provide verbal or written feedback during the listening session, please register by November 3, 2023. Individuals who indicate interest in commenting will receive a confirmation message 2 business days before the session. Individuals who wish to submit materials to VA must do so by November 3, 2023, the Friday before the session.

VA will work to accommodate all individuals who wish to comment verbally. However, VA will prioritize those who registered in advance. The time allotted for individuals to comment verbally will depend on the number of registrations. We will turn off cameras and mute microphones until the presenter's scheduled time to accommodate as many comments as possible. VA will request written submissions if there is not enough time to hear all comments.

Note: During the listening session, VA will not share proposals or address feedback. VA will use suggestions made during this listening session and public comments on VA's plan to improve future evaluations. VA will continue to comply with the requirements of section 1172(a) and ensure appropriate public notice and opportunity for participation.

Special Accommodations: Attendees requiring special accommodations should make their requests to VA no later than October 31, 2023 (2 weeks before the listening session on November 7, 2023) by contacting the point of contact identified in this Notice.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on October 18, 2023, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2023–23395 Filed 10–23–23; 8:45 am]

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FEDERAL REGISTER

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Part II

Environmental Protection Agency

40 CFR Part 84
Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under the American Innovation and Manufacturing Act of 2020; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 84

[EPA–HQ–OAR–2021–0643; FRL–8831–02–OAR]

Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under the American Innovation and Manufacturing Act of 2020

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency is issuing regulations to implement certain provisions of the American Innovation and Manufacturing Act, as enacted on December 27, 2020. This rulemaking restricts the use of hydrofluorocarbons in specific sectors or subsectors in which they are used; establishes a process for submitting technology transitions petitions; establishes recordkeeping and reporting requirements; and addresses certain other elements related to the effective implementation of the American Innovation and Manufacturing Act. These restrictions on the use of hydrofluorocarbons address petitions granted on October 7, 2021, and September 19, 2022.

DATES: This rule is effective December 26, 2023.

FOR FURTHER INFORMATION CONTACT: Allison Cain, Stratospheric Protection Division, Office of Atmospheric Protection (Mail Code 6205A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–1566; email address: *cain.allison@epa.gov.* You may also visit EPA's website at *https://www.epa.gov/climate-hfcs-reduction* for further information.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' ''the Agency,'' or ''our'' is used, we mean EPA. Acronyms and abbreviations that are used in this rulemaking that may be helpful include:

AC—Air Conditioning
ACIM—Automatic Commercial Ice Machine
AHAM—Association of Home Appliance Manufacturers
AHRI—Air-Conditioning, Heating, and Refrigeration Institute
AIM Act—American Innovation and Manufacturing Act of 2020
ANSI—American National Standards Institute
AR4—Fourth Assessment Report of the Intergovernmental Panel on Climate Change
ASHRAE—American Society of Heating, Refrigerating and Air-Conditioning Engineers
CAA—Clean Air Act
CARB—California Air Resources Board
CBI—Confidential Business Information
CBP—U.S. Customs and Border Protection
CDR—Chemical Data Reporting
CFC—Chlorofluorocarbon
CH_4—Methane
CO_2—Carbon Dioxide
DOE—U.S. Department of Energy
DX—Direct Expansion
EAV—Equivalent Annualized Value
e-GGRT—Electronic Greenhouse Gas Reporting Tool
EEAP—Environmental Effects Assessment Panel
EIA—Environmental Investigation Agency
EPA—U.S. Environmental Protection Agency
EU—European Union
FDA—U.S. Food and Drug Administration
FR—Federal Register
GDP—Gross Domestic Product
GHG—Greenhouse Gas
GHGRP—Greenhouse Gas Reporting Program
GWP—Global Warming Potential
HCFC—Hydrochlorofluorocarbon
HCFO—Hydrochlorofluoroolefin
HCPA—Household and Commercial Products Association
HD—Heavy-duty
HFC—Hydrofluorocarbon
HFO—Hydrofluoroolefin
IAM—Integrated Assessment Model
IAPMO—International Association of Plumbing and Mechanical Officials
ICC—International Code Council
ICR—Information Collection Request
IIAR—International Institute of Ammonia Refrigeration
IPR—Industrial Process Refrigeration
IPCC—Intergovernmental Panel on Climate Change
IT—Information Technology
ITEF—Information Technology Equipment Facilities
IWG—Interagency Working Group on the Social Cost of Greenhouse Gases
LD—Light-duty
LFL—Lower Flammability Limit
MAC—Marginal Abatement Cost
MDPV—Medium-duty Passenger Vehicle
$MMTCO_2e$—Million Metric Tons of Carbon Dioxide Equivalent
MMTEVe—Million Metric Tons of Exchange Value Equivalent
MVAC—Motor Vehicle Air Conditioning
MY—Model Year
N_2O—Nitrous oxide
NAICS—North American Industry Classification System
NAMA—National Automatic Merchandising Association
NATA—National Air Toxics Assessment
NFPA—National Fire Protection Association
NRDC—Natural Resources Defense Council
NRTL—Nationally Recognized Testing Laboratory
OEM—Original Equipment Manufacturer
ODS—Ozone-depleting Substance
OMB—U.S. Office of Management and Budget
OSHA—Occupational Safety and Health Administration
PFAS—Per- and Polyfluoroalkyl Substances
PFC—Perfluorocarbon
PRA—Paperwork Reduction Act
PTAC—Packaged Terminal Air Conditioner
PTHP—Packaged Terminal Heat Pump
PV—Present Value
RACHP—Refrigeration, Air Conditioning, and Heat Pumps
RFA—Regulatory Flexibility Act
RIA—Regulatory Impact Analysis
RTOC—Refrigeration, Air Conditioning and Heat Pumps Technical Options Committee
SBREFA—Small Business Regulatory Enforcement Fairness Act
SC–GHG—Social Cost of GHGs
SC–HFCs—Social Costs of Hydrofluorocarbons
SF_6—Sulfur Hexafluoride
SMRE—Semiconductor Manufacturing and Related Equipment
SNAP—Significant New Alternatives Policy
TEAP—Technology and Economic Assessment Panel
TFA—Trifluoroacetic Acid
TLV–TWA—Threshold Limit Value-Time-Weighted Average
TOC—Technical Options Committee
TRI—Toxics Release Inventory
TSD—Technical Support Document
UL—Underwriters Laboratories Inc
VOCs—Volatile Organic Compounds
VRF—Variable Refrigerant Flow
WMO—World Meteorological Organization

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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
K. Congressional Review Act (CRA)

I. Executive Summary

A. What is the purpose of this regulatory action?

The U.S. Environmental Protection Agency (EPA) is issuing regulations to implement certain provisions of the American Innovation and Manufacturing Act of 2020, codified at 42 U.S.C. 7675 (AIM Act or the Act). The AIM Act authorizes EPA to address hydrofluorocarbons (HFCs) in three main ways: phasing down HFC production and consumption through an allowance allocation program; [1] promulgating certain regulations for purposes of maximizing reclamation and minimizing releases of HFCs from equipment; and facilitating sector-based transitions to next-generation technologies. This rulemaking focuses on the third area—facilitating the transition to next-generation technologies by restricting use of HFCs in the sectors or subsectors in which they are used.

Subsection (i) of the Act, entitled ''Technology Transitions,'' authorizes EPA, by rulemaking, to restrict the use of regulated substances (used interchangeably with ''HFCs'' in this document) in sectors or subsectors where the regulated substances are used.[2] The Act also includes provisions for the public to petition EPA to initiate such a rulemaking. On October 7, 2021, and September 19, 2022, EPA granted 12 petitions and partially granted one petition (hereby referred to as ''granted petitions'') requesting restrictions on the use of HFCs in various sectors and subsectors (86 FR 57141, October 14, 2021). The Act directs EPA to promulgate a final rule within two years after the date on which the Agency grants a petition. This rulemaking, in part, addresses the granted petitions.

This rulemaking further addresses the framework for how EPA intends to implement its authority to restrict the use of HFCs in sectors and subsectors where they are used. It includes provisions to support implementation of, compliance with, and enforcement of statutory and regulatory requirements under subsection (i) of the Act. To provide the public with additional information about this new program, this document also includes a description of how EPA intends to implement certain aspects of the program, such as the processing of petitions to restrict the use of HFCs in sectors and subsectors in which they are used under subsection (i) of the Act.

B. What is the summary of this regulatory action?

EPA is establishing the process and information requirements for submitting petitions under subsection (i) of the AIM Act and describing how the Agency intends to evaluate those petitions. Upon receiving a petition, the Agency will consider, to the extent practicable, the factors listed in subsection (i)(4) of the AIM Act in making a determination to grant or deny the petition. Consistent with the Act, EPA considered these factors to the extent practicable in establishing the restrictions on the use of HFCs in this rulemaking.

EPA is restricting the use of HFCs, whether neat or used in a blend, with high global warming potentials (GWPs) within the refrigeration, air conditioning, and heat pump (RACHP), foam, and aerosol sectors. EPA is prohibiting the manufacture, import, or installation of certain equipment across approximately 40 subsectors, either based on overall GWP limits or restrictions on use of specific HFCs. The compliance dates for these restrictions vary depending on the subsector ranging from January 1, 2025, to January 1, 2028. The final rule prohibits the sale, distribution, and export of factory completed products that do not comply with the relevant restrictions three years after the prohibition on manufacture and import. EPA is not regulating at this time actions with respect to components needed to service or repair existing systems. EPA is finalizing labeling, annual reporting, and recordkeeping requirements for products and specified components that are imported or domestically manufactured that use or are intended to use an HFC.

C. What is the summary of the costs and benefits of this action?

EPA is providing a summary of the costs and benefits of restricting use of HFCs consistent with this rule. The full analyses, presented in the *American Innovation and Manufacturing Act of 2020—Subsection (i)(4) Factors for Determination: Costs and Environmental Impacts,* referred to in

[1] EPA has issued regulations establishing and codifying a framework for phasing down HFC production and consumption through an allowance allocation program, ''Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program Under the American Innovation and Manufacturing Act'' (86 FR 55116, October 5, 2021). That rule is referred to as the ''Allocation Framework Rule'' throughout this document. EPA finalized a separate rulemaking to update certain aspects of that regulatory framework (see final rule at 88 FR 46836, July 20, 2023).

[2] The Act lists 18 saturated HFCs, and by reference any of their isomers not so listed, that are covered by the statute's provisions, referred to as ''regulated substances'' under the Act.

this preamble as the Costs and Environmental Impacts technical support document (TSD) and in a regulatory impact analysis (RIA) addendum to the Allocation Framework RIA, are contained in the docket to this rule. These analyses—as summarized below—highlight economic costs and benefits, including benefits from HFC consumption and emission reductions.

EPA relied on previous analyses conducted for the Allocation Framework Rule (86 FR 55116, October 5, 2021) and the 2024 Allocation Rule, ''Phasedown of Hydrofluorocarbons: Allowance Allocation Methodology for 2024 and Later Years'' (88 FR 46836, July 20, 2023), as a starting point for the assessment of costs and benefits of this rule. In this way, EPA analyzed the incremental impacts of this rule, attributing benefits only insofar as they are additional to those already assessed in the Allocation Framework RIA and 2024 Allocation Rule RIA addendum (collectively referred to as ''Allocation Rules'' in this discussion.[3]

The additional benefits of this rule relative to the Allocation Rules may vary depending on the mix and timing of industry transitions made to achieve compliance in affected subsectors. In its analysis of the Allocation Rules, EPA estimated that regulated entities would adopt specific technology transition options to achieve compliance with the statutory allowance cap step-downs. Industry is already making many of these transitions, and we expect that achieving the allowance cap step-downs will require many of the same subsector-specific technology transitions that are also required by this rule. However, this rule may in some cases require regulated entities to further accelerate transitions in specific subsectors, relative to what EPA previously assumed in its analysis of the Allocation Rules. Conversely, entities in a discrete set of subsectors not covered by this rule could conceivably forgo or delay adopting abatement options that were assumed to be undertaken to comply with the Allocation Rules.

Given this uncertainty, EPA analyzed two scenarios to represent the range of potential incremental impacts resulting from this rule: a ''base case'' and ''high additionality case.'' Both scenarios use the results from the Allocation Framework Rule as a starting point and count benefits in terms of reductions of consumption and emissions only in cases where this rule results in additional reductions in HFC consumption. The ''base case'' represents a conservative assessment of benefits and assumes that any industry activity not necessary for compliance is excluded. In other words, the scenario excludes consumption reductions not covered by a GWP restriction in this rule. By contrast, the ''high additionality case'' is a less conservative scenario and assumes that HFC consumption reduction activities not covered by this rule would remain consistent with the Allocation Framework Rule reference scenario (*i.e.,* neither increase nor decrease in response to this rule). Based on the results of these two scenarios, which are detailed further in the Costs and Environmental Impacts TSD and the RIA addendum, EPA estimates that additional emission reductions through 2050 would range from an annual average of 3 to 34 million metric tons of carbon dioxide equivalent ($MMTCO_2e$)[4] in the base case and high additionality case, respectively. These emission reductions generally lag the anticipated incremental consumption reductions, which range from an annual average of 28 to 43 $MMTCO_2e$.

Table 1 summarizes the reductions in both consumption and emissions as described in the Costs and Environmental Impacts TSD and the RIA addendum for this final rule. The table shows the cumulative incremental reductions—that is, the difference in reductions compared with the Allocation Framework Rule reference scenario—from the final rule over the time period 2025 through 2050. Both the base case and high additionality case results show a net reduction in consumption and emissions on a cumulative basis through 2050.

TABLE 1—INCREMENTAL CONSUMPTION AND EMISSION REDUCTIONS IN THE TECHNOLOGY TRANSITIONS RULE BASE CASE AND HIGH ADDITIONALITY CASE COMPARED TO THE ALLOCATION RULE REFERENCE CASE

Cumulative incremental consumption reductions ($MMTCO_2e$)—2025–2050		Cumulative incremental emission reductions ($MMTCO_2e$)—2025–2050	
Technology transitions rule base case	Technology transitions high additionality case	Technology transitions rule base case	Technology transitions high additionality case
720	1,113	83	876

Although the base case is a reasonable projection of the potential impacts of this rule, there is reason to believe that it is a conservative one, and that the incremental emission reductions associated with this final rule could be far greater than reflected in the base case scenario. Previous regulatory programs to reduce chemical use in the affected industries show that regulated entities do not limit their response to the required compliance level; rather, regulated entities may take additional actions that transform industry practices for various reasons, including the anticipation of future restrictions, strengthening their competitive position, and supporting overall environmental goals. For example, U.S. production and consumption of ozone-depleting substances (ODS) during their phaseout was consistently below the limits established under the Montreal Protocol. For this reason, the high additionality case assumes certain abatement options not covered by the final rule—but which were assumed in the prior accounting of benefits for the Allocation Rules—continue to be undertaken. Based on the two scenarios, on a cumulative basis this rule is expected to yield incremental emission reductions ranging from 83 to 876 $MMTCO_2e$ through 2050 (respectively, about 2 percent and 20 percent of the total emission reductions over that same time period in the Allocation Rules analyses). In the RIA addendum, we estimate the present value of these

[3] In a separate action, EPA has also issued a rule to amend the production baseline downwards by 0.005% to reflect corrected data (88 FR 44220, July 12, 2023).

[4] The exchange values provided in the AIM Act are numerically equivalent to the 100-year integrated global warming potentials provided in IPCC (2007). EPA provides values in CO_2e and notes that the same values would be used if expressed in exchange value equivalents.

incremental benefits to be between $3.01 billion and $50.4 billion in 2020 dollars.

EPA also estimates that this rule will result in potentially lower compliance costs relative to those previously assessed for the Allocation Rules. These additional savings stem largely from assumed energy efficiency gains and lower cost refrigerants associated with the technological transitions necessary to meet the requirements.[5] The present value of cumulative incremental costs or savings from 2025–2050 is estimated to be between $1 million in costs and $2.1 billion in savings, when using a 7 percent discount rate, or between $1.6 billion and $4.5 billion in savings, when using a 3 percent discount rate (in 2020 dollars). As with EPA's estimates of benefits for this rule, these estimated costs or savings reflect only what is incremental to EPA's previously estimated compliance pathway for the Allocation Rules.[6]

Table 2 summarizes key findings from the RIA addendum, including the present value (PV) and equivalent annualized value (EAV) of cumulative incremental climate benefits, costs, and net benefits of this rule over the 2025–2050 time period. Climate benefits are discounted at 3 percent, and costs are presented using both a 3 percent and 7 percent discount rate. The climate benefits and net benefits findings were not used for decisional purposes and are provided for informational and illustrative purposes only.

TABLE 2—PV AND EAV OF CUMULATIVE INCREMENTAL CLIMATE BENEFITS, COSTS, AND NET BENEFITS FOR 2025 THROUGH 2050

[Millions of 2020$, discounted to 2022] [a] [b] [c] [d]

Discount rate	Base case					High additionality case				
	Incremental climate benefits (3%)	Annual costs (negative values are savings)		Net benefits (3% benefits, 3% or 7% costs) [e]		Incremental climate benefits (3%)	Annual costs (negative values are savings)		Net benefits (3% benefits, 3% or 7% costs) [e]	
	3%	3%	7%	3%	7%	3%	3%	7%	3%	7%
PV	$3,013	($4,549)	($2,073)	$7,561	$5,086	$50,406	($1,601)	$1	$52,007	$50,405
EAV	184	(278)	(215)	462	399	3,081	(98)	0	3,179	3,081

[a] Benefits include only those related to climate. Climate benefits are based on changes in HFC emissions and are calculated using four different estimates of the SC–HFCs (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). For purposes of this table, we show the effects associated with the model average at a 3 percent discount rate, but the Agency does not have a single central SC–HFC point estimate. We emphasize the importance and value of considering the benefits calculated using all four SC–HFC estimates. As discussed in Chapter 5 of the RIA addendum a consideration of climate effects calculated using discount rates below 3 percent, including 2 percent and lower, is also warranted when discounting intergenerational impacts.

[b] Rows may not appear to add correctly due to rounding.

[c] The annualized present value of costs and benefits are calculated as if they occur over a 26-year period from 2025 to 2050.

[d] The PV for the 7% net benefits column is found by taking the difference between the PV of climate benefits at 3% and the PV of costs discounted at 7%. Due to the intergenerational nature of climate impacts the social rate of return to capital, estimated to be 7 percent in Office of Management and Budget's Circular A–4, is not appropriate for use in calculating PV of climate benefits.

Some of the information regarding projected impacts of this rule, including cost estimates and anticipated environmental impacts, was considered by EPA in its assessment of certain factors listed in subsection (i)(4) of the AIM Act.[7] The cost and benefit information relied upon by EPA in its consideration of the subsection (i)(4) factors is compiled in the Costs and Environmental Impacts TSD. As discussed in section VI.E, EPA chose to use certain cost and environmental benefit information that it had generated in conducting its RIA addendum in considering certain factors under subsection (i)(4), but we expect that in future rulemakings we may consider different types of information to address the (i)(4) factors. In assessing the (i)(4) factors for this rule, as summarized in the Costs and Environmental Impacts TSD, EPA considered estimates of costs of the action, without incorporating the social costs of HFCs (SC–HFCs), and estimates of cumulative consumption and emission reductions for 2025–2050 of 720 to 1,113 $MMTCO_2e$ and 83 to 876 $MMTCO_2e$, respectively. The analysis demonstrates net positive incremental environmental impacts (*i.e.,* HFC consumption and emission reductions) and cost savings relative to the compliance pathway evaluated for the Allocation Rules. However, there was no specific quantitative threshold for positive incremental impacts used to evaluate the subsection (i)(4) factors. Rather, in its review, to the extent practicable, of the overall economic costs and environmental impacts, as compared to historical trends, the Agency issued the final restrictions after considering the general findings that: a) there are in fact positive incremental impacts expected from this rule, and b) that the overall impact of the regulations implemented under the AIM Act to date (including both the Allocation Rules and this rule) remains net positive in terms of overall costs and environmental impacts.[8]

Although EPA is using SC–HFCs for purposes of some of the analysis in the RIA addendum, this action does not rely on those estimates of these costs as a record basis for the Agency action, and EPA would reach this rule's conclusions even in the absence of the social costs of HFCs.

Additional information on this analysis can be found in section IX of this preamble and in the Costs and Environmental Impacts TSD and RIA addendum contained in the docket.

[5] As discussed in the RIA Addendum, incremental savings estimated for this rule stem largely from more rapid and more comprehensive transitions to cost-saving, lower-GWP technologies in certain subsectors than was previously estimated for the HFC Allocation Framework Rule. Similarly comprehensive transitions were not assumed in the Allocation Rules analysis, since it assumed that—absent regulatory requirements—newer technologies may still face some industry inertia and shift less rapidly regardless of potential energy savings or other benefits over time.

[6] In the 2024 Allocation Rule RIA Addendum, EPA estimated present value net savings for the period of 2022–2050 of $9 billion discounted at 3 percent and $4.8 billion at 7 percent, in 2020 dollars, discounted to 2022. Estimated net savings for the TT Rule are incremental to these prior estimates.

[7] Subsection (i)(4) of the AIM Act contains a list of factors that the statute directs EPA to consider, to the extent practicable, when carrying out a rulemaking or making a determination to grant or deny a petition.

[8] We note, however, that subsection (i)(4)(C) plainly does not require a finding that the environmental impacts of a rule exceed the economic costs.

II. General Information

A. Does this action apply to me?

You may be potentially affected by this rule if you manufacture, import, export, sell, distribute, or install equipment that uses or is intended to use HFCs, such as refrigeration and air-conditioning systems, foams, and aerosols. Potentially affected categories, by North American Industry Classification System (NAICS) code, are included in Table 3.

TABLE 3—NAICS CLASSIFICATION OF POTENTIALLY AFFECTED ENTITIES

NAICS code	NAICS industry description
238220	Plumbing, Heating, and Air Conditioning Contractors.
311812	Commercial Bakeries.
321999	All Other Miscellaneous Wood Product Manufacturing.
322299	All Other Converted Paper Product Manufacturing.
324191	Petroleum Lubricating Oil and Grease Manufacturing.
324199	All Other Petroleum and Coal Products Manufacturing.
325199	All Other Basic Organic Chemical Manufacturing.
325211	Plastics Material and Resin Manufacturing.
325412	Pharmaceutical Preparation Manufacturing.
325414	Biological Product (except Diagnostic) Manufacturing.
325998	All Other Miscellaneous Chemical Product and Preparation Manufacturing.
326150	Urethane and Other Foam Product.
326299	All Other Rubber Product Manufacturing.
327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing.
332812	Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers.
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing.
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.
333511	Industrial Mold Manufacturing.
333912	Air and Gas Compressor Manufacturing.
333999	All Other Miscellaneous General Purpose Machinery Manufacturing.
334419	Other Electronic Component Manufacturing.
335220	Major Household Appliance Manufacturing.
336120	Heavy Duty Truck Manufacturing.
336212	Truck Trailer Manufacturing.
336214	Travel Trailer and Camper Manufacturing.
3363	Motor Vehicle Parts Manufacturing.
3364	Aerospace Product and Parts Manufacturing.
336411	Aircraft Manufacturing.
336611	Ship Building and Repairing.
336612	Boat Building.
336992	Military Armored Vehicle, Tank, and Tank Component Manufacturing.
337214	Office Furniture (Except Wood) Manufacturing.
339112	Surgical and Medical Instrument Manufacturing.
339113	Surgical Appliance and Supplies Manufacturing.
339999	All Other Miscellaneous Manufacturing.
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers.
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers.
423610	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers.
423620	Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers.
423690	Other Electronic Parts and Equipment Merchant Wholesalers.
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers.
423730	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers.
423740	Refrigeration Equipment and Supplies Merchant Wholesalers.
423830	Industrial Machinery and Equipment Merchant Wholesalers.
423840	Industrial Supplies Merchant Wholesalers.
423850	Service Establishment Equipment and Supplies Merchant Wholesalers.
423860	Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers.
423990	Other Miscellaneous Durable Goods Merchant Wholesalers.
424690	Other Chemical and Allied Products Merchant Wholesalers.
424820	Wine and Distilled Alcoholic Beverage Merchant Wholesalers.
443142	Electronics Stores.
444190	Other Building Material Dealers.
445110	Supermarkets and Other Grocery (except Convenience) Stores.
445131	Convenience Retailers.
445298	All Other Specialty Food Retailers.
449210	Appliance Stores, Household-Type.
453998	All Other Miscellaneous Store Retailers (except Tobacco Stores).
45711	Gasoline Stations With Convenience Stores.
481111	Scheduled Passenger Air Transportation.
531120	Lessors of Nonresidential Buildings (except Miniwarehouses).
541330	Engineering Services.
541380	Testing Laboratories.
541512	Computer Systems Design Services.
541519	Other Computer Related Services.
541620	Environmental Consulting Services.
562111	Solid Waste Collection.

TABLE 3—NAICS CLASSIFICATION OF POTENTIALLY AFFECTED ENTITIES—Continued

NAICS code	NAICS industry description
562211	Hazardous Waste Treatment and Disposal.
562920	Materials Recovery Facilities.
621498	All Other Outpatient Care Centers.
621999	All Other Miscellaneous Ambulatory Health Care Services.
72111	Hotels (Except Casino Hotels) and Motels.
72112	Casino Hotels.
72241	Drinking Places (Alcoholic Beverages).
722513	Limited-Service Restaurants.
722514	Cafeterias, Grill Buffets, and Buffets.
722515	Snack and Nonalcoholic Beverage Bars.
81119	Other Automotive Repair and Maintenance.
811219	Other Electronic and Precision Equipment Repair and Maintenance.
811412	Appliance Repair and Maintenance.
922160	Fire Protection.

Table 3 is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA expects could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity may be regulated by this action, you should carefully examine the regulatory text at the end of this document. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What is EPA's authority for taking this action?

On December 27, 2020, the AIM Act was enacted as section 103 in Division S, Innovation for the Environment, of the Consolidated Appropriations Act, 2021 (codified at 42 U.S.C. 7675). Subsection (k)(1)(C) of the Act provides that Clean Air Act (CAA) sections 113, 114, 304, and 307 apply to the AIM Act and any regulations EPA promulgates under the AIM Act as though the AIM Act were part of title VI of the CAA. Accordingly, this rulemaking is subject to CAA section 307(d) (*see* 42 U.S.C. 7607(d)(1)(I)) (CAA section 307(d) applies to ''promulgation or revision of regulations under subchapter VI of this chapter (relating to stratosphere and ozone protection)'').

The AIM Act authorizes EPA to address HFCs by providing new authorities in three main areas: phasing down the production and consumption of listed HFCs; managing these HFCs and their substitutes; and facilitating the transition to next-generation technologies by restricting use of these HFCs in the sector or subsectors in which they are used. This rulemaking focuses on the third area: the transition to next-generation technologies by restricting use of these HFCs in the sector or subsectors in which they are used.

In subsection (k)(1)(A), the AIM Act provides EPA with the authority to promulgate necessary regulations to carry out EPA's functions under the Act, including its obligations to ensure that the Act's requirements are satisfied. Subsection (i) of the AIM Act, ''Technology Transitions,'' provides that ''the Administrator may by rule restrict, fully, partially, or on a graduated schedule, the use of a regulated substance in the sector or subsector in which the regulated substance is used.'' 42 U.S.C. 7675(i)(1). The Act lists 18 saturated HFCs, and by reference any of their isomers not so listed, that are covered by the statute's provisions, referred to as ''regulated substances'' under the Act.[9] (42 U.S.C. 7675(c)(1)). EPA is also authorized to designate additional substances that meet certain criteria as regulated substances (42 U.S.C. 7675(c)(3)). EPA has not so designated any additional substances, and the list of 18 regulated substances can also be found in appendix A of 40 CFR part 84. Through this rule, EPA is restricting the use of certain HFCs, whether neat or used in a blend, in specific sectors or subsectors, based on EPA's consideration of the factors listed in subsection (i)(4) of the AIM Act.

A rulemaking restricting the use of regulated substances in sectors or subsectors can be initiated by EPA on its own accord, or a person may petition EPA to promulgate such a rule. Specifically, subsection (i)(3)(A) states, ''A person may petition the Administrator to promulgate a rule under [subsection (i)(1)] for the restriction on use of a regulated substance in a sector or subsector.'' Where the Agency grants such a petition submitted under subsection (i), the statute requires that ''the Administrator shall promulgate a final rule not later than 2 years after the date on which the Administrator grants the petition.'' (42 U.S.C. 7675(i)(3)(C)(ii)). This rule addresses the granted petitions under subsection (i).

Furthermore, prior to proposing a rule, subsection (i)(2)(A) directs EPA to consider negotiating with stakeholders in the sector or subsector subject to the potential rule in accordance with negotiated rulemaking procedures established under subchapter III of chapter 5 of title 5, United States Code (5 U.S.C. 563, commonly known as the ''Negotiated Rulemaking Act of 1990''). A brief discussion on EPA's consideration of using negotiated rulemaking procedures and its decision not to use such procedures prior to proposal can be found in section VI.B of the proposed rule (87 FR 76775; December 15, 2022, hereafter ''proposed rule'').

EPA is also finalizing measures designed to assist with enforcement and to help ensure compliance with the HFC use restrictions, including recordkeeping, reporting, and labeling requirements. Reporting is also necessary to inform EPA of the transitions that are occurring in those sectors and subsectors addressed by this rule. EPA notes that subsection (k)(1)(C) of the AIM Act states that section 114 of the CAA applies to the AIM Act and rules promulgated under it as if the AIM Act were included in title VI of the CAA. Thus, section 114 of the CAA, which provides authority to the EPA Administrator to require recordkeeping and reporting in carrying out provisions of the CAA, also applies to and supports this rulemaking.

Subsection (i)(6) of the AIM Act states that ''[n]o rule under this subsection may take effect before the date that is 1 year after the date on which the

[9] As noted previously in this document, ''regulated substance'' and ''HFC'' are used interchangeably in this document.

Administrator promulgates the applicable rule under this subsection.'' EPA interprets this provision as applying to the establishment of restrictions on use of HFCs under subsection (i)(1) of the Act. Therefore, EPA is establishing compliance dates for the restrictions on the manufacture and import of products and installation of systems that are at least one year from the date this rule is promulgated, in accordance with this statutory provision.

The provisions pertaining to program administration and petitions processing (*i.e.,* § 84.62) do not include a delayed compliance date, and those provisions will come into effect 60 days after publication of the final rule in the **Federal Register**. This approach is based on an interpretation that subsection (i)(6) does not apply to those administrative provisions because ''applicable rules'' in (i)(6) are limited to rules that apply use restrictions under (i)(1). As a practical matter, the regulated industry to which a use restriction rule is being applied may need a full year to come into compliance with that restriction. While a petitioner may need some amount of time to collect the information needed in a petition, 60 days is a reasonable timeframe in which to do so. EPA did not receive comments on this approach.

III. Background

A. What are HFCs?

HFCs are anthropogenic [10] fluorinated chemicals that have no known natural sources. HFCs are used in a variety of applications such as refrigeration and air conditioning, foam blowing agents, solvents, aerosols, and fire suppression. HFCs are potent greenhouse gases (GHGs) with 100-year GWPs (a measure of the relative climatic impact of a GHG) that can be hundreds to thousands of times that of carbon dioxide (CO_2).

HFC use and emissions have been growing worldwide due to the global phaseout of ODS under the Montreal Protocol and the increasing use of refrigeration and air-conditioning equipment globally.[11] HFC emissions had previously been projected to increase substantially over the next several decades. In 2016, in Kigali, Rwanda, countries agreed to adopt an amendment to the Montreal Protocol, known as the Kigali Amendment, which provides for a global phasedown of the production and consumption of HFCs. The United States ratified the Kigali Amendment on October 31, 2022. Global adherence to the Kigali Amendment would substantially reduce future emissions, leading to a peaking of HFC emissions before 2040.[12] [13]

Atmospheric observations of most currently measured HFCs confirm their abundances are increasing at accelerating rates. Total emissions of HFCs increased by 23 percent from 2012 to 2016 [14] and a further 19 percent from 2016 to 2020.[15] The four most abundant HFCs in the atmosphere, in GWP-weighted terms, are HFC–134a, HFC–125, HFC–23, and HFC–143a.[16]

HFCs excluding HFC–23 accounted for a radiative forcing of 0.025 W/m^2 in 2016 rising to 0.037 W/m^2 in 2020. This radiative forcing was projected to increase by an order of magnitude to 0.25 W/m^2 by 2050. If the Kigali Amendment were to be fully implemented, it would be expected to reduce the future radiative forcing due to HFCs (excluding HFC–23) to 0.13 W/m^2 in 2050 which is a reduction of about 50 percent compared with the radiative forcing projected in the business-as-usual scenario of uncontrolled HFCs.[17]

There are hundreds of possible HFC compounds. The 18 HFCs listed as regulated substances by the AIM Act are some of the most commonly used HFCs (neat and in blends) and have high impacts as measured by the quantity of each substance emitted multiplied by their respective GWPs.[18] These 18 HFCs are all saturated, meaning they have only single bonds between their atoms and therefore have longer atmospheric lifetimes.

In the United States, HFCs are used primarily in refrigeration and air-conditioning equipment in homes, commercial buildings, and industrial operations (~75 percent of total HFC use in 2018) and in air conditioning in vehicles and refrigerated transport (~8 percent). Smaller amounts are used in foam products (~11 percent), aerosols (~4 percent), fire protection systems (~1 percent), and solvents (~1 percent).[19]

EPA estimated in the Allocation Rules that phasing down HFC production and consumption according to the schedule provided in the AIM Act will avoid cumulative consumption of 3,156 million metric tons of exchange value equivalent (MMTEVe) of HFCs in the United States for the years 2022 through 2036 (86 FR 55116, October 5, 2021). Annual avoided consumption was estimated at 42 MMTCO$_2$e in 2022 and 282 MMTCO$_2$e in 2036. To calculate the climate benefits associated with consumption abatement, the consumption changes were expressed in terms of emission reductions. EPA estimated that for the years 2022–2050 that action will avoid emissions of 4,560 MMTCO$_2$e of HFCs in the United States. The annual avoided emissions are estimated at 22 MMTCO$_2$e in the year 2022 and 171 MMTCO$_2$e in 2036. More information regarding these estimates is provided in the Allocation Framework RIA in the docket.

B. How do HFCs affect public health and welfare?

Elevated concentrations of GHGs including HFCs are and have been warming the planet, leading to changes in the Earth's climate including changes in the frequency and intensity of heat waves, precipitation, and extreme weather events; rising seas; and retreating snow and ice. The changes taking place in the atmosphere as a

[10] While the overwhelming majority of HFC production is intentional, EPA is aware that HFC–23 can be a byproduct associated with the production of other chemicals, including but not limited to hydrochlorofluorocarbon (HCFC)-22 and other fluorinated gases.

[11] World Meteorological Organization (WMO), Scientific Assessment of Ozone Depletion: 2022, GAW Report No. 278, 509 pp., WMO, Geneva, Switzerland, 2022. Available at: *https://ozone.unep.org/system/files/documents/Scientific-Assessment-of-Ozone-Depletion-2022.pdf.*

[12] Ibid.

[13] A recent study estimated that global compliance with the Kigali Amendment is expected to lower 2050 annual emissions by 3.0–4.4 million metric tons of carbon dioxide equivalent (MMTCO$_2$e). Guus J.M. Velders et al. Projections of hydrofluorocarbon (HFC) emissions and the resulting global warming based on recent trends in observed abundances and current policies. Atmos. Chem. Phys., 22, 6087–6101, 2022. Available at: *https://doi.org/10.5194/acp-22-6087-2022.*

[14] World Meteorological Organization (WMO), Scientific Assessment of Ozone Depletion: 2018, World Meteorological Organization, Global Ozone Research and Monitoring Project—Report No. 58, 588 pp., Geneva, Switzerland, 2018. Available at: *https://ozone.unep.org/sites/default/files/2019-05/SAP-2018-Assessment-report.pdf.*

[15] WMO, 2022.

[16] Ibid.

[17] Velders, 2022.

[18] The AIM Act uses exchange values which are numerically equivalent to the 100-year GWP of the chemical as given in the Errata to Table 2.14 of the IPCC's 2007 Fourth Assessment Report (AR4).

[19] Calculations based on EPA's Vintaging Model, which estimates the annual chemical emissions from industry sectors that historically used ODS, including refrigeration and air conditioning, foam blowing agents, solvents, aerosols, and fire suppression. The model uses information on the market size and growth for each end use, as well as a history and projections of the market transition from ODS to substitutes. The model tracks emissions of annual ''vintages'' of new equipment that enter into operation by incorporating information on estimates of the quantity of equipment or products sold, serviced, and retired or converted each year, and the quantity of the compound required to manufacture, charge, and/or maintain the equipment. Additional information on these estimates is available in U.S. EPA, April 2016. EPA Report EPA–430–R–16–002. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2014. Available at: *https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2014.*

result of the well-documented buildup of GHGs due to human activities are changing the climate at a pace and scale that threatens human health, society, and the natural environment. This section provides some scientific background on climate change to offer additional context for this rulemaking and to help the public understand the environmental impacts of GHGs such as HFCs.

Extensive additional information on climate change is available in the scientific assessments and the EPA documents that are briefly described in this section, as well as in the technical and scientific information supporting them. One of those documents is EPA's 2009 Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act (74 FR 66496, December 15, 2009).[20] In the 2009 Endangerment Finding, the Administrator found under section 202(a) of the CAA that elevated atmospheric concentrations of six key well-mixed GHGs—CO_2, methane (CH_4), nitrous oxide (N_2O), HFCs, perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6)—''may reasonably be anticipated to endanger the public health and welfare of current and future generations'' (74 FR 66523, December 15, 2009), and the science and observed changes have confirmed and strengthened the understanding and concerns regarding the climate risks considered in the Finding. The 2009 Endangerment Finding, together with the extensive scientific and technical evidence in the supporting record, documented that climate change caused by human emissions of GHGs (including HFCs) threatens the public health of the U.S. population. It explained that by raising average temperatures, climate change increases the likelihood of heat waves, which are associated with increased deaths and illnesses (74 FR 66497, December 15, 2009). While climate change also increases the likelihood of reductions in cold-related mortality, evidence indicates that the increases in heat mortality will be larger than the decreases in cold mortality in the U.S. (74 FR 66525, December 15, 2009). The 2009 Endangerment Finding further explained that compared with a future without climate change, climate change is expected to increase tropospheric ozone pollution over broad areas of the U.S., including in the largest metropolitan areas with the worst tropospheric ozone problems, and thereby increase the risk of adverse effects on public health (74 FR 66525, December 15, 2009). Climate change is also expected to cause more intense hurricanes and more frequent and intense storms of other types and heavy precipitation, with impacts on other areas of public health, such as the potential for increased deaths, injuries, infectious and waterborne diseases, and stress-related disorders (74 FR 66525, December 15, 2009). Children, the elderly, and the poor are among the most vulnerable to these climate-related health effects (74 FR 66498, December 15, 2009).

The 2009 Endangerment Finding also documented, together with the extensive scientific and technical evidence in the supporting record, that climate change touches nearly every aspect of public welfare[21] in the U.S. including: changes in water supply and quality due to increased frequency of drought and extreme rainfall events; increased risk of storm surge and flooding in coastal areas and land loss due to inundation; increases in peak electricity demand and risks to electricity infrastructure; predominantly negative consequences for biodiversity and the provisioning of ecosystem goods and services; and the potential for significant agricultural disruptions and crop failures (though offset to some extent by carbon fertilization). These impacts are also global and may exacerbate problems outside the U.S. that raise humanitarian, trade, and national security issues for the United States (74 FR 66530, December 15, 2009).

In 2016, the Administrator similarly issued Endangerment and Cause or Contribute Findings for GHG emissions from aircraft under section 231(a)(2)(A) of the CAA (81 FR 54422, August 15, 2016).[22] In the 2016 Endangerment Finding, the Administrator found that the body of scientific evidence amassed in the record for the 2009 Endangerment Finding compellingly supported a similar endangerment finding under CAA section 231(a)(2)(A) and also found that the science assessments released between the 2009 and the 2016 Findings ''strengthen and further support the judgment that GHGs in the atmosphere may reasonably be anticipated to endanger the public health and welfare of current and future generations'' (81 FR 54424, August 15, 2016).

Since the 2016 Endangerment Finding, the climate has continued to change, with new records being set for several climate indicators such as global average surface temperatures, GHG concentrations, and sea level rise. Moreover, heavy precipitation events have increased in the Eastern United States, while agricultural and ecological drought has increased in the Western United States along with more intense and larger wildfires.[23] These and other trends are examples of the risks discussed in the 2009 and 2016 Endangerment Findings that have already been experienced. Additionally, major scientific assessments continue to demonstrate advances in our understanding of the climate system and the impacts that GHGs have on public health and welfare both for current and future generations. According to the Intergovernmental Panel on Climate Change's (IPCC) Sixth Assessment Report, ''it is unequivocal that human influence has warmed the atmosphere, ocean and land. Widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred.''[24] These updated observations and projections document the rapid rate of current and future climate change both globally and in the United States.[25] [26] [27] [28]

[20] In describing these 2009 Findings in this notice, EPA is neither reopening nor revisiting them.

[21] The CAA states in section 302(h) that ''[a]ll language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.'' 42 U.S.C. 7602(h).

[22] In describing these 2016 Findings in this notice, EPA is neither reopening nor revisiting them.

[23] An additional resource for indicators can be found at *https://www.epa.gov/climate-indicators.*

[24] IPCC, 2021: Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, S.L. Connors, C. Peáan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M.I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T.K. Maycock, T. Waterfield, O. Yelekçi, R. Yu and B. Zhou (eds.)]. Cambridge University Press. In Press: 4.

[25] USGCRP, 2018: Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, 1515 pp. doi: 10.7930/NCA4.2018. Available at: *https://nca2018.globalchange.gov.*

[26] IPCC, 2021.

[27] National Academies of Sciences, Engineering, and Medicine, 2019. Climate Change and Ecosystems. Washington, DC: The National Academies Press. Available at: *https://doi.org/10.17226/25504.*

[28] NOAA National Centers for Environmental Information, State of the Climate: Global Climate Report for Annual 2020, published online January 2021. Available at: *https://www.ncdc.noaa.gov/sotc/global/202013.*

IV. What is the petition process under the technology transitions program?

Subsection (i)(3) of the AIM Act states that a person may petition EPA to promulgate a rule to restrict the use of a regulated substance in a sector or subsector in accordance with the Agency's authority to issue such a rule under subsection (i)(1) of the AIM Act. If EPA receives a petition under subsection (i)(3), the AIM Act states that ''[t]he Administrator shall grant or deny a petition . . . not later than 180 days after the date of receipt of the petition'' (42 U.S.C. 7675(i)(3)(B)) and make the petition available to the public no later than 30 days after receiving the petition (42 U.S.C. 7675(i)(3)(C)(iii)). For petitions that are denied, EPA must publish in the **Federal Register** an explanation of the denial (42 U.S.C. 7675(i)(3)(C)(i)). If EPA grants a petition, the statute requires EPA to promulgate a final rule not later than two years from the date the Agency grants the petition (42 U.S.C. 7675(i)(3)(C)(ii)).

This section describes the process for submitting a petition under subsection (i) to the Agency, which includes direction on how technology transition provisions should be submitted to EPA; the necessary content of petitions; and how EPA will respond once petitions are received. EPA received comments in support of the Agency's interpretation of the petition process under the AIM Act. Commenters did not suggest any changes to the proposed petition process. EPA is finalizing the petition process as proposed.

Subsection (i)(3)(A) of the AIM Act states that ''a person may petition the Administrator to promulgate a rule under [subsection (i)(1) of the AIM Act] for the restriction on use of a regulated substance in a sector or subsector, which shall include a request that the Administrator negotiate with stakeholders . . .'' EPA views ''person'' for the purpose of a technology transitions petition submittal as having the same meaning as how the term is defined in 40 CFR 84.3 (the definition established in the Allocation Framework Rule); that is, to mean ''any individual or legal entity, including an individual, corporation, partnership, association, state, municipality, political subdivision of a State, Indian Tribe; any agency, department, or instrumentality of the United States; and any officer, agent, or employee thereof.'' Using this definition in 40 CFR 84.3 for purposes of petition submittal under subsection (i) ensures consistency of how this term is used across these two regulatory programs developed under the AIM Act. This definition of ''person'' also captures the Agency's intended meaning of this term for purposes of the Technology Transitions program. Therefore, any person who fits the Allocation Framework Rule definition may submit a technology transitions petition to EPA. We further note that the plain text of subsection (i)(3)(A) also limits this provision to requests for restrictions on the use of a regulated substance in a sector or subsector. Other types of requests—such as exemptions from existing or anticipated restrictions—are therefore not properly presented under the (i)(3)(A) petition process, although parties are always welcome to communicate to the Agency informally, to provide comments on a proposed rule that considers such restrictions on use, or to generally petition for rulemaking under the Administrative Procedures Act.

All the petitions considered in this rulemaking were submitted to EPA via email. EPA is requiring that future petitions also be submitted electronically. The Agency's preferred method is for petitioners to use the email address that is available on EPA's web page at: *https://www.epa.gov/climate-hfcs-reduction/technology-transition-petitions-under-aim-act.*

A. What must be included in a technology transitions petition?

EPA is requiring standard content that must be included in a technology transitions petition. Standardizing the information requirements will assist petitioners in preparing their petitions and enhance EPA's ability to review and respond to them promptly. A technology transitions petition must include the elements described in the following paragraphs.

Petitions must indicate either a GWP limit or the specific name(s) of the regulated substance(s) or blend(s) that use the regulated substance(s) to be restricted and their GWPs. Petitioners specifying specific regulated substances should use as the GWP the exchange values for the regulated HFCs listed in subsection (c) of the AIM Act and codified as appendix A to 40 CFR part 84.[29] For blends containing regulated substances, petitioners should identify all components of the blend using the composition-identifying designation as listed in American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ANSI/ASHRAE) Standard 34–2022,[30] Designation and Safety Classification of Refrigerants (*e.g.,* HFC–134a, hydrofluoroolefin (HFO–1234ze(E)). If blends are not listed in ASHRAE Standard 34, petitioners should provide the nominal composition of the blend, specifying all components with the ASHRAE Standard 34 designation for the components. If the components or substances are not listed in ASHRAE Standard 34, petitioners should provide the chemical name, the applicable CAS Registry Number, and the chemical formula and structure (*e.g.,* $CHF{=}C{=}CF_2$ rather than C_3F_3H).

EPA is providing a table at 40 CFR 84.64 listing the GWPs of commonly used constituents to allow petitioners to determine the GWP of blends containing regulated substances for purposes of this rulemaking. EPA also intends to maintain a list of commonly used blends containing HFCs and the GWPs of those blends at EPA's Technology Transitions web page. EPA is using the following hierarchy to identify the GWPs of these constituents. For the regulated substances used in the blend, and as previously noted, EPA is using the exchange value provided in subsection (c) of the AIM Act and codified as appendix A to 40 CFR part 84 as the GWP. For purposes of this rulemaking EPA is using the 100-year GWP values from the IPCC's Fourth Assessment Report (AR4) for all substances or components of blends. For hydrocarbons listed in Table 2–15 of AR4, EPA is using the net GWP value. For substances for which no GWP is provided in AR4, EPA is using the 100-year GWP listed in World Meteorological Organization (WMO) 2022.[31] EPA proposed using the 2018 edition but to use the best available data, EPA is finalizing the use of the most up-to-date version of this report at the time of the publication of this rule. For any substance not listed in these sources, EPA is using the GWP of the substance in Table A–1 to subpart A of 40 CFR part 98, as it exists on October 24, 2023, the date this rule is published in the **Federal Register** as a final rule, if such substance is specifically listed in that table. EPA proposed GWPs for two substances that might be used as components of blends that are not listed in those three sources: trans-dichloroethylene (HCO–1130(E)) and hydrochlorofluoroolefin (HCFO–

[29] EPA noted in section III.A of this preamble that the exchange values for the regulated HFCs listed in subsection (c) of the AIM Act are numerically identical to the 100-year GWPs of each substance, as given in the Errata to Table 2.14 of the IPCC's Fourth Assessment Report (AR4) and Annexes A, C, and F of the Montreal Protocol. Available at: *https://www.ipcc.ch/site/assets/uploads/2018/05/ar4-wg1-errata.pdf.*

[30] Hereafter referred to as ASHRAE Standard 34.

[31] WMO, 2022.

1224yd(Z)) at five [32] and one,[33] respectively, for purposes of this rulemaking. EPA is finalizing those GWPs as proposed. For any other substance not listed in the above three source documents, EPA is using the default GWPs as shown in Table A–1 to subpart A of 40 CFR part 98, as it exists on the date this final rule is published in the **Federal Register**. Lastly, if the substance is not listed in any of the other sources, EPA is using the GWP of that constituent described in a listing of an acceptable substitute under EPA's SNAP program. In any case where a GWP value is preceded with a less than (<), very less than (<<), greater than (>), approximately (~), or similar symbol in the source document, which is used to determine the GWP, EPA is using the value shown. The GWP of a blend would then be calculated as the sum of the nominal composition (in mass proportions) of each component multiplied by the GWP of each component.

In the event that the hierarchy outlined in this section does not provide a GWP (*i.e.,* the substance in question is not listed in the three documents, is not one of the two for which EPA is establishing GWPs, is not listed in Table A–1 to subpart A of 40 CFR part 98 and does not fit within any of the default GWPs provided in Table A–1 to subpart A of 40 CFR part 98), EPA proposed that the petitioner should use a GWP of zero. One commenter suggested that using a value of zero would result in an artificially lower GWP value. Although EPA anticipates this situation to be rare, and unlikely to materially affect the status of a blend, the Agency is not assuming a value of zero for as yet unknown constituents in this final rule. Rather, EPA will take a more conservative approach and exclude that component, and its mass proportion, from the calculation of GWP.

Petitioners must also indicate the sector or subsector for which restrictions on use of the regulated substance would apply. EPA is not limiting sectors or subsectors to a specific list, recognizing there may be additional uses of HFCs today or that may be developed in the future, and thus additional sectors or subsectors for which it could be appropriate to restrict use.

Petitioners must specify a date that the requested restrictions would go into effect and provide information explaining why the date is appropriate. Petitioners should recognize that subsection (i)(6) of the AIM Act restricts the effective date of rules promulgated under subsection (i) to no earlier than one year after the date of the final rule.

Before proposing a rule for the use of a regulated substance for a sector or subsector under subsection (i)(1), subsection (i)(2)(A) directs EPA to consider negotiating with stakeholders in accordance with the Negotiated Rulemaking Act of 1990 (*i.e.,* negotiated rulemaking procedure). Subsection (i)(3)(A) requires petitioners to ''include a request that the Administrator negotiate with stakeholders in accordance with paragraph (2)(A)'' (42 U.S.C. 7675(i)(3)(A)). EPA sought comment on whether it is reasonable for the Agency to interpret subsection (i)(3) as requiring petitioners to *address* whether EPA use the negotiated rulemaking procedure, rather than requiring them to affirmatively request that the Agency pursue negotiated rulemaking. Several commenters responded in support of EPA's interpretation that petitioners must simply address whether EPA should consider negotiated rulemaking in their petition and not that they must request a negotiated rulemaking. Most petitions addressed in this rule complied with the statute's requirement to request that EPA use negotiated rulemaking; however, those petitioners unanimously expressed a preference that EPA *not* use this procedure in promulgating its restrictions. Allowing petitioners to express their views as to whether EPA should engage in negotiated rulemaking for a subsection (i) rulemaking, as opposed to requiring them to request something they may disagree with, provides more value to EPA as we consider, per subsection (i)(2)(A), whether to use the negotiated rulemaking procedure before proposing a restriction under subsection (i). Otherwise, EPA could be misled as to the petitioners' views and could elect to use the negotiated rulemaking procedure when no stakeholder sought that outcome. The unwarranted use of time and resources to undergo that procedure could be counterproductive to meeting the statutory deadlines to complete a final rule. Petitioners must provide an explanation of their position on the use of the negotiated rulemaking procedure and any considerations that would either support or disfavor the use of that process. If a petition is granted, EPA intends to consider the petitioner's statement on negotiated rulemaking as it determines whether to use the procedure.

Petitioners must also submit, to the extent practicable, information related to the ''Factors for Determination'' listed in subsection (i)(4) of the AIM Act to facilitate EPA's review of the petition. Given the relatively short 180-day statutory timeframe for EPA to grant or deny a petition, this requirement will ensure that information is available to EPA at the start of its review, to the extent the petitioner has relevant available information. EPA may deny a petition where no information has been provided that would allow the Agency to act on the petition. Therefore, petitioners must, to the extent practicable, provide best available data on substitutes that could be used in lieu of the petitioned substance(s), addressing the subfactors (*e.g.,* technological achievability, safety, commercial demands, etc.) that may affect the availability of those substitutes. Other relevant information includes estimates of the economic costs and environmental impacts of the petitioner's requested restriction on use in the sector or subsector. In particular, providing EPA with a sense of the scale of impacts (*e.g.,* whether the suggested restriction would have a significant environmental impact, or whether the suggested restriction would be likely to impose costs or savings on regulated entities or consumers) using best available, quantitative, accurate data to support that assessment will be more likely to result in a timely, well-reasoned response to the petitioner's request. One commenter suggested that EPA require that petitions include information on the expected outcome of requests made in the petition with respect to the consumption and emissions of regulated substances. The commenter indicated that this could be done by sharing assumptions regarding equipment charge size, leak rate, lifespan, and national sales. While EPA agrees that this information may be useful for assessing petitioners' requests as they relate to environmental impacts and other (i)(4) factors, the Agency disagrees that this information should be a mandatory element of the petitions, as many petitioners may not know the expected outcome of their petition requests as it relates to the consumption and emissions of regulated substances.

B. What happens after a petition is submitted?

Subsection (i)(3)(C)(iii) instructs EPA to make petitions publicly available within 30 days after receipt. EPA intends to continue to post technology transitions petitions at *www.regulations.gov,* in Docket ID No. EPA–HQ–OAR–2021–0289, as well as on the Agency's website at *https://www.epa.gov/climate-hfcs-reduction/technology-transition-petitions-under-aim-act.* Making the petitions available

[32] 81 FR 32244 (May 23, 2016).

[33] 84 FR 64766 (November 25, 2019).

allows the public to provide additional data and relevant material to aid in EPA's evaluation of petitions, based on the factors specified in subsection (i) of the AIM Act.

In accordance with the statutory directive, EPA intends to act on petitions no later than 180 days after the date of receipt of the petition. In making a determination to grant or deny a petition, subsection (i)(4) of the AIM Act requires EPA to consider, to the extent practicable:

1. The best available data;

2. The availability of substitutes for use of the regulated substance that is the subject of the rulemaking or petition, as applicable, in a sector or subsector, taking into account technological achievability, commercial demands, affordability for residential and small business consumers, safety, consumer costs, building codes, appliance efficiency standards, contractor training costs, and other relevant factors, including the quantities of regulated substances available from reclaiming, prior production, or prior import;

3. Overall economic costs and environmental impacts, as compared to historical trends; and

4. The remaining phase-down period for regulated substances under the final rule issued under subsection (e)(3) of the AIM Act, if applicable.

Subsection (i)(4) applies both to EPA's action on subsection (i) petitions and to EPA's rulemakings under subsection (i). Requiring EPA to grant or deny petitions within 180 days of receipt inherently limits the scope and depth of any potential analysis. EPA's timeframe for promulgating a rule subject to a granted petition is two years from the date of a petition grant, and in undertaking a rulemaking the Agency will undoubtedly be able to perform a more in-depth analysis of the (i)(4) factors. Granting a petition under subsection (i) of the AIM Act therefore does not necessarily mean the Agency will propose or finalize requirements identical to a petitioner's request. Rather, granting a petition means that the requested restriction warrants further consideration through rulemaking. During this rulemaking process, EPA will determine what restrictions on the use of HFCs to propose and finalize based on multiple considerations, including its consideration of the ''Factors for Determination'' listed in subsection (i)(4) to the extent practicable. This approach provides interested stakeholders with the opportunity to review and comment on a regulatory proposal restricting the use of HFCs prior to restrictions going into effect.

C. Can I revise or resubmit my petition?

Receipt of a completed petition triggers two statutory deadlines: the posting of the petition within 30 days and the granting or denying of the petition within 180 days. Because there is little purpose in EPA continuing to take action on the original petition when the petitioner has revised (*i.e.,* makes edits to an original request) or resubmitted (*i.e.,* makes edits to an original request and presents it as a new petition) it, EPA's view is that a petition revision or resubmittal made by petitioners is typically intended to supersede or replace the original petition and would thus restart these timelines. However, depending on the timing of the resubmission and the nature of the revision and the request, EPA may be able to act more quickly on a revised or resubmitted petition, for example, if the Agency had already developed familiarity with the request through its consideration of the original petition. Therefore, EPA intends to address petition revisions and resubmittals on a case-by-case basis. If petitioners do not intend for their submission to supersede or replace their original petition, rather they are submitting information to revise or augment their initial petition without significantly altering its scope, they should be clear that they are submitting supplemental or clarifying information regarding their petitions to the docket related to petitions under consideration. On a case-by-case basis the Agency will consider and act accordingly on supplemental or clarifying information as part of its consideration of the initial petition. If EPA finds that in fact what was submitted constitutes a new petition or revised petition, new timelines will apply. In making a determination to grant or deny petitions, EPA plans to consider relevant and timely information provided in this docket, as the Agency did with the granted petitions that led to this rulemaking, including information provided by petitioners and from other stakeholders, for those petitions under review. Once a petition is granted or denied, any revised or resubmitted petitions will likely be treated as a new petition.

V. How is EPA considering negotiated rulemaking?

This section provides a summary of the AIM Act's directive to consider negotiating with stakeholders prior to proposing a rule under subsection (i) of the Act. This section also provides information regarding how EPA intends to consider negotiating with stakeholders for future rulemakings.

A. Summary of the AIM Act's Directive on Negotiated Rulemaking

Prior to proposing a rule, subsection (i)(2)(A) of the Act directs EPA to consider negotiating with stakeholders in the sector or subsector subject to the potential rule in accordance with negotiated rulemaking procedures established under the ''Negotiated Rulemaking Act of 1990.'' If EPA makes a determination to use the negotiated rulemaking procedures, subsection (i)(2)(B) requires that EPA, to the extent practicable, give priority to completing that rulemaking over completing rulemakings under subsection (i) that are not using that procedure. For additional information on negotiated rulemaking procedures, see 5 U.S.C. 563. If EPA does not use the negotiated rulemaking process, subsection (i)(2)(C) requires the Agency to publish an explanation of the decision to not use that procedure before commencement of the rulemaking process.

B. How does EPA intend to consider negotiating with stakeholders under the AIM Act?

Prior to proposing this rulemaking, EPA issued a document informing the public of the Agency's consideration of using the negotiated rulemaking procedure and the Agency's decision to not use these procedures for this rulemaking (86 FR 74080, December 29, 2021). The Agency found that using negotiated rulemakings was not in the best interest of the public and thus decided not to use negotiated rulemaking. In making this decision, EPA considered information provided by the petitions, including statements made by petitioners on the use of negotiated rulemaking procedures, and information provided by other stakeholders on the petitions. The Negotiated Rulemaking Act of 1990, 5 U.S.C. 563, provides seven criteria that the head of an agency should consider when determining whether a negotiated rulemaking is in the public interest. These criteria are informative for purposes of making a determination under AIM Act subsection (i) of whether to use the procedures set out in the Negotiated Rulemaking Act for proposed rulemakings and therefore, also considered these criteria in its decision.

Going forward, EPA intends to use a similar process in making its determination on whether to use negotiated rulemaking procedures for any rulemaking being considered under subsection (i) in response to granted

petitions. This includes reviewing the petitions themselves and statements from petitioners on the use of negotiated rulemaking procedures, considering information provided by stakeholders commenting on petitions, and considering the seven criteria listed in the Negotiated Rulemaking Act of 1990, 5 U.S.C. 563, that the head of an agency should consider when determining whether a negotiated rulemaking is in the public's interest. For rulemakings initiated by EPA (*i.e.,* not in response to granted petitions), EPA anticipates that our review would focus on just these seven criteria.

Furthermore, where appropriate, EPA will also consider recent Agency actions and decisions related to restrictions on the use of HFCs in sectors and subsectors for its consideration on using negotiated rulemaking procedures. For example, EPA received four petitions that were not included in the Agency's consideration of using negotiated rulemaking procedures for petitions granted on October 7, 2021.[34] However, these petitions requested restrictions on the use of HFCs in the same sectors and subsectors covered by petitions granted on October 7, 2021, for which EPA made a determination not to use negotiated rulemaking. Subsection (i)(2)(A) states that, ''[b]efore proposing a rule for a sector or subsector under paragraph (1), the Administrator shall consider negotiating with stakeholders in the sector or subsector subject to the potential rule . . .'' EPA will not issue a separate notice to consider using negotiated rulemaking for these four petitions because these petitions were received well ahead of this final action, and the requested restrictions are in the same sectors and subsectors contained in petitions granted on October 7, 2021, for which the Agency considered and decided not to use negotiated rulemaking procedures. Nothing in these four petitions caused EPA to reconsider that decision. Therefore, it is unnecessary for the Agency to reconsider whether to use negotiated rulemaking procedures for this rulemaking. EPA encourages future petitioners to consider petitions under review or recently granted before submitting a new petition and to consider submitting information to the docket for an existing petition in lieu of submitting a new petition on the same uses of HFCs that are already under consideration by the Agency.

One commenter requested that EPA conduct a negotiated rulemaking in instances where the Agency grants a petition but then would seek to propose more stringent aspects of the request, such as an earlier compliance date or lower GWP limit. EPA disagrees with this comment. A decision by the Agency to grant, or partially grant, a petition under subsection (i) of the AIM Act does not mean the Agency must propose requirements identical to a petitioner's request. Rather, granting a petition means that the requested restriction warrants further consideration through rulemaking. Furthermore, given the interests of all stakeholders including potentially other petitioners, it would not be appropriate to consider a negotiated rulemaking only when EPA is considering a more stringent proposal. EPA therefore may consider whether any deviation from a petition merits a negotiated rulemaking in its analysis of the public's interest, but a deviation on its own is insufficient to require the Agency to do so.

VI. How is EPA restricting the use of HFCs?

This section details the Agency's restrictions on the use of HFCs in accordance with the granted petitions, including defining terms that are new to 40 CFR part 84; describing the form and applicability of the prohibitions; providing EPA's interpretation and application of the ''Factors for Determination'' contained in subsection (i)(4) of the AIM Act; and listing the specific restrictions on the use of HFCs by sector and subsector.

A. What definitions is EPA establishing in subsection (i)?

The Allocation Framework Rule established regulatory definitions at 40 CFR part 84, subpart A to implement the regulatory phasedown of HFCs under the AIM Act. To maintain consistency, except as otherwise explained in this rule, EPA intends to use terms in this rulemaking, and in the new subpart B established by this rule, as they were defined in the Allocation Framework Rule. Thus, for terms not defined in this subpart but that are defined in 40 CFR 84.3, the definitions in 40 CFR 84.3 shall apply. EPA is also establishing definitions for new terms that are applicable to 40 CFR part 84, subpart B and do not have a counterpart in the definitions under 40 CFR part 84, subpart A.

1. Export, Exporter, Import, and Importer

A few terms (export, exporter, and importer) currently exist in 40 CFR 84.3 in the context of bulk regulated substances. EPA is establishing definitions under subpart B for those terms to clarify how they apply under subpart B to regulated substances that are used in equipment subject to this rule.

Export. For purposes of subpart B, EPA is defining this term to mean the transport of a product or specified component using a regulated substance from inside the United States or its territories to persons outside the United States or its territories, excluding United States military bases and ships for onboard use.

Exporter. For purposes of subpart B, EPA is defining this term to mean the person who contracts to sell any product or specified component using a regulated substance for export or transfers a product or specified component using a regulated substance to an affiliate in another country.

Importer. For purposes of subpart B, EPA is defining this term to mean any person who imports any product or specified component using or intended for use with a regulated substance into the United States. Importer includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term also includes:

(1) The consignee;

(2) The importer of record;

(3) The actual owner; or

(4) The transferee, if the right to withdraw merchandise from a bonded warehouse has been transferred.

This definition of importer, specifically paragraphs (3) and (4), varies in non-substantive ways from that in subpart A of 40 CFR part 84 to align with the definition of ''importer'' at 19 CFR 101.1. No difference in interpretation between subparts is intended. As EPA explained in the Allocation Framework Rule, whether products using or containing HFCs are admitted into or exiting from a foreign-trade zone or other duty deferral program under U.S. Customs and Border Protection (CBP) regulations does not affect whether they are being imported or exported for purposes of part 84. *See* 86 FR 55133 (October 5, 2021) (discussing definitions of export and import under 40 CFR 84.3).

Comment: Some commenters requested that EPA narrow the scope of the term ''import'' to exclude a transportation vehicle in international service, such as refrigerated containers

[34] These petitions were received from AHRI and IIAR and are discussed in section VI.D of this preamble. Copies of these petitions are located at *www.regulations.gov,* under Docket ID No. EPA–HQ–OAR–2021–0289, or at *https://www.epa.gov/climate-hfcs-reduction/technology-transition-petitions-under-aim-act.*

that are imported into the United States and intended for export. Another commenter requested that the definition of import include equipment that was intended to be imported by the date but was delayed by weather or port delays.

Response: EPA disagrees with these suggestions. Congress defined ''import'' for purposes of the AIM Act in subsection (b)(6) as ''to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, regardless of whether that landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.'' The Agency did not propose to redefine that term in this subpart. EPA addresses the concern raised by the first commenter in Section VI.C.2.a. Furthermore, to be consistent with subpart A of part 84, EPA considers the date of import to be the time a ship berths for vessel arrivals, border crossings for land arrivals, and first point of terminus in U.S. jurisdiction for arrivals via air. Determining an importer's intent for their timing, which frequently can change, would be challenging for the Agency to determine and enforce.

2. Blend Containing a Regulated Substance, Sector, Subsector, and Substitute

EPA is finalizing definitions for these four terms as proposed. The Agency did not receive comment recommending changes.

Blend containing a regulated substance. EPA is establishing restrictions on the use of HFCs, whether neat or used in a blend. Blends containing a regulated substance are used in multiple sectors and subsectors including refrigeration, air conditioning and heat pumps, foams, and fire suppression. EPA is defining this term as ''any mixture that contains one or more regulated substances.'' EPA considers any quantity of a regulated substance within a mixture to qualify the mixture as a ''blend containing a regulated substance.'' A blend that uses one or more regulated substances is itself not a regulated substance. Rather, the use restrictions apply to the regulated substance(s) used in certain blends, such that the use restriction on the regulated substance(s) also affects use of that blend. Most HFCs used in the sectors and subsectors addressed by this rule are components of blends that contain other HFCs, HFOs, and hydrocarbons. As discussed in section IV.A, where the proportion of a regulated substance multiplied by its GWP, along with the proportion of the other components multiplied by their respective GWPs, causes the blend to exceed the GWP limit, the use of that HFC in that blend is prohibited.

Sector. EPA is defining this term as ''a broad category of applications including but not limited to: refrigeration, air conditioning and heat pumps; foams; aerosols; chemical manufacturing; cleaning solvents; fire suppression and explosion protection; and semiconductor manufacturing.'' These categorizations and groupings are similar to how the term ''sector'' is used in other contexts, such as EPA's Significant New Alternatives Policy (SNAP) Program, the Montreal Protocol Parties' Technology and Economic Assessment Panel (TEAP), and EPA's Vintaging Model. Entities potentially subject to rulemakings under subsection (i) of the AIM Act are often the same entities affected by CAA title VI, including the CAA section 612 SNAP program, and may be familiar with the way EPA traditionally categorizes and groups sectors in that context. The TEAP is a globally recognized advisory body to the Montreal Protocol Parties, which provides technical information related to alternative technologies that use HFCs in sectors and subsectors. Entities with a global market presence and other stakeholders may be familiar with how the TEAP defines sectors, and EPA's definition of sector is relatable to their understanding of the term.

Subsector. EPA is defining this term as ''processes, classes of applications, or specific uses that are related to one another within a single sector or subsector.'' Where appropriate, each sector can be subdivided into different subsectors that more narrowly highlight how the HFC is used. Entities potentially subject to rulemakings under subsection (i) of the AIM Act are often the same entities affected by CAA title VI, including the CAA section 612 SNAP program, and may be familiar with the way EPA categorizes and groups sectors and subsectors in that context. The term ''subsectors'' includes the concepts of ''end-uses'' and ''applications'' under SNAP (40 CFR 82.172). An example subsector is cold storage warehouses within the RACHP sector. Another example is the integral skin polyurethane subsector within the foams sector.

Substitute. EPA is defining this term as ''any substance, blend, or alternative manufacturing process, whether existing or new, that may be used, or is intended for use, in a sector or subsector with a restriction on the use of regulated substances and that has a lower global warming potential than the GWP limit or restricted list of regulated substances and blends in that sector or subsector.'' Under this definition, substitutes include regulated substances (*e.g.,* HFC–32 used in lieu of R–410A in commercial unitary AC), blends containing regulated substances (*e.g.,* R–454B used in lieu of R–410A in residential unitary AC), blends that do not use a regulated substance (*e.g.,* R–441A used in lieu of R–410A in window ACs), substances that are not HFCs (*e.g.,* HFOs, hydrocarbons, R–717, and R–744 (CO_2)), and not-in-kind technologies (*e.g.,* finger-pump bottles in lieu of aerosol cans, or vacuum panels in lieu of foam insulation).

3. Manufacture, Install, and System

Many commenters expressed concerns about the proposed definitions for the terms ''manufacture'' and ''products.'' For the reasons discussed in this section, EPA is distinguishing in this final rule between factory-completed and field-assembled appliances by defining and using the terms ''products'' and ''systems,'' respectively. EPA is also distinguishing between the ''manufacture'' of products, which occurs in a factory, and the ''installation'' of systems, which occurs in the field. Together these changes more clearly represent the intent of the restrictions using more familiar terminology.

EPA proposed to define ''manufacture'' as ''to complete a product's manufacturing and assembly processes such that it is ready for initial sale, distribution, or operation. For equipment that is assembled and charged in the field, manufacture means to complete the circuit holding the regulated substance, charge with a full charge, and otherwise make functional for use for its intended purpose.'' This proposed definition was intended to apply similarly to how EPA applied this term in certain other use restrictions under title VI of the CAA and 40 CFR part 82. EPA had previously established restrictions on products, including appliances, foams, and aerosols under section 610 of the CAA (Nonessential Products Bans). EPA also established use prohibitions under section 605(a) of the CAA that addressed the use of certain ODS as a refrigerant in the manufacture of new appliances, including field-charged appliances. *See e.g.,* 40 CFR 82.15(g)(4)(i), 40 CFR 82.15(g)(5)(i); *see also* 74 FR 66437 (December 15, 2009) and 85 FR 15267 (March 17, 2020) (describing the use restriction and when a field-charged appliance is manufactured). Because those restrictions bear certain similarities to the proposed restrictions under subsection (i), EPA looked to its

past experience in implementing those provisions in defining ''manufacture.''

Comment: Commenters were generally supportive of the first sentence of the proposed definition of ''manufacture'' as applied to factory-completed products. Most of those who commented on the proposed definition expressed concerns about the second sentence, which would apply to field-assembled equipment. These included concerns that the definition would effectively accelerate the timeline of the prohibition and render the one-year sell-through moot. Commenters stated that the Agency should be placing the prohibition on the manufacture of components that would later be assembled and not the installation. Commenters also suggested EPA use the approach taken by California in defining ''date of manufacture.'' In California, the date of manufacture for chillers and air-conditioning and refrigeration equipment that is not assembled on site is ''the date that the manufacturer affixed an equipment label indicating the equipment's date of manufacture.'' For refrigeration and air-conditioning equipment completed on site, the date of manufacture is ''the date that the refrigerant circuit was completed and initially filled with refrigerant.'' One equipment manufacturer urged harmonizing the Federal and California definitions to simplify manufacturers' obligations and reduce inadvertent noncompliance. The commenter noted that the definition resulted from substantial regulated industry discussions with and comments to the California Air Resources Board (CARB) during the State rulemaking process. Commenters acknowledged the need to address installation of field-charged equipment, but one commenter asserted that using the term ''manufacture'' created confusion about which entity would be considered the manufacturer of field-charged equipment, who would be both affected by the prohibition and subject to recordkeeping and reporting obligations.

Response: EPA is finalizing the term ''manufacture'' so as to only include the first sentence, but is modifying the definition to include specified components for reasons discussed in the next section. Therefore, manufacture means: ''to complete the manufacturing and assembly processes of a product or specified component such that it is ready for initial sale, distribution, or operation.''

This final rule also establishes and defines a separate term for ''install'' to replace the term ''manufacture'' for systems assembled in the field. EPA discussed in the proposed rule that a field-charged system is ''manufactured at the point when *installation* of all the components and other parts are completed'' (emphasis added). Providing a separate term will reduce confusion, improve implementation, and allow the Agency to better address the commenters' concerns.

Though a new term, the definition for ''install'' is substantively similar to the second sentence of the proposed definition of ''manufacture.'' EPA is defining ''install'' as ''to complete a field-assembled system's circuit, including charging with a full charge, such that the system can function and is ready for use for its intended purpose.'' As stated in the proposed rule, this definition is intended to address field-charged equipment beyond appliances in the RACHP sector to include fire suppression systems or other systems that are assembled and charged on-site. EPA appreciates the commenter's desire to harmonize State and Federal regulations where possible. However, EPA is not establishing definitions for ''date of manufacture'' of various systems in this final rule as they do not necessarily align with the structure of this regulation. EPA also does not find it necessary to specify the exact date of manufacture because compliance is determined by the year of manufacture. EPA discusses the adoption of other aspects of California's approach in section VI of this notice.

The definition of ''install'' includes references to ''systems'' to distinguish equipment assembled in the field from those made in a factory. One commenter recommended that the Agency include a definition of ''appliance.'' EPA agrees with the need to distinguish field-assembled and factory-made equipment but disagrees that using the term appliance is the correct approach, as it can include both factory-charged and field-charged equipment. To better support the distinction, EPA is finalizing the term ''system'' and defining it as ''an assemblage of separate components that typically are connected and charged in the field with a regulated substance or substitute to perform a function or task.'' This new definition pertains to the system as a whole (*e.g.,* supermarket or industrial process refrigeration (IPR)) from the components assembled into a system (*e.g.,* evaporator or reach-in cooler).

4. Product, Regulated Product, Specified Components

As with the term manufacture, EPA based the proposed definition of ''product'' on the regulations established under title VI of the CAA in 40 CFR part 82, subparts C and E. EPA stated in the proposed rule that the Agency's view of what constitutes a product for purposes of use restrictions under subsection (i) mirrors its meaning under those provisions and that using the same definition would provide clarity for the regulated community.

Comment: A few commenters stated that the proposed definition of ''product'' was too broad and would place all forms of regulated categories into one definition from large refrigeration equipment to aerosol cans containing a few ounces of propellant. Other commenters expressed concern about including components and subcomponents as examples within the definition of product. They noted that restricting components in the same manner as a completed product would prevent the manufacture or later sale of parts for normal service and warranty purposes. One commenter noted that the term ''product'' does not account for complex equipment that incorporates components using regulated substances (*e.g.,* process chillers) within much larger equipment and requested clarification.

Response: EPA agrees that including components within the definition of product, and thus the restrictions thereof, would hinder the manufacture and import of replacement parts intended for repairs. These restrictions could also unintentionally impact components that are capable of being used with multiple refrigerants or across multiple subsectors and thus are permissible in some new systems as well. EPA did not intend to restrict the manufacture, import, and sale of components in the same manner as completed products or the installation of new systems. EPA is therefore removing the examples of ''components and subcomponents'' from the final definition of ''product.'' EPA is also removing ''equipment'' as an example because this rulemaking uses that as a general term to broadly encompass items in addition to products (*e.g.,* systems, components, appliances) and not as a subset.

EPA is clarifying that the definition of ''product'' pertains to equipment that is completed or otherwise functional upon leaving the factory. This includes self-contained refrigeration and air conditioning appliances; foam that is blown; a manufactured item containing blown foam such as an appliance, car, or boat; a fully formulated polyol; [35] and

[35] The Foams Technical Options Committee advising the Parties to the Montreal describes the term ''fully formulated polyol'' to mean a blend of polyols with a variety of additives such as catalysts, surfactants, water, flame retardants (not typically in

Continued

filled aerosols. When products are incorporated into larger equipment, the new, larger equipment is subject to this rule. Thus, a manufactured item such as a refrigerator that contains insulation foam or a car that contains a motor vehicle air conditioner (MVAC) is subject to the restrictions of this rule, as are process chillers, when incorporated into larger equipment. The final definition of product also modifies the examples of fire suppression systems and foam blowing systems to avoid conflict with the new definition of ''system'' the Agency is finalizing.

EPA is defining the term ''product'' as ''an item or category of items manufactured from raw or recycled materials which performs a function or task and is functional upon completion of manufacturing. The term includes, but is not limited to: appliances, foams, fully formulated polyols, self-contained fire suppression devices, aerosols, pressurized dispensers, and wipes.''

In removing components from the term ''product,'' the Agency does not intend to remove components from all provisions of this rule. For example, remote condensing units used for retail food refrigeration is one of the subsectors subject to a GWP limit in this rule. A single component may also be a major element of the entire system, such as a remote condensing unit for residential split system air conditioning. One commenter requested that EPA add a definition for ''component'' and clarify that it is any and all equipment required for the refrigeration system to function properly. The commenter suggested this would include but not be limited to display cases, condensing units, condensers, compressors, compressor rack systems, evaporator units, evaporators, piping, filter dryers, valves, etc.

To allow the Agency to better describe how the restrictions apply to different equipment types, EPA is establishing the term ''specified component.'' EPA declines to finalize the definition requested by the commenter because it broadly describes how a component functions and the concept merits public input depending on the policy goals. For example, refrigerant piping or thermal expansion valves are components needed for a system to function. However, thermal expansion valves contain small amounts of refrigerant and operate differently from other components on the circuit. Refrigerant piping may not be replaced during a repair given it is not refrigerant specific and may be inaccessible. Instead, EPA is specifying components that are the major mechanical elements of all RACHP systems. These components tend to be replaced over the life of a system, are often refrigerant-specific, and can contain larger amounts of refrigerant when manufactured or imported. EPA is defining ''specified component'' as ''for purposes of equipment in the refrigeration, air conditioning, and heat pump sector, means condensing units, condensers, compressors, evaporator units, and evaporators.'' These components also align with those specified in section VI.C regarding what level of modification of a system effectively constitutes a ''new'' system subject to the GWP limits.

EPA also proposed to establish a defined term, ''regulated product,'' that would broadly encompass all equipment that uses HFCs, whether they are higher-GWP HFCs that are prohibited or lower-GWP HFCs that are subject to labeling and reporting provisions. EPA is electing not to finalize this definition.

5. Retrofit

The AIM Act defines ''retrofit'' in subsection (i)(7) as ''to upgrade existing equipment where the regulated substance is changed, which—(i) includes the conversion of equipment to achieve system compatibility; and (ii) may include changes in lubricants, gaskets, filters, driers, valves, o-rings, or equipment components for that purpose.'' EPA is adopting the definition contained in subsection (i)(7)(A) of the AIM Act with the addition of examples of equipment. The definition in the AIM Act is similar to but broader than EPA's definition of retrofit that was codified in 40 CFR part 82, subpart F. The AIM Act definition refers to ''regulated substance'' and ''equipment,'' whereas the regulatory definition in 40 CFR part 82 refers to ''refrigerant'' and ''appliances.'' As such, in this context, EPA finds it reasonable to interpret this term as applying not just to refrigeration and air-conditioning appliances, but all equipment that uses a regulated substance. EPA is adding a non-inclusive list of examples—such as air conditioning and refrigeration, fire suppression, and foam blowing equipment—recognizing that petitioners may seek, or EPA may establish, restrictions on other types of equipment using HFCs in the future.

One commenter recommended that the definition of ''retrofit'' not be limited to just a refrigerant change as that will allow piece-meal system replacements without moving from a high-GWP refrigerant. The commenter suggested that a system be considered retrofitted after a threshold number of components are replaced. EPA disagrees with the comment that a retrofit be triggered without replacing the refrigerant type. As noted, the statutory definition contained in subsection (i)(7)(A) of the AIM Act is predicated on a change in refrigerant, and it reasonable to maintain this condition when the equipment uses a refrigerant.

6. Use

EPA proposed to define this term as ''for any person to take any action with or to a regulated substance, regardless of whether the regulated substance is in bulk, contained within a product, or otherwise, except for the destruction of a regulated substance. Actions include, but are not limited to, the utilization, deployment, sale, distribution, offer for sale or distribution, discharge, incorporation, transformation, or other manipulation.''

Comment: Many commenters stated that EPA's proposed definition of the term ''use'' is overly broad and inappropriately allows the Agency to regulate the sale or distribution of products. Another commenter was concerned that the definition could extend liability to importers and distributors of bulk HFCs when used in non-compliant products even though that is outside of their control. One commenter stated that the full definition of 'use' is only clear in the context of the additional discussion in the Applicability section and recommended that elements of that discussion be added to the definition. Specifically, the commenter stated it would be useful to distinguish actions that occur at the market or industry level, as was intended, from the operation of equipment by an owner. Another commenter noted that while ''use'' is not synonymous with sale or distribution, ''use'' is closer to the point in time when a product is sold and received by the ultimate customer rather than the point in time when the product is manufactured and that EPA's restriction on the manufacture of a product bears little relationship to when products containing HFCs will actually be used by their owners.

Response: EPA fully responds to these comments in section VI.C of this notice.

7. Other

Many commenters requested EPA to establish definitions clarifying when an appliance is newly manufactured and/or newly installed and thus subject to the GWP-limits. Commenters explicitly or

appliances), including the blowing agent. UNEP, 2010. Guidance on the Process for Selecting Alternatives to HCFCs in Foams.

indirectly referenced terminology used in California's regulations for ''new refrigeration equipment,'' ''new air conditioning equipment,'' and ''new facility,'' as well as ''date of manufacture of self-contained equipment'' and ''date of manufacture of remote equipment.'' Another commenter requested EPA define ''new'' to match the methodology used in New York State. EPA responds to these comments in section VI.C of this notice.

B. How is EPA restricting the use of HFCs in the sector or subsector in which they are used?

Subsection (i) authorizes EPA to by rule restrict, fully, partially, or on a graduated schedule, the use of a regulated substance in the sector or subsector in which the regulated substance is used. The provision grants EPA authority to fashion restrictions on the use of regulated substances in the sectors that use those substances and does not specify a particular approach as to how restrictions must be structured but lists considerations EPA is to factor in, to the extent practicable, when promulgating restrictions. EPA is finalizing two approaches to structuring those restrictions, a GWP-limit and a list of prohibited regulated substances or blends, while recognizing that other approaches could be considered in the future that would also fit within the authority granted by this statutory provision. EPA also proposed to prohibit the use of all regulated substances in new products within particular subsectors, but some commenters noted that the Agency generated confusion by imprecisely describing it as a GWP-limit of zero. As discussed in Section VI.F.3, EPA is not finalizing an approach that completely prohibits the use of regulated substances in new products in any sector or subsector in this rulemaking and again maintains that the Agency has the authority to do so in a subsequent rulemaking.

In establishing the two approaches contained in this final rule, EPA has taken into account the statutory text, feasibility, consistency with similar programs being implemented in the States and internationally, impacts on the regulated community and on innovation, efficiency of implementation, and other factors. Subsection (i)(4)'s ''Factors for Determination'' provides factors that EPA is to consider ''[i]n carrying out a rulemaking'' under subsection (i)(1). As a general matter, we interpret subsection (i)(1) to apply where EPA is deciding *whether* to impose a restriction on the use of a regulated substance in a sector or subsector and *what* that restriction should be (*e.g.,* a full restriction or a partial restriction and on what timeframe). However, the factors listed in subsection (i)(4) are also informative in our consideration of how to structure restrictions, as some approaches may provide advantages with respect to some of the factors over others.

Furthermore, while subsection (i)(1) identifies that EPA may restrict the use of a regulated substance ''in the sector or subsector in which the regulated substance is used,'' given EPA's authority to issue partial restrictions, EPA interprets this provision as allowing the Agency to establish restrictions for particular uses of HFCs, such as products or applications, and that such restrictions need not apply uniformly across entire sectors or subsectors. Interpreting EPA's authority in this manner allows the Agency to tailor restrictions in accordance with the best available data and to consider relevant differences in, for example, the availability of substitutes with respect to technological achievability or affordability. For example, EPA is establishing restrictions for HFCs used in chillers for IPR. However, EPA is excluding chillers for IPR with exiting fluid temperatures less than −58 °F because lower-GWP substitutes for HFCs are not yet adequately technologically achievable and therefore not available at this time.

The two approaches to structuring subsection (i) restrictions used in this rule were identified in the petitions granted by the Agency to date. They are either to set GWP limits for HFCs used within a sector or one or more subsectors or to restrict specific HFCs, whether neat or used in a blend, by sector or one or more subsectors.[36] EPA is primarily employing the GWP limit approach in this rulemaking, with some exceptions where the specific-listing approach is more appropriate.

For most sectors and subsectors in this rule, EPA is establishing GWP limits for HFCs, whether neat or used in a blend. Under this approach only HFCs with GWPs below the limit or HFCs used in blends with GWPs below the limit may be used in that sector or subsector. If used neat, HFCs with GWPs at or above the GWP limit are prohibited from use in that sector or subsector. For HFCs used in a blend in the sector or subsector, compliance with the GWP limit is determined based on the GWP of the blend. If a blend meets two criteria (it contains an HFC and the GWP of the blend is at or above the GWP limit) the HFCs in the blend are subject to the prohibition on use, and accordingly the blend may not be used in that sector or subsector. References and descriptions of how the restrictions apply to blends throughout this notice incorporate this framework and have only been shortened for readability. A blend or other substitute that does not contain a regulated substance is not subject to the GWP limit.

In general, this approach also provides a more efficient and streamlined process for companies to employ lower-GWP substitutes for new uses, because the existing restrictions make clear what substitutes are permissible. In contrast, promulgating restrictions under subsection (i) using only a substance-specific listing approach could create hesitancy to innovate because it would be less clear whether EPA might restrict a particular blend containing an HFC *after* a company had already invested resources in developing it for a particular use.

To determine the GWP of a blend that uses an HFC, all components of the blend are incorporated, whether an HFC, HFO, hydrocarbon or other constituent, using the 100-year integrated AR4 values.[37] We note that the 100-year integrated GWP values in Table 2.15 of AR4 for the HFCs are equivalent to the exchange values listed in the AIM Act and thus what we plan to use here without change. Further details about determining the GWP of compounds that are not listed in AR4 are found in section IV.A of this preamble.

For refrigerants, the blend includes the components in amounts as a weight percentage, consistent with the refrigerant designation in ASHRAE Standard 34, ''Refrigerant Designations and Safety Classifications'' or the SNAP listing. The refrigerant blend considered in the GWP calculation does not include other additives such as compressor oil or stabilizers. For foams, the blend includes components that are part of the blowing agent as a weight percentage. The blowing agent blend considered in the GWP calculation does not include other parts of the foam formulation such as plastic resin, catalysts, flame retardants, or stabilizers. In general, aerosols do not use blends as propellants, but multiple HFCs may be used together in an aerosol solvent

[36] The restrictions on the use of an HFC under subsection (i) of the AIM Act established in this rulemaking are intended to complement and not conflict with existing restrictions established through other authorities. Other authorities still apply.

[37] This rule does not change in any way the calculation established under 40 CFR part 84, subpart A for determining the quantity of production and consumption allowances required for regulated substances used in blends.

blend, in which case the blend would include the component solvents and propellants in amounts as a weight percentage. Other parts of the aerosol formulation are not considered in calculating the aerosol's GWP, such as water, fragrances, emulsifiers, pigments, anti-bacterial agents, pesticides, or polymers.

In most cases it is the specific HFC and the proportion of that HFC within the blend that determines the GWP of the blend as a whole. EPA is not restricting the use of any specific HFC when used in blends. For instance, for sectors or subsectors with a GWP limit of 150, HFC–134a neat, which has a GWP of 1,430, cannot be used, while R–451A, which is a blend of HFC–134a and HFO–1234yf, has a GWP of 147 and may be used. In other words, an HFC with a GWP above the limit may continue to be used when it is used in a blend, such that the total GWP of the blend is below the limit. There may be certain characteristics associated with a higher-GWP HFC that make use of that substance in a blend particularly advantageous, and in some cases increase the availability of that substitute for use, such as improving safety by reducing flammability. The GWP limit approach, which allows for the continued use of certain higher-GWP substances in blends, rather than strictly prohibiting the use of those higher-GWP substances in a sector or subsector, can smooth the glide path to transition, support innovation, and achieve beneficial environmental impacts sooner than waiting for the development of a substitute that contains no amount of a higher-GWP regulated substance.

Comment: Multiple commenters, including those representing users of regulated substances across different sectors, agreed that establishing GWP limits provides regulatory certainty and encourages the continued development and implementation of HFC substitutes with lower GWPs. A few commenters agreed that using a similar approach allows for harmonization across jurisdictions. Commenters also noted that using GWP limits is easy for downstream equipment users to understand, easier for the Agency to implement, and provides flexibility. One commenter supported GWP limits as it more clearly articulates EPA's intention to reduce the warming impact of HFCs and that it provides a more straightforward way for EPA to tighten restrictions by ratcheting down the GWP limits in the future.

One commenter strongly favored the specific-listing approach over the GWP limit approach. The commenter stated that the GWP limit approach poses huge noncompliance issues and dangers to users of products containing regulated substances by shifting the obligation to assess the safety of a substitute to the end-user. The commenter noted that the basis for their concern is that the Agency would no longer update SNAP listings. The commenter also recognized the downsides of a specific-listing approach but still found specific-listing to be preferable if the GWP approach meant the Agency was not assessing the risks associated with substitutes.

Response: EPA acknowledges the broad support for using GWP limits as the method for restricting the use of certain HFCs by sector or subsector and for the reasons discussed in the proposed rule is primarily using that approach in this final rule. Additionally, the GWP listing approach is not a replacement for SNAP listings or reviews of environmental, health, and safety impacts. Congress provided separate authority under subsection (i)(5) of the AIM Act for EPA to evaluate substitutes for HFCs in a sector or subsector, taking into account technological achievability, commercial demands, safety, overall economic costs and environmental impacts, and to make the evaluation public, including the factors associated with the safety of those substitutes. EPA intends to continue providing information on its evaluation of alternatives to HFCs.

Furthermore, contrary to commenter's suggestion, EPA continues to promulgate rules under SNAP. Section 612(c) of the CAA requires EPA to promulgate rules making it unlawful to replace ODS with any substitute that it determines may present adverse effects to human health or the environment where it has identified an alternative that (1) reduces the overall risk to human health and the environment and (2) is currently or potentially available. Section 612(c) further requires EPA to ''publish a list of (A) the substitutes prohibited under this subsection for specific uses and (B) the safe alternatives identified under this subsection for particular specific uses.'' Under SNAP, EPA evaluates substances that can be used as alternatives based on multiple criteria and accordingly lists them as acceptable, unacceptable, acceptable subject to use conditions, acceptable subject to narrowed use limits, or pending. *See* 40 CFR 82.180(a)(7) (listing criteria for review) and 40 CFR 82.180(b) (describing types of listing decisions). EPA has considered more than 500 alternatives for eight industry sectors and more than 40 end uses since 1994.[38] EPA will continue to evaluate alternatives in the sectors and subsectors where ozone-depleting substances have been and are being used.[39] EPA recently finalized SNAP Rule 25 listing lower-GWP alternatives as acceptable, subject to use conditions, for chillers–comfort cooling, residential dehumidifiers, residential and light commercial air conditioning and heat pumps. SNAP Rule 25 also listed ethylene as acceptable, subject to use conditions and narrowed use limits, in very low temperature refrigeration. (88 FR 26382; April 28, 2023). EPA also recently proposed SNAP Rule 26 which would list lower-GWP alternatives as acceptable, subject to use conditions, for retail food refrigeration, commercial ice machines, IPR, cold storage warehouses, and ice-skating rinks. (88 FR 33722, May 24, 2023). As discussed in section VI.E.2 of this preamble and the *American Innovation and Manufacturing Act of 2020—Subsection (i)(4) Factors for Determination: Safety,* referred to in this preamble as the ''Safety TSD,'' assessments of safety and other characteristics under SNAP are duly considered in our examination of availability (as it relates to safety and other factors) under AIM Act subsection (i)(4)(B).

Therefore, EPA is primarily finalizing the use restrictions in this action by employing a GWP limit approach because this approach supports innovation, transition, and compliance. Furthermore, for the reasons discussed in the proposed rule and based on the comments received, EPA is in most instances not employing a specific listing approach in its use restrictions, except in limited circumstances. For example, we find the specific listing approach can be preferable where the subsector has not yet identified favored lower-GWP substitutes to transition to, but is in a position, per subsection (i)(4), to transition away from using the highest-GWP regulated substances. It

[38] As noted in section VI.A of this preamble, there is significant overlap between the sectors and subsectors identified in this proposal and how sectors and ''end-uses'' are categorized under the SNAP program.

[39] After a court challenge, the D.C. Circuit partially vacated SNAP Rule 20 (80 FR 42870, July 20, 2015) ''to the extent it requires manufacturers to replace HFCs with a substitute substance,'' and remanded to EPA for further proceedings. *Mexichem Fluor, Inc.* v. *EPA,* 866 F.3d 451, 464 (D.C. Cir. 2017) (''*Mexichem I*''). However, the court upheld EPA's decisions in that rule to change the listings for certain HFCs in certain SNAP end-uses from acceptable to unacceptable as being reasonable and not arbitrary and capricious. *Id.* at 462–64. The same court later issued a similar partial vacatur for portions of the SNAP Rule 21 (81 FR 86778, December 1, 2016). *See Mexichem Fluor, Inc.* v. *EPA,* 760 Fed. Appx. 6 (Mem) (per curiam) (D.C. Cir. 2019) (''*Mexichem II*'').

allows additional time before establishing a GWP limit (which, to serve regulatory certainty and innovation, the Agency would prefer not to repeatedly revisit) while still restricting those substances that have the highest environmental impact. This approach would allow for the adoption of multiple transitional substitutes and allow for the development of additional substitutes before issuing a GWP-limit-based restriction. As such, EPA is using both approaches in combination, with some subsectors having a GWP limit and others where specific substances are restricted.

C. Applicability

HFCs are used in a wide variety of sectors, including refrigeration and air conditioning, foams, aerosols, and fire suppression. In these sectors, HFCs are used as a refrigerant, foam-blowing agent, solvent, propellant, and fire suppression agent and may be contained within or emitted from equipment such as a product or system. HFCs are also used in processes such as semiconductor manufacturing and chemical manufacturing. Subsection (i) of the AIM Act provides that the Administrator may by rule restrict, fully, partially, or on a graduated schedule, the use of a regulated substance in the sector or subsector in which the regulated substance is used. EPA interprets its authority under subsection (i) to cover a broad chain of sector and subsector activities associated with equipment that uses regulated substances.

EPA designed the restrictions of this rule to apply at certain points in this chain of activities, consistent with the Act's direction that EPA ''may by rule restrict, fully, partially, or on a graduated schedule.'' In light of the fact that the restrictions in this final action are the first to be issued under subsection (i), EPA views restrictions on the incorporation of higher-GWP HFCs into new products and systems and on the introduction and circulation of those products in the market as the most efficient and effective way to encourage a subsector to transition from the use of those HFCs. This rule therefore (1) restricts the use of HFCs in the manufacture and import of new products; (2) restricts the subsequent sale or distribution, offer for sale and distribution, purchase or receipt for sale or distribution, or export of those products; and (3) restricts the installation of new systems and the significant modification of existing systems.

In general, these restrictions apply primarily to original equipment manufacturers (OEMs) and importers, as these are the entities that introduce such products and components of such systems into the U.S. market. The restrictions in this rule that apply to distributors (including online platforms), retailers, and exporters are intended to reinforce the manufacture and import restrictions, and to ensure that incentives throughout the market chain are aligned toward transitioning a subsector from regulated substances where available substitutes exist. Entities that install new systems, including those that assemble, contract for, or take possession of the system are also subject to these restrictions.

EPA is cognizant of the continued need in the covered sectors and subsectors for components to service and maintain existing systems that use higher-GWP HFCs. This rule therefore allows for the continued manufacture, import, sale, distribution, and export of components, subject to labeling, reporting, and recordkeeping requirements. EPA is generally not applying restrictions on the use of HFCs in existing products or systems or used products, except, for example, in limited circumstances such as the import of used products or modification of a system to the point that it constitutes replacement (*see* section VI.C.3 of the preamble). To that end, this rule does not restrict the use of HFCs in ordinary repair and servicing of products or systems, nor is EPA applying the restrictions to the use of HFCs in retrofit applications.

1. What is EPA's statutory authority for this action?

Summary of the Proposed Rule

Subsection (i) grants EPA authority to restrict the use of a regulated substance in the sector or subsector in which the regulated substance is used, and the Act does not define ''use.'' For several reasons, summarized below, EPA proposed to define ''use'' in the context of subsection (i) as including actions taken with respect to regulated substances that occur at the market or industry level, such as manufacture, distribution, sale, and offer for sale—*i.e.,* to cover the presence of HFCs in products and processes in the U.S. market—as a way of addressing their use in sectors and subsectors. EPA's interpretation of its authority under this section is grounded in the statutory text and purposes.

First, sectors and subsectors are not defined in the AIM Act, but those terms suggest groupings or categories of related activity at an industry level. EPA is defining ''sectors'' and ''subsectors'' consistent with historical usage of those terms in other programs—grouping together similar or related industrial or market uses into distinct sectors; for example, refrigeration and air conditioning, foams, or aerosols. The AIM Act language, ''use of a regulated substance in the sector or subsector in which the regulated substance is used,'' makes plain that the grant of authority under subsection (i) was intended to cover a *sector or subsector's use* of a regulated substance. The inclusion of a regulated substance in a product [40] or system to achieve a particular purpose—*e.g.,* using an HFC as a refrigerant in a refrigerator or in an air conditioner—is a prototypical use for sectors in which regulated substances are used.

Second, because subsection (i) and the subsection (i)(4) factors are focused on broad, sector-level information, we proposed that it is reasonable to interpret ''use'' broadly, in a way that would reach uses on a sector-level basis. The subsection is titled ''Technology Transitions,'' and in subsection (i)(4), the Act directs EPA to consider certain factors, to the extent practicable, in issuing a rulemaking or making a determination to grant or deny a petition regarding use restrictions. The factors listed under subsection (i)(4) task the Agency with examining information relevant to industry-level sectors or subsectors that would inform consideration of the feasibility and advisability of establishing requirements for a transition away from the use of a regulated substance in that sector or subsector, as well as consideration of whether that transition should be full, partial, or on a graduated schedule. For example, subsection (i)(4)(B) directs EPA to factor in ''the availability of substitutes for use of the regulated substance that is the subject of the rulemaking or petition, as applicable, in a sector or subsector, taking into account technological achievability, commercial demands, safety, consumer costs, building codes, appliance efficiency standards, contractor training costs, and other relevant factors, including quantities of regulated substances available from reclaiming, prior production, or prior import.'' The various subfactors in (i)(4)(B) help EPA to determine whether there are adequate available substitutes for a regulated

[40] Similarly, subsection (i)'s authority extends to regulated substances contained in a blend and the use of that regulated substance within a blend by the sector or subsector in a product or process to achieve a particular purpose. To address the regulated substance within a blend, it is appropriate to establish requirements that apply to use of the blend, although the blend itself is not a regulated substance.

substance that a sector or subsector could use, indicating feasibility, readiness, advisability, and degree of a sector or subsector's transition away from the regulated substances in use. Similarly, the other factors in (i)(4)—to use best available data, to consider overall economic costs and environmental impacts as compared to historical trends, and to consider the remaining phasedown period for regulated substances under the phasedown rule issued under subsection (e), if applicable—also fit with this understanding of EPA's task: to determine whether, when, and to what degree it is appropriate to establish a use restriction to facilitate the transition of a sector or subsector from the use of regulated substances.

Third, we explained in the proposed rule that Congress provided EPA authority to issue restrictions that are full, partial, or on a graduated schedule. Fully restricting the use of a regulated substance in the sector or subsector in which it is used, by its terms, implies a full transition away from the use of that regulated substance in the given sector or subsector. We therefore understand EPA's ability to restrict ''use of a regulated substance in the sector or subsector in which it is used'' to be broad enough to achieve a full transition such that the regulated substance would no longer be present in any portion of the sector or subsector. To effectuate a full transition, we would have to be able to address all the aspects where the regulated substance is present in that sector or subsector of the market. There may be situations where a restriction is best targeted at points in the life cycle or market chain of the regulated substance that are subsequent to the incorporation of the regulated substance in a product or process, as well as points in the chain that are proximate to ultimate use. Thus, we interpret the term ''use,'' and EPA's authority under AIM Act subsection (i), as being broad enough to reach points such as transport or offer for sale.

EPA therefore proposed to interpret use of a regulated substance in the sector or subsector for purposes of subsection (i) as ''for any person to take any action with or to a regulated substance, regardless of whether the regulated substance is in bulk, contained within a product, or otherwise, except for the destruction of a regulated substance. Actions include, but are not limited to, the utilization, deployment, sale, distribution, discharge, incorporation, transformation, or other manipulation.'' EPA's proposed definition of ''use'' therefore covered all of the links on the chain representing how regulated substances are introduced, incorporated into products or processes, circulated, and made available in the U.S. market.

We explained in the proposed rule that even though the Act grants EPA broad authority to achieve a full transition from regulated substances in a sector or subsector, there are many actions not included within the scope of the restrictions covered by this final rule, including actions associated with steps in the disposal chain such as recovery, recycling, and reclamation of a regulated substance; the ordinary utilization or operation of a system or product by a consumer;[41] and the six specific applications with a current qualification for application-specific allowances under 40 CFR 84.13. As explained in the proposed rule, given that we are at the outset of the phasedown of regulated substances, the restrictions in this action are aimed at limiting the introduction of new products that use regulated substances to the market and restricting the circulation of those products (*e.g.,* sale or distribution) before they reach the consumer. In that vein, the final rule includes ''offer for distribution'' in addition to offer for sale in the definition of use. Similarly, we proposed to restrict the installation of new systems using HFCs under the proposal by defining manufacture to include the installation of new systems. EPA is finalizing its definition of ''use'' under subsection (i), with these clarifications, consistent with the interpretation of ''use in the sector or subsector in which the regulated substance is used'' articulated in the proposed rule and described above.

Comment: Most of the comments the Agency received in response to its proposed interpretation of EPA's scope of authority under subsection (i) and of EPA's definition of ''use of the regulated substance in the sector or subsector in which the regulated substance is used'' related to the proposed prohibition on the sale, distribution, and offer for sale or distribution of many regulated products that would go into effect on January 1, 2026 (*i.e.,* the sell-through period). Many commenters objected based on their view of the practical consequences of a one-year sell-through period, raising concerns about the economic harm of stranded inventory, and in particular, the high likelihood of stranded seasonal inventory such as air conditioners. Others commented on the difficulties of implementing any prohibition on the sale of parts of equipment that contain regulated substances, where those parts would continue to be needed for servicing and repair of existing equipment. Another commenter argued that prohibiting the sale of any inventory that was not sold by the sell-through prohibition date would constitute a ''taking'' without just compensation under the U.S. Constitution. These comments are summarized and addressed in section VI.C.2.c of this preamble.

A smaller subset of commenters alleged that EPA lacked statutory authority to promulgate a sell-through limitation under the AIM Act. One commenter claimed that the AIM Act only provides EPA with authority to prohibit the ''manufacture'' of high-GWP equipment, and that had Congress intended to allow EPA to have broader authority to regulate under subsection (i), it would have employed the same language that is used in subsection (h) of the AIM Act, which uses the terms ''any practice, process, or activity.'' This commenter claimed that the Agency had relied upon dictionary definitions of the word ''use'' and that other dictionary definitions supported the commenter's preferred interpretation of that word to be limited to acts or practices that ''employ, use, or put a regulated substance into service,'' and noted that at least one dictionary definition indicated that ''use'' means ''long-continued possession and employment of a thing for the purpose for which it is adapted.'' The commenter therefore asserted that the Agency's regulatory definition should not include sale or distribution, since in the commenter's view, neither action is the act or practice of employing, using, or putting a regulated substance into service, nor is sale or distribution ''the long-continued possession'' and ''employment for the purpose for which it is adapted,'' which, the commenter stated in the case of RACHP, is the transfer of heat.

Specifically, the commenter urged EPA to adopt the following definition of ''use'' under subsection (i): ''Use means the act or practice of employing a product containing or designed to contain a regulated substance. Use does not include the destruction of a regulated substance.'' The commenter argued that its proffered definition would still allow EPA to phase out the manufacture of products made of or containing regulated substances without going beyond, in its view, the authority of the AIM Act. Further, the commenter claimed that a sell-through limitation, rather than a regulation based only on

[41] Noting, however, that in some cases the consumer may have purchased a product where the first incorporation of the regulated substance occurs when the product is in the consumer's ownership, and in those cases that incorporation would be covered by the requirements.

a product's date of manufacture, would be ''unique'' in comparison to numerous other regulations on durable goods, including those promulgated by the U.S. Department of Energy (DOE).

Response: We disagree with commenters who allege that EPA does not have authority under subsection (i) of the AIM Act to issue restrictions on the sale or distribution of products that use regulated substances. We do not agree with the commenter's reading of the statute, and specifically, its views that subsection (i) the AIM Act only provides EPA with authority to prohibit the ''manufacture'' of higher-GWP equipment and that, in contrast to subsection (h), which uses the language of ''any practice, process, or activity,'' EPA's authority under subsection (i) is comparatively limited. In fact, subsection (i) does not mention either manufacture or equipment, much less contain any limitation that EPA may only address manufacture of equipment under subsection (i). Subsection (i)(1) says, with respect to EPA's authority, that ''[s]ubject to the provisions of this subsection, the Administrator may by rule restrict, fully, partially, or on a graduated schedule, the use of a regulated substance in the sector or subsector in which the regulated substance is used.'' There is nothing in this provision that suggests that EPA's statutory authority under (i) is limited to issuing restrictions on manufacturing, nor does the provision suggest that only higher-GWP equipment may be the target of EPA's restrictions. To the contrary, this language broadly authorizes EPA to restrict any use of a regulated substance in the sector or subsector in which the regulated substance is used; there is no limitation, express or implied, to certain types of use or users.[42] These are assumptions that the commenter appears to have made without any grounding in the text of the statute.

We also do not agree with the commenter's view that Congress' decision to use different language than it did for subsection (h) (*i.e.,* its omission of the terms ''any practice, process, or activity,'' which appear in subsection (h)) somehow narrows the scope of subsection (i). The commenter appears to ignore the full context of each provision. Subsection (h) and subsection (i) use different language and are framed differently, but that does not mean that one is narrower or the other broader. Rather, EPA interprets those differences as conveying authority that is tailored to the respective area of focus of these subsections so that EPA can establish regulatory regimes that effectively achieve their respective purposes and complement one another. Because EPA is establishing these provisions under subsection (i), the critical question is whether they are within the authority conveyed under subsection (i) as Congress drafted it, not whether they would be authorized under some other language. When the statutory text of subsection (i) is read in full context, it comfortably encompasses restrictions on a range of entities that use regulated substances, not just manufacturers of equipment. One authority EPA has under (i) can be stated as follows: ''[t]he Administrator may . . . restrict fully . . . the use of a regulated substance in the sector or subsector in which the regulated substance is used.''

Subsection (i)'s grant of authority to issue a full restriction across use in a sector or subsector was a key rationale underlying EPA's interpretation. As EPA pointed out at proposal, EPA interprets the statute in a way that could give meaning to subsection (i)'s grant of authority to effectuate a full restriction, and thus transition, of all uses of a regulated substance in any given sector or subsector. As we explained in the proposed rule, a narrower interpretation of EPA's authority to exclude sale or distribution could circumvent the intended full transition of a sector or subsector away from use of HFCs. Consistent with these concerns articulated in the proposed rule, EPA received a comment from a State that has restricted the manufacture of products containing HFCs *without* a sell-through limitation, and that State observed that such an ''approach can create challenges as it relies on regulated entities to provide documentation as to manufacture date,'' and that ''[n]ot all entities in the market chain can provide such information for all products,'' noting that ''[t]hese factors are further complicated when applied to international manufacturers and retailers.'' These concerns lend further support to EPA's view that covering all points in the market chain of ''use in the sector or subsector'' ensures that the use restrictions we establish achieve their intended purpose, where the intention is to fully restrict the use of a regulated substance in a sector or subsector, or, as in this case, to partially restrict the use of regulated substances before those substances reach consumers. As discussed in the proposed rule, even though EPA's definition of ''use'' is broad in order to enable the Agency to fully exercise the subsection (i) authority under that provision and to facilitate a full transition to HFC substitutes where appropriate, that does not mean that in every instance the restrictions promulgated under subsection (i) will exercise that full authority. In many cases, as in this action, EPA may issue partial restrictions that target only certain uses.

The same commenter who asserted EPA has no authority to restrict sale or distribution provided no rebuttal or engagement with the reasoning EPA provided at proposal for its interpretation: namely, that the express provision of subsection (i) is related to a sector or subsector's use of a regulated substance, that the subsection (i)(4) factors require EPA to analyze information related to a restriction's feasibility and impact from a sector-level viewpoint, and that, as stated previously, the authority to ''restrict fully'' means that EPA has authority to restrict many activities in a sector- or subsector-level chain where regulated substances are present, and therefore ''used'' in that sector or subsector. Instead, the commenter claimed that EPA ''justified'' its interpretation by relying on dictionary definitions of the word ''use.'' This is not accurate. We began the proposed rule's preamble discussion with citations to the dictionary definition of that word, but the reasoning for our proposed interpretation and definition of the term did not rest solely on the dictionary definitions.

Nor do we agree with the commenter that their proffered definition, which relies on the commenter's ''dictionary definition'' understanding of the term ''use,'' is workable. The commenter suggests that EPA should define ''use'' as ''the act or practice of employing a product containing or designed to contain a regulated substance. Use does not include the destruction of a regulated substance.'' We do not agree with commenter's assertion that this definition ''would still allow EPA to phase out the production of products made of or containing regulated substances.'' Putting aside the commenters' confusing use of the term ''phase out'' in the context of subsection (i), which addresses use restrictions, under the commenter's definition, EPA would only be allowed to restrict the act or practice of employing a *product* containing or designed to contain a

[42] Congress included express limitations on the applicability of the rules under AIM subsection (i) in a later part of the subsection (see subsection (i)(7)), and neither of the limitations in that provision mention a limitation to the manufacture of higher GWP equipment. Had Congress intended the kind of restriction the commenters suggest, it is reasonable to think they would have included those restrictions in subsection (i)(7).

regulated substance. We fail to see how this definition of use would allow EPA to restrict the manufacture of products containing HFCs, because the creation of a product is not the act or practice of employing that product, nor would EPA be permitted to restrict the import of such products, because import also does not ''employ'' the product. In fact, under the commenter's suggested definition, it would appear that the only potential regulated parties under AIM Act subsection (i) would be the consumers of products, as these are likely the only parties that would be ''employing'' the products, as the commenters seem to be using that term, and for the sector the commenter represents (RACHP), the consumers are almost certainly the only parties that are ''employing'' the products for ''the purpose for which it is adapted, *i.e.,* the transfer of heat'' (to quote the commenter's understanding of and application of the dictionary definition of ''use''). We disagree that this is a reasonable reading of the AIM Act, given the textual considerations that subsection (i)(4) sets the Agency to consider when determining whether or not to restrict the ''use of a regulated substance *in the sector or subsector in which the substance is used.*'' (emphasis added).

We also note that despite the commenter's observation that many regulations on goods, including those promulgated by the U.S. DOE, establish compliance based only on manufacture, that has little relevance for EPA's interpretation of the term ''use'' in subsection (i). EPA's action is governed by the authority grounded in the text of the AIM Act, not the text of the statute providing DOE authority to promulgate its regulations. In any case, designing a restriction that regulates actions other than manufacture is not ''unique.'' In the context of SNAP under CAA section 612, which evaluates alternatives to ozone-depleting substances like chlorofluorocarbons (CFCs) (class I substances) and HCFCs (class II substances), EPA has long defined ''use'' as ''any use of a substitute for a class I or class II ozone-depleting compound, including but not limited to use in a manufacturing process or product, in consumption by the end-user, or in intermediate uses, such as formulation or packaging for other subsequent uses.'' 40 CFR 82.172. The Agency's interpretation of the scope of its authority and its definition of the term ''use'' in the subsection (i) context similarly conceives of this authority as including the introduction of products containing regulated substances into what we consider to be sector or subsector activity, and the full market chain of activities, or ''intermediate uses,'' that follow, through to the consumer or end-user.

2. What uses is EPA restricting in this rule?

a. Manufacture and Import of Factory-Completed Products

This rule includes restrictions that apply to the manufacture of certain factory-completed products by the dates specified in section VI.F. As discussed in section VI.A on definitions, commenters were generally supportive of EPA's proposal to establish use restrictions on the manufacture of factory-completed products using regulated substances. Many of the comments received on EPA's proposal to restrict manufacturing related to EPA's proposed definition of ''manufacture'' to include the installation of field-assembled systems.

EPA proposed to apply its restrictions equally as to domestically manufactured products using HFCs and products using HFCs that are imported. The AIM Act defines ''import'' as ''to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, regardless of whether that landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States,'' and this rule follows that definition. Commenters were supportive of EPA's equal application of the proposed restriction to the manufacture of products using HFCs and to the import of products using HFCs, noting that restricting both manufacture and import would garner environmental benefits, meet industry expectations, and treat all equipment equally regardless of location of manufacture and availability of HFCs under the global phasedown. EPA is finalizing the restriction on the import of products as proposed.

While EPA is generally not regulating used equipment (*see* section VI.C.b), the Agency proposed to restrict the import of all products that do not meet the GWP limits, regardless of when the product was manufactured and regardless of whether the product is used. The goal of restricting the use of regulated substances (in this case, higher-GWP HFCs) in the named sectors and subsectors would be undermined if those sectors and subsectors could simply shift use to imported products containing higher-GWP HFCs that were not subject to the Agency's restrictions.

AIM Act subsection (i)(7)(B)(ii) states that subsection (i) rules shall not apply ''except for a retrofit application, [to] equipment in existence in a sector or subsector before December 27, 2020.'' EPA interprets this limitation with respect to ''equipment in existence in a sector or subsector'' not to apply to equipment manufactured abroad prior to the Act's date of enactment, because EPA interprets ''sector or subsector'' in that provision to mean a sector or subsector in the United States. In general, where those terms appear in subsection (i) of the AIM Act, EPA understands them to mean the domestic sector or subsector, not the sector or subsector as it exists, operates, and functions in another country. For example, in assessing the availability of substitutes for use in a sector or subsector under subsection (i)(4)(B), EPA is generally analyzing the various subfactors—consumer costs, building codes, appliance efficiency standards, contractor training costs—vis-à-vis the domestic impacted sector or subsector.[43] Therefore, equipment that was manufactured in another country and existed prior to December 27, 2020, but was not imported to the United States until after that date is not subject to subsection (i)(7)(B)'s limitation, because until it is imported into the United States, it is not ''in existence in the sector or subsector.''

EPA received a number of comments related to its application of restrictions on imports, and we summarize and respond to these comments below.

Comment: One commenter supported and one commenter opposed the proposal to restrict the import of products not meeting the GWP limits, regardless of when the product was manufactured and regardless of whether the products are used. The commenter opposed to EPA's proposal requested that EPA clarify that ''equipment in existence as of December 27, 2020'' applies to all equipment in existence up to the date of this rule's proposal, wherever that equipment is located (*i.e.,* whether in the United States or elsewhere), at least for semiconductor manufacturing equipment. The commenter asserted that semiconductor manufacturers have been producing semiconductor manufacturing equipment in the last two years that was designed well before the AIM Act was enacted, and that such equipment was intended to operate for the next 10 to 25 years. The commenter argues that until EPA published its proposed rule,

[43] EPA is examining international information for some of the analyses, such as research from international organizations about technological achievability, because such information has relevance for the sector or subsector in the United States.

semiconductor manufacturers did not have ''actionable notice'' that their products might be subject to the Agency's restrictions. The commenter also states that complex semiconductor manufacturing equipment may have been manufactured outside of the United States but was intended for use in the U.S. semiconductor sector. The commenter noted that the semiconductor industry has a global supply chain with long production timelines and asserted that EPA's proposed distinctions based on where equipment is located could impose significant complications on the sector's supply chain management.

Response: The Act's exception from applicability in AIM Act subsection (i)(7)(B)(ii) plainly does not apply to any equipment manufactured after December 27, 2020. We therefore do not agree with the commenter that the exception in that provision could be interpreted to apply to equipment manufactured between the date of the AIM Act's enactment and the publication of EPA's proposed rule. The statute is clear on its face, whether or not regulated entities were aware of being potentially subject to regulation under these provisions of the AIM Act until EPA issued its proposed rule.

We also clarify that not all equipment that uses regulated substances in the semiconductor manufacturing industry is subject to these rules. The use of regulated substances in many semiconductor manufacturing processes, such as etching and the use of HFCs as solvents, is not restricted by this final action. EPA's restrictions cover only the use of HFCs as they relate to semiconductor manufacturing where those HFCs are used as a refrigerant in chillers for IPR. As discussed in section VI.F.1.j, EPA is differentiating its restrictions and the timing of those restrictions for this subsector based on the temperature of the exiting fluid. To the extent that the equipment cited by commenter has exiting fluid temperatures below −50 °C (−58 °F), the import of such new equipment is not restricted by this rule. For equipment with exiting fluid temperatures above that temperature, EPA has delayed the compliance date for installations of new systems to either 2026 or 2028 (again differentiating based on the temperature of the exiting fluid). Importing components of such systems may continue after those compliance dates to allow servicing of existing equipment in the U.S.

Comment: One commenter opposed to EPA's proposal to apply its restrictions to all imported products using HFCs above the GWP limits requested that used semiconductor manufacturing and related equipment (SMRE) that was designed to contain HFCs receive an exemption. The commenter stated that there is a robust and active market for used SMRE, and preventing the import of this used equipment could have inadvertent supply chain disruption effects.

Response: EPA understands the semiconductor manufacturing equipment to fit within the IPR subsector, typically utilizing chillers, often built into other non-refrigerant containing equipment, to cool processes necessary to produce semiconductor chips and other electronics. As such, we do not view such equipment differently from other IPR systems, which likewise could conceivably integrate a chiller into other equipment (*e.g.,* a chiller integrated with a conveyor belt intended to move food needing freezing along its production process). As discussed in section VI.F.1.j, EPA is finalizing a compliance date later than proposed based on our consideration of the subsection (i)(4) factors. Specifically, EPA is establishing a compliance date of January 1, 2028, for IPR chillers where the fluid exiting the chiller is below −22 °F (−30 °C), and a January 1, 2026, date for other such equipment. And, consistent with the proposed rule, this final rule does not restrict HFC use in such equipment where the fluid exiting the chiller is below −50 °C (−58 °F). This additional time compared to the proposal should assist in the commenter's ability to respond to the restrictions in this rule; for example, by importing appropriate equipment prior to the relevant compliance date and/or altering manufacturing outside the United States to use refrigerants that meet the restrictions for the United States (*i.e.,* less than 700 GWP).

Comment: Other commenters asked that EPA clarify how the import restriction applies to existing intermodal containers that are engaged in trade, refrigeration equipment in operation on ocean-going vessels, and non-road motor vehicles temporarily deployed overseas. Commenters stated that applying the GWP limit to all refrigerated containers is infeasible and would be highly disruptive to trade. Commenters also stated that such equipment should be allowed to be serviced in the United States and not be subject to the recordkeeping and reporting requirements.

Response: EPA agrees that applying the restrictions to products that are actively in use when travelling into U.S. jurisdiction could be problematic. For example, a strict reading of the proposed restrictions on import could have prevented a traveler from reentering the United States from Canada or Mexico with their car if the MVAC uses HFC–134a. As noted in the proposed rule, the Agency's intention is to cover the activities of entities bringing large shipments of products into the country, as well as activities of entities bringing smaller volumes of products into the country (*e.g.,* driving a truckload of air conditioning units across the Canadian or Mexican border for sale in the United States.). EPA therefore is distinguishing in this final rule those products or systems that are actively in use when travelling into U.S. jurisdiction from shipments of used products destined for resale or further distribution. EPA is not intending that this aspect of this rule restrict RACHP equipment in operation aboard marine vessels, planes, motor vehicles, refrigerated transport trailers, or intermodal containers. Likewise, foam or aerosol products that are in use (*e.g.,* trailers) or in possession of a consumer when crossing the border are likewise exempt from the import prohibition. However, EPA's intent is to apply the use restrictions consistently for domestic manufacturers and importers of products. As such, no person may sell new refrigerated transport trailers or refrigerated intermodal containers in the United States, whether manufactured domestically or abroad after the manufacture/import compliance date, unless it complies with the HFC use restrictions.

Comment: One commenter expressed concern that prohibiting the import of used, non-compliant products would also prevent the import of products intended for recycling. The commenter contended that such a regulated product is not 'in the sector or subsector in which the regulated substance is used' either outside or inside the United States, and thus prohibiting the import is contrary to subsection (i)(1) of the AIM Act.

Response: EPA considers the disposal chain, which includes the recycling of equipment, and not the use or reuse of the equipment in the relevant sector or subsector in the United States, to be outside the scope of the restrictions on distribution. This includes equipment bound for disposal that was never used by a consumer, such as defective components or products that were manufactured or imported illegally. Allowing for disposal furthers the intent of removing equipment from the market before it is used by the consumer.

b. Installation of Systems

EPA is defining the term install/installation as ''to complete a field-

assembled system's circuit, including charging with a full charge, such that the system can function and is ready for use for its intended purpose.'' As discussed in section VI.A (Definitions), many commenters expressed concerns about EPA's proposed definition of ''manufacture,'' which would have included the installation and first charge of field-assembled equipment. These included concerns that defining ''manufacture'' to include ''install'' of field-assembled systems effectively accelerates the timeline of the prohibition and renders the one-year sell-through moot. Commenters suggested different ways to regulate the use of HFCs in field-assembled equipment, including restricting the manufacture of components that would later be field-assembled. In this final rule, EPA is restricting the installation of field-assembled systems with additional clarifications. The definition of install is virtually identical to the proposed definition of manufacture for field-assembled systems. As with the term manufacture, the definition of ''install'' serves as a distinct point in time by which listed activities must be completed for purposes of meeting the compliance date. By proposing in its prohibitions that ''no person'' may manufacture a product, EPA's intent was to capture any person who is responsible for the manufacture (which, at proposal, included installation of field-assembled equipment). EPA therefore does not think that limiting the responsibility to only the technician who first charges the system (and thus makes it ready for use for its intended purpose) is an appropriate application of the restriction on installation. Doing so would be equivalent to making the final individual on a factory assembly line the ''manufacturer'' of a refrigerator and not the OEM. Responsibility for installing a system that improperly uses a higher-GWP HFC refrigerant after the compliance date lies with multiple entities, including the designer, builder, and owner/operator of that system, in addition to the entities that assembled the components and got them into operating order on site.

Therefore, any person who assembles, contracts for, takes ownership of, or operates a system that is installed after the applicable compliance date using regulated substances prohibited for that subsector is in violation of this rule.

Comment: Some commenters requested that EPA allow for installation of a system if building permits have already been received to avoid the re-design and permitting of buildings. Another commenter sought flexibility in case there is a delay in receiving all the necessary components or a delay in assembling and charging the system. The commenter requested EPA allow appliances purchased under contract before the compliance date to receive their field charge after that date.

Response: EPA recognizes that some facilities may have been designed and permitted to specifically use systems with HFCs that will be restricted by this final rule. We anticipate that such instances are rare, especially because the final rule delays the compliance dates for the installation of most field-assembled systems by at least one year and sometimes longer depending on the subsector. However, systems using HFCs within facilities needing such long lead-times that they have approved building permits in place by the date of signature for this final rule are likely to be highly complex and costly to redesign. EPA previously granted additional time to install systems that have been permitted under the HCFC use restrictions under section 605(a) of the CAA. In those instances, EPA agreed to provide time if, among other conditions, those appliances were specified in a building permit dated before the compliance date (*see* 74 FR 66441, December 15, 2009) and in a more recent action the date of signature of the relevant proposed rule (*see* 85 FR 15267, March 17, 2020).

Based on the comments received, similar flexibility may be needed in this rule. Therefore, EPA is allowing one additional year for the installation of systems in four subsectors if an approved building permit issued before the date of signature of this final rule specified the use of a system containing refrigerants with GWPs above the relevant GWP threshold for the specified subsector. These subsectors are: IPR systems with a January 1, 2026, compliance date; retail food refrigeration—supermarkets; cold storage warehouses; and ice rinks. This flexibility will prevent the need to redesign these systems, and potentially the facility that houses these systems. EPA is not including other subsectors in this provision as those systems are not typically designed specifically for an individual facility and/or those systems have a later compliance date and thus can make any necessary changes with the GWP restrictions in mind.

EPA disagrees with the suggestion to allow systems purchased under contract prior to the compliance date to be field charged after that date. Doing so would undermine the intent of the regulation and the statute by incentivizing the finalization of numerous contracts in the days preceding the compliance date, which could then potentially allow for years of further installations using higher-GWP HFCs in sectors and subsectors that EPA has already determined under subsection (i)(4) are ready to transition to lower-GWP substitutes.

Comment: Some commenters disagreed with the installation being the point of compliance. One commenter stated that this broadens responsibility for compliance from a relatively small number of knowledgeable OEMs to a much broader group of distribution and installation stakeholders who do not have the same level of awareness of the regulatory requirements. Another commenter recommended that EPA exclude ''purchaser and/or user'' and ''third party companies'' from the definition of a ''manufacturer,'' (under the definition as proposed) whether or not they are involved or provide support for activities associated with field assembly or charging. The commenter argued that the purchaser and/or user rarely, if ever, takes ''ownership'' of IPR equipment until it is fully charged and has been demonstrated to run safely for the use for which it was designed and/or intended, which is the responsibility of the manufacturer who designed and fabricated the parts.

Response: EPA disagrees with the comments that the Agency should only restrict OEMs and not regulate installation of a field-assembled system. Many commenters representing OEMs of components stated that they do not control how their components are used after they are sold to a distributor, and EPA agrees that with respect to restricting the use of HFCs in installation of field-assembled systems, OEMs of components used in those systems are not the appropriate entity to regulate (unless the OEM is involved in the design or construction of the system). While applying the restrictions on installations to the parties other than OEMs results in more potentially regulated entities, it appropriately places the restriction on the entities that can control the use of HFCs in that system. While a broader group of installation stakeholders may not be as accustomed to compliance issues as the relatively smaller group of component OEMs that commenters requested be subject to the restrictions, applying the restrictions for installation of systems to the designer, builder, and owner/operator of that system will help to ensure that there is a knowledgeable party driving compliance.

Comment: Many commenters requested that EPA provide a precise and clear definition for when a field-erected and field-charged system modified as part of a remodel or regular

maintenance is covered by the new GWP limit. They requested that EPA allow for replacement of appliance components, including but not limited to cases, compressors, valves, condensers, evaporator units, piping and other components to keep that existing system running. They also requested that EPA allow for remodels or retrofits to update the look, improve the efficiency, or reduce leaks in a system. Other commenters requested that EPA use California's definitions of new refrigeration equipment, new air-conditioning equipment, and new facility to demarcate which modifications to a system trigger the requirements applicable to new systems. A State commenter noted that a single, unified definition of 'new' would be useful for States that wish to establish controls that are aligned with EPA and in cases where stakeholders require clarity on State versus national controls.

Several commenters summarized California's regulations as an example of how a previously installed refrigeration system could trigger the use restriction through either of two methods. The first method is when the compressor capacity of the refrigeration system is increased or the cost of replacing components over a three-year period exceeds 50 percent of the capital cost of replacing the entire system (excluding display cases).[44] The second method is when an existing facility changes to a different end-use or when 75 percent of the refrigeration system's evaporators (by number) and 100 percent of its compressor racks, condensers, and connected evaporator loads have been replaced. A previously installed air-conditioning system triggers the use restriction depending on the size of the system. For systems with a single condenser and single evaporator, the use restrictions are triggered when replacing the exterior condenser, condensing unit, or remote condensing unit. For systems having more than one condenser and/or more than one evaporator, the use restrictions are triggered when 75 percent of the indoor evaporator units (by number) and 100 percent of the air source or water source condensing units are replaced over a three-year period.

[44] This is similar to the definition of ''new'' in New York State. Specifically, new is defined as ''Products or equipment that are manufactured after the effective date of this Part or installed with new or used components, expanded by the addition of components to increase system capacity after the effective date of this Part, or replaced or cumulatively replaced after the effective date of this Part such that the cumulative capital cost of replacement exceeds 50% of the capital cost of replacing the whole system.'' 6 NYCRR 494.3(s).

A commenter recommended EPA use the first method to avoid the continuous replacement of parts indefinitely without ever triggering any restriction on the use of controlled substances. An industry commenter recommended the second method. A few commenters also requested that EPA define the term ''new facility'' which is substantively the same as the second method in the definition for new refrigeration equipment. One such commenter that favored this approach said it is clearer that components may be replaced and that restricting ''new refrigeration equipment'' would require establishing exceptions for remodels and replacement for maintenance.

Response: EPA's intention is to allow the ordinary servicing and repair of equipment and not to apply restrictions in a way that would prevent such maintenance. However, we are cognizant of the concern that systems could be significantly modified or upgraded to the point that such modification or upgrade should be considered a new installation subject to the subsector GWP limits.

The Agency has encountered the question of what modifications constitute the installation of a new system during the phaseout of HCFCs. Under section 605(a) of the CAA, EPA prohibited the use of virgin HCFC–22 and HCFC–142b to charge new appliances assembled onsite on or after January 1, 2010. (December 15, 2009; 74 FR 66437). In that context, the Agency's interpretation was that there were two different situations that could be equivalent to the manufacture (*i.e.,* installation) of a new system. These are modifications to a system that increase the total cooling capacity in BTU of the system or the complete replacement of all components within a system at once or over time. Based on commenters' requests for clarification on the issue, EPA is adopting these two situations in the regulatory text. In addition, after consideration of the public comments and its past experience implementing similar restrictions, the Agency is providing more specificity about which components must be replaced in order for a replacement to qualify as ''new installation.''

EPA noted in the proposed rule, in the context of what qualifies as ''equipment in existence,'' that ''in limited cases where every part of a piece of equipment had been altered or replaced,'' such equipment would fall outside the statutory and regulatory exemption in subsection (i)(7)(B), and the alteration or replacement would be considered a new installation subject to the restrictions under this section. In so doing, we did not intend that ''every'' piece would include refrigerant tubing, which is often very difficult to replace because the tubing may be inaccessible. Even in major overhauls of systems, this tubing is rarely replaced, and we therefore think replacements where this tubing remains installed should still be considered new installations for purposes of triggering these restrictions. Therefore, we are clarifying in this final rulemaking and in the regulatory text which components must be replaced, and at what percentages, to provide a precise, clear standard that will ensure that major replacements and alterations are properly subject to the restrictions and transition to lower-GWP refrigerants. Specifically, when 75 percent of the refrigeration system's evaporators (by number) and 100 percent of its compressor racks, condensers, and connected evaporator loads have been replaced, such replacement constitutes a new installation and is subject to the restrictions on installation. EPA's approach in this final rulemaking is also used by States that have adopted a definition of ''new refrigeration equipment.''

EPA disagrees with commenters' suggestion that the Agency adopt other methods used in California for determining when an existing refrigeration system is considered ''new.'' Those other methods, such as including specific timeframes or assessing capital costs, deviate from EPA's historical interpretations under title VI of the CAA and raise additional questions about implementation. Nor is EPA adopting the method for determining when an existing air-conditioning system with a single condenser and single evaporator is considered ''new.'' In implementing the use restriction on HCFC–22 under title VI of the CAA, EPA has considered the replacement of the condensing unit to be a repair and not the installation of a new system. EPA finds that it is also reasonable to continue that interpretation under the use restrictions in subsection (i) as it is the same type of equipment and because the AIM Act is implementing a phasedown rather than a phaseout, meaning there is no end date for the production and import of bulk HFCs.

c. Sale or Distribution of Factory-Completed Products

As discussed above, EPA interprets ''use'' to include activities in the market chain that occur after the manufacture or import of a product. As such, EPA is applying use restrictions to any person who sells, distributes, offers for sale or

distribution, makes available for sale or distribution, purchases or receives for sale or distribution, or attempts to purchase or receive for sale or distribution, or exports any product using a regulated substance in the sectors or subsectors controlled under subsection (i). Applying the restrictions in this way ensures that the goal of restricting the use of regulated substances in the sectors or subsectors in which the regulated substances are used can be achieved, because the sector and subsector's use of the regulated substance is present in all these aspects of the market chain, and it is EPA's intention to restrict use across that chain. Therefore, if a manufacturer or importer improperly introduces into the U.S. market a non-compliant product, distributors and retailers (including online retailers) offering that product for sale are also restricted from covered activities related to that product. Providing the means by which individuals are able to list and sell prohibited products, or exerting control over these sales, including operating platforms for eCommerce transactions, will be considered use under this rule. EPA is also applying the use restrictions to those entities who purchase or receive for the purpose of further sale or distribution with the intent to cover both sides of the transaction between distributors but not the purchase by a consumer. The intent of this restriction is to ensure that products that do not meet the limits do not enter the market and are not circulated in the market, prior to sale to the consumer.

EPA proposed to prohibit sale, distribution, offer for sale and distribution, and export of products using regulated substances not meeting the GWP limits one year after the proposed prohibition date for manufacture and import of products using regulated substances over the GWP limits in each subsector. EPA explained at proposal that limiting the period of time when products that do not meet the GWP limits can continue to be sold has advantages over indefinitely exempting the sale of inventory that does not meet the established use restrictions. In particular, we noted the advantage of having a date certain by which all parties—*e.g.,* the public, enforcement officials, and regulated entities—know that there can legally be no new products on the market that do not meet the GWP limits. This additional prohibition on the activities subsequent to manufacture and import but prior to sale to the consumer reinforces the sector or subsector's transition away from use of HFCs in new products and, to the extent that it is a possibility, prevents the stockpiling and continued sale of products that do not meet the sector or subsector use restrictions from continuing indefinitely into the future.

EPA received many comments on this proposed prohibition on the sale or distribution of products. Comments received on this aspect of this rule and EPA's responses to those comments are summarized and discussed in further detail below and in the response to comments document, available in the docket.

This final action retains a limited sell-through period on products using a regulated substance that do not meet the sector and subsector restrictions with key changes in response to concerns raised by the commenters. First, EPA is limiting the prohibition on sale, distribution, offer for sale and distribution, and export to factory-completed products that use prohibited higher-GWP regulated substances. As discussed in greater detail later in this section, EPA is excluding components and allowing for their continued manufacture, import, sale, distribution, offer for sale and distribution, and export, subject to certain restrictions, including that these uses are for the purpose of servicing existing equipment. Second, EPA is extending the compliance date for the sales prohibition on factory-completed products from the proposed one year to three years after the manufacture and import compliance date. EPA provided the two additional years to address commenters' concerns that a one year sell-through was potentially insufficient to clear inventory, and in particular, seasonal products such as window-unit air conditioners, which can experience variable demand from year-to-year. This final approach ensures that sectors and subsectors that use regulated substances will transition from the use of those substances where such transition is appropriate and alleviates the concerns raised by commenters.

Comment: Several commenters voiced concern that the one-year compliance deadline would create the risk of stranded inventory that would not be able to be sold, which would cause economic harm to manufacturers, distributors, retailers, and ultimately consumers. Commenters representing distributors highlighted the many considerations they must account for in determining the amount of inventory to stock, citing the desire to carry amounts of inventory large enough to maintain competitive pricing, against costs incurred via storage space leasing, warehouse mortgages, building utilities, and insurance on products stored in the warehouse. Other commenters, particularly those in the heating and cooling sector, noted that many factors, including the economy, weather, and demand for construction impact sales and that in this sector particularly, it is already difficult to forecast what amount of inventory will need to be carried over year to year. Many commenters noted that the sell-through limitation would exacerbate existing supply chain challenges, particularly for small businesses. Commenters stated that the one-year sell-through period would require distributors to either stock less inventory, and therefore potentially fail to meet customer demand, or to throw away inventory that would be prohibited by the sell-through limitation, and that either of these outcomes would cause economic harm. Commenters noted that the economic harm caused by the proposed one-year sell-through period might cause them to reduce their labor forces, and would require increased monitoring for compliance throughout the supply chain.

Many of these commenters also cited concerns about potential adverse environmental impacts of stranding inventory. Others noted that the environmental benefit of the AIM Act is from the phasedown of the supply of HFCs, and that the HFC price increases and lack of availability of regulated substances that will flow from the phase-down will provide a market force to transition to lower-GWP substitutes, making the sell-through limitation unnecessary as a backstop. Many commenters requested that EPA eliminate the sell-through limitation altogether, and instead permit unlimited sell-through of any product labeled with a ''date of manufacture'' meeting the compliance date for manufacture. Others requested that the Agency at least extend the permissible limitation to multiple years, with some commenters suggesting that two or three years would minimize the risk of stranded inventory.

EPA also received comments in support of its proposed prohibition on sale, distribution, offer for sale and distribution, and export. Some commenters stated that the compliance dates in the proposed rule already provide sufficient time for manufacturers and distributors to plan for the transition to lower-GWP substitutes and to sell existing inventories, and that the compliance date for the sell-through limitation should be one year at most. These commenters asserted that allowing an indefinite period for sell-through of

equipment manufactured by the manufacture compliance date would complicate enforcement and could provide an incentive for companies to increase near term production of systems using HFCs before restrictions come into effect. The Agency also received supportive comments on the proposed sell-through limitation from States, including one that has promulgated under State law a prohibition on manufacture but allows unlimited sell-through of products manufactured prior to that prohibition date. That State commenter noted that the unlimited sell-through approach can create challenges because it relies on regulated entities to provide documentation as to the manufacture date, and that not all entities in the market chain can provide that information.

Response: EPA acknowledges the input provided by commenters both in support of and raising concerns with the limitation on sale, distribution, and export of products regulated under these restrictions. We recognize that the production and purchase of products or components that are unable to be sold to consumers is an economic and environmental outcome no parties desire, and the proposed rule's forward-looking compliance dates were intended to allow all parties in the market supply chain sufficient time to avoid that outcome. To that end, after considering the concerns raised by various commenters, EPA is extending the proposed one-year compliance date for the sell-through limitation on products to three years after the manufacture and import compliance date. The longer timeframe for a sell-through allows regulated entities more time to manage inventory to avoid purchasing products they will not be able to sell, reduce waste, and lessen the impacts to the downstream channels and customers. While EPA recognizes there will still be costs to establishing a sell-through limitation, we expect that extending this timeframe to three years will mitigate the costs of stranded inventory, storage, and product disposal that commenters identified. As such EPA has not quantified these costs in the RIA Addendum but describes them in qualitative terms. In addition, EPA notes that such comments were based on the assumption that components and repair parts would be subject to the sell-through, which they are not.

EPA anticipates that this extension will mitigate many of the concerns raised by commenters regarding the difficulty of balancing competing priorities and forecasting how much inventory to stock, particularly for those sectors marketing seasonal products. Allowing two additional years for the sale, distribution, offer for sale and distribution, and export of products manufactured or imported before the use restrictions will provide needed time for all parties to plan for a smooth transition to meet the new limits. As pointed out by the commenters, parties in these sectors and subsectors must already balance many competing factors—costs of storage, projected demand, weather, supply chain, demand for construction, and the economy—some of which are known and some of which are beyond the parties' control. Our intention in extending the compliance deadline for the sell-through limitation is to provide regulatory certainty with respect to this restriction to allow time for distributors and retailers to transition their inventory from products using regulated substances that do not meet the restrictions.

EPA does not agree that dispensing altogether with a sell-through limitation is appropriate in this case. This limitation reinforces the Agency's restrictions on manufacturing and import by establishing a bright line compliance date after which no products that do not meet the new restrictions may be sold or distributed. Based on past experience with the phaseout of ODS, EPA anticipates that the availability and price difference between HFCs in the United States and in countries with a later HFC phasedown schedule will create an incentive to import non-compliant products into the United States. A sales restriction eliminates that market. This is the intention of the Agency's restrictions—that by a date certain, the sector or subsector subject to the restriction will no longer be selling to consumers products that use regulated substances where a substitute can be used (per the Agency's determination under the (i)(4) factor analysis). Enforcement of the manufacture and import restrictions are supported because it is easier to identify non-compliant products within the distribution chain or at the point of sale than it is to identify them at a single moment in time when they cross the border. Ultimately the sales restriction protects U.S. manufacturers that have transitioned from being undercut by any foreign, non-compliant products that may have been improperly imported after the import prohibition compliance date. A ''date of manufacture'' label alone would not provide that same protection.

While some commenters stated that, in their view, a ''date of manufacture'' label would be easier to implement and require less compliance monitoring, we do not agree. Under that scenario, a product containing HFCs or blends that had GWPs exceeding the limits could permissibly be sold, distributed, or exported if the date of manufacture met the proper compliance date, but would be impermissible if manufactured after the compliance date. Also permissible for sale or distribution would be products containing HFCs or blends that had GWPs that met the new restrictions. The commenter's approach would require regulated entities to segregate those products that were manufactured or imported by the compliance date from those manufactured or imported after the compliance date. Per EPA's final rule, regulated parties would need only to discern whether the products met the limits by the compliance date in order to ensure they were complying. The commenters' preferred approach of focusing on the ''date of manufacture'' label also puts the success of the transition squarely on proper labeling and incentivizes inaccurate or fraudulent labeling. EPA is cognizant of the comments from our State partners who have implemented their programs in this way and faced these types of challenges.

With respect to comments asserting that the sell-through limitation is unnecessary because the environmental benefit of the AIM Act will derive from the Act's phasedown of regulated substances, we do not agree. Congress provided authority under subsection (i) separate from the phasedown authority under subsection (e) to restrict use of HFCs in particular sectors and subsectors, and it is the Agency's view that these sector- and subsector-specific restrictions are an important component to supporting the domestic phasedown of HFCs. As noted, the sell-through provisions provide a backstop to the manufacture and import restrictions by aligning incentives of all impacted users in the sector or subsector (manufacturers, importers, distributors, retailers, etc.), because all users will know that there will be no market for noncompliant equipment after the extended sell-through compliance date. We also note that even if commenters are correct that the phasedown's impact on the prices of bulk HFCs will disincentivize domestic manufacturers from generating large stockpiles of products in sectors and subsectors that are ready to transition to lower-GWP substitutes, this rule also restricts the import of products containing HFCs, the benefits of which are not reflected in the

assessments of benefits in the phasedown.

Comment: One commenter alleged that EPA's proposed limitation on the sell-through of products not meeting the Agency's use restrictions would constitute a regulatory taking without just compensation under the U.S. Constitution. The commenter asserted that EPA's regulation of their property would justify compensation under the legal tests established by the Supreme Court in *Penn Central Transportation Co.* v. *New York City,* 438 U.S. 104 (1978) and *Lucas* v. *South Carolina Coastal Council,* 505 U.S. 1003 (1992). Specifically, the commenter stated that under *Penn Central,* a court must determine ''the regulation's economic effect on the owner, the extent to which the regulation interferes with reasonable investment-backed expectations, and the character of the government action.'' The commenter asserted that the test was met with respect to EPA's proposed sell-through limitation because it ''has an economic impact because of dead inventory; wholesale distributors used capital to purchase inventory to sell, which interferes with reasonable investment-backed expectations; and the government action is intentional in its taking of property by rendering the property valueless.'' Next, with respect to the *Lucas* test, which the commenter articulated as an ''expanded definition of a per se taking and established that a regulatory taking could exist when a regulation results in the property becoming valueless,'' the commenter claimed that the test was met because affected property cannot be sold or exported, nor can it be donated to training facilities (as it will be obsolete), removing the regulated substance before selling the property for scrap will incur costs, and it has no value in retention (as was true of the eagle feathers at issue in *Andrus* v. *Allard,* 441 U.S. 51 (1979)). The commenter further argued that even though *Penn Central* and *Lucas* involved questions about government regulation of real property, the cases were made equally applicable to personal property by virtue of the Supreme Court's decision in *Horne* v. *Department of Agriculture,* 569 U.S. 513 (2013).

Finally, the commenter claimed that in their view ''public benefit [did not] outweigh the condemnation'' based on its reading of a Prohibition-era case, *Everard's Breweries* v. *Day,* 265 U.S. 545 (1924), which upheld the 18th Amendment's ban on the manufacture, sale, or transportation of intoxicating liquors for beverage purposes, in spite of Congress' exception for medically prescribed liquors. The commenter then stated that the compensation plan for its asserted takings would be the fair market value of equipment in the HVACR market.

Response: We do not agree with the commenter that this final action has resulted in any takings of private property under the Constitution. Courts have summarily dismissed claims that a takings has occurred prior to the application of a regulation to particular property. See, *e.g., Rybachek* v. *U.S. EPA,* 904 F.2d 1276, 1300 01 (9th Cir. 1990) (''[N]o takings claim here is ripe for judicial resolution. A taking occurs in this context only when the EPA's regulations are applied to particular property.''); *Hodel* v. *Virginia Surface Mining & Reclamation Ass'n,* 452 U.S. 264, 293–97 (1981) (takings claim regarding surface-mining statutes and regulations premature until those rules are actually applied to particular property of which a taking is claimed). As such, the comments articulating particular legal tests regarding whether a taking has occurred and if so what compensation is required, and the application of those tests, are beyond the scope of this action.

We also point out that even though no property, real or otherwise, has been impacted by this action, which establishes compliance dates in the future, the Supreme Court's takings jurisprudence makes clear that ''government may execute laws or programs that adversely affect recognized economic values,'' and accordingly has issued ''decisions in which [the Supreme Court] has dismissed 'taking' challenges on the ground that, while the government action caused economic harm, it did not interfere with interests that were sufficiently bound up with the reasonable expectations of the claimant to constitute 'property' for Fifth Amendment purposes.'' *Penn Central,* 438 U.S. at 124–25. In this case, it is within commenter's control to manage its future investments with the expectation of the regulation and its extended compliance date. Relatedly, in the *Horne* decision cited by the commenter, the majority and the dissent were in agreement that the means of the government's action created a critical distinction for purposes of evaluating whether a Fifth Amendment takings had occurred. 576 U.S. at 361–62. Namely, in that case all the litigants and both the majority and dissent agreed that ''the government may prohibit the sale of raisins without effecting a per se taking'' even when the Hornes believed that the government's appropriation of raisins amounted to a takings. *See id.* The majority for the court, finding in favor of the Hornes, wrote, ''that distinction flows naturally from the settled difference in our takings jurisprudence between appropriation and regulation. A physical taking of raisins and a regulatory limit on production may have the same economic impact on a grower. The Constitution, however, is concerned with means as well as ends.'' *Id.*

We therefore disagree with the commenter that any taking of property has occurred, nor do we think that prospective government regulation of the sale of products, such as the sell-through limitation finalized in this rule, fits the established Fifth Amendment jurisprudence of the type of regulation that would require just compensation under the Constitution.

Comment: Many commenters objected to the application of the prohibition on sale or distribution to components using regulated substances or intended to use regulated substances. These commenters expressed the need to retain a large and varied inventory of components to continue to service and repair existing equipment, and asserted that as distributors and retailers, there is no way of knowing whether the component is intended to be used in a newly installed system or in an existing system. Other commenters emphasized the importance of stocking parts for refrigeration systems and equipment. While commenters acknowledged that the market for refrigeration is less seasonal than for air-conditioning, they noted that it is critical that distributors keep multiple years' worth of parts and equipment to ensure that consumers can keep refrigeration systems running, because failure of these systems can cause extreme economic harm—*e.g.,* when hospitals are forced to dispose of vaccines and medications, or when grocery stores must throw away groceries.

Response: EPA is finalizing its proposed restriction on the sale, distribution, offer for sale and distribution, and export with respect only to factory-assembled products using a regulated substance that exceeds the GWP limit. As noted throughout this action, EPA's intention is to restrict the use of HFCs in new products being introduced and circulated in the sectors and subsectors subject to this rulemaking that use HFCs; our intention is not to prematurely shorten the useful life of existing products or systems that consumers have already purchased and are employing. We recognize that, consistent with commenters' concerns, use restrictions on the manufacture and import, as well as sale, distribution, offer for sale and distribution, and export, of components would restrict

the ability of consumers to service and repair their existing equipment. Therefore, EPA is excluding components from the use restrictions and allowing for their continued manufacture and import subject to certain restrictions, including that they may only be used to service existing equipment and are subject to labeling and reporting requirements. Similarly, EPA is allowing for the continued sale, distribution, offer for sale and distribution, and export of components.

Comment: Several commenters noted that users of field-assembled products or systems do not get the advantage of a sell-through period because under the proposed rule the system is not considered to be manufactured until it is assembled in the field. One of these commenters asserted that the result of these definitions is that larger and more complex products (*i.e.,* field-assembled systems) cannot be sold and distributed by the proposed sell-through compliance deadline of January 1, 2026, and in effect, will have a much earlier manufacturing compliance deadline than the manufacturing compliance deadline for smaller, self-contained products covered by this rule (*e.g.,* aerosol cans). One environmental group commented that the one-year sell-through period is not needed for field-charged systems and recommended that EPA remove it.

Response: As discussed in the section VI.A (Definitions), EPA is distinguishing factory-completed products from field-assembled systems in this final rule. EPA agrees with comments that it does not make sense to apply a sell-through limitation to such systems given that field-assembled systems typically cannot be imported, nor can they be sold or distributed absent the sale of the larger structure containing them (*i.e.,* building). Until the system is assembled and charged, it is a collection of components, and EPA has determined for the reasons discussed below not to restrict the use of HFCs in components at this time.

d. Export of Products Containing HFCs

EPA interprets a sector or subsector's ''use'' to cover not only manufacture and import of a product, but also the subsequent activities in the market chain related to products. Specifically, we interpret export to be included in the meaning of ''use.'' Where EPA has determined, consistent with consideration of the factors listed in subsection (i)(4), that it is appropriate to restrict the use of HFCs, it is reasonable for restrictions on domestically manufactured products intended for the U.S. market to apply equally to domestically manufactured products intended for export. Applying the restrictions to all such equipment using a regulated substance treats materially similar uses of HFCs in the same manner. Including a sector or subsector's export of a product using HFCs as subject to the prohibitions will prevent the limited supply of HFCs in the United States from being exported in products that could otherwise have used substitutes. A company cannot request additional consumption allowances based on the export of products containing regulated substances; requests for additional consumption allowances are limited to the export of bulk HFCs. 40 CFR 84.17. As with products manufactured for domestic use, one intent of this restriction is to ensure that sectors and subsectors that are currently using HFCs and that are well-positioned to transition to substitutes, per EPA's determination under the (i)(4) factors, actually make that transition, leaving more of the limited supply of HFCs for use in sectors and subsectors that have fewer options. Including exports as a prohibited activity also supports global efforts to reduce HFC use in light of the Kigali Amendment to the Montreal Protocol.

Comment: Many commenters representing trade organizations, OEMs, and HFC distributors requested that EPA allow for the export of equipment designed to use current refrigerants. Commenters stated that prohibiting export would harm American manufacturing; cede foreign markets to competitors; and perhaps lead other countries to use equipment that is older, less energy efficient, and leakier.

Response: EPA acknowledges that limiting sales to foreign markets where higher-GWP HFCs are not yet prohibited could negatively impact U.S. manufacturers. However, because of the global phasedown in HFCs, this will be only in certain markets and only for a limited time. Many major markets currently prohibit equipment using higher-GWP HFCs and thus an export market for innovative American products currently exists. Countries that have not yet transitioned to lower-GWP HFCs in certain sectors and subsectors will do so as the global phasedown of HFCs under the Kigali Amendment proceeds.

The export prohibition in this rule is not unique. EPA has historically prohibited the export of products using ODS in the sectors and subsectors addressed in this rule when restricting their manufacture, import, sale, offer for sale and distribution, or distribution. Regulations implementing the nonessential products ban [45] and restrictions on pre-charged RACHP equipment containing HCFC–22 and HCFC–142b [46] also prohibited export of domestically manufactured products. EPA has consistently included export as a prohibited element of distribution under regulations implementing title VI of the CAA.[47] Similarly, EPA's limitations on the use of an alternative to ODS under SNAP applies to products intended for export (59 FR at 13052; March 18, 1994; also *see* 40 CFR 82.174(e)). Therefore, EPA's application of its restrictions to the export of products using HFCs is reasonable and aligns with past practice and industry expectations. That being said, this rule does not prohibit the manufacture and export of components provided that labeling, reporting, and recordkeeping requirements are met. EPA anticipates that such reporting will allow the Agency to ascertain the impact of the global phasedown of HFCs on such equipment and in those subsectors.

Comment: Other commenters stated that countries should themselves determine when to transition to next-generation alternatives and that EPA should allow the export of equipment for as long as the importing country allows its use. One commenter stated that EPA is effectively legislating those jurisdictions worldwide that are refrigerant agnostic.

Response: EPA disagrees that this rule legislates the use of substitutes in other countries. EPA is prohibiting the use of higher-GWP HFCs in certain sectors and subsectors within the United States. Prohibited use includes the domestic manufacturing of those products, regardless of the market into which they are sold. Restrictions on sale or distribution, offer for sale and distribution, and export are intended to backstop the domestic manufacturing prohibition. Furthermore, components may continue to be manufactured and imported into the United States and may also be exported to jurisdictions that are refrigerant agnostic. Finally, this rule will not prevent products manufactured in one foreign country from being sold in another foreign country.

Comment: Many commenters noted that other jurisdictions may not have building codes that allow for next-generation refrigerants. Similarly, other commenters stated that other jurisdictions may not have trained

[45] 40 CFR part 82, subpart C.

[46] 40 CFR part 82, subpart I.

[47] The definition of distributor under 40 CFR 82.62 and 82.302 includes a person who sells or distributes a product for export from the United States.

technicians, recovery equipment, or other infrastructure necessary to support alternative refrigerants in MVACs. One such commenter stated that the primary substitute, HFO–1234yf, is not as effective in high temperature, high-humidity environments such as the Gulf Cooperation Council countries and that vehicles using HFO–1234yf will be at a competitive disadvantage in those markets.

Response: As discussed previously, EPA interprets ''sector or subsector in which a regulated substance is used'' to be a domestic sector or subsector which includes use by the manufacturer. The factors under subsection (i)(4) of the AIM Act do not direct the Agency to consider whether a substitute is available for use in a foreign market for servicing the product. Nor is it practicable for the Agency to identify whether substitutes are available in every country or consider every country's import controls, building codes, or otherwise.

On the technical point on use of HFO–1234yf in high ambient temperature counties such as the Gulf Cooperation Council countries, EPA notes that the TEAP has not indicated technical barriers that would preclude the use of alternative refrigerants that meet the GWP threshold for MVACs from being used in high ambient temperature countries. EPA is making some revisions in the final rule based on comments. For the reasons described in section VI.C.2.c, EPA is extending the compliance date for restrictions on exports from one year to three years. Thus, for example, light-duty (LD) passenger vehicles manufactured before Model Year (MY) 2025 [48] containing an HFC with a GWP of 150 or greater may be exported until introduction of MY 2028 vehicles. This allows for flexibility past MY 2027, as suggested by commenters. Moreover, because the transition to refrigerants with GWPs below 150 in MVACs is well underway on a global basis, EPA does not agree that there will be infrastructure barriers for this subsector.

Comment: Other commenters stated these export restrictions are largely unnecessary, considering that the HFC allocation program provides the appropriate market constriction and will discourage unreasonable consumption of regulated substances for use in exported products.

Response: As discussed in response to similar comments regarding restrictions on sale or distribution, EPA is exercising the separate authority provided under subsection (i) of the AIM Act to restrict use of HFCs in particular sectors or subsectors- where the subsection (i)(4) factors are met. Establishing these sector and subsector specific restrictions helps to support the domestic phasedown and allocation program by ensuring that those sectors and subsectors that have available substitutes for use in place of higher-GWP HFCs use those substitutes.

3. What uses are not covered in the final rule?

a. Manufacture, Import, Sale, Distribution, and Export of Components

Based on the comments received, EPA is excluding components from the definition of product and is therefore not applying the final rule's restrictions on manufacture, import, sale, distribution, offer for sale or distribution, or export (all of which apply to products) to components. EPA's exclusion of components from this rule's prohibitions is premised on the continued need for components to service existing systems.

EPA is applying requirements to label, report, and keep records related to the manufacture and import of certain specified components. For purposes of this rule, these specified components are condensing units, condensers, compressors, evaporator units, and evaporators. EPA is separating out this subset of components found in an RACHP system because these are refrigerant-specific (*e.g.,* unlike piping) and may contain significant amounts of regulated substances (*e.g.,* unlike a thermal expansion valve) when manufactured or imported. In some instances, such as a display case in a supermarket, these specified components may also be viewed as products or appliances themselves. However, even though these specified components constitute the major parts of a system, they still must be connected to a refrigerant circuit in order to function, and we therefore think treating these specified components as components is more appropriate at this time than treating them as products under this rule's prohibitions. EPA also considered that the same specified components (*e.g.,* compressors) can in some cases be used in systems in different subsectors, which may not be subject to the same GWP limit restrictions. Until the specified component is assembled in a system, it may not be clear what subsector GWP limit would apply to that specified component.

Labeling, reporting, and recordkeeping provisions are necessary to ensure that components that continue to be manufactured or imported containing higher-GWP HFC refrigerants are, in fact, used for the repair and servicing of existing equipment.

Replacement of certain percentages of these specified components is also the type of modification that could constitute an installation of a new system that is prohibited under these restrictions (*see* section VI.C.2.b). We are requiring that manufacturers and importers of specified components label these components, report to EPA, and maintain the necessary records related to reporting, to help ensure compliance with this prohibition. (*see* sections VII and VIII).

Comment: Some commenters requested that EPA allow replacement components to be manufactured, imported, exported, or installed after the compliance date to maintain, service, or remodel an existing system. One commenter urged that this be allowed until the time those systems using high-GWP HFCs no longer exist in the field. One commenter suggested that such components be labeled, ''For retrofit, replacement, remodel, or maintenance only.'' Other commenters recommended that the manufacture and import of components cease upon the compliance date for that sector or subsector just as is required of the installation of the system. These commenters stated that this would help to ensure that components are used for repairs and not to construct new systems.

Response: The repair and servicing of installed systems is crucial for all the reasons described previously. Avoiding early obsolescence due to the lack of a component is one reason EPA is not applying the prohibitions on sale or distribution, or offer for sale or distribution, to components.

With respect to the comment recommending that EPA prohibit manufacture and import of components upon the compliance date for the installation of systems using those components, we do not agree that this would accomplish the goal of ensuring supply of components to service and repair existing systems. In addition, components may be manufactured for use with multiple refrigerants, including potentially blends that comply with the GWP limit and ones that do not. Until the component is assembled into a system and charged, it would be unclear whether the component, on its own, met a restriction. As noted above, a component may also be used in multiple subsectors and thus could be compliant for use in one subsector but

[48] LD passenger vehicles that are manufactured in MY 2025 but are manufactured less than one year after publication of this final rule may also be exported until introduction of MY 2028 vehicles.

not another. Applying this rule's prohibitions on manufacture, import, sale, distribution, offer for sale or distribution, and export on components would be difficult to enforce.

EPA agrees with the commenter that there is a compliance risk that components manufactured or imported for repairs could be used to install a new prohibited system. EPA is mitigating that risk of noncompliance through labeling that a specified component is for repair and servicing only, as one commenter recommended, and reporting and recordkeeping requirements.

b. Used Equipment

EPA is not applying the GWP limit restrictions or other restrictions to the sale, distribution, offer for sale or distribution, or export of used equipment. By used, the Agency means products, components, or systems that have been in the ownership of someone other than a manufacturer, importer, or distributor, and have experienced ordinary operation or utilization by a consumer. Some equipment, such as air-conditioning and refrigerated appliances, are often conveyed with the sale of a building and could not reasonably be excluded from that conveyance. Other products subject to these restrictions may be incorporated into a larger good, such as an MVAC in a motor vehicle, which may be sold multiple times during the useful life of the good. Restricting the sale of used equipment that use HFCs would significantly decrease the value of those goods and impact the market for used products (*e.g.,* trading in a used motor vehicle during the purchase of a new one). Restricting the sale of used products could also have overall detrimental environmental effects by requiring consumers to discard products or equipment before the end of the product's useful life and could negatively impact affordability for consumers by eliminating options to purchase used products. Under title VI of the CAA, EPA typically has not restricted the sale of used appliances containing ODS and is maintaining a similar approach for this rule.

EPA intends that this exemption for used equipment cover both individuals selling products they themselves have used as well as entities that do volume business in used products (*e.g.,* stores selling second-hand goods or car-dealerships selling pre-owned vehicles). However, this used products exemption is not intended to cover entities that purchase new equipment, which is subject to the restrictions on manufacture and import, hold that equipment for a period of time, and then re-sell it. We have accordingly specified that equipment must have experienced ordinary operation or utilization by a consumer to qualify for the used equipment exemption.

EPA received one comment on its proposal not to restrict the sale, distribution, or export of used products. The commenter found the description of a used product to be problematic as it could restrict the recycling of an unsold defective unit, for instance. EPA does not seek to restrict the movement of equipment, used or new, for disposal, including recycling.

c. ''Equipment in Existence''

Under subsection (i)(7)(B)(ii) of the Act, ''a rule promulgated under this subsection shall not apply to, . . . except for a retrofit application, equipment in existence in a sector or subsector before December 27, 2020.'' As such, EPA's restrictions do not apply to the sale or distribution, offer for sale or distribution, or export of any equipment that was in existence in the sector or subsector prior to December 27, 2020.

Comment: Multiple commenters representing a range of stakeholders recommended that EPA consider all equipment that was manufactured prior to the compliance date for that subsector be considered ''equipment in existence'' for purposes of subsection (i)(7)(B). The commenters stated that doing so would provide necessary certainty that equipment manufactured between December 27, 2020, and the compliance date for that subsector (*e.g.,* January 1, 2026) could be serviced, repaired, and have components replaced as needed throughout its useful life. Another commenter similarly advocated that EPA should not mandate replacement of any equipment that has a date of manufacture of the compressor-bearing equipment prior to the effective compliance date.

Response: The Agency does not agree that equipment that was manufactured prior to a future compliance date for a subsector fits under subsection (i)(7)(B)'s ''equipment in existence in a sector or subsector before [December 27, 2020].'' Any equipment manufactured or installed after December 27, 2020, plainly does not meet the statutory exemption. Nonetheless, all equipment—regardless of the date of manufacture or installation—may be serviced, repaired, and have components replaced as needed throughout its useful life. Under this rule as finalized, servicing, repair, or maintenance of equipment that was in existence in the sector or subsector prior to December 27, 2020, would generally not render that equipment newly subject to EPA's restrictions on use of HFCs, except in those instances where such actions constitute a new installation (*see* section VI.C.2.b).

The Agency is also not mandating the replacement of any equipment that is currently in use, regardless of the date of manufacture or installation of that equipment. This rule's restrictions apply to the manufacture, import, sale, distribution, offer for sale or distribution, and export of new products and the installation of new systems. Only where an existing system is modified to the point that the cooling capacity is increased or a threshold percentage of specified components is replaced, is it considered an installation of a system subject to these restrictions.

d. Repair and Servicing

This rule does not impose restrictions on the repair and servicing of products or systems that are currently in use.

Comment: Many commenters expressed concern about the loss of significant capital investment and economic harm should EPA restrict the ability to repair existing systems. Distributors were also concerned about the cost of discarding components that could not be sold to service or repair a system. Some commenters noted the social and economic costs associated with the loss of food, vaccines, and other commodities that would spoil if a refrigeration system fails and cannot be quickly repaired. Some commenters noted the impact on low-income communities if supermarkets or other retail food facilities close. Some commenters were concerned for their customers if equipment warranties could not be honored or if they had to buy a new system for the failure of a single component.

Response: EPA acknowledges the concerns noted by commenters regarding the need to service and repair existing systems. Under this final rule, a product or system may be serviced and repaired throughout its useful life, including the replacement of components.

e. Retrofit Applications

Under the AIM Act subsection (i)(7)(B)(ii), EPA has authority to apply restrictions to ''retrofit applications,'' where existing equipment is upgraded by changing the regulated substance used (*see* AIM Act subsection (i)(7)(A)). The Act specifies that ''retrofit'' is where upgrades are made to existing equipment where the regulated substance is changed and which ''(i) include the conversion of equipment to

achieve system compatibility and (ii) may include changes in lubricants, gaskets, filters, driers, valves, o-rings, or equipment components for that purpose.''

EPA did not propose to address retrofits in this rulemaking, although the Agency issued in conjunction with the proposed restrictions an advanced notice of proposed rulemaking seeking information regarding certain retrofitted equipment. As stated at proposal, EPA is not addressing retrofit applications in this final rulemaking.

Comment: One commenter urged EPA to adopt separate GWP limits for retrofits as was done in SNAP rules 20 and 21, and another recommended that EPA mandate the use of reclaimed refrigerant in existing retrofitted equipment, noting that EPA does not need to wait for a rulemaking under subsection (h) of the AIM Act to do so, and that some reclaimed feedstock is available now or could be made available by future compliance dates. Other commenters supported EPA's decision not to regulate retrofits of existing equipment as part of this rulemaking, citing concerns that replacement refrigerants for high-GWP substances for retrofit equipment are not yet available.

Response: As discussed in the proposed rule and in the Agency's request for information about refrigerants used in retrofitted equipment and the prevalence of that equipment in certain sectors and subsectors, the Agency is still gathering information about retrofit applications. While we recognize the Agency's authority to issue restrictions on retrofit applications in subsection (i)(7)(B)(ii), we do not view, and commenters did not suggest, that EPA has an obligation to issue such restrictions at this time. Those commenters who recommended that EPA regulate retrofit applications in this rulemaking did not provide information that altered EPA's assessment that for this set of restrictions issued under subsection (i), given the early stages of implementing the AIM Act overall and of the phasedown under subsection (e), it is efficient and effective to focus on transitioning sectors and subsectors at this first step through prohibitions on the introduction of higher-GWP HFCs in new products and systems.

D. How is EPA addressing restrictions on the use of HFCs requested in petitions granted?

EPA is addressing three sets of petitions in this action: the 11 petitions granted or partially granted on October 7, 2021; additional petitions submitted by the Air-Conditioning, Heating and Refrigeration Institute (AHRI) which updated previously submitted petitions; and two petitions granted by EPA on September 19, 2022. EPA is addressing these granted petitions in a single rulemaking rather than through separate rulemakings. In some instances, particularly where the petitioned sectors and subsectors overlap, responding through a single rulemaking allows for a complete analysis in a single location. Consistent with EPA's authority under subsection (i)(1) of the AIM Act, EPA is also establishing restrictions on the use of HFCs in certain sectors and subsectors that were not included in petitions received by the Agency to date.

Several commenters supported EPA's decision to address the granted and partially granted petitions together in one rulemaking. These commenters noted that addressing the petitions together allows for timely action and will provide consistency and transparency for regulated entities.

1. Petitions Granted on October 7, 2021

On October 7, 2021, EPA granted ten petitions and partially granted one petition under subsection (i) of the AIM Act (86 FR 57141, October 14, 2021). Copies of petitions granted (including the full list of petitioners and co-petitioners), a detailed summary of each petition, and EPA's rationale for granting these petitions are available under Docket ID EPA–OAR–2021–0643. Five of the granted petitions specifically requested that EPA replicate, in varying degrees, certain restrictions on use of HFCs based on the changes of status contained in SNAP Rules 20 and 21. These five petitions were received from the Natural Resources Defense Council et al. (hereby, ''NRDC''); DuPont (two petitions); American Chemistry Council's Center for the Polyurethanes Industry (hereby, ''CPI''); and the Household & Consumer Product Association and National Aerosol Association (hereby, ''HCPA''). These petitions requested restrictions on the use of specific HFCs or blends containing HFCs in refrigeration, air-conditioning, and heat pump, foams, and aerosols sectors.[49] Another five petitions requested that EPA establish GWP limits for HFCs used in certain stationary AC and/or refrigeration subsectors. These petitions were received from the Environmental Investigation Agency et al. (hereby, ''EIA''), AHRI (two petitions), Association of Home Appliance Manufacturers (hereby, ''AHAM''), and International Institute of Ammonia Refrigeration et al. (hereby, ''IIAR''). The one partially granted petition, submitted by California Air Resources Board et al. (hereby, ''CARB''), requested two types of restrictions: (1) Certain restrictions on the use of HFCs contained in SNAP Rules 20 and 21 in the RACHP, foams, and aerosols sectors and (2) restrictions on the use of HFCs based on GWP limits in certain stationary AC and refrigeration subsectors. CARB also requested EPA regulations should not limit States' ability to further limit or phase out the use of HFCs in their jurisdictions.

2. How is EPA addressing additional petitions that cover similar sectors and subsectors?

EPA received two additional petitions from AHRI on August 19, 2021, and October 12, 2021. The first petition requested that EPA establish transition dates for ''New Refrigeration Equipment'' [50] for certain commercial refrigeration subsectors listed, along with the associated maximum GWP. AHRI requested that the transition dates be at least two years after the adoption of safety standards and building codes.[51] AHRI's second petition in this category requested that EPA establish transition dates for ''New Refrigeration Equipment'' for specific chiller applications listed, along with the associated maximum GWP.

EPA is treating these two AHRI petitions as addenda to their October 7, 2021, granted petitions, and not as separate petitions, since the subsectors listed in these petitions are contained in the granted AHRI petitions and AHRI refers to these as further steps in the transition for these uses. The main difference between the requested action in these two petitions and the granted

[49] EPA notes that while these petitioners requested that EPA establish restrictions on the use of HFCs by restricting specific HFCs or blends containing HFCs, it does not necessarily mean that these petitioners preferred this restriction format over establishing restrictions on the use of HFCs by establishing GWP limits. EPA believes that these petitioners requested restrictions on the use of specific HFCs and blends containing HFCs in this way to replicate the format presented in SNAP Rules 20 and 21.

[50] AHRI suggests a definition for ''New Refrigeration Equipment'' as follows: equipment built with new components and equates to a nominal compressor capacity increase across the refrigeration appliance or an increase of the CO_2 equivalent of the refrigerant in the refrigeration appliance. Under this suggested definition, the replacement of components in Existing Refrigeration Systems would be permissible if the nominal compressor capacity is not increased across the refrigeration appliance or the CO_2 equivalent of the refrigerant in the refrigeration appliance is not increased.

[51] A discussion on the status of safety standards and building codes that may impact compliance dates is in section VI.E.2 of this preamble.

petitions is the lower-GWP limits with later compliance dates. Since EPA considers these two petitions as addenda to petitions granted on October 7, 2021, this rulemaking addresses these requests.

3. Petitions Granted on September 19, 2022

On September 19, 2022, EPA granted two additional petitions that requested EPA establish restrictions on the use of HFCs in certain commercial refrigeration subsectors based on GWP limits. These petitions were received from AHRI and IIAR and covered similar commercial refrigeration subsectors contained in petitions granted on October 7, 2021. One difference to note is that both the AHRI and IIAR petitions requested restrictions on the use of HFCs for equipment types beyond what was covered in many of the petitions granted on October 7, 2021 (*i.e.,* all equipment with a refrigerant charge less than 200 lb) in listed subsectors. EPA granted these petitions based on its consideration of the (i)(4) factors in light of the information then available. Given the Agency was already developing the proposed rulemaking which addresses restrictions on the use of HFCs in the sector and subsectors contained in these newer petitions, recognizing the extensive overlap with the petitions granted on October 7, 2021, and in an effort to streamline rulemakings, EPA is addressing these newer petitions in this rulemaking. Copies of the AHRI and IIAR petitions can be found in the docket.

E. Subsection (i)(4) Factors for Determination

Subsection (i)(4) of the AIM Act directs EPA to factor in, to the extent practicable, various considerations when evaluating petitions and carrying out a rulemaking. EPA is not establishing regulatory text regarding these factors at this point; however, this section summarizes the Agency's interpretation and application of the (i)(4) factors. EPA's consideration of the (i)(4) factors served as the basis for the restrictions (for additional discussion see section VI.F of this preamble).

1. How is EPA considering best available data?

Subsection (i)(4)(A) of the AIM Act directs the Agency to use, to the extent practicable, the best available data in making a determination to grant or deny a petition or when carrying out a rulemaking under subsection (i). In this context, EPA interprets the reference to best available data as an instruction with respect to the other factors under (i)(4) rather than as an independent factor. Best available data may not always mean the latest data. For example, the latest data may not have yet had time to be peer reviewed and might benefit from peer review. This should not be interpreted as meaning EPA would only consider best available data to be peer-reviewed data, but that peer review is one consideration that could inform our understanding of what are the best available data in particular situations.

The best available data that the Agency has considered in determining the availability of substitutes under (i)(4)(B) includes, but are not limited to: SNAP listing decisions; Montreal Protocol reports by the TEAP and its Technical Options Committees and Temporary Subsidiary Bodies (*e.g.,* Task Forces);[52] TSDs from States with HFC restrictions;[53] information from other Federal agencies and departments (*e.g.,* DOE); proceedings from technical conferences; and journal articles. For some of the factors and subfactors, EPA developed TSDs that provide information from these sources and others that EPA believes to be the best available data. Furthermore, EPA considered information provided to the Agency from industry, trade associations, environmental non-governmental organizations, academia, standard-setting bodies, petitioners, in public comments and in stakeholder meetings that the Agency hosted, and other sources in response to EPA making the petitions publicly available through Docket ID No. EPA–HQ–OAR–2021–0289, to the extent that such information represented best available data.

Comment: Two commenters stated that information contained in petitions is not ''best available data,'' given the petitions are in the self-interest of the petitioners and that the petitioners are incentivized to downplay any adverse consumer impacts.

Response: EPA considered information from petitioners (among other sources) to the extent that such information represented best available data. EPA is cognizant of the potential biases in the petitions and stated in the proposed rule that the petitions formed merely the starting point of the Agency's analysis.

Comment: One commenter stated that WMO and the IPCC are cited throughout the proposed rule but were not included as sources of best available data despite being the most authoritative resource for information on the environmental impacts of HFCs. The commenter also stated that the 2007 IPCC's AR4 values for the GWPs of HFCs are not best available data, as the IPCC has updated these values in 2013 and 2021. The commenter stated that EPA is understating the effects of HFCs and any person who attempts to gather GWP information from the authoritative source (such as the IPCC) will not come to the same conclusions regarding compliant products.

Response: EPA agrees that the IPCC and WMO are sources of best available data, especially for the environmental impacts of HFCs and other greenhouse gases. EPA's non-exhaustive list of data sources referred to by the commenter were in the context of the subsection (i)(4)(B) factors for which other data sources are more relevant. EPA disagrees that the policy decision to use AR4 GWP values is a failure to use best available data. As the commenter noted, the exchange values for HFCs used in the AIM Act are the same as the AR4 GWP values. Use of AR4 values ensures consistency between the different regulations issued by EPA under the AIM Act, including the production and consumption caps and the issuance of allowances. Using different values would make the program harder to implement, confuse the body of stakeholders required to comply with the regulations, and prevent the Agency from evaluating the benefits of this rulemaking within the context of the different regulations issued by EPA under the AIM Act.

2. How is EPA considering the availability of substitutes?

Subsection (i)(4)(B) of the AIM Act directs EPA to factor in, to the extent practicable, the availability of substitutes for use of the regulated substance that is the subject of this rulemaking or petition, as applicable, in a sector or subsector. Several factors inform the availability of substitutes for use in a sector or subsector, based on the statutory language in subsection (i)(4)(B). As part of EPA's consideration of availability of substitutes, the AIM Act directs the Agency to take into account the following subfactors: technological achievability, commercial demands, affordability for residential and small business consumers, safety, consumer costs, building codes, appliance efficiency standards, contractor training costs, and other

[52] The Technical Economic Assessment Panel is an advisory body to the parties to the Montreal Protocol and is recognized as a premier global technical body; reports available at: *https://ozone.unep.org/science/assessment/teap.*

[53] An example is CARB's Initial Statement of Reasons and Standardized Regulatory Impact Assessment report. Available at: *https://ww2.arb.ca.gov/rulemaking/2020/hfc2020.*

relevant factors, including the quantities of regulated substances available from reclaiming, prior production, or prior import.

EPA has considered the subsection (i)(4)(B) subfactors collectively, with no one subfactor solely governing the restrictions for any sector or subsector. EPA is not required to weigh all subfactors equally when considering the availability of substitutes. Subsection (i)(4) directs the Agency to consider the factors listed in (i)(4), including availability of substitutes, ''to the extent practicable.'' EPA interprets this phrase to extend to its consideration of the subfactors in (i)(4)(B), given that these subfactors are to be taken into account in considering the availability of substitutes ''to the extent practicable.'' EPA anticipates that in most situations, no single subfactor will be dispositive of its consideration of the availability of substitutes under subsection (i)(4)(B). In many instances, a particular characteristic of a substitute may be considered under multiple factors. For example, the use of a lower flammability refrigerant could have implications for commercial demands, safety, building codes, and contractor training costs. Likewise, the timing of a restriction's compliance deadline could be affected by multiple factors such as commercial demands, affordability for residential and small business consumers, safety, building codes, and appliance efficiency standards. Furthermore, not all the subfactors in (i)(4)(B) may be applicable to each sector or subsector. For example, appliance efficiency standards are not applicable to aerosols. Lastly, it may not be practicable to consider some subfactors in some situations such as when there are not sufficient available data regarding a specific subfactor. EPA did not receive comment on its methodology to weigh the factors collectively and to the extent practicable and therefore is finalizing restrictions in this rule using that approach.

Substitutes for higher-GWP HFCs have been the subject of evaluation for decades. EPA, State and foreign governments, industry standards organizations, and international advisory panels have long been identifying and assessing substances that can be used in lieu of higher-GWP HFCs and their predecessors, often for uses within the sectors and subsectors subject to this rule. EPA has drawn upon information generated by these efforts in considering the subsection (i)(4) factors in the context of this rulemaking, and in particular, in considering the availability of substitutes under subsection (i)(4)(B).

While these entities have evaluated substitutes for HFCs in other contexts, the information generated by these efforts provides a useful starting point. For example, in the SNAP program under section 612 of the Clean Air Act, EPA identifies and evaluates substitutes for ODS in certain industrial sectors, including RACHP, aerosols, and foams. To a very large extent, HFCs are used in the same sectors and subsectors where ODS historically have been used. Under SNAP, EPA evaluates acceptability of alternatives for ODS based on the potential human health and environmental risks, relative to other substances used for the same purpose. In so doing, EPA assesses atmospheric effects such as ozone depletion potential and global warming potential, toxicity and exposure data, flammability, and other environmental impacts. These assessments under SNAP are relevant to some of the subsection (i)(4) factors, particularly with respect to safety (and the resultant impact on availability of a substitute under (i)(4)(B)) and environmental impacts. We have therefore considered SNAP assessments and listings of acceptable substances in our consideration of the (i)(4) factors and establishment of use restrictions under subsection (i). Further, the fact that manufacturers and formulators have submitted substitutes to EPA for evaluation under SNAP can indicate to the Agency that the substitute is technologically achievable for a given sector and that there is (or will be) commercial demand for it. A substitute listed by EPA as acceptable for a given end-use under SNAP would most likely have been submitted by industry where the submitter thought that the substitute was technologically achievable and that there could be a market for such substitute.

EPA has also considered in this rulemaking the work undertaken by the TEAP. The TEAP analyzes and presents technical information and recommendations when specifically requested by parties to the Montreal Protocol. It does not evaluate policy issues and does not recommend policy. Such information is related to, among other things, substitutes that may replace the substances controlled under the Protocol and alternative technologies that may be used without adverse impact on the ozone layer and climate. The TEAP assesses the technical and economic feasibility of substitutes for sectors and subsectors that use HFCs and publishes various technical reports through different technical committees, such as the Refrigeration, Air Conditioning, and Heat Pumps Technical Options Committee.[54] In the TEAP's evaluation of HFC substitutes, subfactors such as technological achievability and affordability have been considered to some extent. For this rulemaking, EPA considered technical and economic information from the TEAP's 2018 Quadrennial Assessment Report and the recent 2022 Progress Report, including the response to ''*Decision XXXIII/5—Continued provision of information on energy-efficient and low-global-warming-potential technologies*'' found in Volume 3 of the Progress Report.[55] [56] [57]

EPA also considered materials developed by, or submitted to, State and foreign governments that have requirements restricting the use of HFCs. Many of these jurisdictions highlight available substitutes that can be used in place of regulated substances in the sectors and subsectors that are the subject of this rulemaking.

This is not an exhaustive list of sources that EPA could use in the future to consider the availability of substitutes; section VI.E.1 of this preamble describes additional sources of information that the Agency considers to be best available data. For future Agency actions under the Technology Transitions program, EPA would likely again consider information from these sources to assess availability of substitutes but the Agency may augment or omit sources where appropriate to be consistent with the Agency's interpretation of subsection (i)(4)(A).

EPA has identified substitutes [58] for use in lieu of regulated substances in

[54] The TEAP 2018 Quadrennial Assessment Report includes sections for each of the Technical Options Committees (TOC): Flexible and Rigid Foams TOC, Halons TOC, Methyl Bromide TOC, Medical and Chemicals TOC, and Refrigeration, Air Conditioning and Heat Pumps TOC. Available at: *https://ozone.unep.org/science/assessment/teap.*

[55] In accordance with Article 6 of the Montreal Protocol, every four years the parties request assessments from various advisory bodies, including the TEAP's quadrennial assessment of the sectors and subsectors covered by the petitions. Under Decision XXVIII/2 the TEAP is also instructed to review HFC substitutes every five years. The parties also routinely request reports considering transitions and/or related topics (*e.g.,* commercial fisheries, energy efficiency for the refrigeration and air conditioning sector).

[56] TEAP 2022 Progress Report (May 2022) and 2018 Quadrennial Assessment Report. Available at: *https://ozone.unep.org/science/assessment/teap.*

[57] Volume 3: Decision XXXIII/5—Continued provision of information on energy-efficient and low-global-warming-potential technologies, Technological and Economic Assessment Panel, United Nations Environment Programme (UNEP), May 2022. Available at: *https://ozone.unep.org/system/files/documents/TEAP-EETF-report-may-2022.pdf.*

[58] Inclusion of a substitute, either in the preamble or the docket, is for informative purposes only and

specific sectors or subsectors by reviewing information from several of these sources, which the Agency considers to be best available data. EPA compiled a non-exhaustive list of available substitutes that informed the GWP limit or restriction. *See American Innovation and Manufacturing Act of 2020—Subsection (i)(4) Factors for Determination: List of Substitutes,* referred to in this preamble as the ''List of Substitutes TSD.'' That TSD and list were developed after considering, to the extent practicable, the subsection (i)(4)(B) subfactors, as discussed below and in the other TSDs available in the docket. Substitutes for regulated substances have been identified in this list as available for the sectors and subsectors for which EPA is establishing restrictions.

We note, however, that EPA's identification of a substitute as ''available'' for use in a particular sector or subsector is not intended as a determination that such substitute is already widely used in that sector or subsector, or that the subfactors in subsection (i)(4)(B) are fully realized as to that substitute (even if those conditions are true in some cases). For example, as stated in the proposed rule, some of the substitutes EPA lists as ''available'' for a sector or subsector may not yet be available uniformly throughout the United States or may not be already permissible under building codes in every jurisdiction in the United States (*see* section VI.E.2.d of this preamble). Instead, the Agency interprets ''available'' in subsection (i)(4)(B) as permitting it to consider the progress and status of a substitute's incorporation into a sector or subsector, particularly in relation to establishing the compliance deadlines for each restriction. The statute would serve little purpose if EPA were only permitted to restrict regulated substances where the (i)(4)(B) subfactors (*e.g.,* building codes, contractor training costs, commercial demand) were already ''satisfied'' because substitutes were already completely adopted by the sector or subsector. Instead, it is reasonable for the Agency to consider a substitute to be available based on the expectation that, by the compliance date established in a restriction, many of the (i)(4)(B) subfactors could feasibly be met. We recognize that forecasting availability based on the (i)(4)(B) subfactors by an established compliance dates in the future is an exercise that inherently requires some estimation and uncertainty; for example, it is impossible to perfectly predict the outcome of SNAP evaluations that have not yet occurred or the success or failure of equipment redesigns and safety tests. In setting compliance dates for the restrictions under subsection (i), EPA is exercising its judgment and applying best available data regarding how far along a sector or subsector is in the transition to lower-GWP substitutes to determine when those substitutes will be sufficiently available to accommodate a variety of uses within the sector or subsector.

Comment: One commenter stated that, in general, EPA has not adequately assessed available substitutes and the ability of these substitutes to be utilized in certain end uses by the dates that have been proposed. The commenter stated that it is not apparent from the proposed rule or the information that is available in the docket that EPA has adequately assessed each of the end uses in sufficient detail, or whether information the Agency has relied on correctly indicates that substitutes (as defined through GWP limitations) are technically achievable and therefore available.

Response: EPA disagrees that the Agency has not adequately assessed available substitutes. The commenter did not explain, as a general matter, what information relied upon by the Agency it believed to be unreliable or insufficiently detailed. EPA has considered information provided by the TEAP, which taps into global expertise from industry, academia, and the public sector. EPA also looked to its own SNAP program, which has evaluated more than 500 ODS alternatives, many of which are also substitutes for HFCs. Moreover, these were not the only sources of information that the Agency relied upon, and additional supporting information is cited for each of the finalized restrictions.

a. Commercial Demands and Technological Achievability

Two of the subfactors that subsection (i)(4)(B) directs EPA, to the extent practicable, to take into account in its consideration of availability of substitutes are commercial demands and technological achievability. This section provides information on how the Agency views each term on its own, their potential impact on availability of substitutes, and their interconnectedness.

EPA views commercial demands as interest from OEMs and system owners to use substitutes in products for ultimate sale or installation. An OEM's interest in using a substitute is tied to their ability to meet consumer needs. As discussed previously, EPA considers a submission under the SNAP program to be an indicator that a chemical producer or formulator anticipates commercial demand for the submitted alternative. Another method to determine commercial demands is to assess what types of equipment in a sector or subsector are for sale and what regulated substances or substitutes are being used. Another means for assessing commercial demands is to review the information companies provide including, but not limited to, planned releases of products or equipment using substitutes. Likewise, use of products or equipment using substitutes by system owners can demonstrate commercial demands for that equipment.

EPA views technological achievability as the ability for a substitute to perform its intended function in a sector or subsector. For example, technological achievability can be demonstrated through a substitute's compliance with or listing by standard setting bodies such as ASHRAE or Underwriters Laboratories (UL) or through testing and demonstration labs and projects.

EPA provides additional information in the TSD *American Innovation and Manufacturing Act of 2020—Subsection (i)(4) Factors for Determination: Technological Achievability and Commercial Demands,* referred to in this preamble as the ''Commercial Demands and Technological Achievability TSD''; this TSD supports the Agency's consideration of the commercial demands and technological achievability subfactors and is available in the docket. The Commercial Demands and Technological Achievability TSD identifies products and systems using substitutes that are commercially available (*i.e.,* products for sale), or where manufacturers indicate they soon will be available, by sector and subsector. EPA views commercial availability of products and systems using substitutes as an indication of both commercial demand and technological achievability. In other words, a product or system using an available substitute in a market means that the particular substitute is technologically achievable and that there is a commercial demand for that substitute.

The Agency relied on a range of sources and considered where products and systems are already available as well as where they are expected to be available given their use in other countries and/or manufacturer announcements. These sources include, but are not limited to, publicly available data such as information on ENERGY STAR products, company websites,

is not intended as an EPA endorsement or recommendation.

SNAP listings, news articles, market reports, and communication with industry experts. EPA also considers information that was provided to relevant States as informative when evaluating whether a technology is achievable or in commercial demand for the purposes of evaluating available substitutes in their respective rulemakings. Another source for considering technological achievability and commercial demand is the information provided by petitioners. While EPA made every effort to gather information related to these subfactors, we recognize that given the scope of this rulemaking and the number of sectors and subsectors covered, we may not have considered all versions and models of all products or equipment in every sector or subsector.

EPA is not limiting its consideration of commercial demands and technological achievability to a specific geographic region since products or systems may be introduced in a few markets first. The information provided in this rule and the Commercial Demands and Technological Achievability TSD available in the docket are based on the best available data and were considered to the extent practicable in this rulemaking.

b. Consumer Costs and Affordability for Residential and Small Business Consumers

Subsection (i)(4)(B) directs EPA, to the extent practicable, to take into account consumer costs and affordability for residential and small business consumers, among other subfactors, in its consideration of availability of substitutes. EPA views these two subfactors as related, in many instances, because residential and small business consumers are a subset of consumers at large. The Act does not specify in what way EPA should consider costs and affordability to these consumers in determining whether a substitute is available. The Agency's view is that the appropriate way to analyze consumer costs and affordability is to look not at the total cost of a product/system using a substitute, but rather at the difference in cost of a product/system resulting from the transition. For this rule, the Agency has considered the impact of its restrictions on the use of substitutes in certain subsectors to the costs of products or systems for consumers of all types. In some cases, EPA has extended proposed compliance dates to mitigate potential cost impacts to consumers, because in doing so, the Agency is anticipating that by the later compliance date established in the final rule, the HFC phasedown required under subsection (e) will be further along, there will be increased production of HFC substitutes, and the cost of the substitute will be less of a barrier to the availability of that substitute.

Although some substitutes are more costly than HFCs today, the experience with the ODS phaseout has been that prices of substitutes generally decline as production increases, as more producers negotiate licensing agreements for certain chemicals, and as patents expire. EPA has compiled a memo in the docket which provides a non-exhaustive list of several announcements that have been made regarding the initiation or updating of production plants for various substitutes.[59] Simultaneously, experience with the ODS phaseout and reductions in supply of HFCs in other parts of the world, suggest that the price of HFCs will increase as a result of the phasedown. While these are the anticipated trends, EPA finds that the cost of using a regulated substance or substitute generally represents only a small fraction of the total cost of the product.[60] For the RACHP sector, the cost of refrigerant is less than one percent of the entire cost of the system, and the highest costs come from raw materials such as copper, steel, and aluminum that are used to make the equipment.[61] Therefore, even a large change in the cost of the refrigerant is unlikely to have a significant impact on the overall cost of the product.

Additionally, substitutes are more efficient refrigerants than the HFCs currently used, with some exceptions. This means that less refrigerant is necessary in the finished product. More importantly, this can reduce costs of the equipment because it requires less raw material such as copper, steel, and aluminum to create heat transfer elements. EPA applied the savings from using fewer raw materials and improved energy efficiency only when EPA found sufficient literature supporting such claims; however, other such cost saving factors may be relevant to other subsectors.

In considering affordability for residential and small business consumers and consumer costs, the Agency has also looked at overall compliance costs associated with this rule to OEMs, importers, retailers, distributors, and other regulated entities. This is because compliance costs to these entities tend to be passed on to consumers. EPA has previously analyzed ''consumer costs'' in relation to ''compliance costs'' and found very little difference in these.[62] EPA included the cost to consumers in an analysis of the HFC phasedown as stipulated in the AIM Act that Congress was considering in 2019. In that analysis, the costs to consumers were approximately $0 to $200 million less than the compliance costs, depending on the compliance step-down year (EPA analyzed 2020, 2024, 2029, and 2034). Compared to the total cumulative costs or savings estimated, these differences represented no more than a 20 percent difference, and in all cases were decreases in total costs or increases in total savings.

EPA's estimates of compliance costs include energy efficiency changes of equipment when switching from a regulated substance to a substitute, where data were available. To the extent available, EPA's analysis factored in energy efficiency changes inherent to the substitute, which is separate from the energy efficiency gains from using new equipment subject to more recent efficiency standards. These costs (or savings) will likely impact all consumers of the equipment using the substitutes, as the ones paying for the electricity. In this case, the consumer could be a residential consumer or a small business consumer, for instance a restaurant buying a new air conditioning unit or a small convenience store using new stand-alone retail food refrigeration equipment.

EPA's *Costs and Environmental Impacts* TSD summarizes many of the Agency's analytical results regarding the costs of using substitutes in the impacted subsectors (which in turn informed the Agency's assessment of whether that substitute is available) as well as the expected costs and negative costs (*i.e.,* savings) to industry associated with transitioning from a regulated substance to a substitute. This discussion (and the Costs and

[59] See memo titled, Technical Support Company Announcements of Increased Production of Low-GWP Substitutes in the docket that presents company announcements of increased production of lower-GWP substitutes. This memo is for informational purposes and does not represent endorsement by the Agency. EPA further notes that this memo is a non-exhaustive sampling of announcements; there may be other companies announcing increased production of lower-GWP substitutes.

[60] U.S. Department of Energy, Technical Support Document: Energy Efficiency Program for Consumer Products: Residential Central Air Conditioners and Heat Pumps, December 2016. Available at: *https://www.regulations.gov/document?D=EERE-2014-BT-STD-0048-0098.*

[61] *Consumer Cost Impacts of the U.S. Ratification of the Kigali Amendment,* JMS Consulting in partnership with INFORUM, November 2018. Available in the docket.

[62] See ''American Innovation and Manufacturing Act of 2019: Compliance and Consumer Cost Estimates'' document in the docket.

Environmental Impacts TSD) refers to the cost of manufacturing, purchasing, operating, and maintaining a product or system with a substitute that complies with the restrictions compared with that same product or system using a prohibited substance. For example, for the residential and light commercial air conditioning and heat pump subsector, the costs of manufacturing units that use lower-GWP substances or blends (*e.g.,* R–454B), and maintaining the operation of that equipment, compared to those costs for a baseline unit (*e.g.,* one that uses R–410A including the operation and maintenance of that unit), are used to generate an approximate accounting of the full cost (or potential savings) of the transition. Depending on the substitute and application, this can result in savings or costs borne by the consumer.

Data to develop the cost estimates summarized in the Costs and Environmental Impacts TSD were derived from a variety of information sources including technical literature and experts. EPA provides additional details regarding the data used in the RIA addendum and its accompanying appendices and references cited. The cost factors were applied to develop transition scenarios consistent with this rule using EPA's Vintaging Model. The resulting costs and abatement were used in a similar manner as the Marginal Abatement Cost analysis explained in the Allocation Framework RIA.

With respect to subsection (i)(4)(B)'s direction to consider affordability for small business consumers in particular, the Agency also analyzed whether its restrictions as a whole could have a significant economic impact on a substantial number of small business consumers. The analysis found that approximately 162 of the 51,047 potentially affected small businesses could incur costs in excess of 1 percent of annual sales and that approximately 110 small businesses could incur costs in excess of 3 percent of annual sales. Based on this analysis, we do not anticipate a broad, significant economic impact on small businesses as a result of the final restrictions. We expect that these results largely stem from the anticipated reduced costs of substitute chemicals as compared with HFCs as well as potential energy savings and reduced material costs for equipment as discussed above. This rule also does not require any consumers to stop using and maintaining their existing equipment.

Equipment manufacturers, which are often small businesses, have also already begun to transition to different refrigerants required by this rule in response to regulations being implemented in several States. Although State actions do not affect the entire U.S. market, many manufacturers have begun the transition to HFC substitutes to have products that can be sold nationally and comply with regulations in export markets. Additional information on potential impacts of this rule on small businesses can be found in the Small Business Regulatory Enforcement Fairness Act (SBREFA)[63] screening analysis located in the docket for this rulemaking.

One factor that affects affordability for residential and small business consumers is up-front capital costs for new equipment. Compared to large businesses, both groups may be less likely to be able to afford high up-front capital costs. However, this rule does not require that existing equipment be retired by a specific date, nor are estimates of emission reductions associated with these restrictions predicated on the assumption that equipment would be retired prematurely. Indeed, this final rule makes substantial changes from the proposed rule to reduce costs borne by distributors and equipment owners associated with the sell-through of products, the repair of existing systems, and the continued supply of components.

More salient to EPA's analysis is consideration of the costs of a substitute and its impacts on availability, particularly with regard to investments that must be made in redesigning equipment to incorporate use of the substitute. This redesign may have downstream costs on consumers, both small business and residential. One way EPA has factored in these costs and attempted to mitigate downstream impacts on consumers is by establishing compliance dates that are further in the future than the one-year required under the AIM Act. By signaling earlier to regulated industry that transitions will be required and providing more than one year for compliance, EPA provides some economic and regulatory certainty to designers and manufacturers, and eases supply constraints on components that these manufacturers may need for the redesign. Additionally, staggering the compliance dates across multiple years, rather than having a single January 1, 2025, compliance date, lessens potential bottlenecks in the transition to manufacture new equipment, such as testing and certification of equipment by a nationally recognized testing laboratory (NRTL). The resultant savings may then be passed on to consumers.

Comment: One commenter stated that EPA failed to consider higher repair and servicing costs over the life of these systems caused by the proposed rule. The commenter asserted that by moving to flammable refrigerants, service technicians must undertake additional precautions that would add to the time and cost to repairs; that moving from one refrigerant (R–410A) to multiple refrigerants will require costly redundancy of refrigerant-specific servicing equipment; and that newly designed equipment is generally less reliable and requires more repairs than established products.

Response: EPA disagrees with this commenter. In the context of availability, EPA did consider repair and servicing. As explained elsewhere in this final rule, this is not the first transition for most of the sectors and subsectors covered by this rule. Many manufacturers already use flammable HFCs or HFC alternatives including in foams, aerosols, and RACHP. EPA understands that there may be additional technician training needed; however, training is often needed when alternatives are introduced including with regard to inherent characteristics of the alternative that could include flammability, glide, changes in compatibility with components or oils, and other factors. Therefore, the need for training or changes in how repairs are undertaken, for example, is not limited to the introduction of flammable alternatives. We expect that under the HFC phasedown, access to HFCs, both newly manufactured and reclaimed, will continue far into the future, particularly given that the AIM Act directs EPA to phase down and not to phase out HFC production and consumption and subsection (h) provides direction concerning maximizing reclamation of HFCs. A network of reclaimers offer reclaimed HFCs that can be used to service existing equipment for its full useful life. Reclaimed CFCs and HCFCs remain available in the United States for servicing equipment that was designed, sold, installed, and continues to be operated by residential and small business consumers. Furthermore, the Regulatory Impact Analysis for this rule finds that for many subsectors, required transitions will provide net savings to the economy over time, which may in turn be passed on to small business and residential consumers.

[63] Economic Impact Screening Analysis for Restrictions on the Use of Hydrofluorocarbons under Subsection (i) of the American Innovation and Manufacturing Act, available in the docket.

c. Safety

Subsection (i)(4)(B) directs EPA, to the extent practicable, to take into account safety in its consideration of the availability of substitutes. As part of EPA's consideration of safety, EPA is providing additional information in the Safety TSD. This TSD supports the Agency's consideration of the safety subfactor and is available in the docket. EPA has reviewed information on flammability and toxicity as well as the ability of substitutes to meet relevant industry safety standards. In our interpretation of best available data, we evaluated information from recognized industrial sources, including standard-setting bodies, the SNAP program, international technical committees, and information from petitions. Safety information may impact the availability of substitutes in a particular sector or subsector, for example, if there are restrictions on the use of a substance in local building codes and/or regulatory requirements. Industry acceptance of substitutes that are compliant with safety standards is also an indication of safety and, therefore, impacts the use of a particular substitute.

Taking safety into account in considering the availability of substitutes is not intended to limit substitutes to only those that are risk free. This interpretation under subfactor (i)(4)(B) is informed by the approach EPA has taken under the SNAP program, where the Agency has likewise stated that it does not require alternatives to be risk free (59 FR 13044, March 18, 1994). Many industry standards are designed to mitigate risk and allow for the safe use of flammable, toxic, or high-pressure substitutes. EPA therefore understands the direction to take safety into account, to the extent practicable, as encompassing consideration of information on the risks associated with the substitute as well as information on risk mitigation.

EPA has considered the listings under SNAP in its assessment of the availability of substitutes in this rule. The SNAP program, in making listing decisions for a substitute (*e.g.,* to list as acceptable or unacceptable), considers whether a substitute presents human health and environmental risks that are lower than or comparable to such risks from other substitutes that are currently or potentially available for the same uses. Under this comparative risk evaluation, the human health risks analyzed include safety, and in particular, flammability, toxicity, exposure (of workers, consumers, and the general population) to chemicals with direct toxicity; and exposure of the general population to increased ground-level ozone. Under the SNAP program, EPA makes decisions that are informed by its overall understanding of the environmental and human health impacts.

Under SNAP, EPA can list substitutes as ''acceptable subject to use conditions,'' indicating that a substitute is acceptable only if used in a certain way. Use conditions can include, but are not limited to, warning labels, charge size limits, compliance with relevant safety standards, unique fittings for servicing of equipment, and restrictions on where a substitute is used (*e.g.,* normally unoccupied spaces).

EPA can also list substitutes as ''acceptable subject to narrowed use limits'' under SNAP, indicating that a substitute may be used only within certain specialized applications within an end-use and may not be used for other applications within that end-use. EPA lists an alternative as acceptable subject to narrowed use limits because of a lack of available alternatives within the specialized application. Users of an alternative in this category must make a reasonable effort to ascertain that other alternatives are not technically feasible for reasons of performance or safety. Users are expected to undertake a thorough technical investigation of alternatives to the otherwise restricted compound. Although users are not required to report the results of their investigations to EPA, users must document these results and retain them in their files for the purpose of demonstrating compliance.

EPA lists substitutes as ''unacceptable'' under SNAP if the Agency determines that they may increase overall risk to human health and the environment, compared to other alternatives that are available or potentially available for the same use. EPA has listed substitutes as unacceptable considering the human health criteria described above, as well as the environmental factors considered under SNAP. For example, SNAP has listed certain substitutes as unacceptable due to unusually high ozone depletion potential, global warming potential, toxicity and exposure, flammability (where it is not clear how to mitigate risks sufficiently), and potential impacts on local air quality. Substitutes listed as unacceptable in an end-use are prohibited for that use for those subject to SNAP.

EPA evaluates substitutes under the SNAP program on an ongoing basis and over time has listed numerous substances as ''acceptable,'' ''acceptable, subject to use conditions,'' or ''acceptable, subject to narrowed use limits.'' Often, EPA applies compliance with relevant safety standards, such as those discussed in the remainder of this section, as a use condition to mitigate some of the risk associated with using certain substitutes, particularly those that are classified as flammable. Therefore, updates to standards can greatly affect how SNAP considers the safe use of certain substitutes, and expanded risk mitigation strategies required by standards could reduce the comparative risk evaluation of a substitute under SNAP. The SNAP program also often applies use conditions in addition to those required by safety standards, which can further reduce the risk associated with use of a substitute.

In its evaluation of the safety subfactor under subsection (i)(4)(B) for refrigerants, EPA is also considering the safety group classification designated by ASHRAE Standard 34, and requirements for the safe design, construction, installation, and operation of systems under ASHRAE Standard 15, *Safety Standard for Refrigeration Systems,* and 15.2, *Safety Standard for Refrigeration Systems in Residential Applications.* ASHRAE Standard 34 assigns a designation consisting of two to three alphanumeric characters (*e.g.,* A2L or B1). The initial capital letter indicates the toxicity, and the numeral and trailing letter, if any, denotes the flammability. Under this standard, Class A refrigerants are those for which toxicity has not been identified at concentrations less than or equal to 400 parts per million (ppm) by volume, based on data used to determine threshold limit value-time-weighted average (TLV–TWA) or consistent indices. Class B signifies refrigerants for which there is evidence of toxicity at concentrations below 400 ppm by volume, based on data used to determine TLV–TWA or consistent indices. Refrigerants that are listed under the B (higher toxicity) classification of ASHRAE Standard 34 have been used safely and effectively for many years. For example, after the CFC phaseout, several companies offered comfort cooling chillers using HCFC–123, and at least one has since transitioned to the low-GWP B1 refrigerant R–514A in part of its product line. These systems generally have low leak rates, are located away from building occupants in limited-access areas (*e.g.,* mechanical rooms) with secured entrances, and utilize refrigerant sensors and alarms to alert operators of leaks. Building codes further reduce risks by requiring, for

example, mechanical ventilation to the outdoor space where such systems are placed.

The standard also assigns refrigerants a flammability classification of 1, 2, 2L, or 3 based upon the results of standardized testing for flame propagation, heat of combustion, lower-flammability limit (LFL), and burning velocity. Tests for flammability are conducted in accordance with American Society for Testing and Materials E681 using a spark ignition source at 140 °F (60 °C) and 14.7 psia (101.3 kPa).[64] The flammability classification ''1'' is given to refrigerants that show no flame propagation. The flammability classification ''2'' is given to refrigerants that exhibit flame propagation, have a heat of combustion less than 19,000 kJ/kg (8,169 BTU/lb), and have a LFL greater than 0.10 kg/m^3. The flammability classification ''2L'' is given to refrigerants that exhibit flame propagation, have a heat of combustion less than 19,000 kJ/kg (8,169 BTU/lb), have an LFL greater than 0.10 kg/m^3, and have a maximum burning velocity of 10 cm/s or lower when tested in dry air at 73.4 °F (23.0 °C) and 14.7 psi (101.3 kPa). The flammability classification ''3'' is given to refrigerants that exhibit flame propagation and that either have a heat of combustion of 19,000 kJ/kg (8,169 BTU/lb) or greater or have an LFL of 0.10 kg/m^3 or lower.

For flammability classifications, refrigerant blends are designated based on the worst case of formulation for flammability and the worst case of fractionation for flammability determined for the blend. Information on the ASHRAE classification of each substitute identified by EPA for this rule is available in the docket for this rulemaking.

ASHRAE Standard 15 specifies requirements for air-conditioning and refrigeration systems based on the safety group classification of the refrigerant used, the type of occupancy in the location for which the system is used, and whether refrigerant-containing parts of the system enter the space or ductwork and so that leakage in the space is deemed ''probable.'' ''High-probability'' installations are those such that leaks or failures will result in refrigerant entering the occupied space. Occupancies are divided into six classifications: institutional, public assembly, residential, commercial, large mercantile, and industrial. Examples of these include jails, theaters, apartment buildings, office buildings, shopping malls, and chemical plants, respectively. Sections 7.2 and 7.3 of ASHRAE Standard 15 determine the maximum amount of refrigerant allowed in the system, while section 7.4 provides an option to locate equipment outdoors or in a machinery room constructed and maintained under conditions specified in the standard. Section 7.6 of ASHRAE Standard 15 addresses the refrigerants in this final rule when used for human comfort in ''high-probability'' systems, including requirements for nameplates, labels, refrigerant detectors (under certain conditions), airflow initiation and other actions (if a rise in refrigerant concentration is detected), and other restrictions.

ASHRAE Standard 15 is generally followed for several of the RACHP subsectors addressed in this rule, and in many cases is required as a use condition under SNAP for comfort cooling chillers (*see* 88 FR 26382, April 28, 2023) or adoption either by reference or through similar language in local building codes. Therefore, part of our consideration of safety in our evaluation of the availability of substitutes is based on our knowledge of this and other ASHRAE Standards, and the evaluation of safety in these standards regarding substances, equipment, and use conditions. For example, the scope of ASHRAE standard 15 specifically excludes refrigeration systems operating with R–717 (ammonia) refrigerant and references IIAR Standard 2, *American National Standard for Safe Design of Closed-Circuit Ammonia Refrigeration Systems.* For subsectors where R–717 is currently widely employed (*e.g.,* industrial process refrigeration, cold storage warehouses, ice rinks) or where it may be used as a substitute, our consideration of safety in evaluating the availability of substitutes also incorporates this standard. Where the standards distinguish what types of refrigerants may be used based on a feature of the equipment (*e.g.,* charge size), EPA has in some instances considered those distinctions in setting the levels of restrictions or the timing of compliance dates.

EPA also considered UL standards in factoring in safety when evaluating the availability of substitutes under subsection (i)(4)(B). In general, UL standards provide engineering, labeling, and design requirements that address potential safety concerns for various types of refrigeration, air-conditioning, and heat pump equipment. Updates to UL standards are then incorporated into other regulatory and industry assessments, such as updates to SNAP listings, equipment design and testing, and changes to building codes. In some cases, EPA took notice of the timing of a publication of an update to a UL standard in establishing the compliance date for a subsector restriction, such as the safety standard UL 60335–2–89. This standard covers chillers used for IPR and other IPR systems, cold storage warehouses, retail food refrigeration equipment, and commercial ice machines. In October 2021, the 2nd edition of the standard was published, updating safety requirements so that flammable and lower flammability refrigerants could be deployed more widely in commercial refrigeration equipment. These updates included safety requirements, such as sensors in the room to trigger refrigerant shut-off valves when a refrigerant leak is detected and updated warning labels that better alert technicians, equipment users, and firefighters that a flammable refrigerant is contained in the equipment, among others. The updates included in UL 60335–2–89, 2nd edition, enable lower-GWP flammable refrigerants to be used safely in equipment in greater amounts than before through expanded mitigation strategies.

Based on the above, we find that products and systems can be used safely even if there are challenges with the HFC or HFC blend substitute being used. For example, most products within the RACHP sector will be tested at NRTL for conformance to the applicable UL standard and other requirements (*e.g.,* DOE energy conservation standards, National Sanitation Foundation (NSF) requirements). This testing provides a check on the products design to ensure, for instance, that charge sizes of flammable refrigerants do not exceed the standard's limit and that proper design and mitigation features are included as required. Likewise, when building projects are permitted, the authority having jurisdiction will typically review the design including specification on the refrigeration systems and conduct another review before giving permission for the building to commence operation. This too provides a check on the safety of such systems, for instance by ensuring compliance with ASHRAE Standard 15 or similar requirements provided by the local building codes.

Additional information on EPA's consideration of safety is available in the Safety TSD in the docket.

d. Building Codes

Subsection (i)(4)(B) directs EPA, to the extent practicable, to take building codes into account in its consideration

[64] ASHRAE, 2022. *ANSI/ASHRAE Standard 34–2022: Designation and Safety Classification of Refrigerants.*

of availability of substitutes. For certain types of equipment, especially in the RACHP sector, building codes may inform which substances can be used or may prescribe additional requirements before a specific substance can be used, thereby impacting availability of substitutes in some jurisdictions. This section summarizes EPA's understanding of building code development across the nation generally and how model building codes are developed and adopted into local building codes. EPA has considered this information, to the extent practicable, to evaluate how building codes may affect the availability of substitutes to regulated substances. Additional information is found in the TSD *American Innovation and Manufacturing Act of 2020—Subsection (i)(4) Factors for Determination: Building Codes,* referred to in this preamble as the ''Building Codes TSD.'' This TSD supports the Agency's consideration of the building codes subfactor and is available in the docket.

Building codes are established at the subnational level and can differ greatly across jurisdictions. Some States develop their own building codes and determine the frequency with which they are updated. Other states adopt (and sometimes amend) ''model'' building codes that are written by code-setting organizations. Code-setting organizations include the International Association of Plumbing and Mechanical Officials (IAPMO), the International Code Council (ICC), and the National Fire Protection Association (NFPA). Many States allow local governments to set their own building codes, provided they comply with the minimum standards established under State building codes. Both State and local building codes are periodically reevaluated and updated. The Agency did not review every jurisdiction's building codes as EPA does not view that as practicable.

Model building codes serve as the basis for many State and local building codes and incorporate a range of industry standards that establish specific requirements for building performance or design. Several of these standards are directly relevant to the availability of substitutes in the RACHP sector. EPA considered, to the extent practicable, updates to industry standards and if those updates may be incorporated into model building codes that will allow the future use of products that use substitutes. EPA also considered whether current building codes permit the installation and use of products and systems using substitutes, particularly with respect to setting compliance dates for restrictions. As noted earlier, EPA does not interpret subsection (i)(4)(B)'s direction to factor in building codes, to the extent practicable, as a requirement that EPA must find that current building codes already permit the use of a substitute before it may be deemed available.

EPA understands that, in some cases, jurisdictions need to update their building codes for some substitutes to be available for certain uses. EPA finds it reasonable to consider that updates to building codes may already be underway to reflect updated regulatory requirements or safety standards, and for EPA to establish compliance dates with the expectation that jurisdictions will prioritize completing those updates with those deadlines in mind. EPA is aware of ongoing efforts by industry groups and other stakeholders to work with State and local officials to update building codes to allow for alternative refrigerants. EPA has had and will continue to have discussions concerning agency rulemaking and meet with relevant stakeholders, including State officials. In some cases, it will be EPA's establishment of a future restriction that will serve as the catalyst, or at least a contributing factor, to the updating of building codes to accommodate those restrictions. Users may also be able to take other actions, usually site-specific, to show comparable safety to existing refrigerants and systems to receive approval from the authority having jurisdiction, even where building code updates are not yet complete. The Agency has therefore, for many of the subsectors addressed in this final action, provided additional time enabling those jurisdictions to update their building codes or legislation accordingly.

Model codes are typically updated on a three-year cycle, and most model building codes were last updated in 2021; the next scheduled updates are for 2024. Several proposed changes in the current code development cycle for the 2024 codes could enhance the availability of HFC substitutes under model building codes. For example, ICC, an international developer of model codes, standards, and building safety solutions, approved changes to many model codes that affect the availability of A2L refrigerants for the RACHP sector. These model code changes, which will go into effect in 2024, are consistent with updated industry standards that allow the use of substitutes identified in this rulemaking. However, State and local building code agencies do not automatically adopt updates to the model codes and thus, they may not be implemented until after 2024.

Information from stakeholders, including petitioners, indicates that several States are updating building codes both as part of the cyclical review and off cycle that would allow for the use of additional HFC substitutes. For example, Oregon, California, and Colorado have recently made, or are considering making, changes to their codes that would effectively incorporate updated industry standards as reflected in the model code changes that occurred in 2021. Updated codes may require automatic refrigerant leak detection systems, circulating fans, and labeling and handling instructions for flammable refrigerants in certain applications and installations.

Additional information on EPA's consideration of building codes can be found in the Building Codes TSD in the docket.

e. Appliance Efficiency Standards

As part of the Agency's consideration of the availability of substitutes as directed by subsection (i)(4)(B), EPA is taking into account, to the extent practicable, appliance efficiency standards. EPA consulted with the U.S. Department of Energy regarding relevant minimum energy efficiency standards and the timing for any planned changes to the current standards. DOE, through its Building Technologies Office and Appliance and Equipment Standards Program, sets minimum energy efficiency standards for more than 60 different types of equipment, including appliances and equipment used in homes, businesses, and elsewhere.[65] Several of these equipment types are within the RACHP sector and are covered in this action. Among the equipment relevant to this action are consumer products (*e.g.,* refrigerators, freezers, and room air conditioners) and commercial and industrial systems (*e.g.,* automatic commercial ice machines, vending machines, walk-in coolers, and walk-in freezers).[66] EPA provides additional information in the memo *American Innovation and Manufacturing Act of 2020—Subsection (i)(4) Factors for Determination: Appliance Efficiency Standards,* referred to in this preamble as the ''Appliance Efficiency Standards memo.'' This memo supports the Agency's consideration of the appliance

[65] See the U.S. Department of Energy's Appliance and Equipment Standards Program available at: *www.energy.gov/eere/buildings/appliance-and-equipment-standards-program.*

[66] For additional information and a complete list of products, please refer to the U.S. Department of Energy's website available at: *www.energy.gov/eere/buildings/standards-and-test-procedures.*

efficiency standards subfactor and is available in the docket.

The DOE Appliance and Equipment Standards Program regularly develops and updates appliance efficiency standards and test procedures. Future revisions to existing appliance efficiency standards could impact what substitutes are chosen to be used in equipment in specific sectors and subsectors. EPA is in regular communication with DOE so both agencies are aware of the schedules for these separate but related actions. The Appliance Efficiency Standards memo lists applicable standards in relevant sectors and subsectors and identifies standards currently undergoing revision. We understand that for redesign and testing of equipment, industry prefers that DOE and EPA regulations are synchronized where possible. Given that DOE and EPA operate under separate Congressional mandates, that synchronization may not always be possible, but sharing information early can reduce inconsistencies such that, to the extent possible, the refrigerants used to set performance standards will be available under the technology transitions program. For example, EPA discussed with DOE test procedures that they developed for Automatic Commercial Ice Machines (ACIMs). Based in part on that discussion, and as suggested in comments, EPA is not finalizing the restrictions for this subsector as proposed, but rather is finalizing restrictions in part by referencing DOE regulations (*see* section VI.F.1.g). EPA also recognizes the potential to greatly increase climate protection by both reducing the GWP of substances used in the relevant subsectors (*e.g.,* construction foams, appliances foams, and refrigerants) covered by this action and supporting energy efficiency in such applications.

Comment: Commenters stated that product design changes for refrigerant and efficiency both require a significant amount of time, resources, and capital and that there is benefit to every stakeholder in the channel if these regulatory actions are coordinated. One commenter stated that new DOE efficiency standards for ACIMs will be effective between 2027 and 2029 and the proposed compliance dates would require redundant work to develop products that first comply with both requirements. Two commenters that manufacture ice machines stated that many of their products will become less efficient by up to 10 percent due to the operating differences of the refrigerants.

Response: EPA recognizes that other requirements such as DOE energy conservation standards apply to ACIMs just as they apply to many RACHP subsectors. While EPA and DOE operate under different authorities and must follow timelines as set forth by these authorities, we find that the compliance dates finalized here broadly meet the commenters' request. For remote ACIMs, a compliance date of 2027, and for self-contained ACIMs, compliance dates of 2026 or 2027 with a three-year sell-through period, comport well with the commenter's prediction of DOE efficiency standards becoming effective in 2027 to 2029. DOE has already begun the process for such standards, and OEMs can choose to develop new products meeting the restrictions set in this rule while at the same time considering potential DOE energy conservation standards.

EPA disagrees that ACIMs using alternative refrigerants will necessarily experience a drop in efficiency. One ACIM manufacturer recently reported on results of an ACIM after the R–404A compressor was replaced with an R–290 one, finding a 34 percent energy savings and an increase of 35 percent in ice production.[67] DOE found a similar improvement when using R–290 in a different type of ACIM.[68] In its TSD for ACIMs, DOE in its preliminary analysis estimates the baseline energy can drop from 10% below baseline (*i.e.,* after other improvements were made) to 18% below baseline when switching to R–290. The refrigerant change increased the energy efficiency ratio (EER) from 6.4 to 7.4. When evaluating compressors for ACIMs, DOE found that R–290 compressors were consistently more efficient than R–404A ones over the full capacity range studied (from approximately 1,000 BTU/h to 5,000 BTU/h). In six other types of ACIMs, DOE consistently found that the energy use dropped by switching to R–290,[69] and likewise found improvements by switching to R–600a in three types of ACIMs.[70]

f. Contractor Training Costs

As part of the Agency's consideration of the availability of substitutes as directed by subsection (i)(4)(B), EPA is taking into account, to the extent practicable, available information on contractor training costs, including training related to substitutes for relevant sectors and subsectors (*e.g.,* certain RACHP and foam subsectors). EPA obtained contractor training and exam cost data through a review of publicly available literature, from industry trade and training associations, and information submitted to EPA during the comment period or in petitions under subsection (i). It is not feasible to obtain information and data on all available training programs and exams and our review represents an assessment to the extent practicable of information in relevant sectors and subsectors for contractor training costs. Some substitutes may require specialized or additional training, knowledge, or expertise to ensure their safe handling and use. This includes, but is not limited to, flammable (A3 or B3), lower flammability (A2L or B2L), and higher toxicity (B1, B2L, B2, or B3) refrigerants and other substitutes with unique or different characteristics such as those operating at higher pressures than HFCs. To the extent practicable, the Agency has considered the cost of trainings to contractors for handling products and equipment containing substitutes for HFCs or blends containing HFCs substitutes. In certain situations, the Agency has endeavored to mitigate costs associated with high demand for trainings associated with new substitutes by providing additional time for compliance (and, in turn, for those trainings to occur).

Manufacturers and trade organizations often provide training and certification beyond what is required under the regulations implementing sections 608 and 609 of the CAA. This is not a new practice, especially with the release of new equipment. As the transition to lower-GWP refrigerants continues, more technicians are expected to work with flammable refrigerants, and a variety of training and education resources are anticipated to include the incorporation of flammable refrigerants into existing curriculum. There are already courses, trainings, and conferences across the country that focus on lower-GWP refrigerants among the affected subsectors. Costs of trainings are dependent on several factors, such as the organization providing the training, how it is administered, and the location. In some States, continued RACHP education is required as part of a State licensing requirement; training on using

[67] See *https://www.embraco.com/en/embraco-brings-to-ahr-expo-a-case-study-with-34-energy-savings-in-ice-machines.*

[68] Technical Support Document: Energy Efficiency Program for Consumer Products and Commercial and Industrial Equipment: Automatic Commercial Ice Makers; EERE–2017–BT–STD–0022–0009_content (1); available at *www.regulations.gov.*

[69] Based on ACIM type, energy use compared to baseline declined 18% to 25%, 8% to 18%, 7% to 20%, 8% to 19%, 42% to 48%, and 11% to 32%.

[70] Based on ACIM type, energy use compared to baseline declined 0% to 8%, 20% to 22%, and 3% to 10%.

flammable refrigerants may be incorporated to fulfill this requirement.

Certain applications in the foams and aerosols sectors may also require safety training. In particular, the Occupational Safety and Health Administration (OSHA) requires that contractors providing *in situ* installation of spray foams, foam insulation, and aerosols receive health and safety training regarding the hazards of working in confined spaces and procedures to avoid injury from fall hazards. OSHA issued a standard reflected in 29 CFR part 1926 subpart AA—Confined Spaces in Construction, which requires that employers provide employees free training to ensure that the employee understands the hazards of working in a confined space. Additional trainings and exams are available beyond the basic required safety training and may vary in costs depending on the level and amount of training a contractor obtains.

g. Quantities of Regulated Substances Available From Reclaiming, Prior Production, or Prior Import

As part of the Agency's consideration of the availability of substitutes as directed by subsection (i)(4)(B), EPA is taking into account, to the extent practicable, information on quantities of HFCs from reclamation and stockpiles of previously produced or imported HFCs. EPA is providing additional information in the TSD *American Innovation and Manufacturing Act of 2020—Subsection (i)(4) Factors for Determination: Quantities Available from Reclaiming, Prior Production, or Prior Import.*

HFCs available from prior production or import that have been stockpiled and HFCs that have been recovered and reclaimed can both smooth transitions to alternative technologies and ensure that existing equipment can continue to be used. The Agency knows from its experience under the ODS phaseout the important role reclamation plays by providing an ongoing supply of material. This is true not only for the RACHP sector but a similar approach of recycling of fire suppressants is also used for the fire suppression sector, where regulated substances are recovered and tested and/or reprocessed to certain industry purity standards. Some companies may also choose to stockpile substances to ensure a continued supply that can meet their needs. EPA cannot estimate how much material will be stockpiled for a particular sector or subsector or by a particular company; however, the Agency can consider this approach as a general matter.

Information that EPA considered includes HFC reclamation data submitted annually in accordance with the Clean Air Act section 608 reclamation program, codified at 40 CFR part 82, subpart F; reclamation, production, and import data reported under 40 CFR part 84, subpart A;[71] data gathered to support development of the AIM Act subsection (e) regulations contained in the docket for the 40 CFR part 84, subpart A rules;[72] and data reported to the Greenhouse Gas Reporting Program (GHGRP) under subparts OO and QQ.

In addition, EPA is developing proposed regulations under the authority of subsection (h) of the AIM Act. Subsection (h)(1) of the Act provides that ''[f]or purposes of maximizing reclaiming and minimizing the release of a regulated substance from equipment and ensuring the safety of technicians and consumers, the Administrator shall promulgate regulations to control, where appropriate, any practice, process, or activity regarding the servicing, repair, disposal, or installation of equipment . . . that involves: (A) a regulated substance; (B) a substitute for a regulated substance; (C) the reclaiming of a regulated substance used as a refrigerant; or (D) the reclaiming of a substitute for a regulated substance used as a refrigerant.'' Such regulations, if finalized, could increase the level of reclamation in the future, such that the data provided in the TSD may be a conservative estimate of what may be available in the future.

3. How is EPA considering overall economic costs and environmental impacts, as compared to historical trends?

Subsection (i)(4)(C) directs the Agency to factor in, to the extent practicable, overall economic costs and environmental impacts, as compared to historical trends. The Act does not prescribe how EPA should carry out its consideration of this factor, nor does the statute clearly delineate what is meant by the phrase ''as compared to historical trends.'' In light of the ambiguity, we interpret the language of (i)(4)(C) as purposefully accommodating of many different types and degrees of analysis of economic costs and environmental impacts (including costs and impacts that may be difficult to quantify) in part because the nature of EPA's action when applying this provision can differ greatly depending on the circumstances.

Subsection (i)(4)(C) applies both to EPA's action on subsection (i) petitions and to EPA's rulemakings under subsection (i). Subsection (i) requires EPA to grant or deny petitions within 180 days of receipt, a time period that inherently limits the scope and depth of any potential analysis under subsection (i)(4)(C). EPA's timeframe for promulgating a rule subject to a granted petition is two years from the date of a petition grant, and in undertaking a rulemaking, whether by negotiated rulemaking or not, EPA will undoubtedly perform more in-depth analysis of economic costs and environmental impacts than we would in the more abbreviated statutory period allotted for petition decisions. As worded, particularly read in light of subsection (i)(4)'s acknowledgement that consideration of some factors will be limited by practicability (*i.e.,* ''to the extent practicable''), the provision has flexibility to permit EPA to tailor its consideration of this factor accordingly.

We note also that subsection (i)(4)(C) applies to cases where EPA is considering a broad swath of restrictions—such as this action, which covers more than 40 subsectors—as well as cases where EPA is contemplating a much more limited set of restrictions, potentially for only one sector or subsector. As discussed in this section, EPA reviewed multiple sources of information when factoring subsection (i)(4)(C) into the use restrictions for this action. This information included, but was not limited to, the Costs and Environmental Impacts TSD, information previously developed by EPA concerning HFCs and transitions, our experience with the ODS program, information developed by the TEAP, the Montreal Protocol's Science Assessment Reports, industry reports and commissioned studies (*e.g.,* JMS Consulting in partnership with INFORUM), journal articles, and other research. In other actions under subsection (i), it may be appropriate in some instances for EPA to prepare detailed analyses such those in the Costs and Environmental Impacts TSD, but also times when new analyses of similar detail would be unnecessary or not practicable.

It is also not clear from the plain language of the statute what information EPA should consider when thinking about ''historical trends,'' and how EPA should ''compare'' ''overall'' economic cost and environmental impact information about newly contemplated

[71] In addition to quarterly data, under 40 CFR 84.31, HFC producers, importers, exporters, application-specific allowance holders, reclaimers, and fire suppressant recyclers must annually report the quantity of each regulated substance held in inventory as of December 31 of each year.

[72] Available at *www.regulations.gov,* in Docket ID No. EPA–HQ–OAR–2021–0044.

restrictions to those trends. Here too the ambiguity of these phrases accommodates consideration of a variety of information and comparisons depending on the circumstances and the available information.

In undertaking this action, EPA does not yet have historical overall economic cost and environmental impact trends for previous use restrictions, or transitions from HFCs to substitutes, under subsection (i) to compare with the overall economic costs and environmental impacts of the contemplated restrictions. However, it is practicable and reasonable to in part interpret our obligation to factor in the considerations under subsection (i)(4)(C) by looking at the overall economic costs and the anticipated environmental impacts of the restrictions as compared to a scenario where historical trends continue into the future (*i.e.,* ''business-as-usual''). For purposes of this action, a reasonable reading of the business-as-usual scenario is the conditions that would occur if only the Allocation Framework Rule and the 2024 Allocation Rule were in effect. Therefore, the analysis in the Costs and Environmental Impacts TSD uses as a baseline what would occur absent the restrictions finalized in this rulemaking. As noted, subsection (i)(4)(C) does not require a specific type of analysis, such as the one EPA conducted for purposes of the Costs and Environmental Impacts TSD, and we anticipate that the Agency could consider this (i)(4) factor using a different type of analysis in the future.

As this is the first set of restrictions under subsection (i) requiring transitions from certain regulated substances in certain sectors and subsectors, it is appropriate to consider information from historical comparable technology transitions in similar contexts. As noted elsewhere, HFCs are used mainly in the same sectors and subsectors where ODS were used. EPA has considered the overall economic costs and environmental impacts of actions taken under the CAA title VI regulations on ODS in a memo [73] available in the docket. EPA acknowledges that the ODS phaseout and transitions from HFCs as a result of this rule have their own unique regulatory features and technological transitions at play, leading to different overall economic impacts and environmental impacts. The memo discussing the costs and environmental impacts of the ODS phaseout is included as supplemental information and as a relevant benchmark, as the transition to HFC substitutes will impact many of the same industries and entail, in some cases, similar technological shifts.

One key historical trend observed during the ODS phaseout that may be relevant to the HFC phasedown is that technology transitions did not necessarily drive up the cost of products to the consumer or hurt the performance of products. A clear example of this was discussed in a 2018 report of the TEAP.[74] From 1972 through 2015, household refrigerators sold in the United States underwent several design changes in response to regulations requiring transition from ODS refrigerant, ODS-containing insulation foam, and increased energy efficiency. Over that time, the average capacity of refrigerators sold in the United States also grew to accommodate consumer preferences. Even as refrigerators became larger, more energy efficient, and transitioned from use of ODS, the average price fell in real dollars. Consumers not only benefitted from the lower initial purchase price, but the greater energy efficiency also reduced consumers' electricity costs. This example, and a similar trend seen in household unitary AC units, are discussed in more detail in the report *American Innovation and Manufacturing Act of 2019: Compliance and Consumer Cost Estimates,* which can be found in the docket.[75]

As described in the memo that summarizes the costs of the ODS phaseout, the most comprehensive analysis was in a 1999 peer-reviewed report from EPA to Congress.[76] In that report, EPA summarized the costs of the allowance allocation and reductions for CFCs, HCFCs, halons, and methyl chloroform to be $18 billion (7 percent discount rate) to $56 billion (2 percent discount rate) in 1990 dollars.[77] It was also noted that the transition to more energy efficient air conditioning using alternatives to HCFC–22 could lower this cost by $16.8 billion in 1990 dollars.[78] As opposed to this net cost, the Costs and Environmental Impacts TSD indicates that the transitions envisioned would yield a net savings through 2050 of $4.2 billion (7 percent discount rate) to $8 billion (3 percent discount rate) in compliance costs.

The primary goal of the ODS phaseout was to protect the ozone layer in accordance with title VI of the CAA and the Montreal Protocol, whereas the primary purpose of this action is to restrict the use of higher-GWP HFCs, making the benefits difficult to compare. However, the phaseout of ODS also provided climate change benefits, as most ODS are also high-GWP greenhouse gases, as indicated by the exchange values for the ODS that are listed in subsection (e)(1)(D) of the AIM Act.[79] Although such benefits have not been calculated specifically for the United States, we note that the U.S. was one of the largest producers and consumers of ODS, and that the benefits from phasing out ODS can be significant given the high GWPs of the most common ODS.

4. How is EPA considering the remaining phasedown period for regulated substances?

Subsection (i)(4)(D) directs the Agency to factor in, to the extent practicable, the remaining phasedown period for regulated substances under the final rule issued under subsection (e)(3) of the AIM Act, if applicable. In the Allocation Framework Rule (86 FR 55116, October 5, 2021), EPA established the allocation program under subsection (e) of the AIM Act, which is codified at 40 CFR part 84, subpart A. A key provision under subsection (e) requires EPA to phase down the consumption and production of the statutorily listed HFCs on an exchange value-weighted basis according to the schedule in the table in subsection (e)(2)(C) of the AIM Act. The quantity of allowances available for allocation for each calendar year decreases over time according to the statutory phasedown schedule.

Currently, the United States is at the first step of the HFC phasedown. In 2023, HFC production and consumption is limited to 90 percent of the historical baseline. Additional reduction steps occur on January 1 of 2024, 2029, 2034, and 2036, at which point HFC production and consumption will continue at 15 percent of the baseline. Starting with the allowances for calendar year 2024 the total quantity of

[73] See ''Overview of CFC and HCFC Phaseout'' document in the docket.

[74] Decision XXIX/10 Task Force Report on Issues Related to Energy Efficiency while Phasing Down Hydrofluorocarbons, Technical and Economic Assessment Panel, UNEP, May 2018. Available at: *https://ozone.unep.org/sites/default/files/2019-04/TEAP_DecisionXXIX-10_Task_Force_EE_May2018.pdf*

[75] *Consumer Cost Impacts of the U.S. Ratification of the Kigali Amendment,* JMS Consulting in partnership with INFORUM, November 2018. Available in the docket.

[76] Final Report to Congress on Benefits and Costs of the Clean Air Act, 1990 to 2010; EPA 410–R–99–001 Nov 15, 1999.

[77] Approximately $36 billion and $111 billion, respectively, in 2020 dollars.

[78] Approximately $33.3 billion in 2020 dollars.

[79] Velders, Guus JM, et al. ''The importance of the Montreal Protocol in protecting climate.'' *Proceedings of the National Academy of Sciences* 104.12 (2007): 4814–4819.

production and consumption allowances that may be allocated will drop by one third—to 60 percent of baseline—and starting with calendar year 2029 they will decline to 30 percent of baseline. Thus, most of the phasedown will occur within the next six years. This reduction in the supply of HFCs is an important factor in finalizing restrictions under subsection (i) with compliance dates and GWP limits that are as stringent as feasible under the analysis of all the (i)(4) factors.

EPA also views this final rule as supporting the phasedown schedule. While promulgated under a separate statutory provision under the AIM Act, the restrictions on the use of HFCs will have a complementary effect in meeting the HFC phasedown schedule by facilitating necessary transitions to lower-GWP substitutes. This rule supports innovation and advances the adoption of substitutes where available, thereby reducing demand for HFCs. EPA anticipates new substitutes and technologies will continue to emerge as the reductions in the caps on production and consumption allowances continue. Restricting the use of HFCs in sectors and subsectors that are better positioned to transition to new substitutes and technologies is consistent with subsection (i) and supports the overall production and consumption phasedown.

Title VI of the CAA similarly provided for prohibitions on the sale or distribution in interstate commerce of certain products under section 610 and for additional restrictions on use of certain ODS under section 605(a). These restrictions supported the ODS phaseout. For example, most of the nonessential products bans under section 610 were established at the very beginning of the ODS phaseout program—ahead of the overall CFC phaseout by a few years and ahead of the HCFC final phaseout by a few decades. By banning the use of certain ODS where substitutes were available, early transitions accrued additional environmental benefits and supported the overall economy-wide transition by removing uses of controlled substances that were no longer necessary. At the time, in discussing some of the statutory criteria to be considered in determining whether a product was nonessential, EPA noted that ''where substitutes are readily available, the use of controlled substances could be considered nonessential even in a product that is extremely important.'' (58 FR 4768, January 15, 1993).

5. How did EPA determine the degree of the restrictions for each sector and subsector?

AIM Act subsection (i)(1) grants EPA authority to restrict by rule the use of a regulated substance in the sector or subsector in which the regulated substance is used, and these restrictions may be exercised ''fully, partially, or on a graduated schedule.'' In determining the degree of the restrictions—*e.g.,* GWP level, how partially or fully to restrict the use, and on what schedule—EPA looked to the factors in subsection (i)(4). Specifically, we interpret subsection (i)(4) as directing EPA to balance multiple factors in establishing the level of the contemplated use restriction, and we describe in this section the guiding principles and methodology EPA employed in our consideration of those factors in developing the restrictions established in this action. In short, EPA selected the degree of restriction for each sector or subsector by weighing the following considerations: maximizing environmental benefit while ensuring adequate availability of substitutes (as informed by the subsection (i)(4)(B) subfactors) and with consideration of how this action comports with the overall economic costs and environmental benefits compared to historical trends. With respect to all of our information and analysis we strive to use best available data. We are also mindful of the HFC phasedown schedule in ensuring that the use restrictions support that schedule by reducing total U.S. demand for HFCs by transitioning uses in sectors and subsectors where the Agency has determined that substitutes are available.

EPA is establishing restrictions on the use of HFCs by, for the most part, setting GWP limits by sector or subsector. In section VI.B, EPA highlights the benefits of using GWP limits, including achieving environmental benefits, smoothing the transition from higher-GWP substances, supporting innovation, providing regulatory certainty, and harmonizing with approaches taken by other governments in establishing similar requirements.

Because the use restrictions were requested by numerous stakeholders, representing a broad range of interests (regulated industry, environmental and public health organizations, and State and local governments), EPA considered the petitions—either in the form of GWP limits or specific substances to be restricted—as the starting point for the level of the restrictions. In some cases, petitioners provided information about substitutes that are already in use or would soon be ready to be in use in the affected sectors and subsectors and attested to the achievability (technologically, regulatory, economic, and otherwise) of certain substitutes. The substitutes discussed in the petitions and supporting information had lower GWPs, and thus reduced adverse impacts on climate, compared to the regulated substances for which a use restriction was requested. Many of the petitioners are the entities (or trade associations representing those entities) developing substitutes or manufacturing products using substitutes.

The impetus for this rulemaking, in part, was to address the granted petitions. Therefore, the restrictions requested in those petitions, including specific substances or GWP limits, and the timing of those restrictions, were a natural starting point for the Agency's inquiry. However, as a starting point, EPA was clear in the proposed rule that the Agency was not obligated to propose a rule restricted to the petitions. Subsection (i)(4) requires that EPA take into account, to the extent practicable, the factors described in section VI.E of this preamble. In following this statutory directive, EPA considered the (i)(4) factors collectively, with no single (i)(4) factor (or subfactor) driving the restrictions for any sector or subsector. Collective consideration of the (i)(4) factors is consistent with the statutory text, which directs EPA to account for all the factors, to the extent practicable, in carrying out a rulemaking under subsection (i), and which does not state that one factor should carry more weight than the others. Further, accounting for the (i)(4) factors together enables EPA to take a holistic approach in facilitating transition to substitute technology, one that considers the availability of substitutes, overall economic costs and environmental impacts, as compared to historical trends, and the HFC phasedown schedule codified by the Allocation Framework Rule.

The direction in subsection (i)(4)(C) to factor in overall economic costs and environmental impacts as compared to historical trends does not have a clear meaning in the context of selecting the degree of a restriction for a given sector or subsector. The provision's focus on an ''overall'' comparison makes direct application of this factor in setting a level of restriction for a specific sector or subsector less practicable. However, the focus in subsection (i)(4)(C) on ''economic costs'' and ''environmental impacts'' still provides direction to the Agency that cost and environmental considerations are relevant factors for EPA to consider in setting the level of a use restriction under subsection (i),

and we address how EPA did so in the following paragraphs.

For these restrictions, in factoring in environmental impacts, our aim was generally to establish GWP limits for each sector or subsector at the lowest supportable level while considering the other factors under subsection (i), specifically, availability of substitutes and cost, as well as considerations of implementation and enforcement. It is reasonable to prioritize maximizing the climate change benefits of restricting the regulated substances that are the focus of this rule, given that these environmental impacts are and have been one of the central concerns with the use of HFCs. Much of the information relied upon in our analysis of available substitutes comes from SNAP, which evaluates and identifies as ''acceptable'' those substances that reduce overall risk to human health and the environment, as well as the TEAP reports which speak to human health and environmental considerations, the granted petitions, and information from State and foreign government regulations.

Therefore, in selecting the levels of restrictions for each sector and subsector, we set the GWP limit at the lowest level that will provide a sufficient range of substitutes for applications within a subsector. EPA projects the cumulative environmental impact of these restrictions to be significant; with an average annual additional [80] emission reduction of 4 to 34 $MMTCO_2e$, and an average annual additional consumption reduction of 28 to 43 $MMTCO_2e$, from 2025 through 2050 (*see* Costs and Environmental Impacts TSD).

EPA did not set the level of restrictions for this rule at precisely the GWPs of identified available substitutes in each sector or subsector. Instead, EPA is establishing GWP limits at regular intervals—*i.e.,* 150 GWP, 300 GWP, and 700 GWP. This approach has advantages over a methodology that tightly tailors the GWP limit for each subsector to the specific GWPs of the currently identified available substitutes for that particular sector or subsector (*e.g.,* establishing GWP limits of 237, 258, and 290 based on the particular substitutes currently available in three different subsectors). Establishing limits at regular intervals avoids changing the status of an alternative caused by minor discrepancies in the methodology used to calculate GWPs; [81] promotes development of new variations on substitutes that are still within the permissible range; allows for use of a wider range of substitutes (recognizing that not every substitute is necessarily available for each use within a subsector); and eases implementation of the restrictions for regulated parties, consumers, and enforcement.

To ensure adequate availability of substitutes, EPA looked at a range of information relevant to the subfactors provided in subsection (i)(4)(B) from a variety of sources. In general, EPA aimed to establish GWP limits at a level that would include multiple available substitutes that could be used in that sector or subsector (taking into consideration the various (i)(4)(B) subfactors to the extent practicable). In the following sections, we provide detailed information regarding the availability of substitutes for each sector and subsector.

Our methodology for setting the levels of the use restrictions also factored in considerations of cost, both in identifying availability of substitutes and in assessing overall costs of the levels of the restrictions. Some of the subfactors in subsection (i)(4)(B) for the Agency to take into account when determining ''availability'' are explicitly or implicitly related to cost. Subfactors that explicitly relate to cost include commercial demands (there would be no demand for a substitute that caused a product to be so costly as to be unmarketable), consumer costs, affordability for residential and small business consumers, and contractor training costs. Other subfactors that are not explicitly related to cost contain implicit considerations of cost. For example, a company generally would not invest in demonstrating that use of a substitute is technologically achievable in a sector or subsector if the use of that substitute was so cost prohibitive that it would never actually be adopted. The Agency factored in these cost subfactors to the extent practicable when considering availability of substitutes.

Subsection (i)(4)(C) also specifically directs EPA to factor in, to the extent practicable, overall economic costs as compared to historical trends, and as discussed above, the Agency has considered numerous sources of information as we developed this rule, including the cost findings summarized in the Costs and Environmental Impacts TSD. As discussed in that TSD, we anticipate that the incremental economic cost of the restrictions will result in a savings to the regulated industry, *i.e.,* that complying with the use restrictions and transitioning from higher-GWP regulated substances to lower GWP substitutes will, on the whole, reduce costs for industry.

In summary, in carrying out a rulemaking under subsection (i), EPA views subsection (i)(4)(A) through (D) as providing overarching direction for setting restrictions under this section. Subsection (i)(4)(B) also requires the Agency to examine the particular subfactors listed therein for the sector or subsector in order to determine whether a substitute is available for use in that sector or subsector. Therefore, in the following section addressing the final restrictions and compliance dates for each sector and subsector, EPA has focused the bulk of its discussion on the identification of available substitutes and the Agency's consideration of the relevant sub-factors informing availability.

F. For which sectors and subsectors is EPA establishing restrictions on the use of HFCs?

This section provides a description of each sector or subsector subject to the restrictions in this rule, the final use restrictions, and compliance dates, and EPA's assessment of the availability of substitutes for each sector or subsector (see section VI.E.5). In addition, this section includes summaries of comments on specific sectors and subsectors and EPA's responses.

1. Refrigeration, Air Conditioning, and Heat Pumps

Subsectors in the RACHP sector typically use a refrigerant in a vapor compression cycle to cool and/or dehumidify a substance or space, such as a refrigerator cabinet, room, office building, or warehouse. The equipment in this subsector, for the purposes of this rule, includes self-contained, factory-completed products and larger, field-assembled systems. EPA recognizes that these terms may be used under SNAP and the refrigerant management regulations in 40 CFR part 82, subpart F.

a. Industrial Process Refrigeration (IPR)

IPR systems are used to cool process streams at a specific location in manufacturing and other industrial processes (*e.g.,* chemical, pharmaceutical, petrochemical, and manufacturing industries). IPR systems are directly linked to the industrial process, meaning the refrigerant leaving the condenser and metering device is

[80] These reductions would be in addition to the consumption reductions from the Allocation Rules.

[81] For example, using the methodology finalized in this rule, EPA calculates that R–452B has a GWP of 698 and thus meets the 700 GWP limits.

delivered directly to the heat source before returning to the compressor. This also includes appliances used directly in the generation of electricity. Specialized refrigerated laboratory equipment, such as that used in the pharmaceutical industry, may fall under this subsector if it operates at temperatures above −62 °C (−80 °F), and is not considered to be very low temperature refrigeration equipment.

Where one system is used for both IPR and other applications (such as cooling a room or building in which the industrial process is located), EPA considers it to be an IPR system if 50 percent or more of its operating capacity is used for IPR. Cooling or IPR that involves using a chiller, *e.g.,* to circulate a secondary fluid to the point at which heat is removed from the process, or to cool a room or building as explained in this section, is regulated as a chiller and is discussed in section VI.F.1.j. IPR equipment not using a chiller is regulated as part of the IPR subsector and discussed in this section.

In the proposed rule, EPA included data centers and data servers in the description of applications that the Agency considers to be IPR. In this final rule, EPA is creating a separate subsector for data centers, information technology equipment facilities (ITEF), and computer room cooling equipment which includes appliances used for large scale cooling of server farms, ITEF, computer rooms, data centers, data servers, communication rooms, and other spaces dedicated to maintaining the operating temperature of electronic technologies. This subsector is discussed in section VI.F.1.b.

Many types of foods require refrigeration during the production process. EPA considers refrigerating equipment used during the production of food and beverages in an industrial setting to fall under IPR. If the food production process requires cooling done directly by a refrigerant, either at the point where cooling is required or to cool a room or building in which the cooling is required, the equipment falls within the IPR subsector. If instead a chiller is used to cool a secondary fluid (*e.g.,* water) that then provides the required cooling, EPA considers the use to be in the chillers for IPR subsector. The IPR subsector includes all equipment and operations that use a refrigerant to make and prepare food that is not immediately available for sale (or supply, if the food is not ''sold'') to the consumer and would require shipping or delivering it, possibly through intermediate points, to the point where such sale would occur. This could include facilities where food is processed and packaged by the food producer, such as a meat processor that prepares and packages individual cuts of meat within a single facility or building while maintaining the required temperatures. Although such facilities may be designed in a fashion similar to a cold storage warehouse, the fact that items are being processed by the food producer indicates that the application falls in the IPR subsector. However, if a food producer operates a refrigerated storage area solely for the holding of already packaged food, and possibly for packing such food in larger containers or bundles for shipment, that application would fall within the cold storage warehouse subsector.

Another example of an IPR system is a ''blast cooler'' or ''blast freezer.'' In this context, ''blast cooler'' or ''blast freezer'' refers to a type of equipment in which cold air is supplied and circulated rapidly to a food product, generally to quickly cool or freeze the food before damage or spoilage can occur. This is the same description as the Agency has previously used for this equipment (*see* 80 FR 42901, July 20, 2015). Such equipment might be used as part of a food production line in an industrial setting. They also can be placed separately at public facilities including hospitals, schools, restaurants, and supermarkets. These public facilities might use the blast cooler or freezer on food that they will store for later use after they receive it from a vendor or that they cook or prepare as part of their operations. Such units might also be placed near entranceways to cold storage warehouses, for instance to receive food refrigerated and shipped at one temperature and then to bring it down to a lower temperature for storage.

IPR systems typically have large refrigerant charges to satisfy the significant cooling demands throughout the facility. Historically, facilities have commonly used R–717, hydrocarbons, CFCs, HCFCs, and HFCs including but not limited to R–12, R–22, R–404A, R–507A, and R–134a.

What restrictions on the use of HFCs is EPA establishing for IPR systems?

EPA is prohibiting the use of HFCs and blends containing HFCs in IPR systems at different GWP thresholds (150, 300, and 700) depending on a combination of factors including the size, refrigerant temperature entering the evaporator, and design of the system. These GWP limits apply to new IPR systems other than chillers used for IPR, which are discussed in section VI.F.1.j. EPA is establishing a 150 GWP limit for new IPR systems with refrigerant charge capacities of 200 lb or greater with refrigerant temperature entering the evaporator at −30 °C (−22 °F) or above beginning January 1, 2026.[82] EPA is establishing a 300 GWP limit for new IPR systems with refrigerant charge capacities less than 200 lb and for the high temperature side of cascade systems with refrigerant temperature entering the evaporator at −30 °C (−22 °F) or above, also beginning January 1, 2026. If the low temperature side of a cascade system has a charge capacity less than 200 lb with refrigerant temperature entering the evaporator at −30 °C (−22 °F) or above, then the GWP limit is 300, beginning January 1, 2026. If the low temperature side of a cascade system has a charge capacity of 200 lb or greater with refrigerant temperature entering the evaporator at −30 °C (−22 °F) or above, EPA is prohibiting the use of HFCs and HFC blends with a GWP of 150 or greater in the low temperature side of the cascade beginning January 1, 2026. In new IPR systems where the refrigerant temperature entering the evaporator is equal to or above −50 °C (−58 °F) but less than −30 °C (−22 °F), the GWP limit is 700 beginning January 1, 2028. EPA is currently not establishing restrictions for new IPR systems with refrigerant temperature entering the evaporator below −50 °C (−58 °F).[83]

In considering the availability of substitutes under subsection (i)(4)(B), EPA identified several substitutes[84] as available for use in IPR systems in place of the higher-GWP substances that EPA is prohibiting. These available substitutes for all non-chiller IPR systems include HCFO–1224yd(Z) (GWP less than 1), R–717 (GWP 1), R–1270 (GWP 1.8), R–290 (GWP 3.3), and

[82] The refrigerant HFC–134a has a boiling point slightly above −30 °C (−22 °F) and R–717 has a boiling point slightly lower at −33.3 °C. R–717, HFC–134a, and similar refrigerants like R–450A and R–513A work above this temperature.

[83] The refrigerants R–404A and R–410A have bubble (boiling) points slightly above −50 °C (−58 °F). R–404A and similar refrigerants like R–448A, R–449A, R–449B, R–452A, and R–410A and similar refrigerants like HFC–32 and the R–454 series, work above this temperature.

[84] EPA notes for all substitutes identified in section VI.F of this preamble, not every substitute listed is necessarily available across all U.S. markets. For example, in some cases, substitutes may be technologically and economically viable and may be in use in international markets but may be unavailable in specific U.S. market for other reasons such as building code restrictions. The lists of ''available'' substitutes therefore includes some substances which may only be ''potentially available'' in some areas. EPA also notes that not all of the identified substitutes are listed as acceptable under the SNAP program. See section VI.E.2 of this preamble for a discussion on availability of substitutes.

R–600 (GWP 4).[85] EPA is aware of a statement by one stakeholder that R–717 and hydrocarbons (R–600, R–1270, R–290) were used in 90 to 95 percent of the market share for IPR systems in 2019, indicating the technological achievability and commercial demand for systems using available substitutes.[86]

In addition to the substitutes that are already available for use in this subsector, EPA has recently proposed to list HFO–1234yf, HFO–1234ze(E), R–454A, R–454C, R–455A, R–457A, and R–516A (with GWPs of 1, 1, 237, 146, 146, 137, and 140 respectively) as acceptable, subject to use conditions, under SNAP for use in IPR (88 FR 33722, May 24, 2023). These proposed listings meet the GWP limit of 300 for this subsector, and all except R–454A meet the GWP limit of 150. Although the already available substitutes have been evaluated by EPA to be sufficient to meet these restrictions, the potential for a greater array of options in the future may further smooth the transition from higher-GWP HFCs. EPA continues to encourage innovation of refrigerants that meet these restrictions and anticipates the number of substitutes available for use in IPR will continue to grow.

Comment: One commenter expressed support for the proposed January 1, 2025, transition date for commercial refrigeration, including IPR. Several commenters requested a January 1, 2026, transition date for commercial refrigeration equipment, including IPR, citing the need for building codes to be updated and stating that the IPR industry (including OEMs, refrigerant suppliers, technicians, and system designers) is not ready in all regions and applications. One commenter added that even meeting a January 1, 2026, transition date does not allow enough time for OEMs and distributors to adjust their supply chain processes.

Response: In this final rule, for IPR equipment with a refrigerant temperature entering the evaporator greater than or equal to −30 °C (−22 °F), EPA is extending the compliance date to January 1, 2026. For IPR equipment with a refrigerant temperature entering the evaporator from −30 °C (−22 °F) to −50 °C (−58 °F), EPA is extending the compliance date to January 1, 2028, for reasons discussed in this section.

The additional year for most IPR equipment provides time for the adoption of building codes that incorporate updated safety standards (*e.g.,* UL 60335–2–89, ASHRAE 15–2022) allowing for the safe use of lower-GWP refrigerants.[87] [88] The International Building Code is scheduled to be updated in 2024, which would then need to be adopted by State and local jurisdictions. Delaying the compliance date to January 1, 2026, provides time for jurisdictions to make these updates. However, EPA can consider a substitute to be available before every building code in every jurisdiction across the United States permits its use. See section VI.E.2.d of the preamble for further discussion on how building codes affect the availability of substitutes. Based on EPA's assessment of the availability of substitutes under subsection (i)(4)(B), additional time is warranted for a transition in IPR systems, with the compliance date depending on the temperature of the refrigerant entering the evaporator. The Agency is extending the compliance date to January 1, 2028, for IPR systems with refrigerant temperature entering the evaporator from −30 °C (−22 °F) to −50 °C (−58 °F) because, as discussed further below in this section, there are fewer technologically achievable refrigerants with a sufficiently low boiling point such that they may be used in equipment used at lower temperatures. Therefore, more time may be needed to identify, test, and implement appropriate substitutes in such equipment.

The additional year for most IPR systems will also help mitigate other issues identified by commenters regarding the industry's ability to transition, such as the refrigerant supply chain, the timeline for new equipment design and testing, and need for specialized technician trainings. One additional year is in agreement with several industry commenters and provides time for EPA to continue its review of lower-GWP substitutes, such as the proposed SNAP Rule 26 discussed previously (88 FR 33722, May 24, 2023), which will likely provide even more refrigerant options. For these reasons, EPA is providing one additional year for most of the IPR subsector, and three additional years for IPR systems with refrigerant temperature entering the evaporator from −50 °C to −30 °C (−58 °F to −22 °F), to comply with the GWP restrictions established in this final rule.

How does charge size and system design affect the availability of substitute refrigerants?

EPA is establishing different GWP limits for new IPR, remote condensing unit, supermarket, and cold storage warehouse systems based on the refrigerant charge capacity of the system. Setting different GWP restrictions based on the charge of the system is consistent with information provided by petitioners, EPA's understanding of technical challenges inherent to smaller charge capacity systems, and industry safety standards. In general, systems with smaller refrigerant charge capacities (*i.e.,* smaller than 200 lb) are located inside and in potentially confined spaces where a leak of a flammable refrigerant could result in concentrations of concern. Conversely, larger refrigerant charge capacities (*i.e.,* greater than or equal to 200 lb) are typically located outside the refrigerated space, where safety standards and building codes allow for greater use of flammable and lower flammability refrigerants. Setting different GWP limits for this subsector based on the charge capacity of equipment will increase the number of available substitutes where lower-GWP substitutes are limited.

Each of the restrictions adopted in this action is tailored to the subsector-specific applications and availability of substitutes for those applications. Specifically, for smaller-footprint applications (*i.e.,* spaces with lower total air volume where smaller amounts of leaked refrigerant could disproportionately increase in concentration) in these subsectors, the use of A2Ls (lower flammability refrigerants) is limited by the product safety standard UL 60335–2–89. This standard, which can be referenced by building codes, sets charge limits for A2L refrigerants used indoors to 260 times the lower flammability limit (LFL, in kg/m^3). This allowance is near or under 200 lb for most A2L refrigerants. For example, this restriction would allow up to 176 lb of HFC–32 in a single refrigeration circuit (87 FR 45522, July 28, 2022; 88 FR 26400, April 28, 2023). However, in certain applications, safety standard ASHRAE 15 will apply to equipment with charge capacities above this threshold, enabling the use of larger refrigerant charges by requiring

[85] EPA notes that the GWP limits apply only to regulated substances and blends containing a regulated substance (*e.g.,* R–471A, R–454A, and R–454C). The GWPs of the other substitutes, which do not contain a regulated substance, are provided here and in subsequent sections for context only.

[86] AHRI Letter Responding to CARB's Request for Input and Clarifications Following the August 6, 2019, Public Meeting for Industrial Process Refrigeration and Transport Refrigeration Equipment. Available in the docket.

[87] ASHRAE. (2022). ANSI/ASHRAE Standard 15–2022: Safety Standard for Refrigeration Systems.

[88] UL Standard. (2021). Household and Similar Electrical Appliances—Safety—Part 2–89: Particular Requirements for Commercial Refrigerating Appliances and Ice-Makers with an Incorporated or Remote Refrigerant Unit or Motor-Compressor (Standard 60335–2–89, Edition 2).

additional mitigation strategies, such as increased air exchange to minimize the concentration of leaked refrigerant in the air. Therefore, larger systems covered by ASHRAE 15 are less limited in their refrigerant options when complying with safety standards incorporated in building codes.

EPA proposed to differentiate the subsection (i) restrictions for these subsectors based on refrigerant charge capacity to conform with applicable safety standards, in consideration of the (i)(4)(B) factors, which direct the Agency to consider safety, to the extent practicable, in assessing availability of substitutes. Using a 200 lb charge capacity threshold, rather than a lower one such as 50 lb as suggested by some commenters, allows for greater availability of technologically achievable substitutes in IPR, retail food remote condensing units, retail food supermarket systems, and cold storage warehouse systems of all sizes. Systems with refrigerant charge capacities less than 200 lb are restricted from using certain lower-GWP refrigerant options by safety standards, and thus require a higher GWP limit to ensure the availability of substitutes for use in these subsectors.

EPA has also considered the availability of substitutes when cascade systems are used in new IPR, supermarket, remote condensing unit, and cold storage warehouse systems. A cascade system is a design option which consists of two independent refrigeration systems that share a common cascade heat exchanger. They are often employed in applications when the required temperature is very low. Each side of a cascade system uses a different refrigerant that is most suitable for the given temperature range. High temperature systems, or the ''high temperature side,'' have typically used HFCs as a refrigerant; however, it is technologically achievable in some cases and has become more common to use R–717. For low temperature systems, or the ''low temperature side,'' low boiling point refrigerants such as R–744 and R–508B have been used. Considerations for the choice of refrigerant on the high and low temperature sides of cascade systems are influenced by many factors including, but not limited to, a refrigerant's toxicity and flammability, its temperature glide, and its suitability for the temperature application specifications.

In its consideration of safety and building codes under subsection (i)(4)(B), to the extent practicable, EPA understands that the use of flammable or toxic refrigerants, such as R–717, on the high temperature side of a cascade system may be limited in certain circumstances (*e.g.,* in areas that are heavily populated or based on building codes and/or standards). Therefore, EPA is establishing a higher GWP limit for HFCs used in the high temperature side of cascade systems to allow sufficient refrigerant options to comply with local building codes and industry safety standards. Because the high temperature side of a cascade system typically enters the building (*i.e.,* in the machinery room), some refrigerants such as R–717 may not be allowed by building codes or may be limited in the charge size allowed. On the other hand, the current edition of safety standard UL 60335–2–89 includes provisions that support higher charge sizes for A2L refrigerants, including some that meet a GWP limit of 300 but not 150, such as R–454A and R–457B. A GWP limit of 300, as compared to a GWP limit of 150, also allows for a greater array of available substitutes, such as R–515B which was recently listed as acceptable under SNAP Notice 38 (88 FR 61977, September 8, 2023) and R–480A which is pending SNAP review, which will further ease the transition to lower-GWP refrigerants. EPA notes that the applicable GWP limit for the low temperature side of a cascade system is dictated by the charge size of the low temperature side by itself.

Comment: Some commenters from industry generally supported the proposed GWP limits based upon charge capacity thresholds for refrigeration (*i.e.,* GWP limit of 300 for refrigeration systems with a refrigerant charge capacity of less than 200 lb and GWP limit of 150 for refrigeration systems with a refrigerant charge capacity of 200 lb or more), including IPR systems, retail food refrigeration (remote condensing units and supermarket systems), and cold storage warehouses. Three other commenters recommended a single GWP limit for each of these subsectors, regardless of the equipment's charge size. A couple of commenters stated that could incentivize manufacturers to move to higher-GWP HFCs in systems with smaller charges. One commenter requested a 150 GWP limit, citing adequate availability of current refrigerant options below that level. They asserted that a 300 GWP limit for certain charge sizes and systems was unnecessarily high, overly complicated, and could stifle innovation of very low-GWP refrigerants. Another commenter requested a 10 GWP limit for all equipment in these four subsectors, claiming there are no currently available substitutes between 10 and 300 GWP.

Several commenters agreed with establishing two GWP limits for these subsectors by charge capacity, but urged EPA to adopt a 150 GWP limit for IPR, retail food refrigeration, and cold storage warehouses with a charge capacity threshold of 50 lb, instead of 200 lb as proposed. In support of shifting the threshold to 50 lb, these same commenters noted that California's regulations establishing GWP limits and EPA's section 608 Refrigerant Management Program both use 50 lb as a charge capacity threshold and that having the same charge capacity threshold as California's GWP restrictions would allow for nationwide consistency instead of a patchwork of requirements. They also noted that updated safety standards and building codes have made a range of substitutes available for use in this subsector for equipment with charge sizes between 50 and 200 lb. Another commenter described a 10 lb charge capacity cutoff as more appropriate for these subsectors than 200 lb for purposes of safety, but still requested a single GWP limit regardless of charge size.

These same commenters also disagreed with EPA's proposal to set a separate GWP limit for the high temperature side of cascade systems. Instead, they requested that EPA group cascade systems with other types of direct refrigeration systems in the subsector containing a single refrigerant loop. Such restrictions would be similar to California's regulations, which do not include a separate requirement for cascade systems. One commenter stated that there does not appear to be a clear rationale articulated in the proposed rule for separating cascade systems into a separate subsector category for GWP limit, nor any criteria or requirement limiting the HFC or HFC-blend charge size of the refrigerant used in the high temperature side of a cascade system.

Several commenters pointed to the availability of substitutes below 150 GWP, such as R–744 and R–717, making the proposed 300 GWP limit unnecessarily high for equipment of certain charge capacities (ranging from no lower limit to 50 lb) and for the high temperature side of cascade systems. One commenter acknowledged that EPA has assessed R–717 as being prohibitively toxic for use in certain locations based on building codes, but they asserted that R–717 may only be prohibited by a small number of localities and stated that it is otherwise a suitable refrigerant option to meet a 150 GWP limit in most cases. This commenter stated that cold storage

warehouses and IPR systems have widely used R–717, historically, and they claimed R–744 is a suitable alternative in cases where R–717 cannot be used. Another commenter noted that continuing to use HFC blends up to a GWP of 300 in new systems, especially in sectors where refrigerant leaks are widespread, poses dramatically more harm to the climate than use of non-HFCs and expressed concern that new refrigeration systems will place significant demand on a dwindling supply of HFCs when it will be needed to service existing equipment in other subsectors such as residential AC.

Response: EPA did not propose and is not finalizing a GWP limit of 10 for IPR, remote condensing units, supermarket systems, and cold storage warehouses. EPA agrees with commenters that some of the refrigerants available for use in these subsectors, such as R–744 and R–717, have GWPs of less than 10. As noted in section VI.E.5, this action establishes GWP limits at regular, grouped intervals, to ease compliance and enforcement and also to ensure that there are adequate available substitutes for various applications within the subsector. Some of the lowest-GWP refrigerants, particularly those with non-fluorinated chemistry, may not be appropriate in all situations (*e.g.,* R–717). Moreover, the GWP limits EPA is finalizing allow for additional refrigerants to be used and for continued innovation. The Agency does not agree that this approach will unnecessarily incentivize the use of higher-GWP refrigerants than would otherwise have been used, and is finalizing restrictions consistent with our review of the (i)(4) factors for each of the sectors and subsectors.

After review of the comments, EPA is finalizing the refrigerant charge capacity threshold at 200 lb for non-chiller IPR equipment, with refrigerant entering the evaporator (for IPR systems that are not chillers) with a temperature of −30 °C (−22 °F) or above, as proposed. For purposes of subsection (i) and its evaluation of the availability of substitutes for use in a sector or subsector, EPA is aligning the refrigerant charge capacity threshold with applicable safety standards (*e.g.,* UL 60335–2–24, UL 60335–2–40, and UL 60335–2–89) rather than aligning with thresholds established by States. EPA recognizes there may be benefits to greater consistency between regulatory requirements. However, EPA must consider the (i)(4) factors, to the extent practicable, and these lead EPA to base the GWP threshold on the industry safety standards, which limit the allowable charge of flammable refrigerants based on the flammability limit of each refrigerant to minimize risk from their use. In particular, the industry safety standard for commercial refrigeration equipment, UL 60335–2–89, restricts charge sizes of A2L refrigerants at approximately 200 lb in a single circuit in equipment where leaks would likely enter an occupied space, whereas ASHRAE 15 allows for larger charge sizes in machinery rooms and outdoors by requiring additional mitigation strategies, such as certain rates of air exchange. Equipment installed in machinery rooms or outside has greater flexibility to meet the requirements of safety standards and building codes, while smaller equipment is more constrained by available space and may need more refrigerant options that minimize the footprint of refrigerating systems. Therefore, by harmonizing charge capacity thresholds with UL 60335–2–89, EPA is ensuring adequate availability of substitutes for equipment with charge capacities below 200 lb.

Concerning the suggestion to use a 50 lb charge capacity cutoff, EPA's refrigerant management program under CAA section 608 applies leak repair requirements to certain appliances with a full charge of 50 or more pounds of any ODS refrigerant or blend containing an ODS refrigerant (*see* 40 CFR 82.157(a). The factors for determination of availability of substitutes listed in subsection (i)(4) of the AIM Act do not lead the Agency to conclude that aligning the charge capacity threshold for these subsectors' restrictions with the threshold used for ODS leak repair requirements is appropriate. The refrigerant charge capacity threshold of 10 lb was suggested by one commenter as being more technically appropriate as a way of addressing safety than 200 lb without explanation. EPA therefore does not agree that 10 lb is a more appropriate charge capacity threshold than 200 lb. Further discussion on EPA's decision to choose a 200 lb cutoff to determine GWP limits for IPR, remote condensing units, supermarket systems, and cold storage warehouses can be found earlier in this section.

EPA considers it unlikely that establishing size thresholds will create an incentive to build more smaller refrigeration systems rather than fewer large refrigeration systems. Drivers for selection of a commercial refrigeration system, such as cost, amount of product needing to be cooled, ability to control temperature, durability, support from the vendor, and ease of servicing, are not likely to push the system user uniformly toward purchasing a refrigerant with a GWP of 300 compared to a refrigerant with a GWP of less than 150. Rather, EPA expects that a company would use a smaller system with a refrigerant with a GWP between 150 and 300, such as the HFC/HFO blends R–454A or R–515B, instead of a lower-GWP refrigerant, such as R–744 (GWP 1), or the HFC/HFO blend R–454C (GWP 146) if they determined refrigeration systems with lower-GWP refrigerants would take up too much space.

EPA also disagrees with the suggestion to remove the 300 GWP limit for the high temperature side of cascade systems. Technical constraints related to temperature, pressure, efficiency, and glide limit the available refrigerants for the high temperature side of cascade systems. As discussed in the proposed rule (87 FR 76775; December 15, 2022), building codes and safety considerations may also limit the availability of flammable and/or toxic refrigerants in the high temperature side of cascade systems. By establishing a GWP limit of 300, rather than 150, additional substitutes are available that overcome the technical constraints and subsection (i)(4) factors that limit the number of refrigerant options in subsectors using cascade systems.

How does operating temperature affect the availability of substitute refrigerants?

Comment: Several commenters suggested that GWP limits for non-chiller IPR systems be based on operating temperature ranges, similar to the current European Union (EU) F-Gas regulations [89] and CARB regulations. A few of these commenters suggested EPA provide flexibility with higher GWP limits for systems with lower temperature ranges. One such commenter requested a GWP limit of 700 for IPR equipment with refrigerant evaporating temperatures greater than −25 °C (−13 °F) and a 2,200 GWP limit for IPR equipment with refrigerant evaporating temperatures from −25 °C (−13 °F) to −45 °C (−49 °F). That commenter stated that flammable and toxic alternatives that meet the original GWP limits of 150 or 300 would not be viable for new or retrofit IPR facilities due to safety risks, technical feasibility, and cost. Several commenters also requested exemptions from restrictions

[89] European Union Law. 2014. Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 Text with EEA relevance. Available at: *http://eurlex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.150.01.0195.01.ENG.*

for IPR systems using flooded or liquid overfed evaporators.

Regarding IPR systems operating at colder temperatures, many commenters requested clarification for systems with very low temperatures that may or may not be exempt from GWP limits under EPA's proposed rule, including those for laboratory equipment and IPR chillers. One commenter proposed an exemption for all IPR applications with a refrigerant evaporating temperature below −45 °C, and suggested that all IPR systems, including both direct process cooling and chiller systems, have the same GWP limits, as the same refrigerant selection challenges exist for both system designs. Another commenter suggested that EPA exempt specialty applications for systems designed for −50 °C (−58 °F) exiting fluid temperatures or create a formal variance process, similar to California and Washington State regulations. One commenter stated that to meet the technical demands of the laboratory products industry's specialized applications, new sustainable substitutes—or a sudden and transformative advance in refrigeration science—would be necessary to meet the schedule of the proposed rule. The commenter strongly encouraged EPA to consider providing clear, concise exceptions for equipment utilized in a laboratory setting or provide for a longer compliance window so that there is adequate time to make substantive changes to delicate and complex laboratory equipment.

Response: After review of the comments and further consideration of the availability of substitutes under subsection (i)(4) of the AIM Act, EPA is establishing separate GWP thresholds for IPR equipment based on the temperature of the refrigerant entering the evaporator. This provides more options for specialized equipment that must achieve temperatures significantly lower than 0 °F, considering technological achievability as a factor limiting the availability of substitutes in such equipment.

EPA largely agrees with the commenter that asserted IPR systems with evaporating temperatures below −25 °C (−13 °F) require the same refrigerant options as chillers for IPR in which EPA proposed a GWP limit of 700, as the same technical constraints related to refrigerating at colder temperatures apply (*e.g.,* fewer refrigerants have such a low boiling point). EPA is therefore finalizing a GWP limit of 700 for IPR equipment with refrigerant entering the evaporator with a temperature less than −30 °C (−22 °F) but greater than or equal to −50 °C (−58 °F), regardless of the refrigerant charge capacity or whether the equipment is part of a cascade system.

EPA disagrees with the comment that the threshold be at −25 °C (−13 °F) because the same constraints on the availability of substitutes under the (i)(4)(B) analysis that can be used at lower temperatures apply in other subsectors, such as for chillers for comfort cooling and chillers for IPR; hence, EPA is finalizing the same GWP threshold based on the same temperature threshold as for chillers for IPR at −30 °C (−22 °F). This also allows for greater simplicity and ease of determining which GWP threshold applies than if there were different thresholds for chillers for IPR and for other IPR systems. One of the commenters has stated that refrigerant with an evaporating temperature of less than −25 °C should be able to use refrigerants such as R–513A, which has a GWP of 630 (between 300 and 700). Such equipment would have the same refrigerant options as chillers for IPR.

EPA also disagrees that a GWP limit up to 2,200 would be appropriate, given the sufficiently available substitutes with GWP below 700 for use in this exiting fluid temperature range, such as R–513A (GWP 630). Furthermore, as indicated by considerations described in recently proposed SNAP listings for use in IPR (88 FR 33722, May 24, 2023), there may be additional available substitutes for this equipment in the future, such as HFO–1234yf (GWP 1), HFO–1234ze(E) (GWP 1), R–457A (GWP 137), R–516A (GWP 140), R–455A (GWP 146), R–454C (GWP 146), and R–454A (GWP 237).

For IPR equipment with refrigerant entering the evaporator with a temperature of −30 °C (−22 °F) or higher, EPA disagrees with the commenter who requested the Agency finalize a GWP limit as high as 700. EPA has identified HCFO–1224yd(Z) (GWP less than 1), R–717 (GWP 1), R–1270 (GWP 1.8), R–290 (GWP 3.3), and R–600 (GWP 4) as suitable for use in equipment operating above −30 °C (−22 °F), and all have a GWP below 150. In comparison, equipment with temperatures between −30 °C (−22 °F) and −50 °C (−58 °F) could require higher volumetric capacity (*e.g.,* to replace R–404A) and would have fewer refrigerants able to attain lower boiling points, so a wider range of refrigerants with higher GWPs are needed compared to equipment with temperatures at −30 °C (−22 °F) and above. EPA is therefore finalizing the GWP limits of 150 and 300 for this type of equipment, depending on the refrigerant charge capacity and whether the refrigerant is used in the high temperature side of a cascade system, based on the technological achievability of using identified substitutes at these warmer evaporating temperatures.

EPA disagrees with comments that requested exemptions for all IPR systems using flooded or liquid overfed evaporators. Many of the technological challenges associated with using lower-GWP refrigerants in IPR equipment are related to the temperature of the refrigerant going into the evaporator. Therefore, EPA has not set restrictions for IPR equipment, including those using flooded or liquid overfed evaporators, operating below −50 °C (−58 °F) at this time.

In the case of IPR equipment with refrigerant temperature entering the evaporator lower than −50 °C (−58 °F), EPA recognizes that most of the refrigerants used for such equipment have relatively high GWPs. The Agency expects that after further research and development, there may be additional refrigerants available for these low temperatures, given the growing demonstrations of technological achievability; additional reviews of refrigerants for safety, health, and environmental impacts under the SNAP program; and changes to industry standards that allow for larger charge sizes of flammable refrigerants, such as ethane. However, upon evaluating the availability of substitutes for IPR equipment operating at very low temperatures, EPA is not restricting the use of HFCs and HFC blends in new IPR equipment with refrigerant entering the evaporator or chillers for IPR with exiting fluid temperatures lower than −50 °C (−58 °F) in this final rule. Given that this equipment is not covered in this final rule, EPA declines to implement an individual variance process as requested by the commenter. Note that EPA may choose to set restrictions in the future as the availability of lower-GWP substitutes continues to grow.

Concerning one commenter's request for either an exception or a longer period to comply for refrigerated laboratory equipment, to the extent that equipment used in the laboratory has exiting fluid temperatures of −50 °C (−58 °F) or lower, EPA notes that this equipment will also not be restricted from using HFCs or HFC blends under this final rule. Refrigerated laboratory equipment operating at temperatures at or above −50 °C (−58 °F) and less than −30 °C (−22 °F) is considered part of IPR, and will have three years longer than proposed, until 2028, for new equipment to transition to substitute

refrigerants. Laboratory refrigerated equipment that operates at temperatures higher than −30 °C (−22 °F), also part of IPR, is similar to retail food refrigerators and freezers with alternatives that are already available (*e.g.,* R–290), and under this final rule, they will have one year longer than proposed, until 2026.

b. Data Center, Information Technology Equipment Facility, and Computer Room Cooling Equipment

In the proposed rule, EPA indicated that appliances used to cool data centers and data servers were considered part of the IPR subsector. After review of the comments and relevant industry standards in consideration of the subsection (i)(4) factors of the AIM Act, EPA is creating a new subsector for data center, ITEF, and computer room cooling equipment, subject to a 700 GWP limit beginning January 1, 2027. Such cooling equipment is designed specifically for large-scale cooling or AC of information technology (IT). Examples include server farms, ITEFs, computer rooms, data centers, data servers, communication rooms, and other spaces dedicated to maintaining the operating temperature of electronic technologies. Equipment typically has large refrigerant charge capacities to satisfy the significant cooling demands of the heat-generating equipment. Historically, cooling equipment within this subsector has commonly used HCFC–22, moving to R–410A and to a lesser extent R–407C after the 2010 ban on production of HCFC–22 for new equipment. Historically, some facilities may have been cooled by chillers using CFC–12, particularly if the facilities date back to before the 1994 CFC production and consumption phaseout, or they may use HFC–134a; nonetheless, with the establishment of this subsector under subsection (i) of the AIM Act, EPA considers such equipment to be within its own subsector rather than the chillers subsector, both subject to a 700 GWP limit. As communications and information technology has developed over the past few decades, the heat produced and the cooling demand has increased significantly, complicating designs in consideration of the weight and location of the cooling equipment and how these issues might impact structural requirements of the facility.

Comment: Several commenters requested that equipment used to cool data centers, computer rooms, server farms, and ITEFs, including chillers for this market, should not be included within the IPR subsector, and should instead either be classified as its own subsector or included under the residential and light commercial AC subsector. Several commenters described the system design and refrigerant selection of data center and IT equipment cooling as closer to those for building AC applications than those for IPR, including indirect cooling through AC by chillers or direct expansion (DX) systems. Commenters noted that such equipment indirectly cools through AC equipment rather than through refrigeration as in IPR, and that new technologies such as dielectric fluids for direct contact systems and full immersion chip heat exchangers are also being used. Additionally, some of these commenters noted that data center, ITEF, and computer room cooling equipment has higher heat loads than traditional AC equipment, and although it may be more similar to equipment in the residential and light commercial AC subsector than to that in the IPR subsector, considerably larger refrigerant charges (per square foot of the building being cooled) differentiate this equipment from that in those two subsectors.

Commenters also highlighted that data center, ITEF, and computer room cooling equipment falls within the scope of the UL Standard 20335–2–40, 4th edition, which covers electrical heat pumps, air conditioners, and dehumidifiers, and not UL 60335–2–89, which covers commercial refrigeration equipment used in IPR. Commenters therefore recommended that EPA consider data centers, ITEF, and computer room cooling equipment to be a separate subsector, similar to how DOE classifies this type of cooling equipment under their energy conservation standards. Further, commenters asserted that data center, ITEF, and computer room cooling equipment are subject to unique operating conditions and important safety considerations not shared by other subsectors, such as year-round cooling and non-stop, continuous cooling operation and technical designs that maintain temperatures in a wide range of weather conditions, in addition to reliability mandated by the critical nature of the equipment.

Commenters also noted that EPA's original SNAP rulemaking and Applicability Determination Index document for control number C960015 do not include IT cooling equipment within the definition of IPR (59 FR 13037, March 18, 1994). Other commenters noted that CARB defined this type of cooling equipment under ''Air Conditioning Equipment.''

Response: EPA agrees with commenters that the cooling needs for data centers, ITEFs, and computer rooms are sufficiently different from those of industrial processes to merit a separate subsector. As commenters noted, equipment for this purpose has been granted its own annex in the 4th edition of UL 60335–2–40, ''Household and Similar Electrical Appliances—Safety—Part 2–40: Particular Requirements for Electrical Heat Pumps, Air Conditioners and Dehumidifiers,'' and is in the process of being added to ASHRAE 15–2022, ''Safety Standard for Refrigeration Systems.'' EPA proposed to include data centers and server farm cooling equipment within the IPR subsector. Based on a review of the comments, including information on how the availability of substitutes for data centers, ITEF, and computer rooms can be affected by the safety standards covering the equipment, EPA has decided to consider data center, ITEF, and computer room cooling equipment as a separate subsector, independent of the IPR subsector, for the purposes of establishing GWP restrictions for this equipment.

Additionally, rather than including data center, ITEF, and computer room cooling equipment in the residential and light commercial AC subsector, also covered by the UL 60335–2–40 safety standard, EPA agrees with most commenters that the significantly larger charge sizes and delays in being addressed by safety standards warrant independent evaluation of the availability of substitutes for this subsector.

EPA recognizes how defining categories of equipment consistently with other regulatory authorities can minimize confusion for stakeholders. However, while CARB considers IT cooling equipment to be part of residential and light commercial AC and SNAP considers this equipment to be part of IPR, in this rulemaking EPA is establishing a separate subsector to enable EPA to evaluate the availability of substitutes for use in data center, ITEF, and computer room cooling equipment together, independently of other similar equipment types. Therefore, EPA is finalizing a separate subsector to better consider the (i)(4) factors, and particularly the availability of substitutes under (i)(4)(B) when setting restrictions on the use of HFC and HFC blends in new data center, ITEF, and computer room cooling equipment.

What restrictions on the use of HFCs is EPA establishing for data center, ITEF, and computer room cooling equipment?

EPA is prohibiting the installation of new data center, ITEF, and computer room cooling equipment that uses HFCs

and HFC blends with GWPs of 700 and above beginning January 1, 2027. EPA proposed to consider equipment in this subsector to fall within IPR, with a 150 GWP limit for equipment with charge capacities greater than or equal to 200 lb and a 300 GWP limit for equipment with charge capacities less than 200 lb and for the high temperature side of cascade systems, effective January 1, 2025. However, after review of the comments received and consideration of the subsection (i)(4) factors of the AIM Act, EPA is finalizing a separate subsector for data center, ITEF, and computer room cooling equipment to allow evaluation of the availability of substitutes in consideration of the significantly different technical specifications of equipment designed for this purpose.

In considering the availability of substitutes for data center, ITEF, and computer room cooling equipment under subsection (i)(4)(B), EPA identified several substitutes that could replace the higher-GWP substances, such as R–410A, that will be restricted under this rule. Finalizing a GWP limit of 700 allows the use of available substitutes that meet the technical requirements for this subsector, notably the high heat loads generated in the area in which the computer equipment is installed. These available substitutes include HFO–1234ze(E) and R–513A, for which equipment has recently been introduced, as well as refrigerants being developed and implemented in other AC subsectors, such as HFC–32 (GWP 675) and R–454B (GWP 465). As the technology develops, other available refrigerants with even lower GWPs may prove practicable for this subsector, including nonflammable refrigerants R–744 (GWP 1), R–471A (GWP 144), R–480A (GWP 291), and R–482A (GWP 144), or additional A2L refrigerants such as R–454A (GWP 237), R–454C (GWP 146), and R–457A (GWP 137).

Comment: EPA received many comments requesting a 700 GWP limit for data center, ITEF, and computer room cooling equipment. Given the technological similarities to residential AC equipment and chillers, commenters explained that this type of equipment therefore also requires additional substitutes above 150 to 300 GWP to meet its cooling needs. One such commenter pointed to refrigerants historically used in data center, ITEF, and computer room cooling equipment as also used in commercial AC, such as the high-pressure refrigerant R–410A and to a lesser extent, R–407C. Thus, this commenter requested the continued use of high-pressure substitutes identified for commercial AC equipment, R–454B and HFC–32, with GWPs up to 675. Another commenter noted how IT cooling equipment is subject to requirements under UL 60335–2–40, showing its congruence to other subsectors within this standard's scope, while another highlighted an insufficient number of suitable components, specifically compressors, currently available for use by the industry with refrigerants below the proposed 150 or 300 GWP limit. Additionally, a commenter asserted that the high-pressure operating conditions of IT cooling equipment relative to residential and commercial AC equipment further limit the number of suitable refrigerants for this subsector, and that the proposed 150 or 300 GWP limit would impose excessive economic costs without appreciable environmental gains.

Response: As noted in the discussion above, EPA agrees that data center, ITEF, and computer room cooling equipment is sufficiently different from other IPR applications to warrant creating a distinct subsector, separate from IPR. While EPA identified alternatives in the proposed rule below the proposed threshold, EPA understands from the commenters that the operating conditions for this subsector suggest a higher GWP limit is appropriate. Therefore, EPA is finalizing a 700 GWP limit for data center, ITEF, and computer room cooling equipment. In establishing a distinct subsector for this equipment, EPA evaluated the refrigerant options available for use, in consideration of the factors under subsection (i)(4) of the AIM Act, in IT cooling equipment independently of IPR. The Agency is establishing a 700 GWP limit rather than the proposed GWP restrictions on use of HFCs and HFC blends for IPR of 150 or 300 GWP based on a review of the comments and reconsideration of the (i)(4) factors, including a review of the relevant safety standards and technological challenges for this new subsector. EPA determined that there would be an insufficient number of available substitutes for these particular uses under the proposed restrictions.

Moreover, the type of equipment used in this new subsector is generally similar to equipment for residential and light commercial AC and chillers for comfort cooling, which are all covered by the safety standard UL 60335–2–40. EPA proposed, and is now finalizing, GWP limits of 700 for residential and light commercial AC and chillers for both comfort cooling and IPR in this rule. Analogous technical challenges remain for equipment in the data center, ITEF, and computer room cooling equipment subsector transitioning to substitutes with GWPs lower than 700. EPA notes that challenges associated with compressors and other components, requiring continued use of higher-pressure refrigerant options, such as HFC–32 and R–454B, also apply to equipment in this subsector. For further discussion on EPA's decision to set a 700 GWP limit for chillers for comfort cooling and IPR and for residential and light commercial AC, see sections VI.F.1.j and VI.F.1.k.

As noted by commenters, data center, ITEF, and computer room cooling equipment faces even greater obstacles than those for smaller equipment within the scope of UL 60335–2–40. Refrigerant capacities necessary to cool high-heat load equipment and spaces are significantly greater than those typical of residential and light commercial AC equipment, highlighting the need for a 700 GWP limit for this type of equipment. The challenges of using flammable refrigerants to cool sensitive data and information systems 24/7 in facilities, requiring 100 percent reliability compared to other types of AC equipment, were also stressed by commenters in their request for EPA to consider IT cooling equipment separately from IPR. Commenters who requested a separate subsector unanimously agreed that setting GWP restrictions at the same level as residential and light commercial AC and chillers for IPR would offer a sufficient number of available substitutes, provided there is adequate time to transition. Therefore, EPA is establishing the same GWP restrictions for the manufacture and installation of new equipment in this subsector as in other analogous AC subsectors. The Agency has identified many refrigerant substitutes that are likely to meet the requirements of this subsector that are below this GWP limit, including HFC–32, R–454B, and R–513A, with the possibility to also use R–450A, R–452B, R–454A, R–454C, and R–457A, considering the additional time provided for the reasons discussed in the response to comments below. The list of available substitutes includes the nonflammable options R–450A and R–513A, which may be used where flammable refrigerants remain prohibited for safety reasons or are not technologically achievable.

Comment: EPA received many comments regarding the proposed January 1, 2025, compliance date for IPR as it would apply to data center, ITEF, and computer room cooling equipment. Many commenters requested additional time to comply with GWP restrictions, in addition to higher limits. Several

commenters requested a January 1, 2029, compliance date, while one requested the compliance date be no earlier than January 1, 2027, or later than January 1, 2029, and another generally stated IT cooling equipment may need additional time beyond 2026. Two commenters expressed support for the proposed date, provided EPA finalized a GWP limit of 700.

Commenters requested compliance dates two years or more later than those proposed. These commenters noted a variety of reasons for this request, including time needed for IT equipment cooling design, prototyping, and testing; accommodation for 20-month lead-times for component manufacturing; and time to train designers and regulators on new provisions in codes and safety standards. Other commenters noted that the UL standard allowing for the use of lower-GWP A2L refrigerants in data centers, ITEF, and computer room cooling equipment was updated relatively recently in December 2022.[90] These commenters highlighted that SNAP has yet to adopt the most recent edition of UL 60335–2–40, and requested additional time for SNAP to incorporate the updates included in the 4th edition. A commenter also asked for additional time to allow further safety standard development, such as finalizing Addendum ''t'' to ASHRAE 15–2022, which would address IT cooling equipment, specifically.

Certain commenters stated that building codes currently prohibit use of flammable lower-GWP substitutes in this subsector. Commenters also noted that building codes are updated on a fixed development cycle and that adopting A2L refrigerants into these codes may take many years.

Response: EPA has identified available substitutes that meet the restrictions for this subsector, given the similarity of the equipment to equipment in the residential and light commercial AC subsector and chillers for comfort cooling and the identical GWP limits. However, EPA is finalizing a January 1, 2027, compliance date for data center, ITEF, and computer room cooling equipment, providing additional time consistent with a review of the subfactors in subsection (i)(4)(B). In particular, the updates to safety standard UL 60335–2–40, allowing sufficiently large charge sizes of A2L refrigerants to be used in this equipment, were only published in December 2022. Thus, the regulatory evaluations under SNAP, equipment redesign and testing, and updates to building codes that typically follow updates to UL safety standards are all in somewhat early stages. The additional time for compliance provided by this final rulemaking will enable updates to the UL standard, and future harmonizing updates to ASHRAE 15–2022, to be incorporated in these areas, increasing the number of available substitutes for use in this subsector by January 1, 2027. See sections VI.E.2.c and VI.E.2.d for further discussion on how EPA considers these factors in its evaluation of substitutes.

EPA is finalizing a date that the Agency has determined to be reasonable after reviewing the comments and applying the subsection (i)(4) factors to this new subsector. While some commenters asked for compliance dates beyond the January 1, 2027, date being finalized, the Agency does not agree that more time is reasonable. Design and testing of substitute refrigerants in equipment for this subsector is already underway, and a number of non-flammable refrigerants that meet the GWP restrictions for some equipment are already available (*e.g.,* R–513A and R–744). Certain server farms are cooled exclusively with water through direct evaporative cooling.[91] Commenters also noted that new technologies such as dielectric fluids for direct contact systems and full immersion chip heat exchangers are other possible cooling methods.

Equipment used for the purposes of cooling IT equipment generally resembles traditional AC equipment, cooling either through indirect chillers or DX systems. The Agency understands that the high heat load of data centers, ITEF, and computer rooms can be very large compared to typical building cooling; however, by allowing continued use of certain high-pressure refrigerants, such as HFC–32 and R–454B, challenges associated with designing new equipment will be minimized. Further, building codes must also be updated for many other subsectors that are likely to transition at least partly to flammable refrigerants, such as retail food refrigeration, IPR, residential and light commercial AC, and chillers, among others, and such industries have indicated confidence that such updates can be completed by compliance dates finalized in this rule.

The Agency has therefore determined that setting the compliance date for new manufactures and installations in this subsector beginning January 1, 2027, is reasonable for the reasons discussed above.

[90] 4th edition of UL Standard 60335–2–40.

[91] *https://sustainability.fb.com/wp-content/uploads/2022/02/Public-Water-Reporting_Expanding-the-Operating-Envelope.pdf.*

c. Retail Food Refrigeration

Retail food refrigeration is characterized by storing and displaying food and beverages, generally for sale, at different temperatures for different products (*e.g.,* chilled and frozen food). The designs and refrigerating capacities of such equipment vary widely. Retail food refrigeration is composed of four main categories of equipment, and EPA is treating these categories as separate subsectors under the Technology Transitions program: stand-alone equipment in retail food refrigeration (hereafter, ''stand-alone units''); refrigerated food processing and dispensing equipment; remote condensing units in retail food refrigeration (hereafter, ''remote condensing units''); and supermarket systems.[92]

What restrictions on the use of HFCs is EPA establishing for new retail food refrigeration?

EPA proposed a 150 GWP limit across retail food refrigeration, with exceptions for remote condensing units and supermarket systems with refrigerant charge capacities greater than or equal to 200 lb, and for the high temperature side of these subsectors' cascade systems, where a 300 GWP limit would apply. After review of the comments, EPA is finalizing the GWP limits as proposed for retail food refrigeration in stand-alone units, remote condensing units, and supermarket systems. For refrigerated food processing and dispensing equipment covered by edition 7 of UL Standard 621, Ice Cream Makers (UL 621) and for equipment with charge sizes greater than 500 g, EPA is not finalizing a GWP limit, but rather prohibiting the use of certain refrigerants. For refrigerated food processing and dispensing equipment not covered by UL 621 and with charge sizes less than or equal to 500 g, EPA is finalizing the 150 GWP limit as proposed.

EPA proposed a January 1, 2025, compliance date for all four categories of retail food refrigeration. After review

[92] By ''supermarket systems,'' EPA means systems that operate with racks of compressors installed in a machinery room where different compressors turn on to match the refrigeration load necessary to maintain temperatures using direct or indirect (*e.g.,* cascade) systems. These systems are described further in the section of the rule pertaining specifically to retail food refrigeration—supermarket systems, section VI.F.1.c.iv. Grocery stores, warehouse stores, convenience stores, supermarkets, and bodegas may not use a ''supermarket system'' as described in this rule and instead may be using stand-alone units and/or remote condensing units. The presence of a refrigeration system in a supermarket does not on its own mean that it falls within the retail food refrigeration—supermarket subsector.

of the comments, EPA is finalizing a January 1, 2025, compliance date for stand-alone units, as proposed. For remote condensing units, EPA is finalizing a compliance date of January 1, 2026. For supermarket systems, EPA is finalizing a compliance date of January 1, 2027. For refrigerated food processing and dispensing equipment, EPA is finalizing different compliance dates depending on the specific equipment: January 1, 2028, for equipment within the scope of UL 621; January 1, 2026, for other refrigerated food processing and dispensing equipment with charge sizes of 500 g or less; and January 1, 2027, for other refrigerated food processing and dispensing equipment with charge sizes greater than 500 g.[93] After review of the comments on the proposed rule and the availability of HFC and HFC-blend substitutes for these subsectors, and considering the subsection (i)(4) factors under the AIM Act, the Agency concludes that finalizing these restrictions on the use of regulated substances by the specified timeframes is appropriate.

EPA received comments regarding the proposed restrictions and compliance dates applicable across the entire retail food refrigeration subsector, which are addressed in this section. EPA also received comments that addressed issues specific to certain subsectors within retail food refrigeration, and those are summarized and responded to separately, below.

Comment: Many commenters addressed the proposed GWP limits for the entire retail food refrigeration subsector. Most commenters from industry generally supported the proposed GWP limits. One industry commenter requested increases to the proposed GWP limits to that of existing, readily available refrigerants such as R–513A (GWP 630) and R–449A (GWP 1,396), citing lack of trained technicians to service and install new systems, unavailability of lower-GWP refrigerant options, safety concerns, and disproportionate economic burden on disadvantaged communities. The commenter noted that the refrigerants EPA identified with GWPs less than 150 for this subsector, such as R–454C, R–471A, and R–455A, have not been SNAP-approved for use in a retail environment. The commenter pointed out that the flammability of these substitutes poses significant health and safety concerns, and also stated that the toxicity concerns of substitutes like R–717 prevents their widespread adoption across the subsector. Further, the commenter asserted that R–744 is not a viable option for retail food refrigeration in many cases due to efficiency concerns, leak detection challenges, costs, and other technological constraints associated with a high-pressure refrigerant.

Several environmental groups urged EPA to lower the proposed GWP limits in the retail food refrigeration subsector. One organization recommended that EPA adopt a 150 GWP limit across retail food refrigeration, regardless of charge size, citing adequate availability of existing refrigerant options. As discussed in section VI.F.1.c.i, they asserted that the 300 GWP limit for certain charge sizes and systems was unnecessarily high and overly complicated, could provide potential for a regulatory loophole, and could stifle innovation of very low-GWP refrigerants.

Response: EPA has considered comments requesting uniform restrictions across retail food refrigeration—those seeking both increased and decreased stringency from EPA's proposed limits—and has determined that uniform restrictions and compliance timeframes are not appropriate, given the differences in availability of substitutes for use in these subsectors. EPA proposed GWP limits for retail food refrigeration based on the availability of substitutes specific to each subsector. For these four subsectors, EPA considered all subsection (i)(4)(B) factors to the extent practicable, including carefully evaluating the circumstances associated with technological achievability of substitutes given the varying equipment types, location of the equipment, servicing challenges, and technological specifications and constraints. Selecting a single GWP limit for all retail food refrigeration oversimplifies the technologies and substitutes available for use in this subsector. Therefore, the Agency discusses available HFC and HFC-blend substitutes in the following sections to describe the appropriateness of the finalized GWP limits in the context of each subsector.

EPA does not agree with commenters seeking a higher GWP limit for all retail food refrigeration subsectors. As discussed in the List of Substitutes TSD and in the sections that follow, EPA has considered, to the extent practicable, the subsection (i)(4)(B) factors and identified lower-GWP refrigerant substitutes that are available for use to meet the Agency's GWP limit. To the extent that the availability of some substitutes is currently constrained for certain uses within the retail food refrigeration subsectors, such as R–454C and R–455A, as noted by one commenter, EPA has considered those constraints and is providing additional time for compliance for some of the subsectors and uses. Since issuing the proposed rule, EPA has listed R–471A as acceptable for use in these subsectors.

EPA does not agree that the concerns raised by a commenter—potential lack of trained technicians, unavailability of lower-GWP refrigerant options, and safety concerns—warrant establishing a uniformly higher GWP limit for the four retail food refrigeration subsectors. The Agency has analyzed these concerns specific to the systems and equipment in each subsector within retail food refrigeration and adjusted the restrictions and compliance timeframes as appropriate. For example, the concerns raised by a commenter about R–744 and R–717 use in retail food refrigeration are relevant to certain subsectors where these options have been identified as substitutes, such as in supermarket systems, but not necessarily others. Such considerations are discussed in the context of the relevant subsectors rather than in this section, which applies generally to all of retail food refrigeration.

EPA also does not agree that it would be appropriate to establish uniform GWP limits across the retail food refrigeration subsector, regardless of the charge size of equipment. For further discussion on EPA's decision to finalize GWP restrictions based on a 200 lb refrigerant charge capacity threshold for certain subsectors, see section VI.F.1.a.

With respect to those commenters seeking GWP limits below 150, the Agency acknowledges that some refrigerants identified as available for use, such as R–744 and R–717, meet that threshold, but EPA does not agree that it is appropriate to adopt restrictions based only on the lowest GWP substitutes. Doing so would inappropriately limit the overall availability of substitutes for that subsector (*see* section VI.E.5). Setting restrictions at least at 150 GWP for the subsectors in retail food refrigeration ensures that multiple available substitutes may be used, which eases constraints on commercial demands, costs, and training needs specific to certain substitutes. Allowing a variety of substitutes acknowledges the fact that not every substitute can be used for every application within a subsector

[93] Commenters noted that some refrigerated food processing and dispensing equipment utilizes two refrigeration systems: one to process the food/drink and a separate one to cool a holding tank to maintain the food/drink at the required temperature. In those situations, each separate refrigeration system must comply with the applicable HFC restrictions.

and ensures a smooth transition from higher-GWP HFCs.

Comment: EPA received many comments supportive of the proposed GWP limits that requested additional time to comply. Some commenters requested a January 1, 2026, compliance date, noting several concerns affecting the subsector's ability to meet the January 1, 2025, date. Other commenters requested a much longer timeframe for compliance for the retail food refrigeration subsector, including compliance dates that would not become effective until January 1, 2032.

A couple of commenters who requested additional time for compliance noted the delayed updates to UL Standard 60335–2–89 in the 2nd edition, published in October 2021, relative to publication dates of similar updates to other industry standards (*e.g.,* UL 60335–2–40 and ASHRAE 15). They highlighted how it takes time for updates in safety standards to be adopted and implemented. After a safety standard is updated, it must be reflected in equipment testing and certification, manufacturing facility updates, building codes, and be adopted where appropriate under SNAP. The commenter stated that the updated UL Standard 60335–2–89, which covers commercial refrigeration, has not yet been fully incorporated and addressed in these ways. Commenters stated that the retail food refrigeration subsector has fewer available substitutes than other subsectors (such as residential AC and heat pumps) where the updates to their applicable UL standards were published earlier. Therefore, these commenters asserted that additional time for compliance with the GWP limits for retail food refrigeration would allow for manufacturers to design and test equipment to comply with the updated UL standards and address other concerns, such as building code adoption, that could limit the ability to install and operate such equipment. The commenters assert that without this extra time, it would be unreasonable to consider certain refrigerant substitutes, particularly certain flammable substitutes, to be ''available.''

The need for more time to test new equipment and refrigerants was highlighted by a few commenters. Two commenters noted that providing further time for compliance would help NRTLs test and list equipment using new lower-GWP substitutes prior to the compliance date. Additional time was also requested to evaluate the safety and efficiency of systems using flammable refrigerants, which the commenter stated have yet to be evaluated by retailers for effectiveness. According to commenters, after such systems are evaluated, manufacturing facilities would need to be upgraded for the safe storage and handling of flammable refrigerants. One commenter highlighted how the retail food refrigeration subsector's role in providing groceries and supplies to the public mandates 24/7 reliability, and that some systems using low-GWP substitutes, such as R–744, are not yet reliable. This commenter stated that additional time would allow them to develop and test systems to ensure that they meet all of the sector's reliability, performance, and safety requirements.

Additionally, commenters noted that building codes in certain areas could impede the transition to substitute refrigerants because they currently do not allow for use of flammable refrigerants in new buildings. These commenters requested a delay in the compliance date to allow those jurisdictions to continue to update their codes to reflect the expanding list of safe, lower-GWP refrigerant options in response to updated safety standards.

Finally, commenters highlighted that relevant SNAP listings for refrigerants in retail food refrigeration, in response to the updates to UL 60335–2–89, have yet to be finalized. Commenters cited additional SNAP listings for A2Ls and expanded charge sizes for R–290 in this subsector as necessary to comply with the proposed GWP limits, and that additional time would provide the opportunity for EPA to finalize pertinent SNAP listings before the compliance date.

Response: EPA has considered these comments and agrees that additional time for compliance is appropriate in some instances. EPA does not agree that such additional time is required for every subsector in retail food refrigeration, and therefore addresses these concerns and requests for extensions in the subsector-specific sections that follow. This section discusses in general terms the extent to which EPA considered how the timing of UL standards' publications impacts other factors that inform availability of substitutes for retail food refrigeration as part of the decision to provide a later compliance date.

Most retail food refrigeration equipment falls under the scope of safety standard UL 60335–2–89. In October 2021, the 2nd edition of this standard was published, updating safety requirements so that flammable and lower flammability refrigerants could be deployed more widely in commercial refrigeration equipment. EPA recognizes the time it can take for an updated UL standard to be widely incorporated and for the updates to be applied across industry. Many other relevant changes affecting the availability of substitutes and facilitating transition to the use of those substitutes generally occur after the UL standard is updated, including evaluation of substitutes under the SNAP program, adoption of new editions into building codes, equipment testing and certification, safety updates to manufacturing facilities, and training of technicians. All of these are considerations for EPA's assessment of availability of substitutes under subsection (i)(4)(B). Further discussion on how updates to UL 60335–2–89 affect the availability of substitutes for equipment within the safety standard's scope can be found in section VI.E.2.

Typically, following updates to safety standards for retail food refrigeration, EPA evaluates substitutes through the SNAP program's comparative risk framework, where the Agency considers safety by assessing exposure assessments, toxicity data, and flammability, among several regulatory criteria. EPA is currently evaluating many of the refrigerants impacted by the updates to UL 60335–2–89 and has proposed to list many refrigerants as acceptable, subject to use conditions, under SNAP for use across retail food refrigeration (88 FR 33722, May 24, 2023). Although those evaluations under SNAP are ongoing, the Agency anticipates that given the number of substitutes currently proposed as acceptable for use, users in the retail food refrigeration subsector will likely have an expanded set of available substitutes from which to choose in the coming years. EPA has considered its ongoing retail food refrigerant evaluations under SNAP on a subsector-specific basis, and the adjusted compliance timeframes reflect these evaluations and their potential impact on the availability of substitutes for use in each individual subsector. Further discussion on the intersection of SNAP listing decisions and AIM Act subsection (i)(4) can be found in section VI.E.2.

As noted by many commenters, building codes can limit refrigerants available for use based on their flammability, the charge size of the equipment, and other relevant safety factors, and take time to adopt changes to safety standards. These code updates are generally made in each specific jurisdiction, and the timeframe for adoption of new editions of safety standards can vary greatly. In certain jurisdictions, users may be unable to utilize certain flammable substitutes identified by EPA for use in retail food refrigeration, even if they are SNAP-

approved, until building codes incorporate the updates in the 2nd edition of UL 60335–2–89. However, EPA may still consider a substitute to be available before every building code in every jurisdiction across the United States permits its use. See section VI.E.2.d for discussion on EPA's consideration of building codes and the availability of substitutes under subsection (i)(4).

Further, EPA agrees with commenters that updates to UL standards must also be incorporated into equipment design, testing, and certifications. Even after manufacturers develop equipment using substitutes, NRTLs must certify that the new equipment meets UL safety standards. NRTL equipment certification requires substantial testing, site visits, and labor input before new equipment can be used. For a subsector as large as retail food refrigeration, NRTLs could struggle to complete certification of new equipment by the proposed January 1, 2025, compliance date for the subsector.

EPA also anticipates that the use of lower-GWP refrigerant options like R–744, with very high pressure, or the use of flammable substitutes may require more specialized training. Such trainings are available and underway, but more trained technicians would benefit the commercial refrigeration industry in the transition to lower-GWP refrigerants.

EPA agrees with the commenter that manufacturing facilities not currently using flammable refrigerants will need to incorporate safety updates before using flammable refrigerants on site. EPA acknowledges that these changes to manufacturing facilities could require financial and time investments; however, the use of flammable refrigerants has steadily increased over the last ten years, meaning some manufacturers have already made such upgrades. In the cases where these updates have yet to be made, EPA understands that they could delay when those facilities are able to factory-charge new substitutes into their appliances or pre-charged components.

EPA has therefore determined, in consideration of the need for certain SNAP approvals, updates to building codes, equipment design, testing, and certifications, technician trainings, and manufacturing facility upgrades, that providing additional time to comply is reasonable for certain subsectors in retail food refrigeration. Considering these factors, noted by many commenters, the Agency is finalizing delayed compliance dates for certain refrigerated food processing and dispensing equipment, remote condensing units, and supermarket systems. This additional time will provide an opportunity for additional SNAP listings to be finalized; jurisdictions to consider the latest edition of UL 60335–2–89 and incorporate the updated safety requirements into their building codes to enable the use of certain substitutes; further development, testing, and certification of equipment using new substitutes; a greater number of specialized trained technicians; and completion of remaining safety updates to facilities.

EPA understands that the lagging effects of updating UL 60335–2–89 do not affect stand-alone units and certain refrigerated food processing and dispensing equipment in the same way. Therefore, EPA is finalizing the compliance date of January 1, 2025, for stand-alone units and certain refrigerated food processing and dispensing equipment as proposed. Further discussion on EPA's decision to finalize the compliance dates for these subsectors can be found in sections VI.F.1.c.i and VI.F.1.c.ii.

i. Retail Food Refrigeration—Stand-Alone Units

Stand-alone units are equipment where all refrigeration components are integrated and, for the smallest types, the refrigeration circuit is entirely brazed or welded. Stand-alone units are charged with refrigerant at the factory and typically require only an electricity supply to begin operation. Examples include refrigerators, freezers, and reach-in coolers (either open or with doors). EPA considers these to be products according to the definition of stand-alone units finalized in this rulemaking.

Medium-temperature stand-alone units maintain a temperature above 32 °F (0 °C). Most are typically designed to maintain food and beverages at temperatures roughly between 32 °F (0 °C) and 41 °F (5 °C). Low-temperature stand-alone units are designed to maintain food and beverages at temperatures roughly between −40 °F (−40 °C) and 32 °F (0 °C) (*i.e.,* freezers). Today, HFC–134a is the most commonly used refrigerant in stand-alone units, with R–404A also commonly used in low temperature applications and some high-capacity applications.

What restrictions on the use of HFCs is EPA establishing for new stand-alone units and why?

EPA is prohibiting the manufacture and import of stand-alone units that use HFCs and HFC blends with a GWP of 150 or greater beginning January 1, 2025. This GWP limit applies to new stand-alone units, irrespective of compressor capacity or evaporator design. After review of the comments received, EPA is finalizing these restrictions as proposed.

Comment: In addition to the general retail food refrigeration comments discussed in section VI.F.1.c, EPA received comments on the proposed GWP limits for stand-alone units, specifically. One commenter, a private citizen, expressed support for the 150 GWP limit. Another commenter requested a 300 GWP limit for stand-alone units, claiming that refrigerants between 150 and 300 GWP offer increased energy efficiency benefits and require smaller charge sizes. In particular, the commenter advocated for a limit that accommodates the use of R–454A (GWP 237), which they asserted is the only substitute that can exceed the capacity of the refrigerant currently used by the commenter, R–404A, and the use of which would allow for a fast and simple transition. According to the commenter, the only other substitute identified by EPA with comparable volumetric capacity that would meet the 150 GWP limit is R–455A (GWP 146), which the commenter claimed poses non-ideal glide conditions for equipment transitioning out of R–404A. The commenter stated that EPA was not permitted to rely on State HFC regulations to fulfill its statutory duty to evaluate substitutes under the AIM Act, that EPA was required to comply with AIM Act subsection (i)(5), and that there was no indication in the record that EPA had complied with the requirement in subsection (i)(4)(A) to consider best available data.

Response: After review of the general retail food refrigeration comments and the comments specific to stand-alone units, EPA is finalizing the GWP limits for stand-alone units as proposed. The Agency agrees with the comment that a 150 GWP limit is appropriate for this subsector. The Agency disagrees with the commenter requesting a 300 GWP limit for stand-alone units, given the availability of substitutes with GWPs below 150 for use in this subsector under subsection (i)(4). Further, EPA does not agree with the commenter's assessment that the Agency has not relied on best available data in determining the availability of substitutes nor do we agree that EPA was obligated to evaluate substitutes under (i)(5) in carrying out a rulemaking (see section VI.E.1).

The commenter asserts that EPA should revise its restriction for stand-alone units on the basis that its preferred substitute, R–454A, is the only

currently available substitute that ''can exceed'' the volumetric capacity of R–404A. But subsection (i)(4) does not require EPA to set restrictions in a way that would accommodate transition only when the substitutes under consideration outperform the regulated substances currently being used. While setting a limit at 300 would permit the use of more substitutes than the Agency's limit of 150, and therefore potentially provide a ''faster and simpler'' transition for this subsector, that does not mean that the substitutes identified by the Agency for use in stand-alone units are not ''available.'' The commenter does not demonstrate that the substitutes EPA identified as currently available for use in stand-alone units cannot be used, for instance by adjusting or reengineering equipment models to overcome issues of volumetric capacity,[94] or that EPA should not have considered any of its identified substitutes to be available per any of the subsection (i)(4)(B) factors. Further, as noted elsewhere, EPA has recently proposed to approve additional alternatives (*e.g.,* R–454C, R–455A, R–457A, and R–516A) and increase the allowable charge size for existing alternatives (*e.g.,* R–290), that may address the commenter's concern (88 FR 33722, May 24, 2023). Tests on HFC/HFO blends such as R–454C, R–455A, and R–457A show a volumetric capacity either identical or varying in the range of ±5 percent, compared to HCFC–22, indicating that the blends should not create a significant change in volumetric capacity that would require reengineering.[95] The Agency's assessment is that a 150 GWP limit is appropriate for stand-alone units after considering the (i)(4) factors, to the extent practicable, and, particularly relevant to the commenter's points, after evaluating under (i)(4)(B) the availability of substitutes for use in these units. We also note that EPA's ongoing evaluation of additional substitutes under the SNAP program, including for use in stand-alone units, may facilitate the availability of more options for compliance by January 1, 2025. EPA continues to encourage innovation of refrigerants that meet these restrictions and anticipates the number of substitutes available for use in stand-alone units will continue to grow.

For new equipment, the Agency has identified R–744 (GWP 1), R–290 (GWP 3.3), R–600a (GWP 1), R–441A (GWP 3), HFO–1234ze(E) (GWP 1), and HFO–1234yf (GWP 1) as available substitutes for the higher-GWP HFCs currently used in stand-alone units. In addition to their lower GWPs, some of these substitutes offer additional environmental and economic benefits via increased energy efficiency. Multiple sources, not peer-reviewed, indicate that R–290 offers significant efficiency benefits as compared to traditional higher-GWP refrigerants used for commercial refrigeration, claiming reduced energy usage of 11 to 63 percent for R–290 models compared to similar equipment using HFC–134a [96] and reduced energy consumption of approximately 30 percent with R–290 compared to R–404A.[97] A peer-reviewed study found that energy use in a stand-alone freezer unit can be reduced as much as 34 percent, depending on operating conditions, when using R–290 instead of R–404A.[98]

Use of R–290, R–600a, and other lower-GWP refrigerants in stand-alone equipment has increased significantly in recent years, particularly since SNAP Rules 17, 19, and 21 listed various substitutes as acceptable and provided use conditions that enable these substitutes, including those that are flammable, to be used safely (76 FR 78832, December 20, 2011; 80 FR 19454, April 10, 2015; and 81 FR 86778, December 1, 2016). EPA is aware of several available low and medium temperature stand-alone unit models using substitutes such as R–290 and R–600a. Commercial demand exists for equipment types that use R–290, including reach-in refrigerators and freezers, beverage coolers, and food service equipment, as well as beverage coolers and vending machines that use R–744.[99] These lower-GWP refrigerants have had significant use in other regions of the world.[100] The increased prevalence of these substitutes in stand-alone equipment indicates their availability for use in this subsector, both in terms of technological achievability and commercial demand.

Several States have legal restrictions on the use of high-GWP HFCs and HFC blends in stand-alone equipment.[101] These restrictions became effective between 2020 and 2022. Stand-alone equipment using lower-GWP substitutes in compliance with State regulatory requirements are currently being sold in these markets, clearly indicating that these types of equipment can use substitutes that are available. The Agency does not agree with the commenter that EPA has relied on State prohibitions to fulfill its statutory duty under subsection (i). We have factored in, to the extent practicable, those factors in subsection (i)(4) in determining the use restrictions finalized in this action. The Agency discussed in the proposed rule and a TSD that the State regulations prohibiting the use of HFCs and requiring the use of substitutes is one source of information that is relevant to EPA's assessment of the availability of substitutes in stand-alone units, particularly in terms of technological achievability. See the *Availability of Substitutes* TSD for further information on available HFC and HFC-blend substitutes for stand-alone units.

In addition to the lower-GWP refrigerants already available, EPA continues to evaluate substitutes under the SNAP program and has authority to do so under subsection (i)(5) of the AIM Act as well. The Agency anticipates that this continuing evaluation of additional substitutes, including for use in stand-alone units, may help facilitate the availability of even more options for compliance by January 1, 2025. For example, under the SNAP program, EPA has proposed to list several additional refrigerants that would comply with the final restrictions as acceptable, subject to use conditions, for use in stand-alone units: HFO–1234ze(E), HFO–1234yf, R–457A, R–516A, R–455A, and R–454C (with GWPs of 1, 1, 137, 140, 146, and 146, respectively) (88 FR 33722, May 24, 2023). Concerning the ability to meet appliance efficiency standards, one study found R–454C, R–455A, and R–457A reduced energy consumption by 2.07 to 2.45 percent, 2.95 to 2.9 percent,

[94] In most cases, little or no reengineering will be required to use HFC/HFO blends in place of regulated substances. The largest amount of reengineering will be required for R–744, due to its higher pressure, and for the hydrocarbon refrigerant R–290, because of its higher flammability. However, industry is already in the process of adopting those refrigerants. For example, R–290 is already being used to replace R–404A in retail food stand-alone units like ice cream cabinets and plug-in display cases. (RTOC, 2022)

[95] RTOC, 2022. TEAP 2022 Progress Report (May 2022) available at: *https://ozone.unep.org/science/assessment/teap.*

[96] True Manufacturing, 2019, Hydrocarbon (Natural Refrigerant) Brochure. Available at: *https://www.truemfg.com/support/resource-center/#panel2.*

[97] Carel, March 2020. Six Reasons to Use Propane as Refrigerant. Available at: *https://www.carel.com/blog/-/blogs/six-reasons-to-use-propane-as-refrigerant.*

[98] Mastrullo, Rita & Mauro, Alfonso & Menna, Laura & Vanoli, G.P. (2014). Replacement of R404A with propane in a light commercial vertical freezer: A parametric study of performances for different system architectures. Energy Conversion and Management. 82. 54–60. *10.1016/j.enconman.2014.02.069.*

[99] See Commercial Demands and Technological Achievability TSD in the docket for a list of products in the affected sectors and subsectors using substitutes.

[100] See TEAP 2022 Assessment Report, section 5.

[101] California, Colorado, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Virginia, Vermont, and Washington.

and 10.48 to 10.69 percent, respectively, compared to R–404A in a stand-alone unit.[102] To the extent that a manufacturer chooses not to use a specific refrigerant because of glide, R–744, R–600a, R–290, HFO–1234ze(E), and HFO–1234yf are all single component refrigerants and therefore have no glide, and R–516A has been listed under ASHRAE Standard 34 as an azeotropic blend, with glide comparable to that of R–404A. The Agency therefore does not agree with the commenter urging EPA to establish GWP limits for stand-alone units that are less stringent than the limit proposed, given that the best available data indicate an existing array of available substitutes.

Comment: EPA received comments requesting an extension of the proposed January 1, 2025, compliance date for stand-alone units. One commenter noted that HFC/HFO-blends often have significantly lower GWPs than HFC-only refrigerants, and that SNAP has listed many HFC blends as acceptable for stand-alone units, implying relatively minimal environmental impact of their continued use. They agreed that although many manufacturers of stand-alone units have already transitioned to R–290 (GWP 3.3), others chose non-flammable SNAP-approved refrigerants that would not meet the new 150 GWP limit. According to the commenter, additional time is needed for these manufacturers, whose products include ENERGY STAR certified units with non-flammable HFC/HFO blends, to transition to lower-GWP options. Another commenter pointed to the recent updates to UL 60335–2–89 allowing for increased charge sizes up to 500 g for A3 refrigerants in stand-alone units. The commenter concluded that increased charge sizes are necessary to move to substitutes with GWPs less than 150 and that if SNAP does not address larger charge sizes for flammable refrigerants in the next several months, then the compliance date should be delayed until January 1, 2026.

A third commenter cited the need for an additional year for research and development to manufacture new equipment that will meet DOE energy efficiency requirements, for coordinating with compressor and other component manufacturers, and for NRTLs to work through a ''backlog'' of testing that will result from the transition. They also noted that building codes still need to be updated to allow for use of flammable refrigerants and that manufacturing facilities need time for redesigns to safely handle them.

Response: After review of the general retail food refrigeration comments and the comments specific to stand-alone units regarding the proposed January 1, 2025, compliance date, EPA is finalizing the compliance date as proposed. HFC and HFC blends already identified by the Agency as available substitutes can support the final GWP limits for new stand-alone units. In addition, this rule would not prevent a manufacturer from seeking and receiving ENERGY STAR certification for units using refrigerants with a GWP less than 150. Numerous models using the lower-GWP refrigerants R–290 or R–600a, for example, are already listed under the ENERGY STAR Product Finder,[103] as well as those using the higher-GWP, non-flammable HFC/HFO blends mentioned by the commenter.

As discussed above, EPA has taken into account the delayed publication of updates to UL standard 60335–2–89 and the subsequent incorporation of those updates by electing to extend the compliance dates for many subsectors in retail food refrigeration. However, the Agency does not agree that for stand-alone units, a delay in the January 1, 2025, compliance date is appropriate. In general, charge sizes for stand-alone units are relatively small, and stand-alone units containing A3 refrigerants have been in use for several years. The transition to lower-GWP substitutes is further along than in other subsectors within retail food refrigeration. Therefore, challenges associated with the need to update building codes; evaluate substitutes under SNAP; research, develop, test, and certify equipment; update manufacturing facilities; and ensure an adequate supply of trained technicians are less present for smaller charge refrigeration equipment. For other retail food subsectors with complications that could contribute to delays in their transition, EPA is providing additional time to comply for the reasons discussed in the section above.

ii. Retail Food Refrigeration—Refrigerated Food Processing and Dispensing Equipment

Refrigerated food processing and dispensing equipment is designed to make or process and subsequently dispense cold food and beverages, including equipment that functions as a holding tank to deliver the food or beverage at the desired temperature or to deliver chilled ingredients for their processing, mixing, and preparation. This equipment can be self-contained or can be connected via refrigerant piping to a dedicated condensing unit located elsewhere. Some may use a refrigerant in a heat pump or utilize waste heat from the unit to provide hot beverages. Some may also provide heating functions to melt or dislodge ice or for sanitation purposes. Examples include equipment used to make and dispense chilled and frozen beverages; frozen custards, gelato, ice cream, Italian ice, sorbets and yogurts; milkshakes, ''slushies'' and smoothies; and whipped cream.

Refrigerated food processing and dispensing equipment historically used CFC–12 and HCFC–22 and has more recently adopted HFC–134a and R–404A in medium and low temperature applications, respectively. Both HFC–134a and R–404A are potent GHGs with GWPs of 1,430 and 3,922, respectively.

What restrictions on the use of HFCs is EPA establishing for new refrigerated food processing and dispensing equipment and why?

For new refrigerated food processing and dispensing equipment, EPA proposed a 150 GWP limit restriction that would take effect starting January 1, 2025. EPA received comments, summarized and responded to below, that pointed out that much of the equipment in the refrigerated food processing and dispensing subsector is covered by a different UL standard (UL 621) that has not yet been revised to enable the effective use of flammable refrigerants for certain charge sizes. EPA has therefore modified the proposed restrictions in this final action by establishing different restrictions and compliance dates where availability of substitutes is constrained by these factors.

Specifically, in new stand-alone refrigerated food processing and dispensing equipment that is outside the scope of UL 621 and has a refrigerant charge size less than or equal to 500 g, EPA is setting a GWP limit of 150 GWP, as proposed, but beginning two years later than proposed, on January 1, 2027. For new refrigerated food processing and dispensing equipment with a charge size greater than 500 g, within the scope of UL 621, and for systems that use remote condensing units, EPA is not finalizing a GWP limit restriction as proposed, but is instead prohibiting the use of the following HFCs or HFC blends, which have GWPs as high or higher than HFC–134a: R–402A, R–402B, R–404A, R–407A, R–407B, R–407C, R–407F, R–

[102] Ranges represent without a receiver to with a receiver. Llopis, Rodrigo, et al., International Journal of Refrigeration, June 2019. DOI: 10.1016/j.ijrefrig.2019.06.013, available at: *http://www.energiazero.org/aermec/gas/Llopis_Low_GWP_R404A_MT_final.pdf.*

[103] See *www.energystar.gov/productfinder.*

407H, R–408A, R–410A, R–410B, R–411A, R–411B, R–417A, R–417C, R–420A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–426A, R–427A, R–428A, R–434A, R–437A, R–438A, R–507A, HFC–134a, HFC–227ea, R–125/290/134a/600a (55/1/42.5/1.5), RB–276,[104] RS–24 (2002 formulation), RS–44 (2003 formulation), GHG–X5, or Freeze 12 (within this section, EPA refers to this list as the ''prohibited refrigerants''). New self-contained refrigerated food processing and dispensing equipment with charge sizes greater than 500 g outside the scope of UL 621 and systems that use remote condensing units must comply with the prohibitions beginning January 1, 2027. New stand-alone equipment within the scope of UL 621 must comply with the prohibitions beginning January 1, 2028.

Comment: In addition to the general retail food refrigeration comments, EPA received a comment from a private citizen in support of the proposed 150 GWP limit for refrigerated food processing and dispensing equipment, specifically. Another commenter approved of the 150 GWP limit, but only for equipment that is self-contained and with charge sizes less than or equal to 500 g. Commenters also requested greater GWP limits than proposed for this subsector. One commenter requested a 3,920 GWP limit to apply to refrigerated food processing and dispensing equipment, while another requested a 1,450 GWP limit for remote condensing units and equipment with charge sizes greater than 500 g. This commenter discussed the applicability of certain safety standards (*e.g.,* UL 621 versus UL 60335–2–89) to various refrigerated food processing and dispensing equipment and noted that flammable refrigerants are not yet permitted in equipment within the scope of UL 621 with charges greater than 150 g, greatly limiting the number of available substitutes. Additionally, EPA received comments requesting an exception for refrigerated food processing and dispensing equipment within the scope of UL 621.

Response: After review of the general retail food refrigeration comments and the comments specific to refrigerated food processing and dispensing equipment regarding the proposed 150 GWP limit, EPA is finalizing the GWP limit as proposed for stand-alone equipment outside the scope of UL 621 with charge sizes less than or equal to 500 g. EPA agrees with the commenters who expressed their support of the proposed GWP limit for this type of equipment, and understands the available HFC and HFC-blend substitutes to be sufficient to replace refrigerants with GWPs greater than 150 for this type of equipment. EPA initially identified substitutes such as R–744 and R–717 as available for use in this subsector for its consideration of availability of substitutes under subsection (i)(4)(B) for the HFCs and HFC blends that EPA is restricting. EPA acknowledges that in some situations, particularly in public areas, R–717 may not be allowed by building codes or may be limited in the charge size allowed. R–744 technology continues to advance, allowing for improved appliance energy efficiency in climates found in most of the United States. Additionally, companies expressed interest in using other lower-GWP substitutes for this subsector, with one commenter indicating they are already using refrigerants like R–290 (GWP 3.3) in some of their equipment. Proposed SNAP Rule 26 listings for refrigerated food processing and dispensing equipment, enabled by updates to UL 60335–2–89 and other safety standards, will likely provide further refrigerant options for such types of stand-alone equipment outside the scope of UL 621 and with charge sizes less than or equal to 500 g, once finalized. EPA has proposed to list HFO–1234ze(E), HFO–1234yf, R–290, R–457A, R–516A, R–455A, R–454C, R–454A (with GWPs of 1, 1, 3.3, 137, 140, 146, 146, and 237, respectively) as acceptable, subject to use conditions, under SNAP for use in refrigerated food processing and dispensing equipment (88 FR 33722, May 24, 2023). All but one of these substances meet the GWP limit of 150 for this type of equipment in this subsector, further easing the transition to lower-GWP refrigerants. EPA continues to encourage innovation of refrigerants that meet these restrictions and anticipates the number of substitutes available for use in refrigerated food processing and dispensing equipment will continue to grow.

The Agency therefore disagrees with commenters requesting a higher GWP limit or an exemption uniformly across all types of refrigerated food processing equipment, given the identified available substitutes below 150 GWP for this type of equipment. EPA is aware of actions being taken in various States and local jurisdictions that have or will amend building codes that will increase the availability of substitutes by permitting additional substitutes, including certain flammable substitutes, with GWPs below the proposed GWP limit.[105] See section VI.E.2.d for further discussion on EPA's consideration of building codes in identifying available substitutes under subsection (i)(4) of the AIM Act.

For self-contained products within the scope of UL 621, for self-contained products with charge sizes greater than 500 g, and for refrigerated food processing and dispensing systems using remote condensers, EPA is not finalizing a GWP limit as proposed, and is instead prohibiting certain listed refrigerants. The Agency agrees with commenters that these types of equipment face additional challenges to using lower-GWP substitutes. Prohibiting specific refrigerants retains the use of nonflammable options even if such equipment is not added to the scope of UL 60335–2–89 or other appropriate safety standards to allow for additional flammable options in the necessary charge sizes. In addition, refrigerant options for units with charge sizes greater than 500 g or for systems using remote condensing units may not be supported by the expected updates to the safety standards. Therefore, the Agency finds that a more reasonable approach to transitioning such refrigerated food processing and dispensing equipment to lower-GWP options is by prohibiting higher-GWP refrigerants such as R–404A and HFC–134a. The GWPs of the prohibited refrigerants range from 1,430 (HFC–134a) to 3,985 (R–507, R–507A), which is similar to the request of one commenter to set a GWP limit of 1,450 for certain types of refrigerated food processing and dispensing equipment. One commenter indicated it has already transitioned some of its equipment to R–449A, which is not one of the prohibited refrigerants. Other nonflammable options, such as R–448A and R–449B, are also available for these types of equipment and EPA has proposed further low-GWP options. As stated in section VI.B of this preamble, this approach—restricting specific substances instead of setting a GWP limit for a given subsector—gives EPA time to identify an appropriate GWP limit for this subsector while still restricting those substances that have the highest adverse environmental impact.

Comment: EPA received several comments on the proposed January 1, 2025, compliance date for various types of refrigerated food processing equipment. Many comments requested

[104] RB–276 is also known as Free Zone and HCFC Blend Delta.

[105] See the TSD on building codes in the docket for additional information on building codes and list of substitutes.

additional time for compliance for refrigerated food processing and dispensing equipment within the scope of UL 621—Ice Cream Makers—relative to other applications in this subsector. These comments noted that equipment within the scope of UL 621, such as ice cream, yogurt, custard, and milk shake machines, are not covered by the UL 60335–2–89 standard, and that UL 621 does not yet contain updated safety requirements enabling the use of flammable refrigerants in necessary charge sizes. Additional time to allow for analogous updates to UL 621, as in the 2nd edition of UL 60335–2–89, was requested, ranging from two to six years, including one request that the compliance date for equipment covered by UL 621 be no earlier than six years after updates to that standard are published, or that such equipment be exempted outright. Until updates have been made to UL 621 to allow for use of flammable refrigerants, commenters requested additional time to comply with restrictions (in this case, the prohibited refrigerant list in lieu of a GWP limit) for equipment within the scope of UL 621 or with charge sizes greater than 500 g. One commenter noted the proposed January 1, 2025, compliance date for this type of equipment (remote condensing units or stand-alone units with charges greater than 500 g) as appropriate if the Agency raises the GWP limit to 1,450.

Other issues related to the compliance date for all types of refrigerated food processing and dispensing equipment were flagged by commenters such as building codes, time for NRTLs to test and list new equipment, glide issues with using A2Ls in direct contact cooling applications, time to source compressors and other components appropriate for use with flammable refrigerants, and design challenges for equipment using the lower-GWP substitutes identified by the Agency. One commenter discussed how food service equipment has unique testing requirements and must be certified by the National Sanitation Foundation standard, which could take an additional four to six months. The commenter stated that equipment must also meet DOE efficiency standards, and was concerned about hydrocarbon refrigerants working efficiently in larger charge equipment. This commenter requested a 5- to 10-year extension of the proposed compliance date for this subsector.

Other commenters noted that UL 621 does not currently allow toxic refrigerants such as R–717, a substitute identified by EPA for use in refrigerated food processing equipment. According to these commenters, using higher toxicity refrigerants (ASHRAE Standard 34 safety group classification ''B'' substances) in equipment for producing fresh food for consumption could potentially lead to harm if ingested by the consumer under circumstances of a refrigerant leak. Commenters also pointed to challenges of transitioning to high-pressure refrigerants, such as R–744, in small equipment. For these reasons, commenters requested a delayed compliance date for refrigerated food processing and dispensing equipment under the scope of UL 621 (*e.g.,* ice cream makers) with charge sizes less than or equal to 500 g.

Response: After review of the comments related to refrigerated food processing and dispensing equipment and consideration of the (i)(4) factors, EPA is finalizing a compliance date of January 1, 2027, for self-contained equipment outside the scope of UL 621 (for both those with charge sizes less than or equal to 500 g and those with charge sizes greater than 500 g) and for refrigerated food processing and dispensing equipment with a remote condenser. EPA is establishing a January 1, 2028, compliance date for self-contained refrigerated food processing and dispensing products within the scope of UL 621.

After further evaluation of the substitutes available to this subsector, EPA agrees that the proposed January 1, 2025, compliance date would not provide sufficient time for refrigerated food processing and dispensing equipment within the scope of UL 621. The current status of UL 621 limits the availability of flammable lower-GWP refrigerants for use in equipment covered by that standard. EPA agrees with commenters that for equipment in this subsector within the scope of UL 621, additional time is warranted to ensure the availability of technologically achievable refrigerants. In particular, approximately two more years will be needed to update UL 621, or incorporate this type of equipment into another standard such as UL 60335–2–89, to support the use of lower-GWP, flammable refrigerants and then another two years for EPA to list substitutes for use with UL 621 if those mentioned above do not prove feasible and for manufacturers to design and test equipment following the updated UL 621 standard. EPA is therefore finalizing a compliance date of January 1, 2028, to provide additional time for publication of updates to UL 621 to allow the use of flammable refrigerants. However, EPA disagrees that a delay of up to ten years following updates to UL 621 or an outright exemption for equipment within the standard's scope would be appropriate, given the updates that are already underway for this subsector.

EPA is delaying the compliance dates for other equipment in this subsector to allow further progress under SNAP evaluations, safety standards, equipment design, and building codes. EPA finds a two-year delay to January 1, 2027, to be sufficient for stand-alone equipment not covered by UL 621 with charge sizes less than or equal to 500 g because UL 60335–2–89 addresses some types of self-contained refrigerated food processing and dispensing equipment allowing up to 500 g of A3 refrigerants. While similar equipment in the stand-alone unit subsector has already begun using hydrocarbon refrigerants such as R–290 in recent years, review of these substitutes for use in refrigerated food processing and dispensing equipment is still ongoing under SNAP and necessitates further research, development, and testing of equipment using substitutes that meet the 150 GWP restriction. Therefore, the Agency is finalizing a compliance date of January 1, 2027, for stand-alone equipment not covered by UL 621 with charge sizes less than or equal to 500 g.

In alignment with many commenters, EPA is also delaying the compliance date by two years, to January 1, 2027, for refrigerated food processing and dispensing equipment outside the scope of UL 621 with either a greater than 500 g charge size (for self-contained equipment) or with a remote condenser. EPA appreciates that one commenter found the proposed January 1, 2025, compliance date appropriate for equipment with larger charge sizes, given the tremendous product development the organization has already completed for refrigerants below 1,450 GWP. However, after considering the comments as a whole, and that the list of prohibited refrigerants for these types of equipment may not exactly conform with the GWP limit suggested by the commenter agreeing to a 2025 compliance date, EPA is providing two additional years to comply for this class of equipment. This additional time will allow manufacturers to investigate and implement substitutes such as R–448A, R–449A, and R–449B (all A1 refrigerants) for types of equipment that would not be able to use A3 refrigerants such as R–290 or R–600a under the UL 60335–2–89 safety standard. It will also provide time for resolution of current obstacles to adopting A2L refrigerants such as building codes, testing, development, and certification of equipment, and pending SNAP listings. EPA disagrees that a compliance delay of up to ten years would be appropriate

for this type of equipment, given the updates that are already underway for this subsector, including an updated UL safety standard and availability of substitutes.

iii. Retail Food Refrigeration—Remote Condensing Units

The third category of equipment under retail food refrigeration, remote condensing units, exhibit refrigerating capacities typically ranging from 1 kW to 20 kW (0.3 to 5.7 refrigeration tons) and are composed of one (and sometimes two) compressor(s), one condenser, and one receiver assembled into a single unit, normally located external to the sales area. This equipment is connected to one or more nearby evaporator(s) used to cool food and beverages stored in display cases and/or walk-in storage rooms. A cascade system might be used, *e.g.,* to reach low temperatures in a long-term storage room. Remote condensing units are commonly installed in convenience stores and specialty shops such as bakeries and butcher shops. Having historically used HCFC–22, newly manufactured units now primarily use R–404A or HFC–134a. Other HFC blends—including R–407A, R–407C, R–407F, and R–507A—are also used.

What restrictions on the use of HFCs is EPA establishing for systems using new remote condensing units and why?

EPA is finalizing GWP limits for remote condensing units as proposed. Analogous to supermarket systems, IPR systems, and cold storage warehouses, EPA is distinguishing systems using remote condensing units by their refrigerant charge capacity. See section VI.F.1.a for a discussion of EPA's decision to finalize this distinction. Systems with refrigerant charge capacities greater than or equal to 200 lb have a GWP limit of 150. Systems with refrigerant charge capacities less than 200 lb, and for the high temperature side of cascade systems irrespective of the charge capacity, have a GWP limit of 300.[106] In response to comments, and after further consideration of the (i)(4) factors, EPA is finalizing a compliance date of January 1, 2026, rather than January 1, 2025.

Comment: In addition to the retail food refrigeration comments that are applicable to this subsector, discussed in section VI.F.1.c, EPA received comments from several environmental groups requesting more stringent restrictions for systems using remote condensing units related to the varying technical distinctions of the equipment. In general, commenters urged EPA to lower the proposed GWP limits, decrease the proposed 200 lb charge size threshold to 50 lb or remove it entirely, and/or remove the distinction for the high temperature side of cascade systems.

One such commenter urged a 10 GWP limit for all charge sizes of remote condensing units, pointing to R–744 as the only currently acceptable option below the 150 GWP limit for supermarkets, an example they claim applies similarly to remote condensing units. The commenter expressed confusion concerning EPA's decision to set GWP limits up to 300 when other refrigerant options in the 10 to 300 GWP range will be unavailable for use before the proposed January 1, 2025, compliance date. Further summary of comments related to the differing GWP limits based on technical distinctions in IPR, supermarket systems, remote condensing units, and cold storage warehouses can be found in the IPR section, VI.F.1.a.

Response: After reviewing the comments, EPA is finalizing GWP limits for this subsector as proposed. These final limits are consistent with comments supporting the GWP limits proposed for the entire retail food refrigeration sector and are supported by the substitutes identified by the Agency as available for use in remote condensing units under subsection (i)(4)(B). EPA identified available substitutes for the restricted substances, including R–744 (GWP 1) and R–717 (GWP 1). R–744 remote condensing units are commercially available in several global markets, including in the United States. EPA's SNAP program recently listed R–471A (GWP 144) and R–515B (GWP 287) as acceptable in supermarket systems (September 8, 2023, 88 FR 61977). Additionally, EPA has proposed to list HFO–1234ze(E), HFO–1234yf, R–457A, R–516A, R–455A, R–454C, R–454A (with GWPs of 1, 1, 137, 140, 146, 146, and 237, respectively) as acceptable, subject to use conditions, under SNAP for use in supermarket systems (88 FR 33722, May 24, 2023). Other technologically achievable substitutes that may potentially become available in the future for supermarket systems in the high temperature side of a cascade system or where charge capacities are less than 200 lb, include R–480A (GWP 291) and R–457B (GWP 249). All of these substances would meet the GWP limit of 300 for this subsector, and all except R–454A and R–457B meet the GWP limit of 150. The already available substitutes have been evaluated by EPA to be sufficient to meet these restrictions while the potential for a greater array of options in the future will further ease the transition to lower-GWP refrigerants. EPA continues to encourage innovation of refrigerants that meet these restrictions and anticipates the number of substitutes available for use in retail food remote condensing units will continue to grow.

Comment: EPA did not receive comments on the proposed January 1, 2025, compliance date specific to remote condensing units, though the Agency did receive comments regarding the proposed compliance dates for retail food refrigeration generally.

Response: After consideration of the subsection (i)(4) factors under the AIM Act, EPA is finalizing a January 1, 2026, compliance date rather than the proposed date of January 1, 2025, for remote condensing units. For EPA's response to these comments and discussion on the Agency's decision to provide an additional year to comply, see section VI.F.1.c.iv.

iv. Retail Food Refrigeration—Supermarket Systems

Supermarket systems are the fourth category of equipment under retail food refrigeration, also known as multiplex or centralized systems. They operate with racks of compressors installed in a machinery room where different compressors turn on to match the refrigeration load necessary to maintain temperatures. Two main designs are used: direct and indirect systems. In a direct system, the refrigerant circulates from the machinery room to the sales area, where it evaporates in display-case heat exchangers, and then returns in vapor phase to the suction headers of the compressor racks. Supermarket walk-in cold rooms are often integrated into the system and cooled similarly, but a dedicated condensing unit can be provided for a given storage room.

Indirect supermarket designs include secondary loop systems and cascade refrigeration systems.[107] Indirect systems use a chiller or other refrigeration system to cool a secondary fluid that is then circulated throughout the store to the cases. Compact chiller versions of an indirect system rely on a lineup of 10–20 units, each using small charge sizes. As the refrigeration load changes, so does the number of active chillers. Each compact chiller is an independent unit with its own

[106] The GWP limit for the low temperature side of a cascade system, either 150 or 300, is based on the refrigerant capacity of the low-side system. The 300 GWP limit applies to the high temperature side of a cascade system regardless of the total refrigerant capacity.

[107] See section VI.F.1.a of this preamble for a description of cascade systems.

refrigerant charge, reducing the potential volume of refrigerant that could be released from leaks or catastrophic failures. Despite the term ''chiller'' used in the description, these systems are considered supermarket systems under this rulemaking.

Another type of supermarket design, often referred to as a distributed refrigeration system, uses an array of separate compressor racks located near the display cases rather than having a central compressor rack system. Each of these smaller racks handles a portion of the supermarket load, with 5 to 10 such systems in a store.

Supermarket rack systems historically used CFC–12, R–502, HCFC–22, and other blends containing HCFCs in a centralized design. While some of these systems remain in use, others have been retrofitted to replace the ODS refrigerant using a blend containing an HFC (*e.g.,* R–404A, R–422A, R–422B, R–422D, R–427A, R–438A, and R–507A) or have been replaced with a newly manufactured system with refrigerant blends containing HFCs (*e.g.,* R–404A, R–507A, R–407A, R–407C, and R–407F). More recently, some new supermarket systems have also been using non-fluorinated refrigerants, such as CO_2, or HFC/HFO blends, such as R–448A, R–449A, and R–449B.

What restrictions on the use of HFCs is EPA establishing for supermarket systems?

Analogous to remote condensing units, IPR systems, and cold storage warehouses, EPA is distinguishing larger and smaller supermarket systems by their refrigerant charge capacity. See section VI.F.1.a for a discussion of the safety standards driving this distinction. EPA is prohibiting the installation of new supermarket systems using HFCs and HFC blends with a GWP of 150 or greater when the refrigerant charge capacities are greater than or equal to 200 lb, beginning January 1, 2027. For new supermarket systems with refrigerant charge capacities less than 200 lb, and for the high temperature side of cascade systems irrespective of the total charge capacity, EPA is establishing a GWP limit of 300,[108] beginning January 1, 2027.

EPA is finalizing GWP limits for supermarket systems as proposed; however, in response to comments received on the proposal and in consideration of the subsection (i)(4)(B) factors under the AIM Act, the Agency is finalizing a compliance date that is two years later than proposed (*i.e.,* January 1, 2027, rather than January 1, 2025).

For its consideration of availability of substitutes under subsection (i)(4)(B), EPA identified substitutes that are available in place of the restricted substances for systems with larger refrigerant charge capacities. These include R–717, which can be used in a secondary loop (indirect) supermarket refrigeration system, and R–744, which can be used for centralized direct and indirect supermarket refrigeration systems. Further, the restrictions EPA is finalizing would allow for the use of HFC/HFO blends. For example, EPA has recently proposed HFC/HFO blends R–454C, R–457A, R–455A, and R–516A as acceptable for use in supermarket systems under SNAP (88 FR 33722, May 24, 2023) and all have GWPs below the 150 limit. Further, EPA's SNAP program has listed additional lower-GWP substitutes as acceptable for use in supermarket systems (88 FR 61977, September 8, 2023) since issuing the proposed rule, including R–471A and R–515B (with GWPs of 144 and 287, respectively). Other lower-GWP refrigerants that might become available in the future include HFC/HFO blends such as R–459B, R–465A, R–468A, R–476A, R–479A, and R–482A .

These final restrictions support the transition to lower-GWP substitutes and innovative technologies that have been used widely in other parts of the world, such as Europe and Canada, and have seen increased use in the United States. EIA maps multiple supermarkets where lower-GWP refrigerants are being used, which includes Texas and Florida.[109] EPA's GreenChill Partnership includes a Certified Store program where individual food retail stores voluntarily submit applications detailing the types of refrigerants used in the store, refrigerant emissions, and refrigerant quantities; to date, 47 percent of certified stores have used refrigerants with a GWP less than 150, primarily R–744. The number of platinum-level certified stores in the South, Southwest, and Southeast regions, most using refrigerants with a GWP less than 150, increased 40 percent from 2021 to 2022.[110] ATMOsphere indicated that as of December 2022 there were over 1,000 stores globally using transcritical CO_2 systems.[111] The global market of transcritical R–744 systems, which are manufactured by multiple U.S. companies, was expected to grow at a compound annual growth rate of 12.69 percent between 2018 and 2025.[112] R–744 systems may also provide additional environmental and economic benefits via increased energy efficiency in some cases, though R–744 systems can experience declining efficiencies in high ambient temperatures.

Comment: In addition to the general retail food refrigeration comments discussed below, EPA received comments on the proposed GWP limits specific to supermarket systems. One industry commenter supported the proposed GWP limits of 150 and 300 based on the 200 lb charge size, in addition to the 300 GWP limit for the high temperature side of a cascade system. Another suggested either a 1,500 or 700 GWP limit, citing difficulties converting supermarkets to A2L refrigerants, and that EPA should allow economics to be a design factor. Similarly, another commenter objected to the 300 GWP limit for supermarkets with charge capacities less than 200 lb, citing heightened impacts on food deserts, which rely on small, local convenience stores for their access to food, and typically use smaller refrigerant capacity systems. Instead, the commenter suggested a 1,500 GWP limit for supermarket systems with charge sizes less than 50 lb.

Environmental groups urged EPA to finalize lower GWP limits than proposed for supermarket systems, decrease the proposed 200 lb charge size threshold to 50 lb or remove it entirely, and/or remove the distinction for the high temperature side of cascade systems. One commenter claimed that there is no need for indirect cascade systems when the same capacity direct expansion system can be designed with refrigerants that have GWPs less than 150. Another asserted that because R–744 is currently used in supermarkets in California, an area with a hot climate, such systems are therefore suitable for supermarkets across the country. Another commenter urged a 10 GWP limit for all charge sizes of supermarket systems, pointing to R–744 as the only

[108] The GWP limit for the low temperature side of a cascade system, either 150 or 300, is based on the refrigerant capacity of the low-side system. The 300 GWP limit applies to the high temperature side of a cascade system regardless of the total refrigerant capacity.

[109] *https://www.climatefriendlysupermarkets.org/map,* accessed August 29, 2023.

[110] ''GreenChill Certified Store Achievements,'' web page, accessed September 20, 2023. Available at: *https://www.epa.gov/greenchill/greenchill-certified-store-achievements.*

[111] ATMOsphere (2023). Natural Refrigerants: State of the Industry. Available at: *https://issuu.com/shecco/docs/2022_atmo_marketreport.*

[112] Global Transcritical CO_2 Systems Market by Function (Refrigeration, Air Conditioning, Heating), Application (Heat Pumps, Food Processing, Others), Region, Global Industry Analysis, Market Size, Share, Growth, Trends, and Forecast 2018 to 2025, FiorMarkets, March 2019. Report description available at: *https://www.fiormarkets.com/report/global-transcritical-co2-systems-market-by-function-refrigeration-376006.html.*

currently acceptable option below the 150 GWP limit. They discussed how fluorinated substances like R–454C, with a GWP of 146, are not yet available on the market, will impose unknown costs to businesses, have significantly greater potential impacts on global climate change compared to R–744, and could pose environmental justice concerns not addressed by the proposed rule. This commenter also stated that having two GWP limits based on charge size could encourage manufacturers to move to smaller systems with higher-GWP HFCs instead of transitioning from HFCs altogether. The commenter expressed confusion over the Agency's proposal to set GWP limits up to 300, when other supermarket system refrigerant options in the 10 to 300 GWP range will be unavailable for use before the proposed January 1, 2025, compliance date.

Response: After review of the comments received, the Agency disagrees with assertions that EPA should adopt GWP limits as high as 700 or 1,500, or as low as 10, for this subsector. Instead, the Agency has determined that providing additional time for compliance, rather than increasing GWP limits, is a more appropriate way to address the concerns raised by commenters about the availability of substitutes for use in supermarket systems. As discussed in this section, a number of substitutes for use in this subsector are already currently available and in use in all regions of the country, and EPA has identified a number of additional substitutes that will meet the GWP limits at the levels the Agency proposed that will be available, consistent with the subsection (i)(4)(B) factors, by January 1, 2027. Therefore, EPA is finalizing the level of the GWP limits for supermarket systems as proposed.

The Agency does not agree that the higher limits suggested by commenters are reasonable in consideration of subsection (i)(4)(B) factors, given that many refrigerant options with GWPs lower than 150 and 300 are already available for use in this subsector. As other commenters noted, currently available substitutes include R–717, which can be used in secondary loop (indirect) supermarket refrigeration systems, and R–744, which can be used for centralized direct and indirect supermarket refrigeration systems. Many supermarket systems in various regions of the United States already use refrigerants with GWPs below the GWP limits, including R–744 even in warmer climates. Additionally, consistent with the Agency's position at proposal that the options for this subsector will continue expand, EPA's SNAP program has recently listed two non-flammable blends, R–471A (GWP 144) and R–515B (GWP 287), as acceptable for use in supermarket systems.[113]

Similarly, the Agency does not agree that a higher GWP limit (*e.g.,* 1,500 GWP) is appropriate for systems with refrigerant charge capacities less than 200 lb, including those with charge sizes less than 50 lb as requested by one industry commenter. EPA recognizes that convenience stores and smaller food retailers can be critical to communities, sometimes referred to as food deserts, that are not served by larger supermarkets. However, these establishments often do not use supermarket systems, as described in this subsector, but rather use smaller charge systems such as self-contained cases and remote condensing units. Many currently available models of self-contained cases are already using refrigerants with a GWP of less than 150, and, as discussed in section VI.F.1.c.iii., EPA has determined that, given existing and expanding options of lower-GWP refrigerants, new remote condensing units will be able to meet the 150 and 300 GWP limits by January 1, 2026. Even some larger supermarkets are implementing innovative designs using stand-alone equipment or smaller, remote condensing units operating with R–744 or hydrocarbon refrigerants, such as R–290 and R–600a, to supplement, or even replace, supermarket rack systems. See the *Availability of Substitutes TSD* for further information on available HFC and HFC-blend substitutes for supermarket systems. We therefore do not agree that a GWP limit of up to 1,500 is necessary to ensure that smaller supermarkets or convenience stores, which we agree are critical for food security in certain communities, have options for new equipment.

In addition to R–744, R–717, and hydrocarbons that are already available for use in this subsector, and the recently listed R–471A and R–515B, EPA has proposed to list HFO–1234ze(E), HFO–1234yf, R–457A, R–516A, R–455A, R–454C, R–454A (with GWPs of 1, 1, 137, 140, 146, 146, and 237, respectively) as acceptable, subject to use conditions, under SNAP for use in supermarket systems. All of these substances meet the GWP limit of 300 for this subsector, and all except R–454A meet the GWP limit of 150. Although the already available substitutes have been evaluated by EPA to be sufficient to meet these restrictions, the potential for a greater array of options in the future will further ease the transition to lower-GWP refrigerants. EPA continues to encourage innovation of refrigerants that meet these restrictions and anticipates the number of substitutes available for use in supermarket systems will continue to grow. ASHRAE continues to receive applications for the designation of new refrigerants in the ASHRAE 34 standard. There has also been a notable increase in submissions for new refrigerants under EPA's SNAP program for this subsector. As discussed further in EPA's response to comments regarding the compliance deadline for supermarket systems, below, EPA understands that allowing additional time to comply will provide an opportunity for the applicable UL safety standard updates to be reflected in ways that will continue to increase the availability of substitutes for use in this subsector.

While EPA is not certain what was meant by the comment to ''allow economics to be a design factor,'' EPA agrees that the AIM Act's phasedown of HFCs will mean that HFCs will become increasingly scarce, and scarcity may lead to price increases in the event that demand also remains high. However, EPA does not agree that the HFC phasedown established by the AIM Act negates the need to promulgate regulations under subsection (i) including the establishment of GWP limits for supermarket systems.

EPA is also not electing to establish restrictions as low as 10 GWP for this subsector, even though, as commenters pointed out, some of the refrigerants available for use in supermarket systems, such as R–744 and R–717, have very low GWPs. EPA does not agree that it is appropriate to adopt restrictions based only on the lowest GWP substitutes, as doing so would inappropriately limit the overall availability of substitutes to meet the restrictions. Rather, EPA has established limits for this subsector to encourage the continued development and innovation of substitutes, and to ensure that there will be sufficient substitutes to support a smooth transition of this subsector away from higher-GWP HFCs. See section VI.E.5 for further discussion on EPA's decision not to tailor restrictions to the GWPs of specific substitutes.

Regarding the request for EPA to use a 50 lb or lower refrigerant charge capacity rather than a 200 lb capacity as the threshold between the 150 GWP limit and the 300 GWP limit, EPA does not agree that a 50 lb refrigerant charge capacity threshold is appropriate in this context. Further discussion on EPA's decision to finalize the 200 lb cutoff and the distinction of a high temperature side of cascade systems when setting

[113] 88 FR 61977 (Sept. 8, 2023).

GWP limits can be found in section VI.F.1.a.

For these reasons, in addition to those described in the Agency's response to comments that are relevant to all of retail food refrigeration, EPA is finalizing the 150 and 300 GWP limits for the supermarket systems subsector as proposed and is extending compliance dates to mitigate some of the concerns raised by the commenters regarding availability of substitutes in the near term.

Comment: In addition to the comments received on compliance dates applying to all of retail food refrigeration, two commenters urged EPA to provide additional time to comply for supermarket systems, specifically. One commenter requested a January 1, 2026, compliance date to provide additional time for A2L design development. Another commenter requested flexibility based on availability of refrigerants, installation availability, and other supply chain constraints and objected to EPA's inclusion of R–454C, R–471A, and R–455A as available substitutes given they are not SNAP-approved.[114] The commenter noted that even if such options were SNAP-approved, building codes limit the implementation of A2Ls in supermarkets and would also need to be updated prior to A2L use. They also referenced challenges related to R–744 systems, noting strained supply as the global market turns to R–744, technological challenges, limited technical expertise, and increases in energy costs when used in warmer climates. Additionally, one comment from industry appears to apply to the entire retail food refrigeration section subsector, but EPA considers many of the concerns described to be mostly relevant to supermarket systems. This comment requested a 2032 compliance date for retail food refrigeration and can be found summarized in section VI.F.1.c.

Response: After review of the comments received regarding the proposed January 1, 2025, compliance date for retail food refrigeration, generally, and supermarket systems, specifically, EPA is finalizing a compliance date of January 1, 2027, for supermarket systems.

EPA understands that supermarket systems planning to transition to lower-GWP substitutes may need building codes to be updated before transitioning to mildly flammable, flammable, or toxic refrigerant options in certain jurisdictions. As discussed in the Building Codes TSD, such updates can take several years, and many jurisdictions have yet to adopt recent editions of safety standards that permit the use of flammable or toxic refrigerants in larger quantities through the requirement of additional mitigation strategies. However, to date, the vast majority of States have amended their regulatory codes or have passed legislation to specifically permit the use of SNAP-listed low-GWP refrigerants. Fewer than a dozen States still require additional legislative or regulatory updates to permit the use of low-GWP refrigerants in building codes.[115] EPA is aware of ongoing efforts by industry groups and other stakeholders to work with State and local officials to update building codes to allow for alternative refrigerants. EPA has had and will continue to have discussions concerning agency rulemaking and meet with relevant stakeholders, including State officials. In providing two additional years for compliance, EPA is enabling those remaining jurisdictions to update their building codes or legislation accordingly, an approach recommended by many industry commenters. However, EPA can consider a substitute to be available before every building code in every jurisdiction across the United States permits its use (*see* section VI.E.2).

EPA recognizes that for certain subsectors, moving to flammable refrigerants will require new design considerations, equipment testing, trainings, and safety precautions. However, many food retailers already use hydrocarbons for other retail food refrigeration subsectors such as stand-alone units, and that experience will ease the adoption of flammable refrigerants in this subsector. Design, testing, and implementation of A2L refrigerants in future stores is underway, but still ongoing. Therefore, EPA is delaying the compliance date for this subsector to better accommodate the design cycle of equipment following adoption of safety standards and to ensure availability of substitutes for use, as one of the factors considered.

EPA disagrees that finalizing a compliance date as late as 2032 for supermarket systems would be appropriate, given that supermarkets across the country, in varied climates, have already successfully transitioned to refrigerants meeting the limits finalized in this rule. As discussed in detail in responses to comments regarding the adoption of updates to safety standards UL 60335–2–89 in section VI.F.1.c, EPA considered the impacts and required timing needed to reflect the updates to those safety standards in building code updates, SNAP listings, equipment testing and design, and service technician training, and the Agency accordingly adjusted a number of compliance deadlines for the restrictions applicable to the retail food refrigeration subsector. EPA's finalization of the January 1, 2027, compliance date for the supermarket systems subsector reflects the time necessary for those remaining issues associated with safety standard updates to be resolved. We note that the safety standards were updated in 2021, and many commenters from industry indicated that a one-year extension to January 1, 2026, would be sufficient to resolve remaining issues. The additional two years beyond the proposed compliance date provided in this final action will ensure that the handful of States and jurisdictions (fewer than a dozen) that do not yet allow for use of newer refrigerants (*e.g.,* lower flammability refrigerant blends) will make needed updates to building codes or laws, that industry continues training technicians to install and service these systems, which EPA acknowledges will differ compared to other types of servicing needs, and will provide necessary time for equipment design and testing. Further, EPA recognizes the costs associated with moving to substitutes, but the relative cost difference of using substitutes in place of HFCs will diminish over time as the phasedown continues. The AIM Act's phasedown of HFCs will mean that HFCs will become increasingly scarce, and scarcity may lead to price increases in the event that demand also remains high. In this respect, the estimated costs are conservative because such effects are not incorporated into the analysis in the RIA Addendum or the Costs and Environmental Impacts TSD. Moreover, as detailed in the Costs and Environmental Impacts TSD, EPA is assuming cost savings accrue over time with the transition to CO_2 supermarket systems. Information from industry commenters showed that four different types of CO_2 supermarket systems displayed lower energy consumption compared to the baseline system in the most populous city in the United States (New York), two CO_2 supermarket system types resulted in lower energy use in the second most populous city in the United States (Los Angeles), and one type of CO_2 supermarket system reduced energy consumption in all

[114] As discussed in section VI.E.2, EPA considers the listing of substitutes as acceptable under the SNAP program, which evaluates safety and other characteristics, to be informative in its evaluation of the availability of those substitutes.

[115] See Building Codes TSD at 5–6.

cities shown, by 10% (Houston) to 35% (New York).[116]

Although noted as available substitutes in the proposed rule and TSD, EPA recognizes that refrigerants such as R–454C and R–455A have not yet been SNAP-approved for use in supermarket systems. However, following the updates to UL 60335–2–89, discussed in greater detail in section VI.E.2.c and VI.F.1.c, EPA has proposed to list many additional refrigerant options as acceptable for use in supermarket systems, including HFO–1234ze(E), HFO–1234yf, R–457A, R–516A, R–455A, R–454C, R–454A (with GWPs of 1, 1, 137, 140, 146, 146, and 237, respectively). Further, since the proposed rule, EPA's SNAP program has listed additional lower-GWP substitutes as acceptable for use in supermarket systems (September 8, 2023; 88 FR 61977), including R–471A and R–515B (with GWPs of 144 and 287, respectively). EPA anticipates that by the extended deadline of January 1, 2027, manufacturers will have more available substitutes from which to select for the design of new systems, and that the additional time will allow further research, development, and safety testing of new equipment using newer refrigerants. For these reasons, in addition to those described in the Agency's response to comments that are relevant to all of retail food refrigeration, EPA has determined extending the compliance date for supermarket systems by two years to be reasonable. This approach is consistent with many of the comments received from industry, including large trade associations that represent this subsector.

d. Vending Machines

Vending machines are a type of self-contained commercial refrigeration product that includes mechanical and electronic components required to secure, sell, and dispense refrigerated food and beverages, including cold drinks in cans or bottles, ice cream, milk, cold drinks in cups, and perishable food items. Hot beverages may also be provided via a heat pump or through recycled waste heat from the refrigeration cycle, particularly for dual hot/cold beverage vending machines.

Lower-GWP refrigerants, primarily R–290 and R–744, are technologically achievable for use in vending machines and the use of these substitutes is increasing, indicating commercial demands. Two of the largest vending machine customers in the U.S. market, Coca-Cola and PepsiCo, have been using R–744 over the past decade.[117] [118] Industry safety standards and model building codes were also revised in 2021 to allow the use of other lower-GWP substitutes. ASHRAE amended the safety standard ASHRAE 15 to allow vending machines with up to 114 grams of R–290 to be used in locations where they were not previously allowed under previous editions of industry standards. UL also modified standard UL 541, ''Standard for Safety for Refrigerated Vending Machines,'' covering this equipment ''for the unrestricted placement of vending machines refrigerated with advanced, environmentally-friendly coolants.'' [119] Beginning January 1, 2020, the National Automatic Merchandising Association (NAMA) Foundation partnered with DOE in a two-year, $400,000 cooperative research and development agreement on energy efficient vending machines utilizing refrigerants such as R–290.[120]

For its consideration of availability of substitutes under subsection (i)(4)(B), EPA identified available substitutes in place of the restricted substances, including R–290 (GWP 3.3), R–600a (GWP 1), R–744 (GWP 1), and R–441A (GWP 3). Other refrigerants that meet this GWP limit and are currently under development and evaluation include R–451A (GWP 147), R–454C (GWP 146), R–455A (GWP 146), R–457A (GWP 137), R–471A (GWP 144), and R–476A (GWP 147).

What restrictions on the use of HFCs is EPA establishing for vending machines?

EPA is prohibiting the manufacture and import of vending machines that use HFCs and blends containing HFCs that have a GWP of 150 or greater beginning January 1, 2025. Effective January 1, 2026, EPA is prohibiting the subsequent sale, distribution, offer for sale or distribution, or export of new vending machines manufactured or imported before January 1, 2025, that use HFCs with GWPs that exceed the limit. EPA is finalizing both the GWP limit and compliance date for vending machines as proposed.

Comment: EPA received one comment disagreeing with the proposed 150 GWP limit for vending machines. This commenter requested a 300 GWP limit instead, citing the proposed limit as unnecessary and unrealistic.

Response: EPA disagrees with the commenter that setting a vending machine GWP limit at 300 would be appropriate. Already, models with very low-GWP refrigerants such as R–744 and R–290 are available, providing substitutes for higher-GWP HFCs and HFC blends. For example, Coca-Cola had installed 1.5 million beverage coolers, fountains, and vending machines using R–744 or R–290 worldwide and almost 100,000 such pieces of equipment in North America by 2015.[121] Further, DOE and vending machine manufacturers worked together beginning December 2019 and identified R–290 as a ''viable, business-tenable and sustainable alternative'' to high-GWP refrigerants as of 2022.[122] Current information shows that there are refrigerants available with a GWP of less than 150 for vending machines. Therefore, EPA is finalizing the GWP limit for this subsector as proposed.

Comment: EPA received one comment requesting EPA extend the proposed January 1, 2025, compliance date for vending machines noting that even the petitioned January 1, 2026, date by AHRI was too early. The commenter cited barriers to transition including the supply chain for components, outdated building codes, safety standards and their respective testing and listing requirements, and the necessity of satisfactory performance for food industry equipment for maintaining food safety.

Response: In consideration of the comment received and the availability of substitutes for use in this subsector, EPA is finalizing the January 1, 2025, compliance date for vending machines as proposed. The Agency recognizes that there are challenges associated with moving to more flammable refrigerant options, however, the commenter itself stated that some of the products have

[116] January 30, 2023. Available at *https://www.regulations.gov* in Document ID No. EPA–HQ–OAR–2021–0643–0209.

[117] Coca-cola, January 2014, Coca-cola Installs 1 Millionth HFC-Free Cooler Globally, Preventing 5.25MM Metric Tons of CO_2. Available at: *https://www.coca-colacompany.com/press-releases/coca-cola-installs-1-millionth-hfc-free-cooler.*

[118] PepsiCo, 2020. Sustainability Focus Area: Climate. Available at: *https://www.pepsico.com/our-impact/sustainability/focus-area/climate.*

[119] Karnes, B, March 2021, Revisions to UL 541, the Standard for Refrigerated Vending Machines. Available at: *https://www.ul.com/news/revisions-ul-541-standard-refrigerated-vending-machines.*

[120] NAMA, 2019. NAMA Foundation Annual Report 2019. Available at: *https://namanow.org/wp-content/uploads/2019-NAMA-Foundation-Annual-Report.pdf.*

[121] Coca-Cola's HFC-free cooler count reaches 2.5 million'', *R–744.com*, dated November 29, 2017. Available online at *https://r744.com/coca-cola-hfc-free-coolers-count-reaches-2-5-million/.*

[122] ''NAMA Partners With DOE On More Energy-Efficient Vending Machines,'' Vending Times, Dec. 16, 2019. Available online at: *https://www.vendingtimes.com/blogs/nama-partners-with-doe-on-more-energy-efficient-vending-machines;* Press release, ''NAMA Presses Congress on ERTC Fix During 2022 Fly-In & Advocacy Summit,'' July 18, 2022. Available online at: *https://namanow.org/nama-presses-congress-on-ertc-fix-during-2022-fly-in-advocacy-summit.*

already changed to lower-GWP refrigerants identified by EPA. R–744 has also been in use for over a decade, signaling that the transition for vending machines is well underway. Vending machines have smaller charge sizes than other types of commercial refrigeration equipment and are therefore less affected by building codes. Relevant standards have already been updated to allow up to 114 g of A3 refrigerant in vending machines, with many models already using R–290. Non-flammable refrigerants like R–744 have also been implemented in models where flammability may pose greater safety concerns. EPA understands that NRTLs must test and list new equipment to certify compliance with various safety standards. However, given that much of the subsector has already transitioned, fewer models will need to be updated and certified to comply with restrictions by the date of compliance. Therefore, for the reasons described, EPA is finalizing the compliance date as proposed.

e. Cold Storage Warehouses

Cold storage warehouses are refrigerated facilities used for the storage of temperature-controlled substances. Refrigeration systems within cold storage warehouses can be divided into two categories: central plant systems and packaged systems. Central plants are custom-built refrigeration systems that are typically used in large refrigerated warehouses with cooling capacities that range from 20 to 5,000 kW. Central plant systems deliver cool air to the refrigerated space through evaporators, which are typically suspended from the ceiling in the refrigerated space. The evaporators are connected through a piping network to multiple compressors located in a central machine room, and a condenser, which is typically mounted outside near the compressor. Central plant systems may have a direct or indirect (secondary loop) design. Direct systems circulate a primary refrigerant throughout the refrigerated space. In an indirect system, a primary refrigerant cools a secondary refrigerant in the machine room, and the secondary refrigerant is then circulated throughout the refrigerated space.

Packaged systems (also known as unitary systems) are self-contained systems that combine an evaporator, compressor, and condenser in one frame. Packaged systems are commonly installed on the roof of a refrigerated warehouse above the air-cooling units that are within the refrigerated space. The evaporator is located inside the refrigerated space while the condensing unit, which is usually protected by weather resistant housing, is located outside. Packaged systems are most commonly used in small, refrigerated warehouses that have a capacity of 20 to 750 kW.

In response to the phaseout of ODS under the CAA and the Montreal Protocol, many cold storage warehouses transitioned from using CFCs to HCFC–22, and then later from HCFC–22 to HFCs—primarily R–404A and R–507A, which have GWPs of 3,922 and 3,985, respectively.[123] Manufacturers transitioned to R–717, as well.

What restrictions on the use of HFCs is EPA establishing for cold storage warehouses?

As proposed, EPA is prohibiting the installation of new cold storage warehouse systems using HFCs and blends containing HFCs with a GWP of 150 or greater when the system's refrigerant charge capacity is equal to or greater than 200 lb. For cold storage warehouse systems with refrigerant charge capacities less than 200 lb and for the high temperature side of cascade systems, EPA is establishing a GWP of 300. In response to comments received on the proposal, EPA is finalizing a compliance date of January 1, 2026, one year later than the proposed compliance date of January 1, 2025.

As with supermarket systems, IPR systems, and remote condensing units, EPA is distinguishing between larger cold storage warehouse systems and smaller systems with a refrigerant charge capacity of 200 lb being the dividing line. EPA is also establishing a higher GWP limit of 300 for the high temperature side of a cascade system, based on safety standards as discussed in section VI.F.1.a of the preamble.

For its consideration of availability of substitutes under subsection (i)(4)(B), EPA identified several substitutes that are available in place of the substances that EPA is restricting. For systems with refrigerant charge capacities equal to or greater than 200 lb, these include R–717 vapor compression (GWP 1), R–744 (GWP 1), and HCFO–1233zd(E) (GWP 4). Another substitute is R–471A (GWP 144), which SNAP has listed as acceptable for cold storage warehouse use under Notice 38 (88 FR 61977, September 8, 2023). Additionally, EPA has proposed to list as acceptable R–454C (GWP 146) for use in larger cold storage warehouse systems and R–454A (GWP 237) for use in smaller systems, subject to use conditions. Other low-GWP refrigerants EPA has proposed acceptable for these systems are HFO–1234yf (GWP 1), HFO–1234ze(E) (GWP 1), R–457A (GWP 137), and R–516A (GWP 140). (88 FR 33722, May 24, 2023). Newer technologies with smaller charge sizes of R–717 that are removed from the general public are low-charge packaged ammonia systems, ammonia/CO_2 cascade systems, and ammonia secondary loop systems.[124] Given that EPA's evaluation of these refrigerants is underway, the Agency anticipates additional substitutes below the GWP limits may be available for use in this subsector in the future. Several other types of systems that operate using thermodynamic cycles other than vapor compression such as absorption, evaporative cooling, desiccant cooling, and Stirling cycle systems can also be used in this subsector and may be appropriate for meeting the restrictions finalized.

A significant portion of cold storage warehouses have transitioned from, or completely avoided, using higher-GWP HFCs. Most cold storage warehouses in the United States use R–717. ASHRAE designates R–717 as a lower flammability, higher toxicity (B2L) refrigerant and it is not used extensively in many other subsectors of the RACHP sector. However, many users consider R–717 to be a cost-effective option for use in cold storage warehouses given its long-standing use, lower cost per kilogram, and energy savings[125] despite a higher capital cost for the equipment compared to HFC systems. Certain characteristics of cold storage warehouses also tend to reduce their proximity to people and thus the risk of using R–717. For example, because cold storage warehouses are often large in order to achieve economies of scale and require a large amount of land use—as opposed to other systems that might be located on a building roof or a small slab next to the building—they are typically located away from population centers where land costs and taxes may be higher. In addition, the transportation of goods is typically done in large volumes—by truck or train—to reduce costs, which in turn reduces the workforce needed and the number of people at the warehouse and, in particular, near the refrigeration equipment.

Comment: Several commenters generally supported EPA's proposed

[123] Refrigeration, Air Conditioning, and Heat Pumps Technical Options Committee 2018 Assessment Report, Technical and Economic Assessment Panel, UNEP, February 2019. Available at: *https://ozone.unep.org/sites/default/files/2019-04/RTOC-assessment-report-2018_0.pdf.*

[124] ICF, 2016. Market Characterization: Fire Suppression, Commercial Comfort Cooling, Cold Storage, Refrigerated Food Processing and Dispensing Equipment, and Household Refrigeration Industries in the United States. Prepared for U.S. EPA. March, 2016.

[125] Ibid.

GWP limit of 150 for commercial refrigeration equipment with over 200 lb of refrigerant charge; however, many of these commenters recommended that EPA eliminate or modify the GWP limit of 300 that was proposed for charge sizes less than 200 lb. Some commenters recommended a 50 lb charge size threshold and noted this would be consistent with California's regulations. One group described a 10 lb charge capacity cutoff as more appropriate than 200 lb and recommended a single GWP limit of 10 for all charge sizes. A summary of other comments related to the GWP restrictions and charge sizes can be found in the IPR section VI.F.1.a.

Response: After review of the comments received, EPA is finalizing, as proposed, a 150 GWP limit for units with refrigerant charge capacities greater than or equal to 200 lb, a 300 GWP limit for new cold storage warehouses with refrigerant charge capacities less than 200 lb, and a 300 GWP limit for units in the high temperature side of cascade systems, irrespective of the charge capacity. See response above in the IPR section VI.F.1.a for more discussion about the relationship between GWP restrictions and charge size.

Comment: One commenter objected generally to the proposed GWP limits for cold storage warehouses due to a lack of available replacement technology sufficient for transition. Many commenters expressed that EPA's proposed GWP limits may require the use of toxic and/or flammable refrigerant options and stated that for safety reasons, A1 refrigeration options are needed for their operations.

Response: EPA does not agree with the commenters' assertions that there is a lack of available alternatives. The Agency noted a number of available alternatives earlier in the section, in the proposed rule, and in other supporting information. EPA identified several substitutes in place of the restricted substances for cold storage warehouses. Of these, options with an ASHRAE classification of A1 (low toxicity, nonflammable at standard conditions) are HCFO–1233zd(E) and R–471A.

Comment: One commenter expressed support for the proposed 2025 transition date for commercial refrigeration, including cold storage warehouses. Some commenters requested a date of January 1, 2026, to allow for updated building codes, equipment readiness, testing of new refrigerants, and SNAP listing of replacements. Many commenters stated the compliance dates are unrealistic, and that more time was needed for manufacturers to find a solution that can be designed, tested, sold, and produced by these dates. One commenter stated the compliance date of January 1, 2025, is extremely challenging for cold storage warehouses, and a major limitation on the HFC transition was the lack of SNAP-approved low-GWP listings for refrigeration, hindering their ability to conduct field trials and installations. See other comments related to the proposed compliance date in IPR section VI.F.1.a.

Response: After review of the comments received applicable to the proposed compliance date for cold storage warehouses, and consideration of the (i)(4) factors under the AIM Act, EPA is finalizing a compliance date of January 1, 2026, rather than the proposed date of January 1, 2025. EPA's assessment is that in many cases cold storage warehouses already use refrigerants with GWPs below the limit the Agency is finalizing today; however, the Agency's understanding, informed by the comments, is that for certain situations, particularly where updates for building codes are necessary, additional time is needed. EPA does not agree with the commenters' assertions that there is a lack of available alternatives. As described above, EPA identified several substitutes in place of the restricted substances for cold storage warehouses. For EPA's response to these comments and discussion on the Agency's decision to provide an additional year to comply, see section VI.F.1.e.

Comment: Many commenters expressed some opposition to EPA's comment that cold storage warehouses are typically located away from population centers, reducing their proximity to people and thus reducing the risk of using R–717. The commenters stated that cold storage warehouse locations are based on market demand, land, and freight costs, but for servicing reasons, they must be close to the population centers.

Response: EPA acknowledges there may be certain circumstances where it is beneficial for cold storage warehouses to be built near population centers; however, EPA understands that there has been and continues to be a tendency for cold storage warehouses to be located away from densely populated areas for the reasons described above. Other alternative refrigerants besides R–717 are available, as noted above, which can be used if the cold storage warehouse is located in closer proximity to people.

f. Ice Rinks

Ice rinks use a system of refrigeration equipment to move a fluid through pipes embedded in concrete flooring to freeze layers of water. Ice rinks may be used by the public for recreational purposes as well as by professionals. These systems frequently use secondary loop refrigeration systems, in some cases consisting of a chiller along with associated pumps that move the chilled water or glycol working fluid. Another configuration sometimes used is a direct expansion system wherein the refrigerant flows under the ice and directly back to a compressor and condenser. System capacities vary based on the size of the ice rink and the required cooling load. Typical sizes for ice rink chillers are 50-, 100-, 150-, or 200-ton units. The ice surface is ideally maintained between 24 to 28 °F (−4.4 to −2.2 °C) depending on the application and users of the ice rink (*e.g.,* figure skating versus hockey).

Ice rinks used CFC/HCFC refrigerants prior to restrictions under the Clean Air Act, and then higher-GWP HFC blends such as R–404A and R–507A. More recently, some ice rinks used the HFCs blends R–449A, R–450A, and R–513A. R–717 and R–744 are also commonly used.

What restrictions on the use of HFCs is EPA establishing for ice rinks?

EPA is prohibiting the installation of ice rink systems using HFCs or blends containing HFCs that have a GWP of 700 or greater beginning January 1, 2025. EPA had proposed restrictions for installation of new ice rinks to begin January 1, 2025, but had proposed a GWP limit of 150 rather than 700.

For its consideration of availability of substitutes under subsection (i)(4)(B) at proposal, EPA identified the following available substitutes: R–717 (GWP 1), R–744 (GWP 1), and HCFO–1233zd(E) (GWP 4). R–471A (GWP 144) also meets the GWP limit and can serve as a potential substitute. Under the restriction being finalized, R–450A (GWP 601) and R–513A (GWP 630) are also potentially available substitutes.

Most new ice rinks use R–717 as a refrigerant due to its energy efficiency, while others are being designed to use R–744 and other lower-GWP substitutes.[126] Although R–717 is a B2L (higher toxicity, lower flammability) refrigerant, risks to the general public are addressed by confining the R–717 to separate equipment (*i.e.,* the high-temperature side of a chiller) in locations with access limited to trained service personnel only. In TSDs submitted with their petition, CARB

[126] Packages—Design and Build, Toromont | CIMCO Refrigeration. Available at: *https://www.cimcorefrigeration.com/packages-design-build.*

estimated that more than 80 percent of ice rinks in California use R–717.[127] According to EIA's petition, a majority of National Hockey League ice arenas also employ R–717, and the use of R–744 is becoming an increasingly popular option for ice rinks. This information indicates the technological achievability and commercial demand of these substitutes.

In areas where safety or toxicity reasons prevent the use of R–717, lower-GWP (hydrochlorofluoroolefin) HCFO or HFO chillers and lower-GWP transcritical R–744 systems are options available for use in ice rink systems. EPA has also recently listed HCFO–1233zd(E) as acceptable through the SNAP program for use in new ice rinks (87 FR 3037, January 20, 2022).

Comment: A few commenters suggested that the GWP limit for ice rinks be increased to 700. The commenters proposed chillers and ice rinks be categorized the same since chillers are used for ice rinks, except for minor differences in certain components and controls. The commenters stated that this would also prevent costs and delays that would occur by making a specialized category for ice rinks. Increasing the GWP limit to 700 would preserve the ability for industry to have a wider choice of refrigerant options.

One commenter expressed support for the GWP limit of 150 and noted that there is no clear information available to suggest a significant number of jurisdictions have local codes that do not allow the use of R–717. Ammonia has been widely used for many years and other refrigerant systems using less than 150 GWP refrigerants, including R–744 systems, are available for use in locations that prefer to avoid use of R–717.

Response: After review of the comments received, EPA is finalizing a 700 GWP limit for ice rinks. The Agency maintains that there are available substitutes with GWPs below 150; however, EPA is applying a 700 GWP limit to use of HFCs in ice rinks because EPA agrees with commenters that many of these refrigerant systems would utilize chillers that are available for other applications. Most ice rink systems are similar to chillers and frequently use secondary loop refrigeration systems, which typically cool water, that is circulated for cooling purposes. In most chiller applications the cool water or working fluid is used for comfort cooling throughout a building or other location, but for ice rinks, the cool water or working fluid is used to freeze layers of water, which forms the ice. Although the water or working fluid may be used for different cooling purposes in each application, equipment used across these two subsectors is commonly used interchangeably. We therefore agree that ice rinks and chillers should be similarly restricted under this rule. Because ice rinks typically maintain the ice surface between 24 and 28 °F (−4.4 to −2.2 °C), it is inappropriate to adopt the temperature thresholds of −30 °C (−22 °F) and −50 °C (−58 °F) that apply to chillers for comfort cooling and for IPR.[128]

With respect to the comments requesting a GWP limit of 700, the Agency agrees that this limit is reasonable under the (i)(4) factors and with the technical similarities to chillers. While the Agency acknowledges more substitutes may be available with a GWP limit of 700, including R–450A and R–513A, the Agency understands that the lower GWP refrigerants like R–744 will continue to be used for both ice rinks with chillers and direct expansion ice rinks. R–717 will typically be used in chillers together with brine, CO_2, or another secondary fluid. As noted by a commenter, the use of R–717 in ice rinks may be restricted in a small number of jurisdictions, and in light of these potential limitations of R–717 due to flammability and toxicity risks, especially the direct expansion ice rinks where the refrigerant is sent directly to evaporators to form the ice. Therefore, EPA is establishing a GWP limit that retains more refrigerant options for this subsector.

In addition to the lower-GWP refrigerants already available, EPA continues to evaluate substitutes under the SNAP program, and has authority to do so under subsection (i)(5) as well, on an ongoing basis. The Agency anticipates that this continuing evaluation of additional substitutes, including for use in ice rinks, may expand further the availability of more options for compliance by January 1, 2025. For example, under the SNAP program, in SNAP Rule 26 EPA has proposed to list as acceptable subject to use conditions several additional refrigerants that would comply with today's final rule, for use in ice rinks with a remote compressor: HFO–1234ze(E), HFO–1234yf, R–457A, R–516A, R–455A, and R–454C (with GWPs of 1, 1, 137, 140, 146, and 146, respectively) (88 FR 33722; May 24, 2023). These refrigerants are classified as A2L and may face challenges for direct expansion ice rinks in some jurisdictions. Therefore, for ice rinks EPA is finalizing a GWP limit of 700 consistent with the GWP limit for chillers given the technical similarities of these subsectors and given the need for additional options for direct expansion ice rinks.

g. Automatic Commercial Ice Machines

Automatic Commercial Ice Machines (ACIMs), either self-contained or remote condensing, are used in commercial establishments such as hotels, restaurants, and convenience stores to produce ice for consumer use. For purposes of this rule, ice-making equipment used in residential settings are covered under household refrigerators and freezers. Self-contained units are a type of ACIM in which the ice-making mechanism and the storage compartment, if provided, are in an integral cabinet. They contain both evaporator and condenser, have no external refrigerant connections, and are entirely factory-charged with refrigerants and factory-sealed, generally containing smaller refrigerant charges. These products are analogous to other self-contained equipment, such as vending machines and stand-alone refrigerated display cases.

Remote condensing ACIMs have the condenser separated from the portion of the machine making the ice and have refrigerant lines running between the two. Like other types of remote condensing RACHP systems, remote condensing ACIMs utilize a split-system design where the evaporator (which freezes water into ice) is located indoors, while the condensing unit (which rejects heat, usually to surrounding air although water cooling is also a possibility) is located elsewhere, such as outside the building. In remote-compressor systems, a type of remote condensing ACIM, the heat is still rejected away from the ice-making evaporator, either inside in a separate room or outdoors, but the compressor is located outdoors via interconnected refrigerant piping. These designs require field-assembled refrigerant piping to connect the indoor unit with the remote condensing unit, which significantly increases its necessary refrigerant charge in comparison to that of a self-contained unit. Modular ice machines are designed to sit on top of a separate unit, such as an ice bin, beverage machine, or ice dispenser and typically produce 250 to 1,000 lb of ice per day. Higher glide refrigerant blends have not been

[127] Staff Report: Initial Statement of Reasons, CARB, October 2020. Available at: *https://ww2.arb.ca.gov/rulemaking/2020/hfc2020*.

[128] EPA is not combining the categories of chillers and ice rinks in this rule, nor does EPA plan to change the SNAP end-uses to combine chillers and ice-skating rinks into a single end-use.

typically used as substitutes for remote condensing ACIMs.

ACIMs can also be divided between batch type machines (*e.g.,* providing cubed ice) and continuous type machines (*e.g.,* providing flaked ice). Batch type (also called cube type) ice machines harvest ice with alternating freezing and harvesting periods. Batch type ACIMs can be used in a variety of applications but are generally used to generate ice for use in beverages. Batch type ACIMs are often employed in hotels, hospitals, and restaurants where beverages are served. Continuous type ice makers produce ice through a continuous freeze and harvest process and include flake and nugget ice machines. Flake ice is used primarily in food displays, such as seafood grocery store displays or salad bars, whereas nugget ice (also known as chewable ice) is primarily used in beverage applications such as smoothies and blended cocktails.

R–404A and R–410A have been the most common HFC refrigerants currently used in ACIMs, which replaced the use of ozone depleting HCFCs such as R–22. R–404A is used in remote condensing ACIMs, while both R–404A and R–410A have been commonly used in self-contained ACIMs.

What restrictions on the use of HFCs is EPA establishing for automatic commercial ice machines?

For new batch type self-contained ACIMs with a harvest rate [129] less than or equal to 1,000 lb of ice per 24 hours, and new continuous type self-contained ACIMs with a harvest rate less than or equal to 1,200 lb of ice per 24 hours, EPA is restricting the use of HFCs and HFC blends with GWPs of 150 or greater, beginning January 1, 2026.

For new batch type self-contained ACIMs with a harvest rate greater than 1,000 lb of ice per 24 hours, and new continuous type self-contained ACIMs with a harvest rate greater than 1,200 lb of ice per 24 hours, EPA is restricting the use of the following HFCs and HFC blends, beginning January 1, 2027: R–402A, R–402B, R–404A, R–407A, R–407B, R–407C, R–407F, R–408A, R–410A, R–410B, R–411A, R–411B, R–417A, R–417C, R–420A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–426A, R–428A, R–434A, R–437A, R–438A, R–442A, R–507A, HFC–134a, R–125/290/134a/600a (55/1/42.5/1.5), RB–276, RS–24 (2002 formulation), RS–44 (2003 formulation), GHG–X5, G2018C, and Freeze 12.

For new remote condensing ACIMs, EPA is restricting the use of the following HFCs and HFC blends, beginning January 1, 2027: R–402A, R–402B, R–404A, R–407B, R–408A, R–410B, R–417A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–428A, R–434A, R–438A, R–507A, R–125/290/134a/600a (55/1/42.5/1.5), RS–44 (2003 formulation), and GHG–X5.

Currently available substitutes identified for self-contained ACIM where the harvest rate is less than or equal to 1,000 lb of ice per day (batch type) or 1,200 lb of ice per day (continuous type) include R–290 (GWP 3.3) and R–717 (GWP 1), and where the harvest rate is greater than that amount R–513A (GWP 630) and R–450A (GWP 601) are available substitutes. EPA has proposed to list many additional refrigerants as acceptable for use in ACIMs in proposed SNAP Rule 26 (88 FR 33722, May 24, 2023). Substitute refrigerants R–455A (GWP 146) and R–454C (GWP 146) also meet the restrictions and could serve as additional potential candidates for use in place of the HFCs and HFC blends that EPA is restricting in self-contained units. Other proposed refrigerants such as R–454B (GWP 465) and HFC–32 (GWP 675), which are being pursued for other R–410A applications, and R–448A (GWP 1,386), R–449A (GWP 1,396), R–449B (GWP 1,411), and R–454A (GWP 237), which are being pursued for other R–404A applications, are potential candidates for self-contained batch and continuous type ACIMs with harvest rates greater than 1,000 lb of ice per day and 1,200 lb of ice per day, respectively. Available substitutes for remote condensing ACIMs include R–448A, R–449A, R–449B, and HFC–134a.

EPA's proposed restrictions included: the use of HFCs and HFC blends with GWPs of 150 or greater for self-contained ACIMs with charge sizes less than or equal to 500 g, beginning January 1, 2025; the use of certain HFCs and HFC blends—R–404A, R–507, R–507A, R–428A, R–422C, R–434A, R–421B, R–408A, R–422A, R–407B, R–402A, R–422D, R–421A, R–125/290/134a/600a (55/1/42.5/1.5), R–422B, R–424A, R–402B, GHG–X5, R–417A, R–438A, R–410B, R–407A, R–410A, R–442A, R–417C, R–407F, R–437A, R–407C, RS–24 (2004 formulation), and HFC–134a—in new self-contained ACIMs with refrigerant charge capacities exceeding 500 g, beginning January 1, 2025; and the use of certain HFCs and HFC blends—R–404A, R–507, R–507A, R–428A, R–422C, R–434A, R–421B, R–408A, R–422A, R–407B, R–402A, R–422D, R–421A, R–125/290/134a/600a (55/1/42.5/1.5), R–422B, R–424A, R–402B, GHG–X5, R–417A, R–438A, and R–410B—in new remote condensing ACIMs, beginning January 1, 2025. In finalizing these lists of HFCs and HFC blends, we are correcting an error in the date of formulation for RS–24 and we are adding several blends that contain HFCs that were inadvertently left off the lists and that have higher GWPs than the proposed prohibited HFC or HFC blend with the lowest GWP (HFC–134a for self-contained units and R–410B for remote systems).

EPA is finalizing three different sets of restrictions on the use of HFCs and HFC blends in ACIMs, depending on the type of equipment. Originally, the Agency proposed to set GWP limits for self-contained ACIMs based on charge capacity, rather than the harvest rate for ice production. However, in response to the comments received, the Agency has adjusted the categorization of self-contained ACIMs to distinguish equipment by its ice harvest (production) rate, rather than charge capacity, to better evaluate the availability of substitutes for use in the various applications in this subsector. Distinguishing self-contained ACIMs by harvest rate is consistent with the Department of Energy's energy conservation standards applicable to this subsector. Table 4 below summarizes the final restrictions on HFCs and their compliance dates for various ACIM applications.

[129] The Department of Energy's regulations for commercial ice machines define harvest rate as ''the amount of ice (at 32 degrees F) in pounds produced per 24 hours.'' 10 CFR 431.132. For purposes of this rule, the harvest rate of an ACIM shall be determined in accordance with 10 CFR 431.134.

TABLE 4—HFC RESTRICTIONS FOR AUTOMATIC COMMERCIAL ICE MACHINES

ACIM type	Batch or continuous	Harvest rate	HFC restriction	Compliance date
Self-contained	Batch	Less than or equal to 1,000 pounds ice per 24 hours.	GWP less than 150	January 1, 2026.
Self-contained	Continuous	Less than or equal to 1,200 pounds ice per 24 hours.	GWP less than 150	January 1, 2026.
Self-contained	Batch	Greater than 1,000 pounds ice per 24 hours.	Listed blends prohibited: R–402A, R–402B, R–404A, R–407A, R–407B, R–407C, R–407F, R–408A, R–410A, R–410B, R–411A, R–411B, R–417A, R–417C, R–420A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–426A, R–428A, R–434A, R–437A, R–438A, R–442A, R–507A, HFC–134a, R–125/290/134a/600a (55/1/42.5/1.5), RB–276, RS–24 (2002 formulation), RS–44 (2003 formulation), GHG–X5, G2018C, Freeze 12.	January 1, 2027.
Self-contained	Continuous	Greater than 1,200 pounds ice per 24 hours.	Listed blends prohibited: R–402A, R–402B, R–404A, R–407A, R–407B, R–407C, R–407F, R–408A, R–410A, R–410B, R–411A, R–411B, R–417A, R–417C, R–420A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–426A, R–428A, R–434A, R–437A, R–438A, R–442A,R–507A, HFC–134a, R–125/290/134a/600a (55/1/42.5/1.5), RB–276, RS–24 (2002 formulation), RS–44 (2003 formulation), GHG–X5, G2018C, Freeze 12.	January 1, 2027.
Remote condenser	All	All	Listed blends prohibited: R–402A, R–402B, R–404A, R–407B, R–408A, R–410B, R–417A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–428A, R–434A, R–438A, R–507A, R–125/290/134a/600a (55/1/42.5/1.5), RS–44 (2003 formulation), GHG–X5.	January 1, 2027.

Comment: EPA received several comments from industry on its proposed approach to categorizing ACIM equipment when setting restrictions. One commenter expressed support for setting GWP limits based on a 500 g charge capacity, as proposed. Another commenter disagreed with the proposed approach, and instead recommended the Agency distinguish equipment by the cooling capacity of the compressor, recommending 3,000 BTU/hr as a possible threshold between smaller and larger equipment. The commenter stated that this approach would better characterize the componentry requirements of the market to inform compressor manufacturers' product development, based on the exact cooling capacity needs of the OEMs. This same commenter stated that for equipment design engineers, this approach would clarify the refrigerants available for use at the point of compressor selection, rather than when selecting a refrigerant charge for the equipment, given that charge is subjective and can be adjusted based on the design preferences of the engineer. Similarly, another commenter also disagreed with using charge capacity to distinguish equipment; instead, they requested EPA categorize self-contained ACIMs by pounds of ice produced per 24 hours, analogous to DOE's energy conservation standards, recommending a 1,000 lb/day threshold when setting restrictions. This commenter described how the refrigerant charge could be manipulated by manufacturers to comply with the proposed restrictions that they viewed as more lenient—simply increasing the charge of equipment to surpass the 500 g threshold, even in cases where a smaller charge would provide sufficient cooling capacity.

One commenter disagreed with differentiating self-contained ACIMs by charge size, or any other factor related to the cooling capacity or harvest rate of the machine, and instead requested that all self-contained ACIMs be treated the same when setting restrictions. This commenter explained that for smaller self-contained equipment, only hydrocarbon refrigerants were viable options under the proposed restrictions, and that building codes may limit the refrigerant charge below what is necessary, even if updated safety standards have expanded the allowable charges for flammable refrigerants. By removing the proposed charge requirement in self-contained equipment, the commenter stated that smaller equipment would be able to continue using non-flammable refrigerants where flammable refrigerants may not be feasible.

Response: After review of the comments received, EPA is finalizing GWP limits for self-contained ACIMs based on the harvest rate of ice production rather than the proposed basis of charge size of the equipment. One commenter agreed with the proposed approach to setting restrictions and EPA has considered how the availability of substitutes for use in ACIMs is affected by various technical specifications and concludes that setting restrictions based on ice production rates better distinguishes equipment capable of meeting lower GWP limits from equipment that may need additional refrigerants with higher GWPs. One commenter recommended using the cooling capacity of the compressor as a threshold for setting restrictions; however, EPA understands through conversations with industry stakeholders that a categorization based on harvest rate of ice production per day is more familiar for ACIM manufacturers, is more likely to be considered by customers purchasing ACIMs than cooling capacity, and mirrors DOE's approach to setting energy conservation standards.

Setting restrictions for self-contained ACIMs based on the cooling capacity of

their compressors is technically similar to the categorization finalized in this rulemaking—cooling capacity is directly related to the equipment's harvest rate of ice production. This equipment categorization approach will similarly clarify the cooling needs of OEMs for compressor manufacturers and help design engineers more easily identify which refrigerants are allowed in certain equipment, compared to the proposed approach of categorizing based on charge size. EPA also recognizes that equipment with near 500 g charges could face unclear restrictions on the use of certain HFCs and HFC blends, depending on how a design engineer chooses to design and charge the self-contained equipment. The ability to manipulate the charge of the system could generate a regulatory loophole for OEMs who could unnecessarily add refrigerant charge as a way to continue to use refrigerants with GWPs above the finalized restrictions. For these reasons, EPA is categorizing self-contained ACIM equipment based on the harvest rate of ice production, rather than on the refrigerant charge of the equipment.

In selecting the harvest rate of ice production threshold for distinguishing applicable restrictions, EPA considered the available substitutes for various types of ACIMs and how updates to relevant standards have affected the refrigerant options. All categories of ACIM are covered by UL Standard 60335–2–89. The 2nd edition of this standard, published in October 2021, recently increased the allowable charge limits for flammable refrigerants in commercial refrigeration equipment, including both higher- and lower flammability refrigerants (ASHRAE flammability safety categories 2 and 3, and 2L). For self-contained equipment using R–290, UL 60335–2–89, 2nd edition increased the charge limit from 150 g per refrigerant circuit to either 300 g or 500 g per refrigerant circuit, depending on construction. For self-contained ACIM, the 2nd edition set a 300 g limit for R–290 for ''packaged refrigerating units and appliances with doors and/or drawers enclosing one or more refrigerated compartments.'' (22.110 DV.2). This limit applies to ''unprotected'' designs where the refrigerant can leak into the ice storage bin. For protected units, in which the refrigerant cannot leak into the bin, 500 g of R–290 (and a similar amount for other A3 refrigerants) is allowed in the 2nd edition. Further, UL 60335–2–89 restricts the allowable charge size of flammable refrigerant in these appliances for ''self-contained appliances used in a public corridor or lobby'' (22.110 DV.2). Certain flammable refrigerants (*i.e.,* A3s and A2s) are not allowed in any quantities in split-systems with field-constructed refrigerant piping (22.110 DV.3). For further discussion on the updates to UL 60335–2–89, see section VI.E.2.c.

One commenter suggested setting this threshold at a harvest rate of 1,000 lb of ice per day and EPA agrees that such a rate is appropriate for distinguishing batch type equipment capable of using lower-GWP refrigerants from those that need continued use of higher-GWP options. However, for continuous type equipment, EPA finds that a 1,200 lb of ice per day is appropriate. These limits are consistent with comments made to DOE by AHRI and an ACIM manufacturer.[130] Currently, ENERGY STAR has certified ice makers capable of producing as much as 566 lb of ice per day using charge sizes of R–290 below the current 150 g charge limit per SNAP Rule 21, a use condition based on the earlier industry safety standard for commercial ice machines, UL 563, 8th edition (81 FR 86778, December 1, 2016). However, in response to the updates included in the 2nd edition of UL 60335–2–89, on May 24, 2023, EPA proposed to increase the allowable charge capacity of R–290 in ACIMs to 500 g in SNAP Rule 26 (88 FR 33722, May 24, 2023). While equipment using 500 g charges of R–290 could likely produce up to the finalized 1,000 lb of ice per day (batch type) and 1,200 lb of ice per day (continuous type), EPA finds that the chosen harvest rates provide reasonable limits under which we have assessed as being capable of transitioning to R–290, or other available substitutes with GWPs less than 150, in the finalized compliance timeline. Such limits do not preclude manufacturers from pursuing R–290 or other lower-GWP substitutes for equipment with harvest rates that exceed those limits. Additionally, EPA has proposed to list R–455A (GWP 146) and R–454C (GWP 146) for use in this subsector, which could also work as potential candidates for these types of ACIMs.

Given that there will likely be a greater number of available refrigerant options for equipment harvesting up to 1,000 lb of ice per day (batch type) or 1,200 lb of ice per day (continuous type) by the compliance date for this subsector in addition to R–290, which is already used widely in ACIMs, EPA considers these harvest rates appropriate thresholds for distinguishing self-contained equipment. The one-year extension of the compliance date provided in this final action will help facilitate the transition to lower-GWP refrigerants for OEMs of smaller self-contained ACIMs harvesting less than 1,000 lb of ice per day (batch type) or 1,200 lb of ice per day (continuous type).

EPA considers the available substitutes for higher-GWP HFCs and HFC blends to differ for smaller and larger ACIMs. Neat (*i.e.,* zero glide) refrigerants, such as R–290, are widely used in smaller, self-contained ACIMs, where smaller charge sizes of refrigerant are capable of providing the required cooling capacity at lower harvest rates. In larger equipment, higher rates of ice production mandate larger charge sizes, compounding flammability concerns with A3 refrigerants. Equipment harvesting ice at higher rates may still need access to non-flammable options, in addition to other, lower-flammability options, which may be limited in their technological achievability because of various factors such as glide. Although building codes limit the charge of flammable refrigerants at points of public egress, and are underway to being updated to incorporate recent additions of safety standards, in such cases, smaller charges of A3 refrigerants (*e.g.,* less than approximately 114 g of R–290) are still allowable, in addition to lower-flammability refrigerants, such as the SNAP proposed A2L refrigerants R–454C and R–455A. Extending the compliance deadline from January 1, 2025, to January 1, 2026, will provide additional time for building codes to be updated; for research, development, and testing of new self-contained ACIM models; and for additional substitutes to enter the market for this subsector. Therefore, smaller equipment capable of using lower-GWP refrigerants will have a sufficient number of refrigerant options to select from, highlighting the usefulness of distinguishing self-contained ACIMs by their rate of ice production when setting restrictions. For these reasons, EPA disagrees with the commenter that suggested removing the distinction, either by charge size or rate of ice production, of smaller and larger self-contained ACIMs.

Comment: Two commenters agreed with EPA's proposed restrictions for all types of self-contained ACIMs. Others disagreed, including one that requested a 700 GWP limit for all self-contained equipment, regardless of charge size. They stated that a 150 GWP limit would not be feasible, given the limited charge sizes of A3 and A2L refrigerants allowed by safety standards at public points of egress, and the insufficient supply

[130] See EERE–2017–BT–STD–0022–0050 and EERE–2017–BT–STD–0022–0047, respectively, available at *www.regulations.gov.*

available to OEMs of components with refrigerants with a GWP below 150 GWP. Another commenter stated that there is currently insufficient data for setting restrictions that will comport with building codes, and instead suggested applying the same list of prohibited substances proposed for remote condensing ACIMs to self-contained ACIMs.

Other commenters only supported the restrictions as proposed—a 150 GWP limit—for smaller (less than or equal to a 500 g charge, as proposed) self-contained ACIMs. Of these commenters, some agreed with the GWP limit set at a 500 g charge size, while one agreed with the limit, but recommended setting the threshold at a harvest rate of 1,000 lb of ice per day instead of a charge size, and another approved of a 150 GWP limit, but only in very small self-contained equipment, requesting a 114 g charge size threshold for setting restrictions, instead. This commenter stated that R–290 is the only currently feasible substitute for this type of equipment, and explained that in certain circumstances, safety standards, SNAP use conditions, and building codes limit its charge well below 500 g due to its flammability. The commenter asserted that other options identified by the Agency are either limited by toxicity concerns, refrigerant glide technical challenges, a limited supply of components, or missing SNAP listings, and therefore, the commenter argued that there are insufficient available substitutes below 150 GWP for self-contained ACIM with charge sizes greater than 114 g.

Many of these same commenters, although supportive of the 150 GWP limit for smaller self-contained ACIMs, disagreed with the proposed restrictions for larger (above 500 g, as proposed) equipment. One requested removing R–410A from the list of prohibited substances for larger self-contained equipment, but only if sufficient time was allowed. They explained that for certain larger ACIM, there are currently no suitable SNAP-approved substitutes for R–410A. However, they noted that prohibiting the use of R–410A would be appropriate if provided additional time to comply, and that once the supply of components to replace R–410A has improved, a 700 GWP limit could be appropriate for this type of equipment. Other commenters requested a 2,500 GWP limit in place of a prohibited substances list.

Several commenters supported the proposed list of prohibited substances for use in remote condensing ACIM. Other commenters disagreed. One commenter mentioned that removing R–404A from the prohibited substances list would ease some of the immediate development burden in remote models. Other commenters requested a GWP limit in place of a prohibited substances list for remote condensing ACIMs. As for larger self-contained ACIMs, two commenters requested a 2,500 GWP limit, while, in contrast to all other comments received, another commenter noted their support of a much lower 150 GWP limit.

Response: In response to the comments received and its evaluation of the availability of substitutes for use in this subsector, EPA is finalizing all GWP and refrigerant-specific restrictions for ACIM as proposed. Notably, the metric for distinguishing which restrictions apply to different sizes of self-contained equipment has been changed from the proposed rule, as described in this section above, but the GWP limit for smaller units is finalized as proposed. EPA recognizes the challenges for ACIMs used at points of egress for the public, but notes that research and design for self-contained units with harvest rates less than or equal to 1,000 lb of ice per day (batch type) and 1,200 lb of ice per day (continuous type) that are able to use R–290 in sufficiently small charges has been identified by commenters as already underway. Many smaller self-contained units already use R–290, and with a pending SNAP listing proposal to allow charges of R–290 up to 500 g, EPA is confident in the industry's ability to meet a 150 GWP limit in this type of equipment. Commenters also noted ongoing research to use other SNAP proposed A2L refrigerants below 150 GWP, R–454C, and R–455A, where an A3 refrigerant may not be feasible. Therefore, given the additional year to comply, EPA considers a 150 GWP limit for self-contained ACIM with harvest rates less than or equal to 1,000 lb of ice per day (batch type) and 1,200 lb of ice per day (continuous type) as appropriate, in agreement with many of the comments and other public information.

For self-contained ACIM with harvest rates greater than 1,000 lb of ice per day (batch type) or 1,200 lb of ice per day (continuous type), EPA appreciates the request by one commenter for a 700 GWP limit. At this time, the Agency considers additional options with GWPs greater than 700, particularly non-flammable refrigerants, as necessary, because of the lack of available substitutes due to safety concerns with large charge sizes of flammable refrigerants. However, as the industry continues its transition away from some of the highest-GWP refrigerants, EPA may choose to set a GWP limit for this type of equipment at a later date. As noted by a second commenter, a limit similar to 700 GWP may be appropriate in the future, depending on EPA's evaluation of the availability of substitutes and their technological achievability in larger self-contained ACIMs. EPA disagrees with commenters who requested a 2,500 GWP limit in place of a list of prohibited substances. Such a limit would allow for continued use of R–410A (GWP 2,088) in self-contained equipment with higher harvest rates, an HFC-blend refrigerant proposed as prohibited. Similarly, the Agency disagrees with the commenter who asked for the list of prohibited substances proposed for remote condensing ACIMs, which is less restrictive than the list for larger self-contained equipment and does not restrict R–410A, to apply to all types of ACIMs. Given there are already several refrigerants listed by EPA's SNAP program for ACIMs that are not prohibited, such as R–448A, R–449A, and R–449B, that SNAP recently listed the nonflammable, azeotropic (minimal glide) refrigerant R–515B, and that EPA has proposed to list several additional refrigerants as acceptable for use in ACIM that are zero or low glide and could serve as R–410A substitutes (*e.g.,* HFC–32, R–454B), EPA expects there will be a greater number available for use by the extended date of compliance of January 1, 2027. Further, a commenter explicitly noted that restricting the use of R–410A would be appropriate if the Agency allotted additional time for component supply to improve and to develop equipment using new substitutes. The Agency therefore considers the industry capable of transitioning out of certain specified higher-GWP HFCs and HFC blends, including R–410A, by the compliance deadline.

EPA agrees with many of the comments approving of the proposed list of prohibited substances for use in remote condensing ACIMs. Regarding the comments received requesting a 2,500 GWP limit, at this time, EPA does not consider setting a GWP limit for this type of equipment to be appropriate at this time but may choose to do so through future rulemakings. By identifying HFCs and HFC blends as prohibited from use, the Agency is able to encourage a transition away from specific higher-GWP refrigerants while allowing flexibility for the industry as it continues developing products that use refrigerants well below 2,500 GWP. As stated in section VI.B of this preamble, this approach—restricting specific

substances instead of setting a GWP limit for a given subsector—gives EPA time to identify an appropriate GWP limit for this subsector while still restricting those substances that have the highest adverse environmental impact. Given the additional technical challenges for equipment installed remotely and restrictions on use of flammable refrigerants in industry safety standards, the restricted list is less prohibitive than that for self-contained units. EPA also disagrees with the commenter that described a 150 GWP limit as appropriate for this type of ACIM. Very few non-flammable substitutes are available below 150 GWP, flammability concerns are even greater for remote condensing units than for those that are self-contained, and the information provided did not support a conclusion that those nonflammable options (*e.g.,* R–744) are viable in all remote condensing ACIMs. For these reasons, EPA is finalizing the restrictions for remote condensing ACIM as proposed.

Comment: One commenter supported EPA's proposed January 1, 2025, compliance date for ACIM, citing California's HFC regulation implementation as proof that 2025 is achievable. All other comments received requested an extension from the proposed date, including general requests for EPA to work with OEMs to ensure the achievability of the timeline and additional time to develop new refrigerants, update building codes, and harmonize with various standards, and for specific compliance dates ranging from 2027 to 2029. Commenters who requested 2029 referenced the EU F-Gas Regulation's conversion timeline as one reason for the appropriateness of a much later compliance date.

Various issues were cited as reason for the requests to extend the date of compliance from that proposed. Many manufacturers stated that they will need to completely redesign many of their ACIM models, which will take considerable time. Commenters described this subsector as highly complex and diverse, with many varying demands. End-users range from hospitals to restaurants, hotels, supermarkets, offices, and schools, requiring many different types of ice, necessitating unique equipment design for each model. New equipment development efforts, according to a few commenters, will be held up by design challenges unique to ACIM and vending machines, such as strict limitations on flammable refrigerant charges at points of egress, which require manufacturers to design for very small charge sizes. Additionally, the availability of components, both in terms of supply chain and design of models using new substitutes, was mentioned by several commenters as a major challenge for this subsector to transition. Commenters highlighted that after new models are designed, they will still need to be tested and certified by NRTLs for safety, efficiency, and sanitation.

Commenters discussed how several identified substitutes have not yet been SNAP-approved or updated to allow for larger charge sizes in equipment, following the update to UL 60335–2–89. These commenters stated that additional time would provide an opportunity for finalization of SNAP listings, including new A2L refrigerants and increased charge sizes for R–290, providing additional substitutes for manufacturers to choose from. A few commenters requested a later compliance date of January 1, 2029, for facilities not yet updated to safely use flammable refrigerants to make necessary conversions. One such commenter noted that an accelerated timeline to more flammable options would create safety risks for manufacturers and the public resulting from potential oversights and would not provide sufficient time to train technicians to properly handle A3 refrigerants. Commenters requested time for the new DOE efficiency standards for ACIMs to be published, likely in 2027, before EPA requires compliance with restrictions. This standard was described as greatly influential on the design requirements of products, and if EPA sets a compliance deadline ahead of its publication, commenters worried that they would need to redesign their new products.

Response: EPA agrees with commenters that additional time for compliance is warranted for ACIMs to meet the restrictions finalized in this rulemaking. ACIMs fall within the scope of safety standard UL 60335–2–89. In October 2021, the 2nd edition of this standard was published, updating safety requirements so that flammable and lower flammability refrigerants could be deployed more widely in commercial refrigeration equipment. EPA recognizes the time it can take for an updated UL standard to be widely incorporated and for the updates to be applied across industry. Many other relevant changes affecting the availability of substitutes and facilitating transition to the use of those substitutes generally occur after the UL standard is updated, including evaluation of substitutes under the SNAP program, adoption of new editions of safety standards into building codes, equipment testing and certification, safety updates to manufacturing facilities, and training of technicians. All of these are considerations for EPA's assessment of availability of substitutes under subsection (i)(4)(B). Further discussion on how updates to UL 60335–2–89 affect the availability of substitutes for equipment within the safety standard's scope can be found in section VI.F.1.a.

Typically, following updates to safety standards for commercial refrigeration equipment, EPA evaluates substitutes through the SNAP program's comparative risk framework, where the Agency considers safety by assessing exposure assessments, toxicity data, and flammability, as well as other regulatory criteria. EPA is currently evaluating many of the refrigerants impacted by the updates to UL 60335–2–89 and has proposed to list several refrigerants as acceptable, subject to use conditions, under SNAP for use in ACIMs (88 FR 33722, May 24, 2023). Although those evaluations under SNAP are ongoing, the Agency anticipates that given the number of substitutes currently proposed as acceptable for use, users in the ACIM subsector will likely have an expanded set of available substitutes from which to choose in the coming years. EPA has considered its ongoing ACIM evaluations under SNAP, the adjusted compliance timeframes reflecting these evaluations, and their potential impact on the availability of substitutes for use in this subsector, as well as the existing acceptable substitutes that are not prohibited, in finalizing the restrictions for ACIMs. Further discussion on the intersection of SNAP listing decisions and AIM Act subsection (i)(4) criteria can be found in section VI.E.

As noted by many commenters, building codes can limit refrigerants available for use based on their flammability, the charge size of the equipment, and other relevant safety factors, and take time to adopt changes to safety standards. These code updates are generally made in each specific jurisdiction, and the timeframe for adoption of new editions of safety standards can vary greatly. In certain jurisdictions, users may be unable to utilize certain flammable substitutes identified by EPA for use in ACIMs, even if they are SNAP-approved, until building codes incorporate the updates in the 2nd edition of UL 60335–2–89. However, EPA may still consider a substitute to be available before every building code in every jurisdiction across the United States permits its use. See section VI.E.2.d for discussion on EPA's consideration of building codes and the availability of substitutes under subsection (i)(4).

Further, EPA agrees with commenters that updates to UL standards and new listings under SNAP must also be incorporated into equipment design, testing, and certifications. Even after manufacturers develop equipment using substitutes, NRTLs must certify that the new equipment meets UL safety standards. NRTL equipment certification requires substantial testing, site visits, and labor input before new equipment can be used. Although ACIM is a smaller subsector, all commercial refrigeration equipment expanding use of flammable refrigerants will need to be tested, and NRTLs could struggle to complete certification of new equipment by the proposed January 1, 2025, compliance date for this subsector. However, the industry seems to anticipate this upcoming need and is opening or expanding testing labs to handle this demand.[131]

EPA also anticipates that greater use of flammable refrigerant options like R–290 and A2Ls that EPA's SNAP program has proposed as acceptable for use in ACIM may require more specialized training. Trainings on flammable refrigerants have been available for many years, and there are now trained technicians within the commercial refrigeration industry in general whose knowledge and skills will assist the transition to lower-GWP refrigerants in other related subsectors.

EPA agrees with the commenters that manufacturing facilities not currently using flammable refrigerants will need to incorporate safety updates before using flammable refrigerants on site. The Agency acknowledges that these upgrades to manufacturing facilities could require financial and time investments; however, the use of A2L and A3 refrigerant has steadily increased over the last ten years, meaning many manufacturers may have already made such upgrades, or intend to do so in the coming years. In the cases where these updates have yet to be made, EPA understands that they could delay when industry is able to factory-charge new substitutes into their appliances, which is one factor we considered in establishing 2026 and 2027 compliance dates for this subsector.

For self-contained batch type ACIMs with harvest rates less than or equal to 1,000 lb of ice per day, and for self-contained continuous type ACIM with harvest rates less than or equal to 1,200 lb of ice per day, EPA is finalizing a January 1, 2026, compliance date. EPA has proposed to update the SNAP use conditions for R–290 use in ACIMs and to list A2L refrigerants that meet the GWP limits for this type of ACIM. Finalizing an additional year to comply with the restrictions under subsection (i) provides more time for that ongoing evaluation under SNAP, for designers to develop equipment using up to 500 g of R–290 (a significant increase from the currently allowed 150 g), and for compressor manufacturers and OEMs to begin developing products with A2L refrigerants. This extra time is also provided to allow OEMs to continue research and development of equipment using smaller charge sizes of flammable refrigerants (less than 114 g for R–290) that would comply with building codes at points of egress in public spaces. A large portion of the self-contained equipment market with lower harvest rates has already transitioned to lower-GWP options, especially R–290, meaning that fewer models will need to be redesigned to meet the restrictions. Therefore, in our evaluation of the (i)(4)(B) criteria and for the reasons discussed, EPA finds that January 1, 2026, is an appropriate compliance date for self-contained ACIMs with harvest rates equal to or below 1,000 lb ice per 24 hours (batch type) or 1,200 lb ice per 24 hours (continuous type).

For self-contained ACIMs with harvest rates greater than 1,000 lb of ice per day (batch type) or 1,200 lb of ice per day (continuous type) and for remote condensing ACIMs, EPA is finalizing a January 1, 2027, compliance date. EPA understands that in equipment with larger charge sizes, flammability concerns are greater, creating additional design challenges related to building codes and safety standards. In remote condensing ACIMs, the refrigerant circulates in and out through piping that has been installed in the field that is more prone to leaks than self-contained equipment, also adding to the risk of using flammables. For this reason, considerably fewer products in these categories of ACIMs have transitioned from their respective lists of prohibitive substances, requiring substantial redesigns of equipment before the restrictions are able to be met. Given the diversity of ACIM end-users and the complexity of design in terms of varying ice shapes, EPA is providing two additional years from the date proposed for the industry to research, develop, test, and certify new equipment using refrigerants other than those prohibited. Similar to smaller, self-contained ACIMs, extending the compliance date will provide opportunity for additional substitutes to become available for manufacturers, such as those under evaluation in proposed SNAP Rule 26. A later date will likely also grant time for publication of DOE's new efficiency standard for ACIMs, which will inform how OEMs choose to design new equipment.

The Agency disagrees with selecting a compliance date based on other regulations, such as the EU F-Gas Regulation or the proposal to revise that regulation.[132] The AIM Act compels EPA to set deadlines for restrictions based on the availability of substitutes in consideration of the factors described in subsection (i)(4), not based on decisions made by other regulatory bodies. Therefore, EPA is finalizing the compliance dates for ACIMs earlier than January 1, 2029, after evaluating the availability of substitutes and the feasibility of the U.S. industry to transition by an earlier date.

EPA has therefore determined, in consideration of the subsection (i)(4)(B) criteria and the potential for certain SNAP approvals; updates to building codes; equipment design, testing, and certifications; technician trainings; and manufacturing facility upgrades, that providing additional time to comply is reasonable for ACIMs. Considering these factors, noted by many commenters, the Agency is finalizing extended compliance dates for this subsector to provide time for ongoing SNAP evaluation; jurisdictions to consider the latest edition of UL 60335–2–89 and incorporate the updated safety requirements into their building codes to enable the use of certain substitutes; further development, testing, and certification of equipment using new substitutes; a greater number of specialized trained technicians; and completion of remaining safety updates to facilities.

h. Refrigerated Transport

The refrigerated transport subsector primarily moves perishable goods (*e.g.,* food, flowers) and pharmaceuticals at temperatures between −22 °F (−30 °C) and 61 °F (16 °C) by various modes of transportation, including aircraft, roads and railways, vessels, and intermodal containers. For this action, EPA is establishing restrictions in three distinct subsectors: road, marine, and intermodal containers.

Refrigerated transport—road consists of refrigeration for perishable goods in refrigerated vans, trucks, or trailers and

[131] See, *e.g., https://www.danfoss.com/en/about-danfoss/news/dcs/new-extension-of-danfoss-atex-lab-accelerates-the-use-of-sustainable-refrigerants.*

[132] The Agency's review of the EU F-Gas rule is that self-contained ACIMs have been subject to a 2,500 GWP limit since January 1, 2020, and the proposed rule would subject them to a 150 GWP limit beginning January 1, 2025.

is the most common mode of refrigerated transport in the United States. This mode includes refrigerated trucks and trailers with a separate autonomous refrigeration unit with the condenser typically located at the front of a refrigerated trailer. This subsector also covers domestic trailer refrigeration units that contain an integrated motor (*i.e.,* does not require a separate electrical power system or separate generator set to operate) that are transported as part of a truck, on truck trailers, and on railway flat cars. Other types of containers, such as seagoing ones that are connected to a vessel's electrical system or require a separate generator that is not an integral part of the refrigeration unit to operate, are not included. This subsector also does not include: (i) Refrigerated vans or other vehicles where a single system also supplies passenger comfort cooling (MVAC), (ii) refrigerated containers that are less than 8 feet 4 inches in width, (iii) refrigeration units used on containers that require a separate generator to power the refrigeration unit, or (iv) ship holds (refrigerated transport—marine).

Refrigerated transport—marine consists of refrigeration for cooling and storage of perishable goods on refrigerated vessels and various modes of transportation via water, including merchant, naval, fishing, and cruise-shipping. This subsector includes refrigerated ship holds and seagoing containers that are connected to a vessel's electrical system or require a separate generator to operate that is not an integral part of the refrigeration unit. This subsector excludes refrigerated containers that contain their own power source and refrigerators or freezers that are plug-in appliances designed for retail food refrigeration (*e.g.,* stand-alone units used in a galley or store).

Lastly, refrigerated transport—intermodal containers are refrigerated containers with an integrated power source that allow uninterrupted storage during transport on different mobile platforms, including railways, road trucks, and vessels. A common example of intermodal containers are standard-sized refrigerated containers that follow the International Organization for Standardization standard 668, ''Series 1 freight containers—Classification, dimensions and ratings.''

Other types of refrigerated transport exist (*e.g.,* refrigerated box cars for use in rail, and intermodal refrigerated containers operating at temperatures lower than −50 °C (−58 °F) for carrying food, medicine, or vaccines at very low temperatures), but EPA is not establishing restrictions on HFC refrigerants in this rule for those other types.

Refrigerated transport equipment manufacturers have used HFC refrigerants, mainly R–404A and HFC–134a, after the phase out of ozone-depleting CFC and HCFC refrigerants such as R–12 and R–22.

This section provides EPA's final restrictions for each of the three subsectors within the refrigerated transport subsector, followed by significant comments regarding the entire refrigerated transport subsector and EPA's responses to those comments.

What restrictions on the use of HFCs is EPA establishing for refrigerated transport—road?

EPA is prohibiting the use of HFCs in the following blends in new refrigerated transport-road equipment beginning January 1, 2025: R–402A, R–402B, R–404A, R–407B, R–408A, R–410B, R–417A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–428A, R–434A, R–438A, R–507A, R–125/290/134a/600a (55/1/42.5/1.5), RS–44 (2003 formulation) and GHG–X5.

Similar to EPA's approach in addressing the use of HFCs in specific blends in remote condensing ACIM, EPA is not establishing a GWP limit for refrigerated transport—road and instead is restricting the use of HFCs in specific blends. A GWP limit of 2,200, as requested in one of the petitions that EPA granted, is high compared to the GWP limit that the Agency is establishing in other commercial refrigeration applications, and the Agency intends to propose a GWP limit at a later time. As stated in section VI.B of this preamble, this approach—restricting specific substances instead of setting a GWP limit for a given subsector—gives EPA time to identify a GWP limit while still restricting those substances that have the highest environmental impact (*e.g.,* R–404A, with a GWP of 3,922, is a commonly used refrigerant in this subsector that EPA is restricting). For its considerations of availability of substitutes under subsection (i)(4)(B), EPA identified substitutes that are available in place of the substances that EPA is restricting. These include R–744 (GWP 1), R–450A (GWP 601), R–513A (GWP 630), and R–452A (GWP 2,140). Cryogenic transport refrigeration systems and direct nitrogen expansion are other existing technologically achievable options. Cryogenic systems cool cargo by injection of stored liquid R–744 or nitrogen (R–728) into the cargo space or an evaporator. These systems are used in small and large trucks, primarily in Northern Europe. In recent years manufacturers have also developed equipment using R–452A. R–452A has similar properties to R–404A, including cooling capacity, reliability, refrigerant charge, non-flammability, and low compressor discharge temperatures, supporting its use as a lower-GWP and technologically achievable substitute. The two major U.S.-based manufacturers of refrigeration equipment for refrigerated transport—road currently offer equipment using R–452A.[133] [134] EPA considers usage in the market as an indication of the commercial demands and technological achievability of a substitute.

What restrictions on the use of HFCs is EPA establishing for refrigerated transport—marine?

EPA is restricting the use of the following HFCs and blends containing HFCs in new refrigerated transport—marine systems beginning January 1, 2025: R–402A, R–402B, R–404A, R–407B, R–408A, R–410B, R–417A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–428A, R–434A, R–438A, R–507A, R–125/290/134a/600a (55/1/42.5/1.5), RS–44 (2003 formulation) and GHG–X5. EPA is not establishing a GWP limit at this time and the list of prohibited HFCs and blends containing HFCs are the same as in refrigerated transport—road. EPA's rationale for restricting specific substances in this subsector can be found in section VI.B, with additional information in section VI.F.3.e (under the restrictions on the use of HFCs in ACIM).

Available substitutes that may be used in refrigerated transport—marine in place of the substances that EPA is restricting include R–717, R–744, R–450A, and R–513A. Marine transport refrigeration systems cover a wide range of merchant, naval, fishing, and cruise-shipping applications and often require specialized and custom refrigeration equipment. Historically, this sector used R–22, R–404A, R–507A, R–407C, and R–134a. Today, manufacturers market lower-GWP substitutes for marine applications such as R–717 and R–744,

[133] Thermo King to Reduce Global Warming Potential of Transport Refrigeration by Nearly Fifty Percent, Thermo King, January 2022. Available at: *https://www.thermoking.com/na/en/newsroom/2022/01-jan/thermo-king-to-reduce-global-warming-potential-of-transport-refr.html.*

[134] Carrier Transicold Strengthens Sustainability Initiatives with Lower GWP Refrigerant for North America Truck and Trailer Systems, Carrier Transicold, December 2020. Available at: *https://www.carrier.com/truck-trailer/en/north-america/news/news-article/carrier_transicold_strengthens_sustainability_initiatives_with_lower_gwp_refrigerant_for_north_america_truck_and_trailer_systems.html.*

either alone or in cascade systems, particularly for fishing vessels, but these substitutes are not necessarily available in all applications within this subsector. According to the Refrigeration, Air Conditioning and Heat Pumps Technical Options Committee (RTOC), HFC/HFO blends with lower GWPs may also be suitable for some applications and system designs; in addition, the International Maritime Organization limits the GWP of refrigerant in new equipment at 2,000.[135]

What restrictions on the use of HFCs is EPA establishing for refrigerated transport—intermodal containers?

EPA is restricting the use of HFCs and blends containing HFCs that have a GWP of 700 or greater for new refrigerated transport—intermodal containers with refrigerant temperatures entering the evaporator, or exiting fluid temperatures from a chiller, at or above −50 °C (−58 °F), beginning January 1, 2025. For new refrigerated transport—intermodal containers with refrigerant temperatures entering the evaporator, or exiting fluid temperatures from a chiller, below −50 °C (−58 °F), there are no restrictions in this final rule.

For its considerations of availability of substitutes under subsection (i)(4)(B), EPA identified substitutes that are available in place of the substances that EPA is restricting. These include R–744 and R–450A. R–513A, R–513B, and R–456A are also potential candidates. According to the RTOC, thousands of intermodal containers operating with R–744 were purchased or leased in 2016 and 2017,[136] and EPA identified one manufacturer that offers an intermodal container using R–744.[137] Several manufacturers also offer intermodal containers using R–513A for new and retrofit applications.[138] [139] [140]

Comment: Several commenters supported a GWP limit of 700 for HFCs and blends containing HFCs used in new refrigerated transport—intermodal containers. One of these commenters urged EPA to maintain the listed requirement, stating that transport refrigeration systems are a significant source of HFC emissions. Another commenter recommended the following adjustments to the 700 GWP limit for intermodal containers to account for operating needs at different temperature ranges:

a. for operating temperature above −58 °F (−50 °C), GWP limit of 700
b. for operating temperature in the range of −58 °F (−50 °C) to −103 °F (−75 °C), GWP limit of 2,000
c. for operating temperature below −103 °F (−75 °C), GWP limit is exempted

The commenter encouraged EPA also to adopt a GWP limit of 2,000 for new refrigerated transport—intermodal containers where the temperature of the chilled fluid leaving the chiller is lower than −50 °C, which is consistent with EPA's treatment of not applying a GWP limit of 700 for chillers for IPR with exiting fluid temperatures lower than −50 °C. This commenter also stated that refrigerants used in low temperature chillers (*i.e.,* below −50 °C) have high GWPs (*e.g.,* HFC–23 with a GWP of 14,800, R–508B with a GWP of 13,396), and this is also true for low temperature intermodal containers. The same commenter stated that they have developed a refrigerant for this temperature range with a GWP of 1,831.

Response: EPA is establishing restrictions on HFCs and HFC blends with a GWP of 700 or higher for use in new refrigerated transport—intermodal containers, as proposed. Manufacturers are already selling intermodal containers using R–744 (GWP 1), R–450A (GWP 601), and R–513A (GWP 630), indicating the availability of these substitutes for use in this subsector, particularly with regard to technological achievability and commercial demand. Concerning the comments about refrigerated transport—intermodal containers with exiting fluid at temperatures below −58 °F (−50 °C), in this final rule, EPA is not establishing GWP restrictions for refrigerated transport—intermodal containers with fluid temperatures below −50 °C (−58 °F). (For chiller type equipment, this is the fluid leaving the system, and for direct expansion equipment, this is the temperature of the refrigerant as it enters the evaporator.) EPA recognizes that most of the refrigerants used for equipment with fluid temperatures below −50 °C (−58 °F) have relatively high GWPs. Upon evaluating the availability of substitutes for refrigerated transport—intermodal containers operating at very low temperatures, EPA is not restricting the use of HFCs and HFC blends with exiting fluid temperatures lower than −50 °C (−58 °F) in this final rule. EPA notes that there is a similar lack of availability of refrigerants with temperatures either entering the evaporator or exiting a chiller or low temperature stage in other subsectors, such as IPR and chillers for IPR. The Agency expects that after further research and development, there may be additional refrigerants available for these low temperatures, after additional reviews of refrigerants for safety, health, and environmental impacts under the SNAP program and further development of industry standards that would allow for use of flammable refrigerants. Note that EPA may choose to set restrictions in the future as the availability of lower-GWP substitutes continues to grow.

Comment: One commenter generally supported the proposed refrigerant bans for ''transport refrigeration—road'' for refrigerated transport: truck, trailer, aircraft, and rail. Another commenter suggested that EPA harmonize the GWP limit of all transport refrigeration including truck and trailer, rail, and construction (although the commenter did not refer to intermodal or marine), with refrigerant bans listed for road systems and a January 1, 2025, transition date. Another commenter generally supported the restrictions for refrigerated transport for marine and road applications. This commenter also stated that they preferred that EPA restrict use of refrigerants with 2,200 GWP limit or higher, rather than specific listings of HFCs for these subsectors, stating this would standardize the approach across sectors, align with CARB regulations, and still enable EPA to set a lower GWP limit at a future date. Another commenter stated that a transition toward A2L refrigerants and other lower-GWP alternatives in these subsectors is underway in various States and in other countries and that the proposed rule continues this progress by imposing specific HFC bans with respect to transport refrigeration used in road systems and marine. This commenter encouraged EPA to do more, specifically stating that EPA should develop future technological transitions rulemakings that set GWP limits—significantly lower than 2,200—for these transport—refrigeration subsectors as soon as EPA determines that lower-GWP alternatives meeting the criteria set forth

[135] Refrigeration, Air Conditioning, and Heat Pumps Technical Options Committee 2018 Assessment Report, Technical and Economic Assessment Panel, UNEP, February 2019. Available at: *https://ozone.unep.org/sites/default/files/2019-04/RTOC-assessment-report-2018_0.pdf.*

[136] Ibid.

[137] Carrier Transicold ''NaturaLINE'' products. Additional information available at: *https://www.carrier.com/container-refrigeration/en/worldwide/products/Container-Units/naturaline.*

[138] Maersk Container Industry, Star Cool—Refrigerants. Available at: *https://www.mcicontainers.com/products/star-cool/refrigerants.*

[139] Carrier Transicold Offers Lower GWP Refrigerant Option for PrimeLINE® Container Units, Carrier Transicold, February 2018. Available at: *https://www.carrier.com/container-refrigeration/en/worldwide/news/news-article/carrier_transicold_offers_lower_gwp_refrigerant_option_for_primeline_container_units.html.*

[140] Thermo King, Container Fresh and Frozen. Available at: *https://www.thermoking.com/na/en/marine/refrigeration-units/container-fresh-and-frozen.html.*

in subsection (i)(4) of the AIM Act have become available.

One commenter stated that the proposed list of banned refrigerants for refrigerated transport could be reasonable, provided R–452A is listed as approved well before the transition. They commented that ASHRAE class A1 refrigerants must be available for transport refrigeration equipment. This commenter suggested that marine applications could also be regulated for the same list of HFCs that are being regulated under other refrigerated transport subsectors (mentioning truck, trailer, aircraft, and rail) if there were an allowance for the use of R–452A for frozen cargo. They stated that HFC–134a is only used for marine and self-contained equipment and could be added to the list of restricted refrigerants.

Response: In this final rule, EPA is establishing a restriction on specific HFCs and HFC blends as proposed for transport refrigeration—marine and transport refrigeration—road. The specific HFCs and HFC blends restricted for these subsectors are R–404A, R–507, R–507A, R–428A, R–422C, R–434A, R–421B, R–408A, R–422A, R–407B, R–402A, R–422D, R–421A, R–125/290/134a/600a (55/1/42.5/1.5), R–422B, R–424A, R–402B, GHG–X5, R–417A, R–438A, R–410B, IKON A, IKON B, R–134a/HBr (92/8), RS–44 (2003 formulation), THR–02, THR–03, and THR–04. This list consists of all refrigerants with a GWP greater than 2,200 previously listed as acceptable under SNAP. Thus, at this time, the list of specific substances corresponds to the GWP limit 2,200 in CARB's regulations and avoids complications because of differences.

Concerning the comment requesting that EPA harmonize the GWP limit of all transport refrigeration, including truck and trailer, rail, and construction, with refrigerant bans listed for road systems and a January 1, 2025, transition date, EPA understands the comment to mean that EPA should set restrictions on the same list of refrigerants, all of which have GWPs over 2,200, for all refrigerated transport used on road or rail. For other road or rail uses that EPA excluded from the proposed description of ''transport refrigeration—road,'' such as refrigerated box cars for rail use, refrigerated containers that are less than 8 feet 4 inches in width, or refrigeration units used on containers that require a separate generator to power the refrigeration unit, because these uses fall outside the description of ''refrigerated transport—road'' in the proposed rule, EPA does not consider them to fall under the refrigerant restrictions in this final rule. However, EPA may establish GWP restrictions or specific refrigerant restrictions for these uses in the future. All of the restricted refrigerants are A1 refrigerants, as are the alternative refrigerants that SNAP has listed as acceptable for refrigerated transport to date. Further, by not restricting R–452A, the list of restricted HFCs allows for use of that refrigerant until lower-GWP refrigerants that can be used safely in mobile applications are available. EPA agrees that in the future, the Agency could set a GWP limit, once EPA identifies that lower-GWP alternatives meeting the criteria set forth in subsection (i)(4) of the AIM Act have become available. EPA is not setting a GWP limit at this time for transport refrigeration—marine and transport refrigeration—road because EPA's assessment is that there continues to be significant development of new refrigerants with lower GWPs than 2,200 for use in these subsectors. Restricting those substances that have the highest environmental impact provides environmental protection while giving industry time to develop new lower-GWP refrigerants.

Comment: One commenter strongly advised EPA to reconsider the January 1, 2025, compliance date for retail refrigeration units, cold storage warehouse systems, and transport refrigeration due to a lack of available replacement technology sufficient for a wide-scale retail industry transition and extraordinary cost burdens associated with the proposed limits. This commenter expressed concern that a single break in the chain between farmers, manufacturers, and transportation companies would ripple through the entire supply chain and ultimately harm consumers. A different commenter urged EPA to maintain the timeline for refrigerated transport. This commenter stated that a transition toward A2L refrigerants and other lower-GWP alternatives in these subsectors is underway in various States and in other countries.

Response: EPA is establishing a compliance date of January 1, 2025, for refrigerated transport (road, marine, and intermodal containers) in the final rule, as proposed. As mentioned above, lower-GWP alternatives that would allow regulated parties in these three subsectors to meet the final restrictions are already available and are being used for refrigerated transport (*e.g.,* R–744, R–450A, R–513A, R–452A). It is EPA's understanding that the U.S. manufacturers of refrigerated transport equipment are no longer using the higher-GWP blends that are restricted in this rule to manufacture the covered types of equipment. EPA expects that there will be sufficient amounts of alternative refrigerants to meet the commercial demand for refrigerated transport equipment, since this is a relatively small market for refrigerant compared to stationary commercial refrigeration.

i. Household Refrigerators and Freezers

Household refrigerators, freezers, and combination refrigerator/freezers are refrigeration appliances intended primarily for residential use, although they may be used outside the home. These products may also be referred to as ''residential refrigeration.'' [141] The designs and refrigeration capacities of equipment vary widely. Household freezers only offer storage space at freezing temperatures, while household refrigerators only offer storage space at non-freezing temperatures. Products with both a refrigerator and freezer in a single unit are most common. For purposes of this rule, other small, refrigerated household appliances such as chilled kitchen drawers, wine coolers, household ice makers, and minifridges also fall within this subsector. Household refrigerators and freezers have all refrigeration components integrated, and for the smallest types, the refrigeration circuit is entirely brazed or welded. These products are charged with refrigerant at the factory and typically require only an electricity supply to begin operation.

CFC–12 was a commonly used refrigerant in household refrigerators and freezers prior to the Montreal Protocol and subsequent CAA restrictions on CFCs. The household refrigeration industry transitioned to HFC–134a and hydrocarbon refrigerants. According to the RTOC 2022 assessment report, R–600a (isobutane) is used in 75 percent of all new household refrigerators and freezers globally with HFC–134a used in the remaining 25 percent.

What restrictions on the use of HFCs is EPA establishing for household refrigerators and freezers?

EPA is restricting the use of HFCs and blends containing HFCs that have a GWP of 150 or greater for new household refrigerators and freezers manufactured or imported beginning January 1, 2025, as proposed. Sale,

[141] In the proposed rule EPA used the term ''residential refrigeration systems.'' For clarity, EPA is using ''household refrigerators and freezers'' to better indicate that these are products and not systems under the terminology of this rule. The term ''domestic refrigeration'' may also be used to indicate refrigeration within a domicile and is not intended to relate to the country of manufacture or use.

distribution, offer for sale or distribution, and export of new household refrigerators and freezers using HFCs and HFC blends with a GWP of 150 or greater is prohibited beginning January 1, 2028.

EPA is establishing the 150 GWP limit and the January 1, 2025, compliance date after considering the AIM Act subsection (i)(4) factors, and in particular, after determining that there are a number of available substitutes with 150 GWP or lower for use in new household refrigerators and freezers. These include R–290 (GWP 3.3), R–600a (GWP 1), R–441A (GWP 3), and HFC–152a (GWP 124). These lower GWP options have been available for a few years now following the publication of UL 60335–2–24 in 2017, which allowed for larger charge size of R–290 and other R–600a from 57 g to 150 g. See the *Availability of Substitutes TSD* for further information on available HFC and HFC-blend substitutes for household refrigerators and freezers.

In particular, EPA has found that R–600a is already a widely available and widely used substitute in this subsector. According to the TEAP and its RTOC, R–600a is the main energy-efficient and cost-competitive substitute that is used globally in household refrigeration as it is ''. . . the ideal refrigerant for domestic refrigeration products, giving roughly 5 percent higher efficiency than HFC–134a while at the same time reducing the noise level of the unit.'' [142] This report also indicated that globally, household refrigerators are already predominantly using R–600a. For the U.S. market, RTOC reports substantial progress in converting from HFC–134a to R–600a with the market introduction of small refrigerators and freezers that typically do not use electricity to defrost and noted that a major U.S. manufacturer introduced auto-defrost refrigerators using R–600a refrigerant to the U.S. market as early as 2010. Given the widespread global and growing domestic use of R–600a as referenced in the 2022 TEAP report, EPA finds that R–600a is available per subsection (i)(4)(B), particularly with respect to technological achievability, commercial demand, safety, and cost.

Across the United States and globally, the transition from HFC–134a is already well underway, indicating that there are sufficient available substitutes to use in place of that refrigerant. Several States have banned the use of HFC–134a refrigerant in household refrigerators and freezers, including California, Colorado, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Virginia, Vermont, and Washington. These restrictions became effective between 2021 and 2023. Globally, the EU has prohibited refrigerants that contain HFCs with a GWP greater than 150 in household refrigerators and freezers since January 1, 2015.[143] These existing regulatory requirements indicate that lower-GWP substitutes are already available, as discussed in section VI.E.

Comment: Only one commenter expressed concerns with EPA's proposed 150 GWP limit for this subsector. The commenter stated it was unnecessary and potentially unrealistic and suggested a 300 GWP limit for household refrigeration.

Response: EPA is finalizing a 150 GWP limit for household refrigerators and freezers as proposed. The Agency disagrees with the commenter's assertion that 150 is unnecessary or unrealistic. The commenter did not provide information disputing the substitutes EPA identified at proposal as available for use in this subsector, per subsection (i)(4)(B). The Agency does not agree that a 300 GWP limit is reasonable upon consideration of the (i)(4) factors. Many refrigerant options with GWPs lower than 300 in fact lower than 150 are already being used in this subsector in the United States, including R–290 and R–600a. As is often the case, certain subsectors coalesce around the use of a particular option, and according to the TEAP and its RTOC, R–600a is the dominant refrigerant in this subsector.

j. Chillers

A chiller is a type of equipment using refrigerant to typically cool water or a brine solution that is then pumped to fan coil units or other air handlers to cool the air that is supplied to occupied spaces. The heat absorbed by the water or brine can then be used for heating purposes and/or can be transferred directly to the air (''air-cooled''), to a cooling tower or body of water (''water-cooled''), or through evaporative coolers (''evaporative-cooled''). A chiller or group of chillers are similarly used for district cooling where a chiller plant cools water or another fluid that is then pumped to multiple locations being served, such as several office or educational buildings within the same complex. Although typically used for cooling, chillers may also be used to provide heating, for instance by extracting heat from ambient air and transferring it via a working fluid distributed to heaters throughout a building. Chillers may also be used to maintain operating temperatures in various types of buildings; for example, in pharmaceutical, agricultural, and food operations. Chillers have also been used to create ice, such as in an ice-skating arena, and have been employed to maintain equipment reliability, for instance in data centers.

Chillers are also used to cool process streams in industrial applications; in such instances, these are regulated as ''chillers for industrial process refrigeration'' as discussed here and not as ''industrial process refrigeration'' as discussed in section VI.F.1.a. Chillers are also used for comfort cooling of operators or climate control and protecting process equipment in industrial buildings, for example, in industrial processes when ambient temperatures could approach 200 °F (93 °C) and corrosive conditions could exist.

Given the breadth of how chillers are employed, our analysis of the subsection (i)(4) factors leads us to find different GWP limits and/or different compliance dates to be appropriate for different applications of chillers. EPA provided some distinction of such chillers in the proposed rule and is finalizing those and other distinctions based on information from commenters. This rule addresses the multiple types of chillers as they are used in particular subsectors, including chillers used to provide cooling of electronics such as data servers in data centers, ITEFs, and computer room cooling equipment (see section VI.F.1.b), chillers used in cold storage warehouses, *e.g.,* to maintain temperature for fresh or frozen food and pharmaceuticals (see section VI.F.1.e), chillers used to create and maintain ice, for instance in ice-skating rinks or toboggan or luge tracks (see section VI.F.1.f), chillers used to provide comfort cooling or heating (discussed below), and chillers used for industrial process cooling (discussed below). Our review of the (i)(4) factors also provides the basis for distinguishing chillers by the temperature of the fluid exiting the chiller, while maintaining some consistency in GWP limits and/or compliance dates across different chiller applications. EPA notes that the distinctions made in this rule are more specific than in other EPA regulations,

[142] TEAP 2022 Progress Report (May 2022) and 2018 Quadrennial Assessment Report are available at: *https://ozone.unep.org/science/assessment/teap;* the 2018 Quadrennial Assessment Report includes sections for each of the TOCs: Flexible and Rigid Foams TOC, Halons TOC, Methyl Bromide TOC, Medical and Chemicals TOC, and Refrigeration, Air Conditioning and Heat Pumps TOC.

[143] For additional information, the EU legislation to control F-gases web page is available at: *https://ec.europa.eu/clima/eu-action/fluorinated-greenhouse-gases/eu-legislation-control-f-gases_en.*

such as those under sections 608 and 612 of the CAA.[144]

There are several different types of mechanical commercial comfort cooling AC systems known as chillers, which use refrigerants in a vapor compression cycle or by alternative technologies. Vapor compression chillers can be categorized by the type of compressor, including centrifugal and positive displacement chillers. Centrifugal chillers are typically used for commercial comfort AC, although other uses exist. Centrifugal chillers tend to be used in larger occupied buildings such as office buildings, hotels, arenas, convention halls, and airport terminals. Positive displacement chillers utilize positive displacement compressors such as reciprocating, screw, scroll, or rotary types. Positive displacement chillers are applied in similar situations as centrifugal chillers, again primarily for commercial comfort AC, except that positive displacement chillers tend to be used for smaller capacity needs such as in mid- and low-rise buildings.

A chiller may be either a product that is fully completed and charged at a factory or a component that is installed into a field-charged system. Typically, chillers with larger charge capacities are charged in the field. The GWP limits and compliance dates discussed in this section for chillers apply irrespective of whether the chiller is a product or a system. Chillers that are products, as with all other products, have a three-year sell-through. Chillers that are components of systems, as with all other components, are not subject to the restrictions on manufacturing, import, sale, distribution, and export, but new systems using chillers may not be installed after the compliance date.

What restrictions on the use of HFCs is EPA establishing for chillers—comfort cooling?

EPA is restricting the use of HFCs and blends containing HFCs that have a GWP of 700 or greater for chillers—comfort cooling beginning January 1, 2025. This GWP limit applies to new equipment for all compressor types of chillers—comfort cooling, *i.e.,* centrifugal and positive displacement (including reciprocating, screw, scroll, and rotary) chillers.

For its consideration of the availability of substitutes under subsection (i)(4)(B), EPA identified several substitutes that are available in place of the substances that EPA is restricting, including some that were recently listed as acceptable, subject to use conditions, under SNAP Rule 25 (88 FR 26382, April 28, 2023). These include HCFO–1224yd(Z) (GWP less than 1), HCFO–1233zd(E) (GWP 4), HFO–1234yf (GWP 1), HFO–1234ze(E) (GWP 1), HFC–32 (GWP 675), R–450A (GWP 601), R–452B (GWP 698), R–454A (GWP 237), R–454B (GWP 465), R–454C (GWP 146), R–513A (GWP 630), R–514A (GWP 3), and R–515B (GWP 287). Chillers for comfort cooling that use lower-GWP substitutes are currently available in both U.S. and international markets. Specifically, in the United States, scroll, other positive displacement, and centrifugal chillers using HCFO–1233zd(E), HFO–1234ze(E), HFC–32, R–454B, R–513A, R–514A, and R–515B are widely available and in use.

What restrictions on the use of HFCs is EPA establishing for chillers—industrial process refrigeration?

EPA is restricting the use of HFCs and blends containing HFCs that have a GWP of 700 or greater for chillers—industrial process refrigeration as proposed and is providing additional time for compliance based on the temperature of the fluid exiting the chiller (*i.e.,* the fluid sent to one or more evaporators or other cooling equipment in the system), because the availability of substitutes for use in equipment in this subsector is constrained based on these conditions. As proposed, EPA is not setting restrictions at this time for chillers where the temperature of the fluid exiting the chiller (*i.e.,* the supply temperature to the facility) is less than −50 °C (−58 °F). For chillers where the temperature of the fluid exiting the chiller is equal to or above −50 °C (−58 °F) but less than −30 °C (−22 °F), EPA is restricting the use of HFCs and HFC blends that have a GWP of 700 or greater beginning January 1, 2028 (rather than the proposed compliance date of January 1, 2025). For all other chillers—industrial process refrigeration, EPA is restricting the use of HFCs and HFC blends that have a GWP of 700 or greater beginning January 1, 2026 (rather than the proposed compliance date of January 1, 2025).

For its consideration of the availability of substitutes under subsection (i)(4)(B), EPA identified substitutes that are available in place of the substances that EPA is restricting. These include R–290 (GWP 3.3), R–450A (GWP 601), R–513A (GWP 630), R–600 (GWP 4), R–717 (GWP 1), and R–744 (GWP 1). In the United States, chillers for IPR using R–290, R–513A, R–717, and R–744 are available on the market.

The GWP limit of 700 for chillers—industrial process refrigeration enables the use of more refrigerant options to manage safety (in particular, flammability and toxicity), efficiency, capacity, temperature glide, and other performance factors.

What restrictions on the use of HFCs is EPA establishing for chillers used in other subsectors?

As noted above, ice rinks may use a chiller, circulating the chilled fluid under the floor on which the ice is frozen and maintained at the appropriate temperature. Other technologies are available, such as a refrigeration system that circulates the refrigerant directly through pipes to freeze the ice, then returning the evaporated refrigerant to the compressor. Irrespective of the choice of technology, EPA is finalizing a GWP limit of 700 and a compliance date of January 1, 2025, for ice rinks. These restrictions are the same as chillers for comfort cooling. See section VI.F.1.f for a discussion of ice rinks.

Chillers can also be used to cool data centers, ITEFs, and computer rooms. Using a chiller for such applications could use the chilled fluid at multiple locations, providing cooling for sections of the facility or spot-cooling for zones where heat gain is significantly higher than other zones. Other types of equipment are available for such uses, including both products that are pre-charged and split systems that are filled with refrigerant on-site. For all such equipment, whether a chiller or not, EPA is finalizing a GWP limit of 700, consistent with several other chiller types. For those specific applications, we are finalizing a compliance date of 2027, later than comfort cooling chillers and IPR chillers with exiting temperatures greater than −30 °C (−22 °F), but one year earlier than IPR chillers with exiting temperatures from −30 °C (−22 °F) to −50 °C (−58 °F), See section VI.F.1.b for a discussion of data centers, ITEFs, and computer room cooling equipment.

Another subsector that may use a chiller is cold storage warehouses. A chiller could be applied to circulate chiller fluid throughout a warehouse, perhaps to keep one section at freezing temperatures (*e.g.,* for frozen food or ice cream) and another at above-freezing temperatures (*e.g.,* for dairy or meats). Like data centers, ITEF, and computer room cooling equipment, other equipment could be applied. For instance, an array of rooftop units could be used, limiting the charge of each individual unit and perhaps providing more flexibility to employ low-GWP

[144] In describing these regulations promulgated under authorities of title VI of the CAA, EPA is neither reopening nor revisiting them.

substitutes while complying with local building codes. All such equipment applied in cold storage warehouses, including chillers, have either a 300 or 150 GWP limit and a January 1, 2026, compliance date.

Comment: Many commenters expressed support for EPA's proposal without any suggested changes to the GWP limits or suggestions to set GWP limits by different product capabilities and classifications.

A few commenters suggested stricter limits at 300 or 150 and noted that there are many viable alternatives for IPR chillers below the proposed limit. One commenter suggested that the GWP limits for IPR systems and chillers for IPR be based on operating temperature ranges, like those in the current CARB and EU F-Gas Regulations. Another commenter opposed the proposed GWP limits for chillers,[145] stating the current proposal will perpetuate HFCs for a longer period than is necessary and increases the likelihood that new construction will 'lock in' HFC use in a manner that is inconsistent with the Kigali Amendment to the Montreal Protocol phasedown and that is inconsistent with Federal, State, and local climate goals. The commenter proposed a new chiller GWP limit of 10 in 2027. One commenter requested clarification of 700 GWP limit as opposed to 750 and noted that currently no SNAP-approved alternative exists between 700 and 750.

Response: EPA is finalizing a compliance date for chillers for comfort cooling consistent with the January 1, 2025, dates proposed. For chillers used in IPR, EPA is finalizing a compliance date of January 1, 2026, or later for reasons explained below. For chillers where the fluid exiting the chiller is greater than or equal to −50 °C (−58 °F) and below −30 °C (−22 °F), EPA is finalizing January 1, 2028, as the compliance date. Consistent with the proposed rule, EPA is not establishing restrictions at this time for chillers—industrial process refrigeration where the temperature of the fluid exiting the chiller is less than −50 °C (−58 °F). After review of the comments received, EPA is finalizing a 700 GWP limit for all types of comfort cooling chillers and industrial process chillers covered in this rule. As explained above, we are also finalizing a 700 GWP limit in two other subsectors where chillers may be employed, namely ice-skating rinks and data centers, ITEFs, and computer room cooling equipment. Based on our review of the subsection (i)(4) factors, EPA finds that the availability of substitutes varies for chillers used in IPR based on the temperature of the fluid leaving the chiller. Therefore, EPA finds it appropriate to establish a later compliance date for lower-temperature chillers, with additional time provided for the reasons explained below.

The Agency disagrees with commenters asserting that EPA should adopt a GWP limit of 300 or 150 for IPR chillers. Nor does EPA agree that GWP limits as low as 10 are appropriate for comfort cooling chillers. Some of the lower GWP refrigerants such as HCFO–1233zd(E), HFO–1234ze(E), HCFO–1224yd(Z), R–717, and R–744 (with respective GWPs of 4, 1, 1, 1, and 1, respectively) are not technologically achievable for use in all chiller applications—either for comfort cooling or IPR—and the use of other substitutes remains necessary to ensure a smooth transition to lower-GWP alternatives in this subsector. Further, in our evaluation of availability under (i)(4)(B), EPA sees higher-pressure substitutes such as HFC–32 (GWP 675) and R–454B (GWP 465) in comfort cooling chillers, and possibly in the future IPR chillers, as both technologically achievable and in commercial demand, with manufacturing already adopting or planning to adopt such solutions.

As one commenter noted, while there are other refrigerants under research, development, and review, EPA's SNAP program has not listed acceptable refrigerants for the relevant subsectors with GWPs between 700 and 750. The Agency's assessment is that a 700 GWP limit is appropriate for chillers after considering the (i)(4) factors. EPA is prohibiting the use of regulated substances that have a GWP of 700 or greater, in part, because there are multiple lower-GWP substitutes available for use in chillers with a GWP less than 700. For example, HFC–32, R–452B, and R–454B have GWPs of 675, 698, and 465, respectively, and are acceptable for use under the SNAP program for comfort cooling chillers.

With respect to the compliance date for chillers—IPR, we note that in addition to the refrigerants already available as discussed above, EPA continues to evaluate substitutes under the SNAP program, and has authority to do so under subsection (i)(5) of the AIM Act as well, on an ongoing basis. In SNAP Rule 26 EPA has proposed to list as acceptable, subject to use conditions, several additional refrigerants for use in chillers for IPR: HFO–1234yf, HFO–1234ze(E), HFC–32, R–454B, R–454C, R–455A, R–457A, and R–516A (with GWPs of 1, 1, 675, 465, 146, 146, 137, and 140 respectively) (88 FR 33722, May 24, 2023). Further discussion on the intersection of SNAP listing decisions and AIM Act subsection (i)(4) can be found in section VI.E.

The Agency anticipates that this continuing evaluation of additional substitutes, including for use in chillers for IPR, may help facilitate the availability of even more options for compliance by January 1, 2026, through January 1, 2028, depending on the IPR chiller's characteristics.

The Agency recognizes the time it can take for an updated UL standard to be widely incorporated and for the updates to be applied across industry. Many other relevant changes impacting the availability of substitutes and facilitating transition to the use of those substitutes generally occur after the UL standard is updated, including evaluation of substitutes under the SNAP program, adoption of new editions of industry safety standards into building codes, equipment testing and certification, safety updates to manufacturing facilities, and training of technicians. All of these are considerations for EPA's assessment of availability of substitutes under subsection (i)(4)(B), and EPA has accounted for the additional time needed for these updates to occur by extending compliance dates for IPR chillers to 2026 and 2028, depending on the temperature of the fluid leaving the chiller. The Agency is allowing for a later compliance date of January 1, 2028, for equipment with exiting fluid temperatures lower than or equal to −30 °C (−22 °F) and higher than or equal to −50 °C (−58 °F) because fewer refrigerants are available with a sufficiently low boiling point to be technologically achievable, and thus, more time may be needed to identify, test, and implement appropriate substitutes than for equipment with higher temperature ranges.

With respect to the compliance date for chillers—comfort cooling, after review of the comments widely expressing support for the proposed compliance date, EPA is finalizing a compliance date of January 1, 2025. In addition to other substitutes discussed above, EPA finalized as acceptable more refrigerant options for use in comfort cooling chillers through SNAP Rule 25: HFO–1234yf, R–452B, R–454A, R–454B, R–454C and HFC–32 (with GWPs of 1, 698, 237, 465, 146, and 675, respectively) (88 FR 26382, April 28, 2023). The Agency agrees with the many commenters that this timeline is

[145] The commenter did not indicate whether the comment was with respect to comfort cooling or industrial process refrigeration chillers. Based on the context of the comment, which discussed chillers with other comfort cooling technologies EPA views this as a comment on chillers—comfort cooling.

sufficient considering that substitutes that meet the Agency's restrictions are already widely available and in use in this subsector.

Comment: Many commenters requested clarification for chillers and IPR systems with very low temperatures that may or may not be exempt from GWP limits under EPA's proposed rule including those for laboratory equipment and IPR chillers. One commenter requested clarification on refrigerated laboratory equipment that operates at −62 °C (−80 °F) or lower temperatures and whether industrial process refrigeration chillers that operate at less than −50 °C (−58 °F) are exempt. Another commenter suggested that EPA exempt specialty applications for systems designed for exiting fluid temperatures of −50 °C (−58 °F) or create a formal variance application process, similar to California and Washington State regulations. One commenter proposed an exemption for all IPR applications with a refrigerant evaporating temperature below −45 °C (−49 °F). A couple of commenters requested clarification that the exclusion in the proposed rule for equipment where the temperature of the fluid exiting the chiller is less than −50 °C (−58 °F) and how that applies in cases where the temperature may also rise above −50 °C (−58 °F) while in use. The commenters also requested an exemption in the chillers—IPR subsector to encompass all applications in semiconductor manufacturing because chillers used in semiconductor manufacturing are required to reach very low temperatures, but also operate across a wide range of temperatures that can span from below −50 °C (−58 °F) to as high as 5 °C (41 °F).

Response: In this final rule, EPA is not setting restrictions for HFCs or HFC blend refrigerants used in IPR equipment or chillers for IPR with exiting fluid temperatures of −50 °C (−58 °F) or lower although the Agency may in the future propose to restrict HFCs used in such equipment. Concerning one commenter's request for either an exception or a longer period to comply for refrigerated laboratory equipment, to the extent that equipment used in the laboratory falls within the chillers—IPR subsector and has exiting fluid temperatures below −50 °C (−58 °F), it also would have no restrictions on HFCs or HFC blend refrigerants under this rule. Similarly, refrigerated laboratory equipment within the chillers—IPR subsector with exiting fluid at temperatures −50 °C (−58 °F) and above but below −30 °C (−22 °F) would have a compliance date of January 1, 2028, and if exiting fluid temperatures are equal to or greater than −30 °C (−22 °F), the compliance date would be January 1, 2026, for new equipment to transition to alternative refrigerants. EPA did not propose and is not finalizing a process to allow individual users to request a variance. Further a variance process would be burdensome and would decrease certainty that necessary transitions away from HFCs would occur. In response to the request for clarification about equipment where the temperature of the fluid exiting the chiller is less than −50 °C (−58 °F) in some cases but also may rise above that temperature while in use, EPA responds that if the fluid exiting the chiller reaches −50 °C or below during the normal operations of the chiller then the equipment is not covered under this rule.

k. Residential and Light Commercial Air Conditioning and Heat Pumps

The residential and light commercial air conditioning and heat pump subsector includes equipment for cooling air in individual rooms, single-family homes, and small commercial buildings. Heat pumps are equipment types that heat, or have the option to cool and heat, air for such locations. This subsector differs from commercial comfort air conditioning, which uses chillers that cool water that is then used to cool air throughout a large commercial building, such as an office building or hotel. The residential and light commercial air conditioning and heat pump subsector includes both self-contained and split systems. Self-contained products include some rooftop AC units (*e.g.,* those where the conditioned air is ducted to supply multiple spaces) and many types of ACs designed for use in a single room, including packaged terminal air conditioners (PTACs), packaged terminal heat pumps (PTHPs), some rooftop AC units, window AC units, portable room AC units, and wall mounted self-contained ACs. Split systems include ducted and non-ducted mini-splits (which might also be designed for use in a single room), multi-splits and variable refrigerant flow (VRF) systems, and ducted unitary splits. Split systems typically are charged with refrigerant at the location of assembly and installation (''field-assembled''). Water-source and ground-source heat pumps often are packaged systems similar to the self-contained equipment described in this section but could be assembled with the condenser separated from the other components, similar to split systems. Examples of equipment for residential and light commercial AC and heat pumps include the following:

- Central air conditioners, also known as unitary AC or unitary split systems. These systems include an outdoor unit with a condenser and a compressor, refrigerant lines, an indoor unit with an evaporator, and ducts to carry cooled air throughout a building. Central heat pumps are similar but offer the choice to either heat or cool the indoor space.
- Multi-split air conditioners and heat pumps. These systems include one or more outdoor unit(s) with a condenser and a compressor and multiple indoor units, each of which is connected to the outdoor unit by refrigerant lines. Non-ducted multi-splits provide cooled or heated air directly from the indoor unit rather than providing the air through ducts.
- Mini-split air conditioners and heat pumps. These systems include an outdoor unit with a condenser and a compressor and a single indoor unit that is connected to the outdoor unit by refrigerant lines. Non-ducted mini-splits provide cooled or heated air directly from the indoor unit rather than being carried through ducts.
- Rooftop AC units. These are products that combine the compressor, condenser, evaporator, and a fan for ventilation in a single package and may contain additional components for filtration and dehumidification. Most units also include dampers to control air intake. Rooftop AC units cool or heat outside air that is then delivered to the space directly through the ceiling or through a duct network. Rooftop AC units are common in small commercial buildings such as a single store in a mall with no indoor passageways between stores. They can also be set up in an array to provide cooling or heating throughout a larger commercial establishment such as a department store or supermarket.
- Window air conditioners. These are self-contained products that fit in a window with the condenser extending outside the window.
- PTACs and PTHPs. These are self-contained products that consist of a separate, un-encased combination of heating and cooling assemblies mounted through a wall. PTACs and PTHPs are intended for use in a single room and do not use ducts to carry cooled air or have external refrigerant lines. Typical applications include motel or dormitory air conditioners.
- Portable room air conditioners. These are self-contained products designed to be moved easily from room to room, usually having wheels. They may contain an exhaust hose that can be

placed through a window or door to eject heat outside.

• Water-source heat pumps and ground-source heat pumps. These systems are similar to unitary split systems except that heat is ejected (when in cooling mode) from the condenser through a second circuit rather than directly with outside air. The second circuit transfers the heat to the ground, groundwater, or another body of water such as a lake using water, or a brine if temperatures would risk freezing. Some systems can perform heating in a similar matter with the refrigerant circuit running in reverse; regardless, the term ''heat pump'' is most often used.

• Variable refrigerant flow/variable refrigerant volume systems. These are engineered DX multi-split systems incorporating the following: a split system air conditioner or heat pump incorporating a single refrigerant circuit that is a common piping network to two or more indoor evaporators, each capable of independent control, or compressor units. VRF systems contain a single module outdoor unit or combined module outdoor units with at least one variable capacity compressor that has three or more steps of capacity, with air or water as the heat source. In response to comment below, we clarify that air-source VRF systems have capacities of 65,000 BTU/h (19 kW) or more, while water-source VRF systems can be of any capacity.

• Dehumidifiers that are integrated with the space air-conditioning system. This includes dehumidification via a separate bypass in the duct through which air is dehumidified, a dehumidifying heat pipe across the indoor coil, or other types of energy recovery devices that move sensible and/or latent heat between air streams (*e.g.,* between incoming air and air vented to the outside). In addition, this subsector includes non-residential dehumidifiers, which are used for commercial and other purposes and are typically of a higher capacity than residential dehumidifiers.

This subsector in its entirely is subject to the restrictions on the use of HFCs under this rule.

Common HFCs and blends containing HFCs used in self-contained AC and heat pump equipment are R–410A and HFC–134a. Common HFCs and blends containing HFCs used in mini-splits, multi-splits, unitary splits, and VRF systems are R–410A and to a lesser extent, R–407C, with GWPs of 2,088 and 1,774, respectively. Residential split systems are commonly shipped with a refrigerant charge that is then ''balanced'' by the technician once the equipment is installed in its place of use. Larger commercial sized units often are not pre-charged with refrigerant but may contain a nitrogen ''holding charge'' for shipping.

EPA granted petitions submitted by EIA, AHRI, CARB, and AHAM which requested restrictions on the use of HFCs in the residential and light commercial air conditioning and heat pump subsector. EIA's petition refers to ''residential and non-residential''; AHRI refers to ''residential and light commercial''; and CARB, in its recently finalized regulation, refers to the specific end-uses of ''room/wall/window air-conditioning equipment, PTACs, PTHPs, portable air-conditioning equipment,'' and ''other air-conditioning (new) equipment, residential and nonresidential.'' [146] AHAM specifically requested restrictions on the use of HFCs for room ACs with and without electric heat and a capacity of 25,000 BTU/hr or less and for portable ACs.[147] For the purposes of this action, EPA considers all of these petitioned uses within the subsector ''residential and light commercial air conditioning and heat pumps.''

What restrictions on the use of HFCs is EPA establishing for residential and light commercial air conditioning and heat pumps?

EPA is restricting the use of HFCs and blends containing HFCs, that have a GWP of 700 or greater for all equipment types in the residential and light commercial air-conditioning and heat pump subsector, as proposed. EPA is prohibiting the manufacture and import of self-contained products beginning January 1, 2025, as proposed, with restrictions on the sale, distribution, offer for sale or distribution, and export of products beginning January 1, 2028. For systems in this subsector that are field-assembled, EPA is prohibiting the installation of new systems as of January 1, 2025, except for VRF systems, which have a compliance date of January 1, 2026.

In our proposal to set the GWP limit for this subsector at 700, EPA identified multiple lower-GWP substitutes currently available for use in residential and light commercial air-conditioning and heat pump applications. For example, R–452B, HFC–32, and R–454B have GWPs of 698, 675, and 465, respectively, and are available under EPA's (i)(4)(B) analysis, including being listed under SNAP as acceptable, subject to use conditions. After consideration of the comments, which were largely supportive of the level of restriction, EPA is finalizing the GWP limit at 700 for this subsector.

The transition in this subsector to lower-GWP substitutes is underway. As discussed in section VI.E.2.c, updates to the safety standard covering these refrigerants were published on November 1, 2019, and many of the subsequent regulatory steps and industry adaptations incorporating those updates have already occurred. SNAP lists five lower-GWP refrigerants for use in residential and light commercial AC and heat pumps in Rule 23 (86 FR 24444, May 6, 2021). The International Building Code and the Residential Building Code were also revised in 2021 to incorporate updates to the safety standards, by allowing for the use of lower-GWP refrigerants exhibiting lower flammability (*i.e.,* 2L flammability classification). EPA anticipates that States will adopt the 2021 model building codes or revise their regulations allowing for use of several SNAP-listed lower-GWP refrigerants that exhibit lower flammability by 2025. Several OEMs have also indicated that they intend to switch to using A2L refrigerants (*e.g.,* R–454B, HFC–32) once relevant codes have been updated to allow their use.[148] [149]

EPA proposed and is finalizing a compliance date of January 1, 2026, for VRF systems. These systems are larger and more complicated than most of the other types of equipment in this subsector. This additional time is needed for designing, testing, and implementing the use of substitutes in these systems.

Comment: EPA received many comments on the proposed GWP limit for the residential and light commercial air conditioning and heat pump subsector.

Many commenters expressed support for EPA's proposed GWP limit of 700 for HFCs and blends containing HFCs used in this subsector. Several commenters requested that EPA provide more detail on the basis for proposing a 700 GWP

[146] California Code of Regulations, Prohibitions on Use of Certain Hydrofluorocarbons in Stationary Refrigeration, Stationary Air-conditioning, and Other End-uses. Available at: *https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2020/hfc2020/frorevised.pdf.*

[147] The petitions can be found in the docket to this rule and further discussion can be found in the proposed rule and in the **Federal Register** notice (86 FR 57141, October 14, 2021) granting the petitions.

[148] Turpin, J, R–454B Emerges as a Replacement for R–410A, ACHR News, August 2020. Available at: *https://www.achrnews.com/articles/143548-r-454b-emerges-as-a-replacement-for-r-410a.*

[149] Turpin, J, Manufacturers Eye R–32 to Replace R–410A, ACHR News, August 2020. Available at: *https://www.achrnews.com/articles/143422-manufacturers-eye-r-32-to-replace-r-410a.*

limit, rather than the 750 GWP limit that petitioners requested. One commenter in favor of a 750 GWP limit stated that proposing a lower GWP limit than contained in the petitions does not promote stability and fairness and it was not appropriate or necessary for EPA to do so. Some commenters described concerns with the 700 GWP limit because of the desire to harmonize Federal, State, and global standards, while other commenters noted that although the GWP limit is not entirely similar to those established by CARB, they anticipate the differences will not create undue burden for the industry. Other commenters agreed with EPA's reasoning in the proposed rule that there is a lack of refrigerants with a GWP between 700 and 750. Another commenter, whose petition also included a limit of 750 for this subsector agreed that 700 was more appropriate because the only additional refrigerant between 700 and 750 GWP would be R–466A, which they characterized as a step backwards due to its ozone depletion potential.

Many commenters also expressed support for the January 1, 2025, compliance date for this subsector. Many commenters were also supportive of the January 1, 2026, compliance date for VRF systems; however, a few commenters disagreed with the additional year proposed for VRF systems due to the larger charge sizes and potentially higher refrigerant leak rates from VRF systems, and the potential for more releases to the atmosphere of higher-GWP refrigerants. Another commenter suggested a GWP limit of 150 for VRF systems rather than the proposed 700 due to the potentially higher leakage rates and volumes from VRF systems. Another commenter suggested that EPA consider establishing lower GWP limits with delayed compliance dates for VRF systems (*i.e.,* 10 or 150 GWP in 2027) to support product innovation and achieve greater GHG emissions reduction. Several commenters asked EPA to clarify whether VRF-type products under 65,000 BTU/hr would be subject to the compliance dates for air-conditioning and heat pump products (January 1, 2025) or VRF products (January 1, 2026). One commenter stated that their smaller capacity, single-phase VRF products could be interpreted as falling into both residential AC and VRF category descriptions, and they suggested EPA align with the category definitions in AHRI 1230 and AHRI 210/240 standards to clarify this issue.

Response: EPA is finalizing a compliance date of January 1, 2025, for the residential and light commercial air conditioning and heat pumps subsector as proposed. The Agency agrees with the large number of commenters that this timeline is sufficient considering several of these alternatives have already been SNAP-approved. EPA is also finalizing a January 1, 2026, compliance date for residential and light commercial air conditioning- VRF systems as proposed and agrees with the many commenters that additional time beyond 2026 is not required for these systems.

In response to the comment regarding smaller capacity products, EPA has reviewed the AHRI standards referenced and has clarified above that for the purposes of this rule, for an air-source air conditioner to be considered a VRF system, it must have a capacity greater than or equal to 65,000 BTU/h (19 kW), among the other characteristics described, whereas there is no minimum capacity for water-source VRF systems. We find that such a clarification conforms with the referenced AHRI Standard 1230.

EPA is finalizing a 700 GWP limit for this subsector as proposed. We acknowledge that many commenters requested a limit of 750 for this subsector and other commenters requested a lower GWP limit. Consistent with our consideration of the (i)(4) factors in the proposed rule, the Agency identified multiple currently available substitutes with a GWP below 700 and did not receive comments disputing EPA's assessment of availability under subsection (i)(4)(B) or that EPA overlooked important considerations.

The AIM Act does not require that EPA adopt as its final restriction the requests made in petitions granted under subsection (i). Instead, granting a petition under subsection (i)(3)(C) means that the Administrator must then undertake a rulemaking with respect to the restriction that is the subject of the petition, and must do so by the statutory timeframe established in the AIM Act (two years after the date on which the Administrator grants the petition). The Act states that in carrying out this rulemaking establishing any restriction, the Agency is to factor in, to the extent practicable, the considerations laid out in subsection (i)(4). Thus, granting a petition under subsection (i)(3)(C) does not commit the Agency to any substantive outcome, nor would such an interpretation be reasonable. There would be little purpose in Congress directing the Agency to undergo a notice-and-comment rulemaking if the Agency were bound to promulgate the restriction as requested in the petition. We therefore do not agree with commenters who alleged that proposing and finalizing a restriction that is more stringent than what was requested in a petition undermines ''stability and fairness,'' nor do we agree that to do so, the Agency must demonstrate that it is ''appropriate and necessary.'' In addition, when approving petitions, EPA stated explicitly that a petition grant does not mean that the Agency will propose or finalize requirements identical to the petitions.

As discussed in section VI.E of this preamble, EPA takes notice of the regulations and restrictions related to HFC use and technology transitions in its assessment of whether substitutes are available to use in a sector or subsector. Restrictions in other jurisdictions can be an indicator of the status of a sector or subsector's transition to lower-GWP substitutes, and can provide affirmation of the Agency's assessments that substitutes are available. However, nothing in the AIM Act suggests that EPA must or even should establish its restrictions with the goal of consistency with State or international regulations. Our proposed 700 GWP limit for this subsector took into consideration that there are a number of widely available substitutes for use in this subsector with GWPs lower than 700, and we also note the programmatic advantage of establishing restrictions at set cut-points (*i.e.,* 150, 300, 700) to facilitate compliance and enforcement of the Technology Transitions program (*see* section VI.E).

Finally, in the Agency's assessment, there is little practical difference between a 750 GWP or 700 GWP limit for this subsector. Available substitutes that the Agency identified for use in this subsector had GWPs lower than 700, and there are no substitutes for this subsector listed under the SNAP program with a GWP between 700 and 750. A number of industry commenters also confirmed the lack of refrigerants with GWPs between 700 and 750. For example, R–452B, HFC–32, and R–454B have GWPs of 698, 675, and 465, respectively, and are acceptable for use in this subsector under the SNAP program, and some equipment within this subsector is now offered with these refrigerants. As a commenter noted, there is one refrigerant with a GWP between 700 and 750 that may be under consideration by some industry stakeholders; however, as noted by a separate commenter, the ozone-depleting potential of this refrigerant (R–466A) is higher than for other identified alternatives. In a separate action, EPA requested advance comments on potential approaches to SNAP listing decisions for certain very

short-lived substances (87 FR 45508, July 28, 2022).

The Agency therefore disagrees with commenters asserting that EPA should adopt a GWP limit of 750 for this subsector or as low as 10 or 150 for VRF systems.

EPA is also finalizing a 700 GWP limit for VRF systems as proposed. With consideration to the subsection (i)(4) factors, EPA does not agree with a GWP limit of 10 or 150. Currently there are no SNAP listed refrigerants with GWP less than 10 for VRF systems, apart from ammonia absorption. EPA views the availability of this option to be many years off, and therefore is setting restrictions at a higher GWP limit and a compliance date that allows for transitions to initiate sooner. Likewise, EPA views the two other refrigerants with GWPs below 150—R–454C and R–457A—as not being available under the (i)(4) factors, including technological achievability, in the timeframes considered in this rule.

l. Residential Dehumidifiers

Residential dehumidifiers are self-contained products primarily used to remove water vapor from ambient air or directly from indoor air for comfort or material preservation purposes in the context of the home. This product circulates air from a room, passes it through a cooling coil, and collects condensed water for disposal. While AC equipment often combines cooling and dehumidification, residential dehumidifiers only serve the latter purpose. This subsector therefore does not include dehumidifiers for residential or light commercial use that are integrated with the space air-conditioning equipment, for instance via a separate bypass in the duct through which air is dehumidified, a dehumidifying heat pipe across the indoor coil, or other types of energy recovery devices that move sensible and/or latent heat between air streams (*e.g.,* between incoming air and air vented to the outside). In addition, this subsector does not include non-residential dehumidifiers, which are used for commercial and other purposes and are typically of a higher capacity than residential dehumidifiers. Such equipment falls within the residential and light commercial AC or heat pump subsector. Similar to other residential and light commercial AC equipment, the majority of residential dehumidifiers historically used HCFC–22 and moved to R–410A.

What restrictions on the use of HFCs is EPA establishing for residential dehumidifiers?

EPA received only two comments on this subsector, both in support of EPA's proposed GWP limit of 700 for dehumidifiers. Therefore, EPA is restricting the manufacture and import of HFCs and blends containing HFCs that have a GWP of 700 or greater for residential dehumidifiers as proposed. EPA identified multiple available substitutes for use in this subsector at proposal that have GWPs of 700 or lower. In assessing availability, we note that many substitutes with GWPs of 700 or lower are listed as acceptable under the SNAP program. For example, R–513A with a GWP of 630 is listed as acceptable (82 FR 33809, July 21, 2017). EPA has also recently listed as acceptable, subject to use conditions, R–452B, HFC–32, and R–454B, with respective GWPs of approximately 698, 675, and 465 (88 FR 26382, April 28, 2023). EPA is also finalizing a compliance date of January 1, 2025, as proposed.

m. Motor Vehicle Air Conditioners

Motor Vehicle Air Conditioners (MVACs) cool the passenger compartment of light-duty (LD) vehicles, heavy-duty (HD) vehicles (*e.g.,* large pickup trucks, delivery trucks, and semi-trucks), nonroad (also called off-road) vehicles, buses, and passenger rail vehicles. MVACs used to cool passenger compartments in LD, HD, and nonroad vehicles are typically charged during vehicle manufacture and the main components are connected by flexible refrigerant lines. In addition, the MVAC subsector includes heat pumps, which may cool or redirect heat into vehicle cabins and control temperatures. Heat pumps are expected to become more common, especially as more electric vehicles are introduced into the market. The vehicle types subject to this action are passenger cars and light-duty trucks,[150] referred to jointly in this action as LD vehicles, limited types of HD vehicles (*i.e.,* medium-duty passenger vehicles (MDPVs),[151] HD pickup trucks, and complete HD vans), and certain nonroad vehicles. These nonroad vehicles include:

- Agricultural tractors greater than 40 horsepower (HP) (including two-wheel drive, mechanical front-wheel drive, four-wheel drive, and track tractors) that are used for various agricultural applications such as farm work, planting, landscaping, and loading;[152] [153]
- Self-propelled agricultural machinery (including combines, grain and corn harvesters, sprayers, windrowers, and floaters) that are primarily used for harvesting, fertilizer, and herbicide operations;
- Compact equipment (including mini excavators, turf mowers, skid-steer loaders, and tractors less than 40 HP) that are primarily used for agricultural operations and residential, commercial, and agricultural landscaping;
- Construction, forestry, and mining equipment (including excavators, bulldozers, wheel loaders, feller bunchers, log skidders, road graders, articulated trucks, sub-surface machines, horizontal directional drill, trenchers, and tracked crawlers) that are primarily used to excavate surface and subsurface materials during construction, landscaping, and road maintenance and building; and
- Commercial utility vehicles that are primarily used for ranching, farming, hunting/fishing, construction, landscaping, property maintenance, railroad maintenance, forestry, and mining.

For further information on classifications of vehicle types, see the proposed rule (87 FR 76789–91, December 15, 2022).

EPA proposed to restrict the use of HFCs and blends containing HFCs that have a GWP of 150 or greater starting in MY 2025 for MVACs in newly manufactured LD vehicles as well in MDPVs and limited types of HD vehicles in Class 2b–3 (*i.e.,* newly manufactured MDPVs, HD pickup trucks, and complete HD vans), including vehicles manufactured exclusively for export.[154] EPA also proposed to restrict the use of HFCs and blends containing HFCs that have a GWP of 150 or greater starting in MY 2026 for certain nonroad vehicles (*i.e.,* agricultural tractors greater than 40 HP; self-propelled agricultural machinery; compact equipment; construction, forestry, and mining equipment; and commercial utility vehicles), including

[150] Defined at 40 CFR 86.1803–01.

[151] Ibid.

[152] Wagner, 2021. May 24, 2021, email from John Wagner of the Association of Equipment Manufacturers to EPA. Available in the docket.

[153] AEM, 2021. Appendix A: Machine Forms as Classified by AEM Membership. Available in the docket.

[154] ''Model year'' is defined at 40 CFR 85.2302 and ''means the manufacturer's annual production period (as determined under 40 CFR 85.2304) which includes January 1 of such calendar year, provided, that if the manufacturer has no annual production period, the term ''model year'' shall mean the calendar year.''

vehicles manufactured exclusively for export.

What restrictions on the use of HFCs is EPA establishing for MVAC?

EPA is restricting the use of HFCs and blends containing HFCs that have a GWP of 150 or greater for MVACs in newly manufactured LD vehicles, limited types of MD and HD vehicles in Class 2b–3, and certain nonroad vehicles, as proposed. The use restriction for LD vehicles starts in MY 2025, as of one year after publication of this final rule, and includes vehicles manufactured for export as proposed. EPA is delaying the compliance date for MDPVs and for the HD vehicles subject to this rule to MY 2028, not MY 2025 as proposed. The final rule also delays the compliance date for the listed nonroad vehicles to January 1, 2028, rather than MY 2026 as proposed. As discussed in section VI.C.2.c, EPA is allowing for a three-year sell-through of manufactured products. Thus, the dates by which newly manufactured vehicles containing regulated substances with a GWP of 150 or greater (*e.g.,* HFC–134a) may no longer be sold, distributed, or exported are the following: upon introduction of MY 2028 for LD vehicles; upon introduction of MY 2031 for newly manufactured MDPVs, HD pickup trucks, and complete HD vans which have AC equipment that will not be modified by upfitters; and January 1, 2031, for the listed nonroad vehicles.

For LD vehicles, EPA is restricting the use of HFCs and blends containing HFCs starting MY 2025, as of one year after publication of the final rule. The Agency analyzed the subsection (i)(4) factors and, in particular, the availability of substitutes under (i)(4)(B) and identified three substitutes, R–744, HFO–1234yf, and HFC–152a, with GWPs below the limit of 150. EPA is aware of only limited use of R–744 globally, and no commercial use of HFC–152a in any LD or HD vehicle to date.

In terms of commercial demands and technological achievability, HFO–1234yf has gained significant market share in LD vehicles in the United States since its introduction in MY 2013. According to the *2022 EPA Automotive Trends Report,* approximately 95 percent of MY 2021 LD vehicles sold used HFO–1234yf and most manufacturers have implemented HFO–1234yf across their entire vehicle brands.[155] HFO–1234yf is also predominantly being used in new LD vehicles in Europe and Japan.[156] The GWP limit of 150 for LD vehicles harmonizes with the EU's Mobile AC Directive 2006/40/EC,[157] which is aimed at reducing emissions of HFC–134a from LD MVACs, and also sets a GWP limit of 150 for refrigerants used in MVAC installed in any LD vehicle sold in the European market after 2017, regardless of its model year. Today's final rule restricts the use of HFCs and blends containing HFCs that have a GWP of 150 or greater for LD vehicles, including vehicles manufactured exclusively for export, starting in MY 2025 and becoming effective no earlier than one year after publication of the final rule.

For MDPVs, HD pickup trucks, and complete HD vans which have AC equipment that will not be modified by upfitters, EPA is restricting the use of HFCs and blends containing HFCs starting MY 2028, because at least three technologically achievable substitutes, R–744, HFO–1234yf, and HFC–152a, meet the GWP limit of 150. HFO–1234yf was listed as acceptable, subject to use conditions, in 2016 under SNAP for new MDPVs, HD pickup trucks, and complete HD vans and is in use or under various stages of development for these vehicle types. After review of the comments and further consideration of the subsection (i)(4) factors, EPA is extending the compliance date to MY 2028 for these vehicle types.

After review of the comments and further consideration of the (i)(4) factors, EPA is also extending the compliance date for MVACs for the proposed list of nonroad vehicles (*i.e.,* agricultural tractors greater than 40 HP; self-propelled agricultural machinery; compact equipment; construction, forestry, and mining equipment; and commercial utility vehicles) to January 1, 2028. Nonroad vehicles are vocational vehicles and are not produced by model year.

In general, commenters supported the proposed 150 GWP limit for new MVACs and did not suggest alternatives, and one commenter stated that this GWP limit is critically important to continue the transition to low-GWP refrigerants in these subsectors. EPA is retaining the 150 GWP limit in this final rule. EPA also received comments objecting to the compliance dates for the restrictions in the MVAC subsectors and exports of vehicles that contain HFC–134a. We summarize those comments and address them in this section.

Comment: EPA received many comments on the compliance date for the GWP of refrigerants used in MVACs. Environmental nongovernmental organizations and State attorneys general supported the proposed compliance dates. A State environmental agency urged EPA to take advantage of every opportunity to phase out HFCs as soon as possible. Representatives of manufacturers of LD vehicles objected to the proposed MY 2025 compliance date, stating that this could give as little as three months after finalization of this rule to redesign vehicles and retrofit assembly plants. These commenters instead suggested MY 2027, to allow at least two full years after finalization of this rule. One of these commenters asserted that additional lead-time of two years would provide a similar environmental benefit, but at a more reasonable cost and timeframe. Another commenter representing automotive manufacturers stated that using a calendar year basis restricting refrigerant in an industry that ''efficiently operates using the model years'' would add expense and complexity to track refrigerant and system components while managing the running change of these parts.

Response: EPA is finalizing a MY-based compliance deadline for LD vehicles because we agree that structuring the restriction in this way provides clarity for the regulated industry and aligns with their typical practices. In this final rule, the Agency is establishing a compliance date for new LD vehicles of MY 2025, but no earlier than October 24, 2024. This ensures that manufacturers of LD vehicles will have at least one full year after finalization of this rule to change their MVAC designs and facilities, while meeting the AIM Act requirement that no rule under subsection (i) may take effect before the date that is one year after the date of final promulgation. We do not agree with commenters who advocated for a compliance date of MY 2027, based on their view that regulated entities might be expected to comply with the new subsector restrictions within three months of this action being finalized. Vehicle manufacturers choose the start of a MY and any manufacturer that has not completed their transition could decide to make their MY 2025 start date coincide with the effective date of this rule, thereby avoiding any potential expense and/or complexity of

[155] The 2022 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975 (EPA–420–R–22–029, December 2022). Available at: *https://www.epa.gov/automotive-trends.*

[156] Volume 1: Progress Report, Technology and Economic Assessment Panel, UNEP, September 2021. Available at: *https://ozone.unep.org/system/files/documents/TEAP-2021-Progress-report.pdf.*

[157] European Commission, 2006. Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air-conditioning systems in motor vehicles and amending. Available at: *https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32006L0040.*

a transition in the middle of a MY. Moreover, after reviewing the comments and considering the (i)(4) factors, we do not agree that a delay of two years to MY 2027 is reasonable or appropriate for MVAC in LD vehicles. The agency has identified three available substitutes for use in MVAC in LD vehicles and recognized that this transition is already well underway, and commenters largely agreed with the Agency's assessment. This confirms industry reports of the transition status for this subsector: the 2022 EPA Automotive Trends Report stated that approximately 95 percent of MY 2021 LD vehicles sold used HFO–1234yf (a substitute compliant with the 150 GWP limit) and most manufacturers have implemented HFO–1234yf across their entire vehicle brands.[158] This is a subsector that has already largely transitioned to use of lower-GWP substitutes meeting the new restriction; therefore, providing a compliance date of MY 2025, or at most one year after the date of final publication, is appropriate.

Comment: Several commenters requested that EPA not restrict exports of vehicles with MVACs using HFC–134a in the final rule. Some commenters said that the proposed timeline does not provide adequate lead-time to implement the required infrastructure updates and additional training needed at dealerships in all export countries. Commenters stated that because there are markets that do not yet support the lower GWP refrigerants, it is premature to be overly restrictive with an export prohibition that could hinder U.S. domestic manufacturing goals. One commenter stated that some countries have not yet decided to phase down HFCs, such as those in the Gulf Cooperation Council, and thus, there is no guarantee that these countries will have vehicle markets prepared to support different refrigerants within EPA's proposed timeframe. Another commenter stated that because of the uncertainty associated with the availability of HFO–1234yf in international markets, equipment manufacturers may need to export machines pre-charged with HFC–134a as well as bulk shipments of HFC–134a to properly service equipment abroad. This commenter asked EPA to ensure that the heavy-duty, nonroad equipment industry maintain an uninterrupted supply of HFC–134a for export purposes to ensure continuity.

Response: HFO–1234yf is widely used in MVACs on a global basis including those countries with large export markets. The transition of this sector began in the EU and the United States prior to the agreement of the Kigali Amendment to the Montreal Protocol in 2016. Commenters seem to imply a direct linkage between ratifying the Amendment and transition of an HFC use. While currently 150 countries have ratified the Kigali Amendment, EPA does not agree with that assessment. While the Agency agrees that this rule will support the U.S. domestic HFC phasedown under the AIM Act, this rule is under separate authority provided by Congress. In other countries, actions to restrict use of HFCs were underway ahead of the Kigali Amendment and without a domestic phasedown, notably the EU Mobile Air Conditioning Directive. With regard to the use of HFO–1234yf, there has been an increased use of HFO–1234yf on a global basis over the last decade as the replacement for higher-GWP MVAC refrigerants. Therefore, infrastructure for servicing vehicles is increasingly available globally as well.

EPA also notes that the final rule provides three years, rather than the proposed one year, before compliance dates for sale, distribution, offer for sale or distribution, and export are effective. As a result, LD vehicles manufactured in the United States using HFC–134a prior to the compliance date may still be exported prior to the introduction of MY 2028. Similarly, the nonroad vehicles covered in this rule would have a compliance date of January 1, 2028, for manufacturing new equipment, and would be able to export that equipment until January 1, 2031. See section VI.C.2.d for further discussion on exports.

Comment: Representatives of manufacturers of MDPVs, HD pickup trucks, and complete HD vans requested a MY 2028 or MY 2029 compliance date to allow time to design and validate AC equipment using new refrigerants. These commenters stated that their members had not yet converted any of their HD vehicles to HFO–1234yf, and that HD vehicles must be designed for higher capacity engine cooling systems, requiring changes from the design for LD vehicles. One of these commenters stated that it was more complex and increases the cost and time to transition to HFO–1234yf if only some HD pickups in class 2b and 3 and complete HD vans have an earlier conversion date, while other classes of HD vehicles in the same assembly plant continue to be manufactured with HFC–134a. This commenter suggested that delaying the timing for conversion until after EPA reviews HFO–1234yf for use with all remaining HD vehicles would allow manufacturers to convert all production in an assembly plant. This commenter also stated that some HD pickups are sold without beds so that upfitters add on to the AC equipment and some complete HD vans are sold with ''AC Prep'' packages allowing upfitters to complete or modify the AC equipment. This commenter suggested that the restriction apply only to HD pickups and complete HD vans which have AC equipment that will not be modified by upfitters, since the risk assessments on HFO–1234yf have not covered such vehicles. A representative of manufacturers of HD vehicles stated that HFO–1234yf is the logical next-generation refrigerant for MD and HD commercial vehicles and that EPA must first approve its use in all MD and HD on-road vehicles before the transition can happen.

Response: EPA recognizes the constraints posed by the proposed MY 2026 compliance date for MDPVs, HD pickup trucks, and HD complete vans which have AC equipment that will not be modified by upfitters, and we are finalizing a delay of this compliance date to MY 2028 to address many of the concerns raised by commenters. Unlike LD vehicles, which already widely use lower-GWP refrigerants, MDPVs, HD pickup trucks, and HD complete vans do not. Manufacturers will need to change MVAC designs, prepare facilities for safe use of flammable or high-pressure refrigerants such as HFO–1234yf or R–744 (*e.g.,* explosion-proofing refrigerant handling equipment), and train personnel in proper technical and safety procedures. Commenters for these uses did not advocate for a less stringent GWP limit for these uses within this subsector, suggesting that efforts to transition are already underway. Rather, commenters focused on needing additional time to effectuate the transition. EPA is therefore extending the compliance date to MY 2028 for these uses, providing two to three years after the final rule publication to accommodate factors impacting availability of substitutes.

The MY 2028 compliance date will also accommodate those facilities that manufacture different products or parts within one facility, and where EPA's restriction only covers some of the products or parts. The Agency agrees with the likely cost-effectiveness of converting an entire facility rather than staggering the transition. In addition, a MY 2028 compliance date is still before the 2029 stepdown in HFC consumption and can relieve the potential for shortages by reducing demand for HFCs.

[158] 2022 EPA Automotive Trends Report. EPA, 2023. Available at: *https://www.epa.gov/automotive-trends/download-automotive-trends-report#Summary.*

Finally, EPA is not establishing restrictions on HD vehicles that are modified by ''upfitters'' with AC equipment after manufacture, such as ambulances, shuttle buses, and motorhomes. We agree with commenters that substitutes that would allow them to meet the new restriction have not yet been identified for use in these vehicles.

Comment: Representatives of manufacturers of nonroad vehicles and HD trucks commented that much of the nonroad equipment industry does not use MY designations on their products. These commenters also asserted that it would take at least five years to design and validate new AC systems, convert production facilities, and develop and provide maintenance and service information for new AC systems. One such commenter noted that most of that work (for class 4 through 8 HD trucks) can only begin once EPA has provided certainty about applicable use conditions in a final SNAP rulemaking for HFO–1234yf.

Response: EPA agrees that a calendar year compliance date is more appropriate for nonroad vehicles since using MY dates is not a common practice in that industry. EPA also agrees that additional time is needed to redesign and convert AC equipment and production facilities, but that time should be limited. The Association of Equipment Manufacturers developed a risk assessment for each of the six categories of nonroad vehicles with a structure similar to previous SAE Cooperative Research Programme risk assessments for the use of HFO–1234yf in LD vehicles. The risk assessments found that HFO–1234yf can be used safely. EPA issued regulations to allow for the safe use of HFO–1234yf in six categories of nonroad vehicles in a final rule issued in May 2022 (87 FR 26276, May 4, 2022). Commenters did not object to the level of the GWP restriction, but requested additional time for compliance, indicating that industry expects that substitutes widely used in this subsector can be adapted for use in nonroad vehicles. EPA understands that the necessary work to transition to a refrigerant with a GWP below 150 is already well underway. Based on a review of the comments and information received during the comment period, particularly comments concerning the transition of manufacturing facilities, it is EPA's assessment that extending the compliance date by approximately two and one-half years is consistent with a review of the subsection (i)(4) factors. This also would allow roughly five years from the date of the proposed rule in December 2022, until the compliance date of January 1, 2028, consistent with the commenter's request. EPA is therefore finalizing a compliance date of January 1, 2028, for the six types of nonroad vehicles.

Comment: Many commenters, including representatives of automobile manufacturers, automobile dealers, and chemical producers requested that HFC–134a be allowed to maintain and service vehicles and equipment already manufactured with HFC–134a prior to the compliance date.

Response: Vehicles with MVACs that are manufactured to use HFC–134a before the compliance date (*i.e.,* MY 2025 for LD vehicles; MY 2028 for MDPVs, HD pickup trucks, and complete HD vans which have AC systems that will not be modified by upfitters; and January 1, 2028, for the six types of nonroad vehicles covered in this rulemaking) may continue to use HFC–134a after the applicable compliance date, including use for service, maintenance, and repair.

2. Foams

Foams are plastics (such as phenolic, polyisocyanurate, polyolefin, polyurethane, or polystyrene) that are manufactured using blowing agents to create bubbles or cells in the material's structure. The range of uses for plastic foams includes building materials, appliance insulation, cushioning, furniture, packaging materials, containers, flotation devices, filler, sound proofing, and shoe soles. Some foams are rigid with closed cells that still contain the foam blowing agent, which can contribute to the foam's ability to insulate. Other foams are open-celled, with the foam blowing agent escaping at the time the foam is blown, as for flexible foams.

A variety of foam blowing agents have been used for these applications. In the early 1990s CFCs and HCFCs were typically used. In implementing CAA title VI requirements to protect the stratospheric ozone layer, EPA issued regulations that banned the sale or distribution of foam products blown with CFCs and HCFCs except for HCFCs used for foam insulation products.

Blowing agents that are a liquid at room temperature (such as CFC–11, CFC–113, cyclopentane, HCFC–141b, HFC–245fa, HFC–365mfc, and methyl formate) are more commonly used in polyisocyanurate, polyurethane, and phenolic foams. Blowing agents that are gases at room temperature (such as CFC–12, CO_2, HCFC–22, HCFC–142b, HFC–134a, and HFC–152a) are more commonly used in polyolefin and polystyrene foams.

What restrictions on the use of HFCs is EPA establishing for foams?

EPA is restricting the use of HFCs and blends containing HFCs with a GWP of 150 or greater beginning January 1, 2025, for all foam subsectors included in the proposed rule. These subsectors, with examples, are:

1. Flexible polyurethane, which includes open-cell foam in furniture, bedding, chair cushions, and shoe soles;

2. Integral skin polyurethane, which includes open-cell foam used in car steering wheels, dashboards, upholstery, and shoe soles;

3. Phenolic insulation board and bunstock, which includes insulation for roofing and walls;

4. Polyolefin (*e.g.,* polyethylene, polypropylene), which includes foam sheets and tubes;

5. Polystyrene—extruded boardstock and billet, which includes closed cell insulation for roofing, walls, floors, and pipes;

6. Polystyrene—extruded sheet, which includes closed cell foam for packaging and buoyancy or flotation;

7. Rigid polyurethane—appliance foam, which includes insulation foam in household refrigerators, freezers, and hot water heaters;

8. Rigid polyurethane—slabstock and other, which includes insulation for panels and pipes, taxidermy foam, and other miscellaneous uses;

9. Rigid polyurethane—commercial refrigeration, which includes insulation for vending machines, coolers, commercial refrigeration equipment, pipes, shipping containers for perishable goods, and refrigerated transport vehicles; [159]

10. Rigid polyurethane—sandwich panels, which includes insulation panels for walls and metal doors;

11. Rigid polyurethane and polyisocyanurate laminated boardstock, which includes laminated board insulation for roofing and walls;

12. Rigid polyurethane—marine flotation foam, which includes buoyancy or flotation foams; [160] and

13. Rigid polyurethane spray foam that is applied *in situ,* which includes insulation for building envelopes, roofing, walls, doors, and other

[159] As described in section VI.C.1 and in this section, EPA is exempting certain applications as long as they have a current qualification for application-specific allowances under subsection (e)(4)(B) of the Act, including structural composite preformed polyurethane foam for trailer use.

[160] As described in section VI.C.1 and in this section, EPA is exempting certain applications as long as they have a current qualification for application-specific allowances under subsection (e)(4)(B) of the Act, including structural composite preformed polyurethane foam for marine use.

construction uses, as well as foam for building breakers for pipelines. Polyurethane spray foam is broken down further into high-pressure two-component, low-pressure two-component, and one-component foam sealants. These three applications vary in the types of systems used to apply them (one-component or two-component, high-pressure or low-pressure), who uses such systems (contractors using personal protective equipment, or consumers), and how much is applied (large-scale applications within walls or on roofs of a residence or filling in cracks, leaks, and gaps in a residence). For further information on spray foam applications, *see* SNAP Rule 21 (81 FR 86778 at 86846–86847, December 1, 2016).

These restrictions apply to the manufacture and import of new foam products, including fully formulated polyols and foam insulation, the blowing of foam to manufacture new products containing foams, such as appliances, furniture, or vehicles, and the import of such foam products and products containing foams beginning January 1, 2025. Foam products and products containing foam with blowing agents that are HFCs or HFC blends with a GWP of 150 or greater (*e.g.,* HFC–134a) may no longer be sold, distributed, offered for sale or distribution, or exported beginning January 1, 2028.

The use restrictions (including labeling and reporting) finalized in this rule do not apply to any product that qualifies for application-specific HFC allowances under subsection (e)(4)(B) of the AIM Act. Specifically, this final action does not restrict the HFCs used in the manufacture of structural composite preformed polyurethane foam for marine use and trailer use or foams used in mission-critical military end uses as they have a current qualification for application-specific allowances.

This rule also excludes spray and pour foams used in space vehicles, as defined in 40 CFR 84.3 from the use restrictions. Such equipment faces unparalleled and highly demanding operating conditions and requires long lead-times for its operation to be certified. This approach is consistent with EPA's CAA regulations where space vehicles were either exempted or given additional time to transition to substitute foam blowing agents. EPA proposed to exclude spray foams used in this application but has learned that pour foams requiring the use of HFCs are also used in space vehicles. EPA is exempting the use of both foam types in space vehicles from the restrictions in this final rule.

HFCs have been widely used as blowing agents in rigid polyurethane insulation foam (*e.g.,* appliance, commercial refrigeration, sandwich panels, and spray foams) and polystyrene—extruded boardstock and billet in the United States since the phaseout of ODS blowing agents such as HCFC–141b and HCFC–142b, particularly where insulation value and flammability have been important considerations. Available substitutes have increased in the last decade and the uses for substitute blowing agents have also expanded.

There is interest in using newer foam blowing agents with lower GWP, often to improve energy efficiency of the foam products. SNAP has listed HCFO–1233zd(E) (GWP 4), HFO–1234ze(E) (GWP 1), HFO–1336mzz(E) (GWP 26), and HFO–1336mzz(Z) (GWP 2) as acceptable for some uses. These newer substitutes, which are either nonflammable or lower flammability, may prove appropriate for subsectors where higher-flammability blowing agents raise safety concerns. In addition, some nonfluorinated lower-GWP blowing agents are now being used more broadly, such as carbon dioxide (GWP 1), light saturated hydrocarbons with three to six carbons (GWPs from 1 to 4), and methyl formate (GWP 13). The process and timing for retooling facilities to use new blowing agents or that incorporate the foam product into another product will vary depending on the substitute selected. Manufacturing facilities such as household refrigerator manufacturers have already been transitioning to lower-GWP substitutes for foam-blowing. Production volumes for some of these newer substitutes are expanding rapidly to keep pace with growing commercial demands.

For some types of foam that have historically used gaseous blowing agents, HFC–152a or blends containing HFC–152a may be an available alternative. The GWP of HFC–152a is 124, compared to 794 for HFC–365mfc, 1,030 for HFC–245fa, 1,430 for HFC–134a, and 4,470 for HFC–143a. Some manufacturers of polystyrene—extruded boardstock and billet transitioning from HFC–134a have recently starting using blends of HFC–152a and non-HFCs such as CO_2, HFO–1234ze(E), and/or HFO–1336mzz(Z).

Hydrocarbons are lower-GWP and cost-effective substitutes that have been available for years for large parts of the foam sector, particularly in polystyrene—extruded sheet, rigid polyurethane—slabstock, rigid polyurethane and polyisocyanurate laminated boardstock, phenolic insulation board and bunstock, and polyolefin. Hydrocarbons are used in most of the other foam subsectors, but less extensively. In EPA's consideration of the safety of available substitutes, flammability of foam blowing agents, including hydrocarbons, can be a concern, particularly for rigid polyurethane—two-component spray foam applications. Water is used broadly as a blowing agent in flexible polyurethane foam. Other non-fluorinated compounds such as methyl formate and methylal are also used as blowing agents, alone or in combination with other compounds, particularly in polyurethane foams.

There is little or no use of HFCs in the flexible polyurethane; integral skin polyurethane; polyolefin; polystyrene—extruded sheet; and rigid polyurethane and polyisocyanurate laminated boardstock subsectors. Water and hydrocarbons are commonly used available substitutes used as blowing agents for flexible polyurethane, polyolefin, polystyrene—extruded sheet, and rigid polyurethane and polyisocyanurate laminated boardstock. CO_2, and more recently, HFOs, are available substitutes used as blowing agents for integral skin polyurethane. Based upon comments and information received during the public comment period, EPA now understands that there is limited use of HFCs—in particular, HFC–152a—as foam-blowing agents in polystyrene—extruded sheet used as sheathing to insulate buildings.

Comment: Several commenters from the foam blowing industry raised concerns about the proposed GWP limit of zero for flexible polyurethane; integral skin polyurethane; polyolefin; polystyrene—extruded sheet; and rigid polyurethane and polyisocyanurate laminated boardstock. These comments requested that EPA clarify whether the GWP applies only to HFCs in a blend of blowing agents, or if it applies to the entire blowing agent. Some of the commenters suggested that if the GWP applies to the entire blowing agent that the GWP should be higher than zero for these five foam subsectors. One commenter suggested a GWP limit of less than 20 instead of zero, because non-HFC blowing agents such as hydrocarbons or HFOs have non-zero GWPs. Other commenters suggested GWPs of 50 or for blowing agent blends, either for all foam subsectors or at least for the subsectors for the commenters' products, to maintain a ''level playing field'' with other types of insulation. Two manufacturers of polystyrene—extruded sheet used as sheathing to provide insulation in buildings requested a GWP limit of 150 for all foam subsectors, or at least for

polystyrene—extruded sheet to allow for continued use of HFC–152a because of its contributions to insulation value, its technical achievability compared to other alternatives, and its reductions in volatile organic compounds (VOCs). One trade group commented that HFCs should be prohibited for all foam-blowing subsectors.

Response: EPA is establishing a GWP limit of 150 in all foam subsectors. Based on additional information received from commenters, EPA's earlier understanding contained in the proposed rule that little or no HFCs are being used as foam blowing agents in polystyrene—extruded sheet was incorrect. This foam subsector also includes insulation for buildings, similar to polystyrene—boardstock and billet, rigid polyurethane: spray foam, and rigid polyurethane and polyisocyanurate laminated boardstock. EPA agrees it is reasonable to use the same GWP limit for all foam subsectors used as insulation. Foam insulation blown with HFC–152a is more energy efficient, and thus, improves affordability for residential and small business consumers compared to foams blown with smaller molecules such as water, hydrocarbons, or CO_2. HFC–152a is in sufficient supply, is technologically achievable as a blowing agent on its own or blended with other blowing agents, and is currently being used in particular in polystyrene foams. HFC–152a, with its GWP of 124, is lower GWP than other HFCs that had been used in foam blowing. Further, to provide greater consistency and a ''level playing field'' between and within foams subsectors, to avoid confusion over use of a GWP limit of zero, and to set a GWP limit at one of the regular intervals being used across all the sectors and subsectors (*see* section VI.E.5 of the preamble), EPA is establishing a GWP limit of 150 for blowing agents in all foams subsectors that were included in the proposed rule.

Comment: Concerning the compliance date for the different foam subsectors, most commenters either supported January 1, 2025, as proposed or did not comment on it. Two companies that manufacture foam used in military and aerospace applications requested that EPA allow until 2030 for such applications because of the unique and highly demanding operating conditions that require extensive technical resources and time to evaluate.

Response: EPA is finalizing the proposed compliance date of January 1, 2025, for most subsectors that use HFCs and HFC blends as foam blowing agents. EPA is finalizing January 1, 2026, for military and aerospace foam blowing applications in recognition of the additional time that may be required to evaluate substitutes. EPA agrees with commenters that the operating conditions for military and aerospace applications are highly demanding. EPA also recognizes that the process of qualifying new materials to specification in military and aerospace applications is time consuming. Some uses raised by commenters are not subject to EPA's final restrictions. Mission-critical military uses identified by the Department of Defense, consistent with the requirements for receipt of application-specific allowances under subsection (e)(4)(B)(iv), are exempt. EPA is also exempting spray and pour foam used in space vehicles. Given these exemptions, but recognizing that applications may require more time for qualifying new materials to specification, EPA is finalizing a later compliance date of January 1, 2026, for foam-blowing uses in space and military applications that are not already exempted.

3. Aerosols

Aerosols use liquefied or compressed gas to propel active ingredients in liquid, paste, or powder form in precise spray patterns with controlled droplet sizes and amounts. In some cases, the propellant is also itself the active ingredient. The propellant, typically a gas at atmospheric pressure but a pressurized liquid in the product canister, is emitted during use. Some aerosols also contain a solvent in addition to the propellant. In some cleaning applications, the propellant disperses the solvent; in other applications, the solvent product and propellant solution are evenly mixed to improve shelf-life and product performance, such as by preventing dripping and ensuring uniform film thickness for spray paints. Consumer aerosols include products for personal and household use, such as hairspray, household cleaning products, and keyboard dusters. Technical aerosols are specialized products used solely in commercial and industrial applications, such as cleaning products for removal of grease from electrical equipment and sprays containing corrosion preventive compounds.

Available aerosol propellants with GWPs lower than the final restriction include HFC–152a (GWP 124), HFO–1234ze(E) (GWP 1), dimethyl ether (GWP 1), saturated light hydrocarbons (GWP 1 to 4), and CO_2 (GWP 1). Available aerosol solvents with GWPs lower than the final restriction include HCFO–1233yd(Z) (GWP 1), HFO–1336mzz(Z) (GWP 2), methoxytridecafluoroheptene isomers (MPHE) (GWP 2.5), HCFO–1233zd(E) (GWP 4), and petroleum hydrocarbons.

EPA is exempting certain uses with a current qualification for application-specific allowances under subsection (e)(4)(B) of the AIM Act, including certain aerosol applications. Subsection (e)(4)(B)(iv) lists six applications, three of which typically use aerosols: (1) Propellant in metered-dose inhalers, (2) defense sprays, and (3) mission-critical military end uses. The requirements of this rule do not apply to these uses of HFCs in these applications, since they have a current qualification for application-specific allowances under 40 CFR 84.13.

What restrictions on the use of HFCs is EPA establishing for aerosols?

EPA is restricting the use of HFCs and blends containing HFCs in aerosols that have a GWP of 150 or greater beginning January 1, 2025, as proposed. In response to comments seeking additional time to transition, EPA is extending the compliance date to January 1, 2028, for the following technical aerosol uses: cleaning products for removal of grease, flux, and other soils from electrical equipment or electronics; refrigerant flushes; products for sensitivity testing of smoke detectors; lubricants and freeze sprays for electrical equipment or electronics; sprays for aircraft maintenance; sprays containing corrosion preventive compounds used in the maintenance of aircraft, electrical equipment or electronics, or military equipment; pesticides for use near electrical wires or in aircraft, in total release insecticide foggers, or in certified organic use pesticides for which EPA has specifically disallowed all other lower-GWP propellants; mold release agents and mold cleaners; lubricants and cleaners for spinnerets for synthetic fabrics; duster sprays specifically for removal of dust from photographic negatives, semiconductor chips, specimens under electron microscopes, and energized electrical equipment; adhesives and sealants in large canisters; document preservation sprays; wound care sprays; topical coolant sprays for pain relief; and products for removing bandage adhesives from skin.

EPA is also extending the compliance date for use of the aerosol solvents HFC–43–10mee and HFC–245fa to January 1, 2028.

Commenters indicated some applications may still need the use of HFC–134a as a propellant and the use of the solvents HFC–43–10mee and HFC–245fa because of technical

limitations, such as a requirement for non-flammability. EPA is aware of possible substitutes with lower GWPs; [161] [162] but based on comments, EPA agrees additional time is needed to reformulate, test, and transition listed technical uses.

For the purpose of this rule, the GWP of an aerosol that contains HFCs as both a propellant and a solvent is calculated based solely on the weighted average of the HFCs and does not include other components of the aerosol product. This methodology is different from the SNAP program, where the propellant and solvent are considered as separate entities rather than as a mixture in aerosol products. The decision to use this GWP calculation of the aerosol product under subsection (i) of the AIM Act does not impact other regulations, in particular SNAP listing decisions.

Comment: In general, commenters stated that a GWP limit of 150 is appropriate for most aerosols but was too low for applications where flammability is a concern. HFC–134a (GWP 1,430) is currently used as a propellant in certain applications due to its non-flammable characteristic. Two commenters believed a GWP of 700, similar to what has been proposed for some refrigeration subsectors, was technologically achievable for niche applications while still maintaining non-flammability.

Response: EPA is finalizing a GWP limit of 150 for aerosols as proposed. EPA recognizes the commenters' concerns regarding flammability of some substitutes, and the impact of flammability on safety and thus availability of that substitute under AIM Act subsection (i)(4)(B). EPA disagrees with commenters that we should raise the GWP limit to 700. EPA is aware of possible substitutes with lower GWPs that are non-flammable. To allow for manufacturers to transition and address flammability risks and other technical challenges, rather than increase the GWP limit across the board, the final rule provides additional compliance time for specific uses of HFC–134a identified by the commenters and excepted under SNAP Rule 20, and for solvents identified by commenters where safety is of concern.

Comment: EPA received a number of comments on the proposed compliance date of January 1, 2025, for certain uses of HFC–134a excepted in Rule 20 and for the aerosol solvents HFC–43–10mee and HFC–245fa. Many commenters requested additional time to address flammability concerns, to complete reformulation and testing, and if necessary, obtain governmental approval from other agencies such as the Food and Drug Administration (FDA) and Federal Aviation Administration (FAA). Many commenters requested a compliance date of January 1, 2030, noting that HFO–1234ze(E) could be an alternative propellant but expressed concern about its availability due to the uncertainty of potential future regulations concerning per- and polyfluoroalkyl substances (PFAS). One manufacturer requested a compliance date of January 1, 2029, for one specific use and stated that an alternative product is currently in development with their goal for final sale of the current HFC–134a product January 1, 2028. Other commenters cited 3–7 years and 5 years needed for transition for medical products. Many other commenters requested exceptions for certain uses of HFCs in aerosols, noting that would allow for more time to formulate an HFC alternative, but did not specify how much more time would be needed.

Response: EPA agrees that it may be difficult for manufacturers to transition all aerosol products using HFCs to alternatives by January 1, 2025. This is particularly true in applications where flammability is a concern or where a specific vapor pressure is needed to achieve the desired result. In this final rule, we are extending the compliance date to January 1, 2028, for products using aerosol solvents HFC–43–10mee and HFC–245fa and also for listed technical aerosols that currently use HFC–134a as a propellant, taking into consideration availability under subsection (i)(4)(B). We are adding an additional three years beyond what was proposed, allowing at least four years after finalization of this rule, for reformulation and specific U.S. Federal government reviews or other third-party approval if needed, including EPA pesticide registration, testing to U.S. military or space agency specifications, and FDA approval.

EPA acknowledges the concerns commenters expressed regarding the potential for future regulation of PFAS and how that may impact the availability of some substitutes. There is currently no single commonly agreed definition of PFAS, and whether HFCs or HFOs are classified as PFAS depends on the definition being used. EPA's PFAS roadmap sets timelines for specific actions and outlines EPA's commitments to new policies to safeguard public health, protect the environment, and hold polluters accountable.[163] EPA elected in this final rule to issue restrictions, including for this subsector, using a GWP limit approach. Under that approach, regulated entities are not required to use any particular substitute, and the approach inherently permits the use of any substitutes consistent with the restrictions. We have identified a number of available substitutes in this rule and we also anticipate that as the phasedown of HFCs progresses there will be continued innovation of HFC substitutes, and it is reasonable to expect that producers of these substitutes will be cognizant of developing PFAS regulations.

Comment: In the proposed rule, EPA requested comment on whether and why we should include a list of exceptions for propellants in this rulemaking that matches some or all of those included in SNAP Rule 20. All the commenters requested that EPA continue to provide some or all of the HFC–134a propellant exceptions listed in SNAP Rule 20. Some also requested EPA provide exceptions for the aerosol solvents HFC–43–10mee and HFC–245fa.

Response: The structure of the SNAP program and this regulation under subsection (i) of the AIM Act are markedly different in many ways. Therefore, EPA did not propose and is not finalizing a regulation that mirrors the approaches used in SNAP Rule 20. EPA's assessment is that by extending the date of compliance to January 1, 2028, for both propellants and solvents, the formulators will have sufficient time to develop new formulations for the exceptions that were requested by the commenters.

Comment: One commenter raised concerns about the cost of development for a lower-GWP alternative and the recurring cost of goods. In particular, the commenter noted that the current cost of lower-GWP substitutes is much higher than the current costs of HFC–134a and HFC–245fa. The commenter indicated that the economic investment required by this rule to develop and test substitutes will result in longer timeframes to recoup costs and achieve a return on investment.

Response: EPA understands that investments are necessary for reformulating products and that these costs can vary based on the specific circumstances. As the HFC phasedown continues, increased scarcity of HFCs will affect their price. In this action, EPA has included this commenter's use as one which may continue to use HFC–

[161] See email from HCPA to EPA, dated August 8, 2022.

[162] See Evaluation of Continued Need for HFC–134a in Specific Aerosol Propellant Applications memo in the docket.

[163] Available at *https://www.epa.gov/pfas.*

134a through January 1, 2028. We anticipate that the longer compliance timeframe will allow for development and testing associated with transitioning to substitutes for the commenter's use, and that in the same timeframe, the relative cost difference of HFC–134a to substitutes may diminish, relative to current costs.

VII. What are the labeling requirements?

EPA seeks to deter, identify, and penalize the manufacture, import, sale, distribution, offer for sale or distribution, export, or installation of products and equipment from using certain HFCs that are prohibited. Consistent with EPA's explanation in the Allocation Framework Rule, based on experience with the ODS phaseout and HFC phasedown thus far in the United States, and global experiences transitioning from ODS and HFCs, EPA anticipates there will be attempts to introduce prohibited equipment into the United States.

Labeling is important for ensuring compliance, discouraging noncompliance, and facilitating enforcement. Labeling allows purchasers to determine what they are buying and whether the product is compliant. Labels provide information to distributors and retailers who are subject to restrictions on the sale or distribution of noncompliant products and certain components. It also provides information to technicians and system owners and operators that allows them to determine whether the specified component is prohibited for use in the installation of a new system or is limited to servicing and repair. Labels also allow the Agency to take action to remove noncompliant products from the market and assess compliance of installed systems.

For the labeling requirements, EPA is requiring information on labels for products, specified components, and systems that use regulated substances, regardless of GWP, in the sectors and subsectors covered by this rule. Knowing what HFC, or blend containing an HFC, is used is a necessary step to ensuring that the use of HFCs complies with the restrictions established through this rulemaking. For products, specified components, and systems that use an HFC, or a blend containing an HFC, EPA is requiring that the label include the HFC(s) or blend and the date of manufacture, or at a minimum, the four-digit year. For products in the MVAC subsectors, either the model year or the date of manufacture, at minimum the four-digit year may be used.

For specified components that are intended for use with an HFC, or blend containing an HFC, EPA is requiring that the unfilled equipment be labeled to indicate the HFC(s) or blend(s) containing an HFC intended for use in the specified component. At the time of first charge the system must be labeled to indicate the HFC or blend containing an HFC used in the system and the date of first charge, or at a minimum, the four-digit year. The new label would only need to include the HFC(s) or blend(s) used if it is different from what is listed on the first label or if the first label indicates that the equipment is intended for use with multiple HFCs or blends containing HFCs. New labels must be affixed near but not covering the original label.

Additionally, EPA is requiring that labels for systems in the following subsectors indicate the refrigerant charge capacity: (1) Industrial process refrigeration (without chillers), (2) cold storage warehouses, (3) retail food refrigeration—supermarket systems, (4) retail food refrigeration—remote condensing units, and (5) retail food refrigeration—refrigerated food processing and dispensing equipment (remote). The GWP limit varies based on the charge size in these subsectors, thus that information is needed for the purposes of ensuring compliance. The charge size must be added to a label on the system no later than the date of first charge. The label may either be the specific charge size of the system or the charge size as it relates to the threshold of the related subsector. For example, the charge size for a supermarket could be labeled as ''Charge 150 lb'' or ''Charge < 200 lb.'' EPA is not specifying the wording so as to allow the use of existing labels that already convey the necessary information.

EPA is requiring that labels for self-contained automatic commercial ice machines indicate the harvest rate, either as the specific harvest rate of the equipment, or the harvest rate as it relates to the threshold for the relevant subsector, such as an indication that harvest rate is either greater than 1,000 pounds of ice per day or less than or equal to 1,000 pounds of ice per day for batch-type ACIMs or an indication that the harvest rate is either greater than 1,200 pounds of ice per day or less than or equal to 1,200 pounds of ice per day for continuous-type ACIMs. Labels for industrial process refrigeration chillers and industrial process refrigeration systems without chillers must include an indication of the designed exiting fluid temperature. For all these subsectors EPA is not specifying the specific wording so as to allow the use of existing labels that already convey the necessary information.

For specified components that contain or are dry shipped and intended for use with HFC(s) or blends containing HFC(s) that exceed the applicable GWP limit or HFC restriction, the label must state ''For servicing existing equipment only'' in addition to the other required labeling elements.

For the aerosols and foams sectors, where standard blends of HFCs are uncommon, the label must identify all the HFCs used in the product. If they are used as part of an identified blend, the blend may be labeled. If multiple HFCs are used, or an HFC with a GWP greater than the limit is used, such as HFC–134a, either the weights of the HFC(s) relative to the other blowing agents, propellants, solvents, or to the other HFCs must be on the label, or the label must include ''GWP <150.'' For example, the label of a board of extruded polystyrene boardstock could be labeled ''GWP<150'' or ''contains blend of up to 90 percent HFC–152a and the remainder HFO–1234ze(E).''

EPA is requiring that the permanent label be formatted as follows: (1) In English; (2) durable and printed or otherwise labeled on, or affixed to, the external surface of the product; (3) readily visible and legible; (4) able to withstand open weather exposure without a substantial reduction in visibility or legibility; and (5) displayed on a background of contrasting color. Additionally, for equipment being sold electronically through eCommerce platforms, EPA is requiring that labels or a description of the required information be clearly included in information available prior to purchase, either in the text description or photo of the equipment. Websites for products and specified components using a regulated substance would need to have the required information clearly visible in either the photos or the description of the item. If a product or specified component is contained within a box or other overpack that reaches the consumer, the exterior packaging must also contain a label consistent with the formatting requirements described previously. For imported products or specified components, labels must be visible and readily available for inspection.

The labeling requirement takes effect for each subsector at the same time as the manufacture and import prohibition for products or the installation prohibition for systems. In the case of components that could be used in multiple subsectors, the earliest compliance date among the possible subsectors is the applicable date. This

timing reflects the primary purpose of the labels, which is for assessing compliance of products and systems in sectors and subsectors with active HFC restrictions. For example, consumer aerosols would need to be manufactured or imported with labels starting January 1, 2025, while technical aerosols would be subject to the labeling requirements starting January 1, 2028. Consumer aerosols manufactured or imported prior to January 1, 2025, would be able to be sold until January 1, 2028, without a label that meets the requirements of this rule.

EPA is requiring that as of the applicable manufacture/import compliance date, no person may manufacture or import a product that contains or is intended for use with HFCs that lacks a label consistent with the requirements of this section. Likewise, for systems, EPA is requiring that as of the applicable installation compliance date, no person may install a system in the sectors and subsectors of this rule that contains or is intended for use with HFCs that lacks a label consistent with the requirements of this section. For specified components of systems, EPA is requiring that as of the applicable installation compliance date, no person may manufacture or import a component for a system in the sectors and subsectors of this rule that contains or is intended for use with HFCs that lacks a label consistent with the requirements of this section.

Products, specified components, and systems that are manufactured, imported, or installed after the compliance date in the sectors and subsectors covered by this rule that use HFCs or are intended for use with HFCs and lack the appropriate label are presumed to be using a regulated substance exceeding the GWP limit for that sector or subsector.

Comment: Many commenters supported certain aspects of the labeling proposal. Several supportive commenters agreed with the Agency that labeling products will be valuable for assessing compliance and allowing for enforcement. Another commenter supported a requirement for each regulated substance that could be used to be listed on the label for dry-shipped components that are intended for use with HFCs. Another commenter supported on-product labeling for all products covered by this rule and it being a violation to not label products regulated by this rule. Another commenter was opposed to any labeling requirements in this rule as they considered them to be 'unnecessary and duplicative.'

Response: EPA acknowledges the support for the labeling provisions provided in the comments and the perspectives raised by the commenters. EPA disagrees with the comments that the labeling requirements of this rule are 'unnecessary and duplicative.' The labels required in the final rule generally align with other existing labeling requirements. EPA has made clear that existing labels that contain the required information can satisfy the labeling requirements. Therefore, many products and equipment already meet the labeling requirements, particularly in the RACHP sector. However, existing labels for foams and aerosols vary and thus uniform labeling for purposes of the HFC transition are necessary. Furthermore, labels allow retailers and distributors to assess whether their products and equipment are subject to the sales restriction. Without labels to identify the regulated substance used and other compliance related information, the Agency, consumers, and entities throughout the sale and distribution chain will not be readily able to assess compliance.

Comment: Multiple commenters stated that EPA should not require GWP on labels since GWPs can be easily researched if the HFC or HFC blend is provided. The commenters noted that the GWP values for HFCs are periodically modified by the IPCC, and the value required to be used (AR4, AR5, etc.) can vary based on regulations. The commenters stated that this could result in inconsistent labeling across jurisdictions and confusion. One commenter requested that the Agency not require GWP on the label as the information is not readily accessible or useful to customers and does not provide value to technicians in the RACHP sector. An additional commenter noted that in the foam sector, labeling products with the GWP value could reveal proprietary information, as the precise mixture of blowing agents varies by company and is not public knowledge. Additionally, this commenter shared that labeling products with the precise GWP value would be difficult since the mixtures can vary slightly between batches which could result in small differences in GWP values between products. This commenter recommended that EPA not require the specific GWP on the label and could instead require a statement that the product complies with the GWP limits. Several commenters requested that if the global warming potential is retained on the label, that EPA accept labeling it as 'GWP' given space constraints on labels and the commenters' assessment that the term GWP is widely known. The commenter noted that 'GWP' could also be defined in a product manual to ensure the information is in the relevant language where sold.

Other commenters supported the proposal to label all products with the GWP. These commenters highlighted the particular importance of including the GWP on the label as 'global warming potential,' as they noted that GWP information on a label would be helpful for consumers who may not be familiar with the acronym 'GWP.' One commenter stated that given the considerable quantity of different HFCs and blends that will be on the market, it is essential to include the GWP limit for the product on the label to strengthen enforcement and compliance as the GWP limit is easier to enforce compared to referencing an extensive blend list.

Another commenter requested that EPA use the term 'Exchange Value' as opposed to 'GWP' or 'global warming potential.' This commenter noted that in their opinion, using 'Exchange Value' would be more precise as the GWP limits under the AIM Act are not the most up-to-date and also there are other recognized GWPs that could lead to confusion.

Response: EPA is not finalizing a requirement for labels to specify the GWP. EPA finds the concerns raised about the inconsistent GWP values resulting from updates from the IPCC and different requirements by jurisdiction to be particularly compelling. The varying GWPs could cause confusion and result in unintentional noncompliance. The Agency maintains that listing the GWP could provide some benefit, such as informing consumers about the environmental impact of the products they are purchasing, as well as allowing for easier assessment of compliance. However, the information needed to assess compliance is still required on the label. Additionally, for the next several years, EPA plans to maintain a public website that lists HFCs, commonly used blends containing HFCs, and their respective GWPs that will provide a quick look-up tool for assessing compliance or comparing the environmental impact of products.

Comment: Numerous commenters requested that EPA eliminate the labeling requirement if the required information is required by other authorities and current labels contain the same information. They noted that this would provide the necessary information while reducing burden for manufacturers. One commenter noted

that many products in the RACHP sector already label what HFC is used. Other commenters specifically requested that the Agency allow information already included in the Vehicle Manufacturing Label, SAE J–639 label, or on a safety data sheet to satisfy the labeling requirement for this rule. Another commenter expressed support for the creation of a standardized label or symbol under this rule to show compliance with the restrictions, create uniformity among the regulated community, and facilitate consumer recognition.

Response: EPA is clarifying that existing labels that meet the requirements of this rule and include the required information are sufficient. EPA agrees it is not necessary to have additional labels that provide the same information. EPA recognizes that most, if not all, of the information required by this rule is already provided on equipment through existing labels, such as UL labels or nameplates. It is not the intention of the Agency for the labeling requirement to result in duplicative information on labels. EPA instead is seeking to ensure that the information necessary to determine compliance with this rule is visible and readily available for the products, specified components, and systems covered by this rule. EPA is not finalizing as part of this rule the creation of a standardized logo, signal word, text, or label format to be in compliance with the labeling requirements finalized through this action. In addition, the Agency takes note of the idea raised by the commenter and may revisit this concept in a future rule.

Comment: EPA also received a significant number of comments related to the proposed requirement to include the date of manufacture on the label. One commenter noted that having the date of manufacture (at minimum the manufacture year) on the product would be helpful for assessing compliance with this rule, as well as other regulations. Others commented that EPA should allow for an already existing date code on the labels to satisfy the date of manufacture requirement, while other commenters requested that EPA allow for the serial number or a traceable batch code to fulfill the requirement. Other commenters requested that EPA allow the date listed on the nameplate to satisfy the requirement, at least for stand-alone refrigeration equipment.

Response: EPA understands that some companies have methods in place to indicate the date of manufacture of their product. For the purposes of this rulemaking, the Agency seeks to minimize duplication of the information required on the labels wherever possible. However, given the complex distribution chains for some of the equipment for which labels are required, it is also important for other entities throughout the distribution chain to be able to assess compliance of equipment they intend to purchase, sell, or otherwise distribute. If the product does not clearly indicate the date of manufacture, it may not be possible for entities beyond the OEM to assess its compliance. For this reason, EPA is retaining the requirement that each product have the date of manufacture (at minimum the four-digit year) on a label on the item, included in the associated packaging material, or available via a QR code.

Comment: EPA received several comments related to requiring the charge size on the label. One commenter stated that the label should not have to indicate whether the charge size is above or below a threshold as they believe that to be unnecessary. Another commenter noted that the indication of the charge size threshold specific to this rule (such as the 200 lb cutoff for supermarkets) may be useful for enforcement of this rule, but a universal indication of charge size would be useful for general enforcement for this regulation as well as others that may exist for instance at the State level. This commenter noted that knowing the exact charge size could be useful for estimating the total extent of a violation. The commenter shared that certain U.S. States already regulate some of these products based on a different size threshold, therefore requiring an indication of intended charge size would make these labels useful for States as well.

Response: EPA is finalizing the option for regulated entities to label their equipment with the charge size either as the specific charge size of the system or the charge size related to the threshold of the related subsector. For example, the charge size for a supermarket could be labeled as 'Charge 150 lb' or 'Charge < 200 lb' For certain aspects of this rule, the GWP limit varies based on that charge size threshold in that subsector, thus information about the charge size is needed for the purposes of ensuring compliance. Retaining both options will provide flexibility in meeting this requirement while retaining the information necessary for the Agency and others throughout the distribution chain to assess compliance.

Comment: Several commenters responded to EPA's request for comment on alternative methods for satisfying the labeling requirements. Some asked that EPA retain QR codes as an option as this would allow the greatest flexibility for manufacturers and could be useful as it would allow for changes to the label to comply with future regulations. Others requested that EPA not mandate the use of QR codes as they are costly to maintain and not widely used in the foam sector. Other commenters stated that a QR code alone would not be sufficient for providing information to the consumer and that accompanying text explaining the purpose of the QR code would be required. Finally, one commenter supported there being multiple ways to satisfy the labeling requirement, such as QR codes, package labeling, and eCommerce descriptions. That commenter also requested that EPA mandate that QR code labels be accompanied by printed product information that can be produced at any time if requested.

Response: EPA is finalizing the ability for manufacturers to meet the labeling requirement by including the required information in packaging materials (*e.g.,* tag, pamphlet, or box containing the product or specified component) or through an on-product QR code instead of a traditional label. This associated packaging must be present with the product or specified component at the point of sale and import to fulfill the labeling requirement. To satisfy the labeling requirement, the QR code must direct to the required information and meet all the requirements of the on-product label. The label with the QR code must include adjacent text to indicate the purpose of the QR code, such as 'contains HFC information' or 'scan for HFC info.' A QR code may be useful for products where there is limited space for on-product labels or the accompanying packaging and allows for additional flexibility in meeting the labeling requirements while still retaining the necessary information for assessing compliance. A nonfunctional or unreadable QR code does not fulfill the labeling requirement and would be treated as a missing label. For products and specified components being sold through eCommerce, the QR code would not be sufficient on its own and the description on the eCommerce site would also have to contain the required information.

Comment: EPA received several comments related to the idea for an administrative process to address products that have been found to be mislabeled or lacking a proper label. One commenter supported the website highlighting noncompliance that was considered at proposal. They noted that such a system would increase

compliance through transparency and inform the public of entities that may be introducing illegal products into the marketplace. This commenter recommends these entities be restricted from using regulated substances as defined in the proposed rule for a set period of time, with increasing lengths for repeated offenses, under the assumption that repeated noncompliance is an attempt to avoid regulations and should result in permanent use restrictions for the entity. Another commenter suggested an option which would be a list of compliant products. This list would aide purchasers and users in self-compliance efforts and positively promote enforcement actions.

Response: EPA values approaches that inform the public. Therefore, the Agency is finalizing use of an administrative process to address equipment that has been found to be mislabeled or lacking a proper label and that such a process will include an electronic means of sharing information regarding noncompliance with the public. As EPA noted in the proposed rule, this administrative process does not supplant or replace any enforcement action that may be available for violations of EPA's regulations or the AIM Act. Instead, such consequences are in addition to any applicable enforcement action. EPA's intent in establishing labeling provisions is to support the enforcement of prohibitions on the use of certain HFCs and blends containing HFCs that exceed the GWP limits or are otherwise prohibited. Not providing a label or mislabeling equipment hampers EPA's ability to enforce those prohibitions. As an administrative process for quickly correcting mislabeled or unlabeled equipment, EPA is finalizing the option of creating an electronic list that would provide a list of entities that manufacture, import, sell, distribute, or offer for sale or distribution, or export products or specified components that have been found to be mislabeled or lacking a proper label.

Transparency is a significant means of ensuring compliance, as discussed in detail in the Allocation Framework Rule (*see* 86 FR 55191, October 5, 2021). EPA intends to employ similar processes for notification and response finalized in 40 CFR part 84, subpart A. This includes notifying the entity of the Agency's finding that a product or specified component is mislabeled or lacking a label, and of our intent to list them as not meeting the subsection (i) labeling provisions. The Agency will provide 30 days from the initial notification for the entity to respond, after which the entity would be publicly listed on EPA's website. To be eligible for removal from the website, the entity must submit a demonstration that the labeling issue has been resolved along with a description of measures that the entity has put in place to reduce the likelihood of future labeling problems. Publicizing noncompliance could be an effective method to deter violations and provide valuable information to consumers.

EPA requested comment on whether there should be a standardized process to correct missing or inaccurate labels on products, and if so, what that process should be.

Comment: EPA received several related comments, one commenter did not support a standardized process for fixing labels, as they believed that this could discourage necessary adjustments to labels from taking place. Another commenter requested that EPA set up a standard process for requesting new labels and certifying that they are accurate.

Response: The Agency is not finalizing a standardized process for correcting missing, inaccurate, or otherwise noncompliant labels in this rule. EPA may revisit this decision in the future but at this time does not believe that a standardized process for correcting labels is necessary to assess compliance and allow for enforcement actions under this rule.

The labeling provisions are intended to support compliance with the prohibitions on the use of high-GWP HFCs in certain sectors and subsectors. Requiring a manufacturer or importer to affirmatively and publicly specify the HFC being used through a label reinforces their compliance with the limits established through this rulemaking. Accurate labeling information also supports compliance with the limits by allowing distributers, as well as competitors and the general public, to assess whether a product uses a compliant HFC. The labeling and packaging requirements may also ease inspection by EPA and CBP and facilitate efforts to prevent the import or manufacture of noncompliant products. Clearly and visibly identifying the HFC, or blend containing an HFC, used provides one mechanism for inspectors to quickly identify noncompliant products and/or identify products for further inspection.

As a secondary consideration, the information on the labels and packaging materials can provide consumers with information about whether a product uses an HFC or blend containing an HFC. This information may alter consumer purchasing choices and could increase market pressure for the transition away from products that use HFCs.

VIII. What are the reporting and recordkeeping requirements?

EPA is establishing recordkeeping and reporting requirements for any entity that domestically manufactures or imports products or specified components that use or are intended to use regulated substances or blends containing a regulated substance in the sectors and subsectors covered in this rulemaking. As with labeling, this requirement applies regardless of the GWP of the HFC or HFC blend used or intended to be used.

EPA is not finalizing the proposed reporting and recordkeeping requirements for the installation of field-charged systems in this rulemaking. The Agency may seek to establish reporting and/or recordkeeping for installed systems in a future rulemaking under the AIM Act. The proposed rule included both reporting and recordkeeping requirements for importers and domestic manufacturers of products, which as defined in the proposal was inclusive of field-charged systems. The proposed rule also included an exemption for field technicians or installers of systems from such requirements.

A subset of the entities subject to these reporting requirements currently report under subpart QQ of the GHGRP.[164] The GHGRP covers the mandatory reporting of greenhouse gas emissions and supplies from certain facilities and suppliers. To meet the needs of this final rule without unnecessarily increasing the administrative burden to those entities that would be subject to both subpart QQ of 40 CFR part 98 and this rulemaking, to the extent possible, EPA is aligning with the data elements and reporting schedule collected by the GHGRP subpart QQ. However, both subparts apply, and the reporter is expected to meet the requirements codified under both subparts.[165]

While many of the reporting elements overlap with those of the GHGRP, the scope of the reporting universes is different in a few important ways. First, this rule applies to both domestic manufacturers and importers, whereas the GHGRP applies to importers and exporters. Second, this rule requires reporting from all manufacturers and

[164] 40 CFR part 98, subpart QQ, ''Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-Charged Equipment or Closed-Cell Foams.''

[165] EPA is not making any changes to 40 CFR part 98 in this rulemaking.

importers of products and specified components regardless of the volume of HFCs within those products. In contrast, the GHGRP excludes entities that import and export less than 25,000 $MTCO_2e$ per year [166] (and are not otherwise required to report under 40 CFR part 98). Third, this rule requires reporting from manufacturers and importers of aerosol and aerosol solvent products containing HFCs which do not report under the GHGRP. Requiring all entities to report is important for understanding how HFCs are being used or are intended for use in products and specified components and provides important information for verifying compliance and allowing for better oversight.

EPA is requiring covered entities to register and report electronically.[167] EPA intends to limit to the extent practicable duplicative burden between the AIM Act and the GHGRP and plans to use a mechanism to synchronize these systems similar to the Agency's efforts under the HFC Allocation program. Entities already subject to reporting under 40 CFR part 98, subpart QQ may need to comply with the reporting requirements of this rule but should not need to duplicate their efforts. Where there is overlap in requested data, EPA intends to internally direct data to the appropriate Agency data systems to reduce duplicative burden as much as possible for reporters that fall under this rule and under GHGRP subpart QQ.

Comment: The Agency received several comments with concerns about the proposed approach to require manufacturers and importers to report for field-charged systems. Some commenters indicated that these requirements would result in duplicative reporting, with EPA receiving reports for both components of systems and the completed system. Additionally, some commenters indicated that data would be inaccurate, as the manufacturers and importers would often have no way of knowing the total volume of refrigerant charged in the field. Instead, one commenter indicated that the reporting would be more accurate if it occurred after the system is installed and charged as opposed to having manufacturers or importers estimate an expected charge of a system, which could be changed by numerous factors during installation.

Response: EPA agrees with the commenters that it is impractical for manufacturers and importers to report on intended uses that they may not know about. Reports for systems are most useful and effective for ensuring compliance, allowing for enforcement, and understanding HFC use when they are fully accurate and reflect how HFCs are being used. As a result, in this rule, the Agency is focusing the reporting on the information that can be known by the domestic manufacturer and importer of products and specified components and is not finalizing a requirement for reporting for systems prior to or upon their installation.

Comment: Several commenters expressed support for electronic reporting and for the Technology Transitions program utilizing the existing e-GGRT platform, which is used by reporters subject to the GHGRP requirements codified under part 98, as regulated entities have familiarity, access, and confidence in the system.

Response: EPA determined it could meet its goals under subsection (i) of the AIM Act while using an existing platform that was already familiar to many of the reporters. The Agency maintains that if in the future, it cannot meet the needs of subsection (i) with existing reporting mechanisms, EPA may require use of a different data system.

Comment: Several commenters requested that EPA not create any new recordkeeping and reporting requirements outside of what is already covered in subpart QQ of the GHGRP, and by other EPA requirements, such as the requirements overseen by the Office of Transportation and Air Quality.

Response: EPA is mindful of the various reporting requirements across the Agency and has taken an approach to minimize duplicative reporting where possible, but notes that the scope and purpose of this rulemaking is separate from those regulations promulgated under different statutory authorities for different programmatic goals. The reporting and recordkeeping provisions specific to this rule are necessary to implement and enforce subsection (i) of the AIM Act, which directs EPA to restrict the use of HFCs in the sector or subsector in which they are used. The broader scope of reporting in this rule allows EPA to assess the threshold question of identifying which sectors or subsectors use HFCs, which HFCs, and in what quantities, in order to inform its decision-making under subsection (i) to act on petitions and promulgate rules to facilitate the transition of sectors and subsectors away from those HFCs.

A. What reporting is EPA requiring?

Covered entities in the refrigeration, air-conditioning, and heat pump sector must provide annual reports to EPA that include: (1) The subsector of the product or specified component based on the categorization in this rulemaking; (2) for each type of equipment with a unique combination of charge size and regulated substance or blend containing a regulated substance, the identity of the HFC or HFC blend used, charge size (including holding charge or no charge, if applicable), and number of each product type domestically manufactured, imported, or exported; and (3) for each item in (2) in this list, the total mass in metric tons of each HFC, or blend containing an HFC, used in the product type, and the mass of the regulated substance, or blend containing a regulated substance, per unit of equipment type. Additionally, for products within the refrigeration, air-conditioning, and heat pump sector that include closed-cell foams that contain HFCs, the reporter must also provide; (1) the identity of the HFC or HFC blend contained in the foam, (2) the mass of the HFC or HFC blend contained in the foam in each product, and (3) the number of products manufactured, imported, or exported with each unique combination of mass and identity of HFC or HFC blend within the closed-cell foams.

Covered entities in the aerosols sector must provide annual reports to EPA that include: (1) The subsector of the product based on the categorization in this rulemaking; (2) for each type of product with a unique regulated substance or combination of regulated substances, the identity of the HFC(s) used, and if multiple HFCs are used, their percentages, and number of each product type domestically manufactured, imported, or exported; and (3) for each item in (2) in this list, the total mass in metric tons of each HFC, or blend containing an HFC, used in the product type, and the mass of the regulated substance, or blend containing a regulated substance, per unit of product type.

Covered entities in the foam sector must provide annual reports to EPA that include: (1) The subsector of the product based on the categorization in this rulemaking; (2) for each type of product with a unique regulated substance, or blend containing a regulated substance, the identity of the HFC or HFC blend used, and the total volume of each manufactured foam product type; and the number of foam products (*e.g.,* polyols) type domestically manufactured, imported,

[166] Calculated as specified in 40 CFR 98.2.

[167] E–GGRT is EPA's electronic Greenhouse Gas Reporting Tool for certain sources and suppliers of GHGs in the United States to report GHG emissions (*https://ghgreporting.epa.gov/ghg/login.do*).

or exported; and (3) for each item in (2) in this list, the total mass in metric tons of each HFC, or blend containing an HFC, used in the product type, and the mass of the regulated substance, or blend containing a regulated substance, per unit of product type.

For the requirement to report the total mass in metric tons of each HFC, or blend containing an HFC, used in the relevant products and specified components in the RACHP and aerosols sectors, but excluding those in the foam blowing sector, reporters shall use the following equation:

$$I = \sum_t S_t \times N_t \times 0.001$$

where:

I = Total mass of the regulated substance or blend containing a regulated substance (metric tons) in all products the reporter imports and/or domestically manufacturers annually.

t = Equipment/product type using a regulated substance or blend containing a regulated substance.

S_t = Mass of the regulated substance or blend containing a regulated substance per unit of equipment type t (charge per piece of equipment, kg).

N_t = Number of units of equipment type t imported or domestically manufactured annually (pieces of equipment).

0.001 = Factor converting kg to metric tons.

For the RACHP sector, and for those foams that are an integrated part of a product (*e.g.,* the foam in a household refrigerator or freezer), S_t shall be the mass of the regulated substance, or blend containing a regulated substance, in the foam used as part of the product, and all other factors in the equation above shall remain the same.

For containers or foam blowing products (*e.g.,* polyols) which contain foam blowing agent, and are intended for use to blow foam, S_t shall be the mass of the regulated substance, or blend containing a regulated substance, in the container or foam blowing product, and all other factors in the equation above shall remain the same.

For those foams that are considered the product itself (*e.g.,* extruded polystyrene boardstock), S_t shall be the density of the regulated substance, or blend containing a regulated substance, in foam (amount per cubic foot of foam, kg of regulated substance per cubic foot), N_t shall be the total volume of foam imported or domestically manufactured annually (cubic feet of foam), and all other factors in the equation above shall remain the same.

This equation is used in 40 CFR part 98, subpart QQ for imports and exports of pre-charged equipment and closed-cell foams that contain a fluorinated GHG, as defined under 40 CFR part 98, and is already in use and familiar to those currently subject to reporting under subpart QQ.

EPA is also requiring that all entities subject to the reporting requirements in this rule provide necessary identifying information to EPA that includes: (1) The name of the importer or manufacturer, and the physical street address including city, State, and zip code; (2) the year covered under the report; (3) the date of submittal; (4) a signed and dated certification statement provided by the designated representative of the owner or operator; and (5) NAICS code(s) that apply.

As proposed, EPA is requiring that reports be signed and attested. Entities subject to the proposed reporting requirements must provide a statement of certification that the data they provide are accurate. Reporters must also certify that their products use only allowed HFCs, do not exceed any applicable GWP limit, and are properly labeled.

For equipment that is shipped without an HFC but is intended to use an HFC (*e.g.,* dry-shipped specified components of a field-charged system), EPA is requiring that the manufacturer or importer report on (1) the sector and subsector of the equipment based on the categorization in this rulemaking, if known; (2) the number of units, by unique combination of intended charge size and HFC; (3) the HFC or HFC blend intended to be used in the sector and subsector; and (4) the expected quantity of HFC or HFC blend that the equipment would contain when fully charged.

Requiring reporting from entities that are manufacturing or importing equipment that is intended for but does not contain HFCs or HFC blends will provide EPA with the full universe of relevant uses of HFCs or HFC blends in the covered sectors and subsectors including the quantity and type of HFCs used. It will allow the Agency to identify the entities that manufacture and import this equipment and support EPA's efforts to assess compliance. EPA seeks to ensure a level playing field for the regulated community and views reporting as a central mechanism for ensuring compliant companies are not placed at a competitive disadvantage. Importers and manufacturers who fail to report required information or provide inaccurate information would be considered in violation.

In addition to the required reporting elements being finalized, EPA had proposed that reporters provide (1) the GWP of the HFC or HFC blend used or intended for use in the products and (2) the date of manufacture or import. EPA is not finalizing requirements for either of these proposed reporting elements. First, EPA has the ability to calculate GWPs for provided HFCs and HFC blends. Removing this requirement will prevent unintentional reporting errors due to inaccurate GWP calculations, particularly as the AIM Act directs EPA to use values that are equivalent to AR4 values, whereas other entities may calculate GWPs differently. Second, EPA is removing the requirement to report the exact date of manufacture or import as a necessary data element.

Comment: Several commenters raised concerns about the Agency's proposal to include date of manufacture or import in the reports. The commenters described this requirement as being unjustifiably burdensome and indicated that it would provide little to no value for assessing compliance.

Response: EPA is mindful of the time and resources that reporters dedicate to fulfilling reporting requirements. Based on a review of the comments, EPA reconsidered and determined that the specific dates of import or manufacture will not be necessary. For other regulatory programs, knowing the specific day of import has utility in assessing compliance (*e.g.,* for imports of bulk HFCs in accordance with the HFC Allocation program), but knowing the specific day that a product was manufactured or imported would not provide significant additional value to the Agency's understanding of the market transition from using high-GWP HFCs. EPA is therefore removing these two data elements, GWP and date of import or manufacture from finalized reporting requirements. Because EPA is finalizing annual reporting, these reports would necessarily capture imports and production from a specific calendar year.

Comment: Numerous commenters requested that the Agency limit reporting to aggregated use of HFCs in equipment. These commenters raised concern about the detail requested in the reports and indicated that reporting more detailed information than a summary of the aggregated use of each chemical by subsector would be highly burdensome and costly for the reporters. EPA interprets ''bulk use of HFCs'' to mean reporting aggregated data, not the reporters' purchases of bulk HFCs as defined in subpart A of this part.[168]

[168] Under 40 CFR 84.3, EPA has defined bulk as it relates to HFCs as ''a regulated substance of any amount that is in a container for the transportation or storage of that substance such as cylinders, drums, ISO tanks, and small cans. A regulated substance that must first be transferred from a container to another container, vessel, or piece of equipment in order to realize its intended use is a bulk substance. A regulated substance contained in a manufactured product such as an appliance, an aerosol can, or a foam is not a bulk substance.

Reporting ''bulk use of HFCs'' would not be sufficient for ensuring compliance and allowing for enforcement of subsection (i). The Agency must have enough information in the reports to assess if the products and equipment are being reported in the correct subsector and that they meet all the specifications related to the restrictions. For instance, for certain products the GWP limit changes based on factors such as charge size. If reporters do not provide information related to the charge size of the products, it will not be possible for the Agency to assess market demand and other relevant aspects for the Technology Transitions program. Additionally, the specific level of data requested is in alignment with data already submitted under GHGRP and has been required for over a decade. As a result, the Agency disagrees with the commenters' assertion that the level of detail requested will be highly burdensome.

Comment: Several commenters noted that the public release of certain data elements, such as information related to production and sales volumes and GWPs of proprietary blends for foams, could result in financial damage to companies. Commenters requested that EPA use a confidential platform, such as e-GGRT, for reporting and ensure that the data collected are properly secured and Confidential Business Information (CBI) is treated as such.

Additional commenters noted that aggregated data could be released publicly by the Agency. One commenter noted that Section 114 of the Clean Air Act provides that 'emission data' shall be publicly available and cannot be withheld from the public as confidential information. The commenter also noted that EPA has long-standing regulations that define 'emission data' expansively to include 'a description of the device, installation, or operation constituting the source' of those emissions.

Response: The Agency understands the need to properly manage and secure CBI and is mindful of the concerns around specific data elements being released and will ensure that appropriate protections are in place for such data collected under this rulemaking. The Agency also agrees that there is substantial value in sharing reported data with the public. EPA plans to publicly share aggregated data collected under this rule through reports, or other public-facing material. EPA intends to protect CBI by aggregating data in public reports as well as implementing data reporting and management platforms appropriate for handling CBI.

1. What is the frequency and timing of reporting?

EPA is requiring annual reporting from domestic manufacturers and importers subject to the reporting requirements. EPA had proposed quarterly reporting to allow the Agency to review data throughout the year to identify trends and noncompliance on an ongoing basis. Quarterly reporting is also consistent with other reporting under the Allocation Framework Rule. EPA is requiring that reports be submitted to the Agency within 90 days of the end of the reporting period, rather than 45 days as proposed.

Comment: EPA received significant comment in opposition to the proposed reporting frequency. Most commenters requested that the Agency instead finalize annual reporting. These commenters indicated that quarterly reporting would be overly burdensome and costly for reporters and requested annual reporting as a more feasible frequency. The commenters stated that quarterly reporting would be cumbersome for the Agency, and they did not believe it would provide greater clarity on the total impact of the HFC phasedown than annual reports and would not be necessary to ensure compliance with this rule. Commenters also noted that annual reporting is sufficient under other reporting programs across the Agency, such as the GHGRP. Additionally, some commenters raised concerns about the costs associated with quarterly reporting disproportionately harming small businesses. Some commenters were supportive of quarterly reporting as they believed it would allow EPA to spot trends faster than annual reporting and noted that it is consistent with other reporting requirements under the AIM Act.

Response: After taking into consideration the information submitted in the comments on the proposed reporting frequency, EPA has decided that annual reporting will be sufficient for the Agency's purposes and will be less burdensome to regulated entities. While EPA agrees that quarterly reporting could allow for more detailed trends analyses and is consistent with other AIM Act reporting such as for imports of bulk HFCs, EPA agrees with commenters that annual reports will provide the information necessary for the Agency to meet the goals of the Technology Transitions program and should assist with compliance of this rule. The Agency will be able to react to reports in a meaningful way with information collected on an annual basis. If as implementation on subsection (i) continues, the Agency determines that more frequent reporting is necessary, EPA would propose a change in reporting frequency. At this time, the Agency views annual reporting to be a reasonable timeframe that would meet the Agency's information need and would be less burdensome than quarterly reporting. Therefore, the Agency is finalizing annual reporting.

Comment: Several commenters raised concerns about their ability to submit reports within 45 days. These commenters stated that 45 days was not sufficient time to compile and report the necessary data. The commenters also noted that this is significantly shorter than the 90-day requirement in subpart QQ of the GHGRP and requested that EPA allow reporters 90 days to submit their reports. Commenters mentioned that the longer timeline has been proven to be sufficient in the GHGRP and that aligning these timelines would be beneficial for those that report under both programs. One commenter explicitly supported the 45-day reporting requirement.

Response: EPA is mindful of the need for reporters to have sufficient time to compile and submit accurate and timely data. The Agency is also seeking to reduce burden by aligning with other existing requirements. EPA proposed 45 days to match the timing of reports for the production and import of bulk HFCs under the Allocation Framework Rules. However, EPA finds it more appropriate to align with the reporting schedule of the GHGRP given the greater overlap of reporters between this rule and that program.

EPA requested comment on whether to require reporters to provide notification to the Agency prior to an import. EPA is not finalizing such a requirement.

Comment: Some commenters indicted that pre-notification for imported products could result in delayed shipments, could strain supply chains, and negatively impact price stability and product availability. These commenters believe that a pre-notification system would not increase compliance or enhance enforcement efforts.

Response: While EPA considers pre-notification to be an important tool that EPA uses in a range of situations, the Agency agrees that for the purposes of implementing the Technology Transitions program under subsection (i) it is not necessary for EPA to require pre-notification at this time. EPA understands the concerns raised with regard to the timely import of compliant products; however, EPA has effectively used pre-notification processes with

other programs and does not consider pre-notification to create barriers to timely imports. Pre-notification can be useful for ensuring compliance at the point of import.

2. When do reporters need to begin reporting?

The Agency received a request for clarity regarding the compliance date for the reporting and recordkeeping requirements. A commenter asked when EPA would consider the start date for reporting to be. The proposed rule did not clearly specify when the recordkeeping and reporting requirements would begin to apply.

EPA is requiring that the reporting period for all sectors and subsectors start on January 1, 2025. This means that the first reports must be submitted to the Agency by March 31, 2026. Starting the reporting period on the same day for all sectors and subsectors will allow the Agency to monitor the full scope of the transition resulting from this rule. For subsectors with initial restrictions starting on January 1, 2025, the start date to the reporting period is needed to ensure compliance with the active restrictions. Reporting data provided from subsectors with restrictions starting after January 1, 2025, will provide valuable data to help EPA assess the use of HFCs in subsectors prior to the compliance restrictions. This information will be helpful to the Agency in its efforts to better understand the landscape of HFC use across the country, and it will also allow for proactive efforts by the Agency to ensure that subsectors are adequately preparing for the transition to lower GWP HFCs.

B. What recordkeeping is EPA requiring?

EPA is requiring that entities that import or domestically manufacture products or specified components that use or are intended to use a regulated substance in the sectors and subsectors covered by this rule maintain records that form the basis of the reporting requirements. These entities must retain records for a minimum of three years and make them available to EPA upon request. The importer or domestic manufacturer must also retain records of the company or retailer to whom the product or specified component was sold, distributed, or in any way conveyed to. Information regarding where products and specified components have been distributed, sold, or conveyed to after import or manufacture may be necessary for tracking noncompliant equipment when it is identified and removing it from the market.

In addition, EPA is requiring that importers retain the following records substantiating each of their imports: (1) A copy of the bill of lading for the import, (2) the invoice for the import, (3) the CBP entry documentation if applicable, (4) ports of arrival and entry through which the products passed, and (5) country of origin and if different the country of shipment to the United States. These provisions are consistent with the recordkeeping required for the subset of importers subject to subpart QQ of the GHGRP and will allow EPA to enforce the restrictions by tracking the movement and sources of noncompliant products when they are identified.

Comment: Numerous commenters supported the proposed recordkeeping requirements. These commenters indicated that retaining records for a period of three years is manageable for industry and requested that no additional data other than the items proposed be required for the purposes of recordkeeping. One commenter supported a recordkeeping period of five years instead of three years, as five years would align with the retention period of the HFC Framework rule.

Response: The Agency agrees that there may be benefits to aligning with the five-year retention period under the HFC Framework. However, EPA notes that a requirement to retain records for three years is common practice across other programs at EPA and we consider it will be sufficient for ensuring compliance and allowing for enforcement actions under this rule. Covered entities may choose to retain records longer and may have other reasons why doing so is beneficial. However, EPA is only requiring records be retained for three years.

Comment: Several commenters requested the Agency clarify the requirement that the importer or domestic manufacturer must retain records of the company or retailer to whom the product was sold, distributed, or in any way conveyed to. These commenters noted that manufacturers and importers often do not know the end purchaser of a product and requested that EPA clarify that manufacturers and importers are not required to keep records of all sales throughout the distribution chain.

Response: EPA is clarifying that this requirement only applies to the initial sale, distribution, or conveyance from the domestic manufacturer or importer to another entity. The Agency understands the complexity of distribution channels and does not intend for the manufacturer or importer to be required to retain records beyond the first conveyance.

IX. What are the costs and benefits of this action?

EPA estimated the costs and benefits of restricting HFCs consistent with this final rule. This analysis, presented in the RIA addendum contained in the docket, is intended to provide the public with information on the relevant costs and benefits of this action and to comply with executive orders. To the extent that EPA has relied upon costs and benefits estimates for purposes of analyzing factors under subsection (i)(4), as discussed in sections VI.E and VI.F of this preamble, EPA has summarized those estimates in the Costs and Environmental Impacts TSD.

The RIA addendum also includes estimates of the social cost of HFCs in order to quantify climate benefits, chiefly for the purpose of providing useful information to the public and to comply with Executive Order 12866. Although EPA estimated the social costs of HFCs for purposes of that assessment, this action does not rely on these costs as a record basis for the Agency action, and EPA would reach the conclusions of this final rule in the absence of the social costs of HFCs.

A. Assessment of costs and additional benefits utilizing transition options

The RIA addendum follows a methodology that is consistent with the costs and benefits analysis of the Allocation Framework RIA, released in 2021, and the Addendum to that RIA accompanying the 2024 Allocation Rule. In the Allocation Framework RIA and that Addendum, EPA calculates costs and benefits using a marginal abatement cost (MAC) curve to evaluate the availability and cost of abatement required to meet the AIM Act phasedown caps for production and consumption. Similarly, for this rulemaking, EPA quantified the costs associated with the transitions necessary for compliance, but based on the sector- and subsector-specific restrictions finalized in this rule as opposed to an overall production and consumption cap. Both approaches, as discussed in the RIA and this RIA addendum, respectively, also quantify the monetized climate benefits associated with the reduction in emissions over time as a result of decreased consumption of regulated substances.[169]

[169] For the sake of comparison, results from both sets of analyses are included in the RIA addendum contained in the docket.

Because the phasedown in HFC consumption and production has already been codified under the Allocation Framework Rule, with further changes under the 2024 Allocation Rule, the full extent of consumption and emissions reductions as well as associated costs (or cost savings) estimated for this rule are not considered additional. Therefore, in calculating the impacts from this rule, we calculate the ''incremental'' costs and environmental impacts (either increased or decreased) relative to those previously estimated for the Allocation Framework Rule as updated by the 2024 Allocation Rule RIA Addendum.

EPA estimates that this rule will have incremental benefits relative to those assessed for the Allocation Rules, although—as discussed in the RIA addendum and the Costs and Environmental Impacts TSD—the extent of these benefits varies depending on the mix and timing of industry transitions made in order to achieve compliance in the affected sectors and subsectors. In its analysis of the Allocation Rules, EPA estimated that regulated entities would adopt specific technology transition options to achieve compliance with the statutory allowance cap step-downs. Industry is already making many of these transitions, and we expect that achieving the allowance cap step-downs will require many of the same subsector-specific technology transitions that are required by this rule. However, this rule may in some cases require regulated entities to further accelerate transitions in specific subsectors, relative to what EPA previously assumed in its analysis of the Allocation Rules. Conversely, entities in a discrete set of subsectors not covered by this rule could conceivably forgo or delay adopting abatement options that were assumed to be undertaken to comply with the Allocation Rules.

Given this uncertainty, EPA analyzed two scenarios to represent the range of potential incremental impacts resulting from this rule: a ''base case'' and ''high additionality case.'' Based on this approach, EPA estimates average annual incremental HFC emissions and consumption reductions from 2025–2050 of approximately 3 to 34 $MMTCO_{2e}$ and 28 to 43 $MMTCO_{2e}$, respectively. The annual incremental consumption and emissions avoided are shown in Table 5 for select years as well as on a cumulative basis.

TABLE 5–INCREMENTAL CONSUMPTION AND EMISSION REDUCTIONS, RELATIVE TO ALLOCATION RULE REFERENCE CASE 2025–2050

[$MMTCO_{2e}$]

Year	Consumption reductions		Emission reductions	
	Base case	High additionality case	Base case	High additionality case
2025	−5	30	−54	7
2030	23	50	−15	33
2035	38	49	3	44
2040	22	30	25	38
2045	37	45	28	37
2050	39	47	32	40
Cumulative total	720	1,113	83	876

To calculate the climate benefits associated with consumption abatement, the consumption changes are expressed in terms of emission reductions. Emissions avoided in each year can be less than the consumption avoided in the same year because of the delay between when an HFC is produced or imported and when it is emitted to the atmosphere.

As noted above, the base case scenario of incremental benefits shows overall emission reductions over the full-time horizon for implementation. However, the incremental emission reductions under the transition pathway evaluated for this rule are in some cases assumed to be more gradual than those EPA previously estimated to occur with implementation of the Allocation Rules. This is primarily because (1) the base case does not include certain actions to reduce consumption (and, consequently, reduce emissions) previously assumed in the Allocation Framework Rule reference case, including increased leak reduction and enhanced recovery of HFCs, and (2) the assumed timing of emission reductions achieved or forgone differs depending on assumed equipment lifetime and the subsector and technology being modeled. Overall, the abatement options analyzed for compliance with this rule result in more consumption reductions on a cumulative basis; however, some of the emission reductions come at a later time than the emission reductions from the Allocation Framework Rule reference case. As a result, when compared to the analysis of the Allocation Rules, the base case scenario results in slightly higher emissions in earlier model years while yielding greater emission reductions in later years and overall.

Although the base case scenario is a reasonable projection of the potential impacts of this rule, there is reason to believe that it is a conservative one, and that the incremental emission reduction benefits associated with this rule could be substantially greater than reflected in the base case scenario. Previous regulatory programs to reduce chemical use in the affected industries show that regulated entities do not limit their response to the required compliance level; rather, regulated entities may take additional actions that transform industry practices for various reasons, including the anticipation of future restrictions, strengthening their competitive position, and supporting overall environmental goals. The industries affected by this rule have historically reached compliance with chemical phaseouts ahead of schedule. For instance, with a 1996 phaseout of CFCs, nearly all home refrigerators and motor vehicle air conditioners had transitioned from CFC–12 to HFC–134a by 1994. Likewise, with a 2010 phaseout of HCFC–22 for new equipment, air conditioners using R–410A were available more than 10 years earlier than required. For this reason, in the high additionality case we assumed certain abatement options not covered by this rule—but which were assumed in the prior accounting of benefits for the

Allocation Rules—are also included to illustrate the potential for incremental benefits. In both scenarios, on a cumulative basis this rule is expected to yield incremental emission reductions, ranging from 83 to 876 $MMTCO_2e$ through 2050 (respectively, about 2 percent and 20 percent of the total emissions over that same time period in the Allocation Rules analyses). In the RIA addendum, we estimate the present value of these incremental benefits to be between $3.01 billion and $50.4 billion in 2020 dollars.

Table 6 presents a summary of the annual incremental costs and net benefits of this rule for selected years in the time period 2025–2050, with the climate benefits discounted at 3 percent.

TABLE 6—SUMMARY OF ANNUAL INCREMENTAL CLIMATE BENEFITS, COSTS, AND NET BENEFITS OF THE TECHNOLOGY TRANSITIONS RULE BASE CASE AND HIGH ADDITIONALITY CASE SCENARIOS FOR THE 2025–2050 TIMEFRAME

[millions of 2020$, discounted to 2022] [a b c d e]

Year	Base case			High additionality case		
	Incremental climate benefits (3%)	Annual costs (negative values are savings)	Net benefits (3% benefits, 3% or 7% costs) [e]	Incremental climate benefits (3%)	Annual costs (negative values are savings)	Net benefits (3% benefits, 3% or 7% costs) [e]
2025	−$3,730	$73	−$3,803	$486	$532	−$46
2029	−1,253	208	−1,461	2,451	498	1,953
2034	−73	−28	−45	3,636	98	3,538
2036	−613	−424	−190	3,121	−381	3,501
2040	2,448	−677	3,125	3,831	−618	4,449
2045	3,080	−587	3,667	4,164	−523	4,687
2050	3,869	−619	4,488	4,938	−549	5,488

Discount rate	3%	3%	7%	3%	7%	3%	3%	7%	3%	7%
PV	$3,013	($4,549)	($2,073)	$7,561	$5,086	$50,406	($1,601)	$1	$52,007	$50,405
EAV	184	(278)	(215)	462	399	3,081	(98)	0	3,179	3,081

[a] Benefits include only those related to climate. Climate benefits are based on changes in HFC emissions and are calculated using four different estimates of the SC–HFCs (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). For purposes of this table, we show the effects associated with the model average at a 3 percent discount rate, but the Agency does not have a single central SC–HFC point estimate. We emphasize the importance and value of considering the benefits calculated using all four SC–HFC estimates. As discussed in Chapter 5 of the RIA addendum a consideration of climate effects calculated using discount rates below 3 percent, including 2 percent and lower, is also warranted when discounting intergenerational impacts.

[b] Rows may not appear to add correctly due to rounding.

[c] The annualized present value of costs and benefits are calculated as if they occur over a 26-year period from 2025 to 2050.

[d] The costs presented in this table are annual estimates.

[e] The PV for the 7% net benefits column is found by taking the difference between the PV of climate benefits at 3% and the PV of costs discounted at 7%. Due to the intergenerational nature of climate impacts the social rate of return to capital, estimated to be 7 percent in OMB's Circular A–4, is not appropriate for use in calculating PV of climate benefits.

Climate benefits presented in Tables 5 and 6 are based on changes (increases or reductions) in HFC emissions compared to the Allocation Framework Rule reference case (*i.e.,* after consideration of benefits previously accounted for in Allocation Framework Rule RIA and 2024 Allocation Rule RIA Addendum) and are calculated using four different global estimates of the social cost of HFCs (SC–HFCs): the model average at 2.5 percent, 3 percent, and 5 percent discount rates and the 95th percentile at a 3 percent discount rate. For the presentational purposes of Table 6, we show the incremental benefits associated with the average SC–HFCs at a 3 percent discount rate, but the Agency does not have a single central SC–HFCs point estimate.

EPA estimates the climate benefits for this rule using a measure of the social cost of each HFC (collectively referred to as SC–HFCs) that is affected by this rule. The SC–HFCs is the monetary value of the net harm to society associated with a marginal increase in HFC emissions in a given year, or the benefit of avoiding that increase. In principle, SC–HFCs includes the value of all climate change impacts, including (but not limited to) changes in net agricultural productivity, human health effects, property damage from increased flood risk and natural disasters, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services. As with the estimates of the social cost of other GHGs, the SC–HFC estimates are found to increase over time within the models—*i.e.,* the societal harm from one metric ton emitted in 2030 is higher than the harm caused by one metric ton emitted in 2025—because future emissions produce larger incremental damages as physical and economic systems become more stressed in response to greater climatic change, and because gross domestic product (GDP) is growing over time and many damage categories are modeled as proportional to GDP. The SC–HFCs, therefore, reflects the societal value of reducing emissions of the gas in question by one metric ton. The SC–HFCs is the theoretically appropriate value to use in conducting benefit-cost analyses of policies that affect HFC emissions.

The gas-specific SC–HFC estimates used in this analysis were developed using methodologies that are consistent with the methodology underlying estimates of the social cost of other GHGs (carbon dioxide ($SC–CO_2$), methane ($SC–CH_4$), and nitrous oxide ($SC–N_2O$)), collectively referred to as SC–GHG, presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990* published in February 2021 by the Interagency Working Group on the Social Cost of Greenhouse Gases (IWG) (IWG 2021). As a member of the IWG involved in the development of the February 2021 SC–GHG TSD, EPA agrees that the TSD represents the most appropriate methodology for estimating the social cost of greenhouse gases until revised estimates have been developed reflecting the latest, peer-reviewed science. Therefore, EPA views the SC–HFC estimates used in analysis to be

appropriate for use in benefit-cost analysis until improved estimates of the social cost of other GHGs are developed.

As discussed in the February 2021 TSD, the IWG emphasized the importance and value of considering the benefits calculated using all four estimates (model average at 2.5, 3, and 5 percent discount rates, and 95th percentile at a 3 percent discount rate). In addition, the TSD explained that a consideration of climate benefits calculated using discount rates below 3 percent, including 2 percent and lower, is also warranted when discounting intergenerational impacts. As a member of the IWG involved in the development of the February 2021 TSD, EPA agrees with this assessment for the purpose of estimating climate benefits from HFC reductions as well, and will continue to follow developments in the literature pertaining to this issue.

Table 7 presents the sum of incremental climate benefits across all HFCs reduced for the Technology Transitions Rule for 2025, 2029, 2034, 2036, 2040, 2045, and 2050 in the base case scenario.

TABLE 7—INCREMENTAL CLIMATE BENEFITS FOR THE FINAL RULE FOR SELECT YEARS FROM 2025–2050 (BASE CASE SCENARIO) [a] [b]

[Billions of 2020$]

Year	Incremental climate benefits by discount rate and statistic			
	5% (average)	3% (average)	2.5% (average)	3% (95th percentile)
2025	−1.6	−3.7	−5.0	−9.9
2029	−0.5	−1.3	−1.7	−3.3
2034	0.0	−0.1	−0.1	−0.2
2036	−0.5	−0.6	−0.7	−1.7
2040	1.0	2.4	3.2	6.5
2045	1.4	3.1	4.0	8.2
2050	1.8	3.9	5.0	10.2

[a] Benefits include only those related to climate. See Table 6–3 in the RIA addendum for the full time series of climate benefits using the SC–HFC.

[b] Climate benefits are based on changes in HFC emissions and are calculated using four different estimates of the SC–HFCs (model average at 2.5 percent, 3 percent, and 5 percent discount rates; and 95th percentile at 3 percent discount rate). The IWG emphasized, and EPA agrees with, the importance and value of considering the benefits calculated using all four estimates. As discussed in the Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990 (IWG 2021), a consideration of climate benefits calculated using discount rates below 3 percent, including 2 percent and lower, are also warranted when discounting intergenerational impacts.

EPA estimates that the present value of cumulative net incremental benefits evaluated from 2025 through 2050 ranges from $7.6 billion to $52.0 billion at a 3 percent discount rate, or $5.1 billion to $50.4 billion at a 7 percent discount rate. These comprise cumulative incremental climate benefits due to reducing HFC emissions (with a present value ranging from $3.01 billion to $50.4 billion) as well as cumulative incremental compliance savings (with a present value ranging from $1.6 billion to $4.5 billion at a 3 percent discount rate or -$1 million to $2.1 billion at a 7 percent discount rate).

The estimation of incremental benefits due to reductions in HFC emissions resulting from the restrictions involved three steps. First, the difference between the consumption of HFCs realized under this rule and the consumption that would have been expected based on the analysis in the Allocation Framework RIA as adjusted by the Addendum for the 2024 Allocation Rule was calculated for each year of the restrictions in metric tons of carbon dioxide equivalent ($MTCO_2e$). Although the Allocation Framework Rule only required allowances for domestic bulk consumption (*i.e.,* in that rule, EPA defines consumption, with respect to a regulated substance, to mean bulk production plus bulk imports minus bulk exports), the consumption reduction estimates in the Allocation Framework RIA included reductions in imported products containing HFCs. Second, using EPA's Vintaging Model, the changes in consumption were used to estimate changes in HFC emissions, which generally lag consumption by some time as HFCs incorporated into equipment and products are eventually released to the environment. Finally, the climate benefits were calculated by multiplying the HFC emission reductions for each year by the appropriate social cost of HFC to arrive at the monetary value of HFC emission reductions.

The incremental climate benefits of this rule derive mostly from preventing the emissions of HFCs with high GWPs, thus reducing the damage from climate change that would have been induced by those emissions. The emission reductions attributed to this rule are only those beyond the reductions previously estimated for the Allocation Framework Rule as updated by the 2024 Allocation Rule, due to more rapid and/or comprehensive transitions to HFC substitutes in certain sectors or subsectors than would otherwise occur in the Allocation Framework Rule reference case. The reduction in emissions follows from a reduction in the production and consumption of HFCs measured in millions of $MTCO_2e$, or $MMTCO_2e$, that would occur as a result of the restrictions in this rule. It is assumed that all HFCs produced or consumed would be emitted eventually, either in their initial use (*e.g.,* as propellants), during the lifetime of HFC-containing products (*e.g.,* off-gassing from closed-cell foams or leaks from refrigeration systems), or during servicing—including the reuse of HFC recovered and possibly reclaimed—or disposal of HFC-containing products. However, because the emissions lag the consumption in time, all the consumption reductions are not realized as emission reductions during the time period analyzed; hence, the cumulative emission reductions calculated are lower than the cumulative consumption reductions.

EPA recognizes the shortcomings and limitations associated with the current interim IWG estimates and underlying methodology. Since the SC–HFC estimates are based on the same methodology underlying the SC–GHG estimates presented in the IWG February 2021 TSD, they share limitations that are common to those SC–GHG estimates. The limitations were outlined in the February 2021 TSD

and include that the current scientific and economic understanding of discounting approaches suggests discount rates appropriate for intergenerational analysis in the context of climate change are likely to be less than 3 percent, near 2 percent or lower. Additionally, the Integrated Assessment Models (IAMs) used to produce these estimates do not include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature, and the science underlying their ''damage functions''—*i.e.,* the core parts of the IAMs that map global mean temperature changes and other physical impacts of climate change into economic (both market and nonmarket) damages—lags behind the most recent research.

The modeling limitations do not all work in the same direction in terms of their influence on the SC–HFC estimates. However, as discussed in the February 2021 TSD, the IWG has recommended that, taken together, the limitations suggest that the SC–GHG estimates likely underestimate the damages from GHG emissions. Therefore, as a member of the IWG involved in the development of the February 2021 TSD, EPA agrees that the interim SC–GHG estimates represent the most appropriate estimate of the SC–GHG until revised estimates have been developed reflecting the latest, peer reviewed science.

B. Scoping Analysis of Imports of Products

In the Technology Transitions Rule RIA addendum, EPA examined the scope of HFCs supplied in and emitted from equipment and products that are imported to the United States containing HFCs. We explained that the Allocation Framework Rule program does not require the expenditure of allowances when importing products with HFCs to the United States. We also indicated in the Allocation Framework Rule that subsection (i) of the AIM Act provided authority that would be appropriate to address such imports. In this rule, under subsection (i) of the AIM Act, restrictions apply equally to imported and domestically manufactured products that contain regulated substances or blends containing a regulated substance.

In the RIA addendum, we reiterate that while the Allocation Framework Rule did not restrict imports of products containing HFCs, the analysis performed for that rule as well as the 2024 Allocation Rule assumed a whole-market approach. In other words, transitions that were selected by the models to meet HFC consumption reductions were assumed to apply equally to imported products and domestically manufactured products. We were not at the time able to distinguish the two because the models used (*i.e.,* the Vintaging Model and the Marginal Abatement Cost model) are agnostic as to the location of product manufacture. The models are used to project demand for and emissions from products containing HFCs in the United States or HFC emitting processes carried out in the United States.

To understand the historical and potential future scope of imports in products, and the effects that the restrictions could have, EPA evaluated additional information to analyze eight scenarios as explained in Annex D to the RIA addendum. The scenarios derived from two approaches to estimate what HFCs or substitutes are contained in the imported products, two scenarios for how future imports would grow, and two methods of evaluating the substitutes that would be used in imported products to comply with the restrictions. From these calculations of reductions in the supply of HFCs inside products, we applied a simplified emission model to estimate the time-dependent emission reductions, which due to the multi-year use of some products lag the initial supply. We used these emission reduction estimates, by HFC over time, and the same SC–HFCs factors from the Allocation Framework RIA, to derive climate benefits. The climate benefits were not used for decisional purposes and are provided for informational and illustrative purposes only. As described in the RIA addendum, these estimates are provided as a scoping analysis and are considered in whole just a subset of the climate benefits achieved from other actions taken under the AIM Act.

As detailed in Annex D to the RIA addendum, annual reductions in the supply of HFCs in imported products ranged from 30.0 to 50.4 $MMTCO_2e$ in 2029, from 31.0 to 59.0 $MMTCO_2e$ in 2034, and from 31.0 to 62.5 $MMTCO_2e$ in 2036, depending on the scenario. The cumulative reductions for the years 2025 through 2050 ranged from 828 to 1,720 $MMTCO_2e$, equal to about 12 to 25 percent of the projected reductions in the Allocation Rules analysis and about 10 to 23 percent of the combined projected reductions due to the Allocation Rules plus the incremental reductions due to this Technology Transitions Rule.

The emission reductions lag the reductions in supply as previously explained in this section but increase significantly as products and systems reach the end of their lifecycle and HFCs are emitted. The cumulative emission reductions for the years 2025 through 2050 ranged from 317 to 598 $MMTCO_2e$, equal to about 7 to 13 percent of the projected reductions in the Allocation Rules analysis and about 6 to 13 percent of the combined projected reductions in the Allocation Rules analysis plus the incremental reductions due to this Technology Transition Rule.

Climate benefits of the emission reductions are shown in Table 8. As noted in this section, these benefits are not considered additional to the Allocation Framework Rule or to this rule and are shown to inform the reader of the scope of the benefits from restricting imported products using HFCs.

TABLE 8—CLIMATE BENEFITS FROM RESTRICTING IMPORTS OF REGULATED PRODUCTS FOR 2025–2050

[Billions of 2020$, discounted to 2022]

Year	Net climate benefits at 3% (average) discount rate
	Range of eight scenarios
2025	0
2029	0 to 0.2
2034	0 to 0.3
2036	0.1 to 0.5
2040	2.2 to 3.0
2045	3.0 to 4.5
2050	4.0 to 7.3

X. How is EPA evaluating environmental justice?

EPA provides the following discussion of its assessment of environmental justice impacts in relationship to this rulemaking. This analysis is intended to provide the public with information on the potential environmental justice impacts of this action. This analysis was not used for purposes of EPA's consideration of the statutory factors under AIM Act subsection (i)(4) or any determinations EPA has made in this action.

Executive Order 12898 (59 FR 7629, February 16, 1994) and Executive Order 14008 (86 FR 7619, January 27, 2021) establish Federal executive policy on environmental justice. Executive Order 14096, signed April 21, 2023, builds on the prior Executive Orders to further advance environmental justice (88 FR 25251).

Executive Order 12898's main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make

environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on people of color and low-income populations in the United States. EPA defines [170] environmental justice 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.[171] Meaningful involvement means that: (1) Potentially affected populations have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; (2) the public's contribution can influence the regulatory Agency's decision; (3) the concerns of all participants involved will be considered in the decision-making process; and (4) the rule-writers and decision-makers seek out and facilitate the involvement of those potentially affected.[172] The term ''disproportionate impacts'' refers to differences in impacts or risks that are extensive enough that they may merit Agency action. In general, the determination of whether there is a disproportionate impact that may merit Agency action is ultimately a policy judgment which, while informed by analysis, is the responsibility of the decision-maker. The terms ''difference'' or ''differential'' indicate an analytically discernible distinction in impacts or risks across population groups. It is the role of the analyst to assess and present differences in anticipated impacts across population groups of concern for both the baseline and proposed regulatory options, using the best available information (both quantitative and qualitative) to inform the decision-maker and the public.[173]

Executive Order 14096 calls on agencies to make achieving environmental justice part of their missions and further declares a policy to ''advance environmental justice and help create a more just and sustainable future for all.'' [174] The January 2021 Presidential Memorandum on Modernizing Regulatory Review calls for procedures to ''take into account the distributional consequences of regulations, including as part of a quantitative or qualitative analysis of the costs and benefits of regulations, to ensure that regulatory initiatives appropriately benefit, and do not inappropriately burden disadvantaged, vulnerable, or marginalized communities.'' [175] EPA also released its June 2016 ''Technical Guidance for Assessing Environmental Justice in Regulatory Analysis'' to provide recommendations that encourage analysts to conduct the highest quality analysis feasible, recognizing that data limitations, time and resource constraints, and analytic challenges will vary by media and circumstance.[176]

The Allocation Framework Rule, among other things, established the framework for the phasedown of HFCs in the United States, which will achieve significant benefits by reducing the production and consumption of HFCs on a GWP-weighted basis. In that rulemaking, EPA described the environmental justice analysis conducted in support of this rule and summarized the public health and welfare effects of GHG emissions (including HFCs), including information that certain parts of the population may be especially vulnerable to climate change risks based on their characteristics or circumstances, including the poor, the elderly, the very young, those already in poor health, the disabled, those living alone, and/or indigenous populations dependent on one or limited resources due to factors including but not limited to geography, access, and mobility. Potential impacts of climate change raise environmental justice issues. Low-income communities, for example, can be especially vulnerable to climate change impacts because they tend to have more limited capacity to bear the costs of adaptation and are more dependent on climate-sensitive resources such as local water and food supplies. In corollary, some communities of color, specifically populations defined jointly by both ethnic/racial characteristics and geographic location, may be uniquely vulnerable to climate change health impacts in the United States.

Many of the environmental justice implications of this rule are similar to those addressed at length in the RIA [177] developed for the Allocation Rules. The analysis of potential environmental justice concerns for the Allocation Rules focused mainly on characterizing baseline emissions of air toxics that are also associated with chemical feedstock use for HFC production. As detailed in the RIA for the Allocation Rules, the phasedown of high-GWP HFCs in the United States will reduce GHG emissions, thereby reducing damages associated with climate change that would have been associated with those emissions. EPA expects that this rule will also reduce GHG emissions, which will benefit populations that may be especially vulnerable to damages associated with climate change. We also expect that the restriction on use of certain HFCs will increase the production of HFC substitutes. However, there continues to be significant uncertainty about how the transition to lower-GWP substitutes and market trends independent of this rulemaking could affect production of predominant HFC substitutes, such as hydrocarbons, ammonia (R–717), and HFOs at individual facilities and how those changes in production could affect associated air pollutant emissions, particularly in communities that are disproportionately burdened by air pollution. Some predominant HFC substitutes, such as HFOs, use the same chemicals used in the manufacture of HFCs as feedstocks in their production or release the same chemicals as

[170] EPA recognizes that E.O. 14096 (88 FR 25251, April 21, 2023) provides a new terminology and a new definition for environmental justice, as follows: ''the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment so that people: (i) Are fully protected from disproportionate and adverse human health and environmental effects (including risks) and hazards, including those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and (ii) have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices.'' For additional information, see *https://www.federalregister.gov/documents/2023/04/26/2023-08955/revitalizing-our-nations-commitment-to-environmental-justice-for-all.*

[171] See, *e.g.,* Environmental Protection Agency. ''Environmental Justice.'' Available at: *https://www.epa.gov/environmentaljustice.*

[172] The criteria for meaningful involvement are contained in EPA's May 2015 document ''*Guidance on Considering Environmental Justice During the Development of an Action.*'' Environmental Protection Agency, 17 Feb. 2017. Available at: *https://www.epa.gov/environmentaljustice/guidance-considering-environmental-justice-during-development-action.*

[173] The definitions and criteria for ''disproportionate impacts,'' ''difference,'' and ''differential'' are contained in EPA's June 2016 document ''Technical Guidance for Assessing Environmental Justice in Regulatory Analysis.'' Available at: *https://www.epa.gov/environmentaljustice/technical-guidance-assessing-environmental-justice-regulatory-analysis.*

[174] 88 FR 25251 (Apr. 26, 2023).

[175] Presidential Memorandum on Modernizing Regulatory Review, January 20, 2021. Available at: *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/modernizing-regulatory-review.*

[176] Technical Guidance for Assessing Environmental Justice in Regulatory Analysis, June 2016. Available at: *https://www.epa.gov/sites/default/files/2016-06/documents/ejtg_5_6_16_v5.1.pdf.*

[177] The RIA for the Allocation Framework Rule is available in the docket for that rulemaking at: *https://www.regulations.gov/document/EPA-HQ-OAR-2021-0044-0227.*

byproducts, potentially raising concerns about local exposure. Due to the limitations of the current data, we cannot make conclusions about the impact this rule may have on individuals or specific communities near facilities producing HFC substitutes. For the purpose of environmental justice, however, it is important to understand the characteristics of the communities surrounding these facilities to better ensure that future actions, as more information becomes available, can improve outcomes.

EPA's 2016 Technical Guidance does not prescribe or recommend a specific approach or methodology for conducting an environmental justice analysis, though a key consideration is consistency with the assumptions underlying other parts of the regulatory analysis when evaluating the baseline and regulatory options. Therefore, for this rule, EPA followed the format used for the Allocation Framework RIA to analyze the demographic characteristics and baseline exposure of the communities near facilities producing HFC substitutes. The complete analysis is described in the RIA addendum developed for this rule, which is available in the docket. EPA relied on public data from the Toxics Release Inventory (TRI),[178] GHGRP, Chemical Data Reporting (CDR) Program,[179] EJScreen (an environmental justice mapping and screening tool developed by EPA), Enforcement and Compliance History Online, Census data, and information provided by industry stakeholders to identify the facilities. In addition, updated Air Toxics Screening Assessment (AirToxScreen, formerly National Air Toxics Assessment (NATA)) data from 2019 for census tracts within and outside of a 1-, 3-, 5-, and 10-mile distance were used to approximate the cumulative baseline cancer and respiratory risk due to air toxics exposure for communities near the production facilities.

With the restriction on use of certain HFCs, EPA anticipates that the production of HFC substitutes will increase. Accordingly, for the environmental justice analysis for this rule, EPA identified 14 facilities producing predominant HFC substitutes that may be impacted by this rule and where production changes may impact nearby communities. The relatively small number of facilities that may be affected by this rule enabled EPA to assemble a uniquely granular assessment of the characteristics of the facilities and the communities where they are located. Overall, this rule will reduce GHG emissions, which will benefit populations that may be especially vulnerable to damages associated with climate change. However, the manner in which producers transition from high-GWP HFCs could drive changes in future risk for communities living near facilities that produce HFC substitutes, to the extent the use of toxic feedstocks, byproducts, or catalysts changes, and those chemicals are released into the environment with adverse local effects.

The environmental justice analysis, which examines racial and economic demographic and health risk information, found heterogeneity in community characteristics around individual facilities. The analysis showed that more individuals identified as African American or Black and as Hispanic with respect to race live in proximity to the identified facilities compared with the national average or the rural area national average. Importantly, the comparison to the rural area national average is more striking because so many of the facilities are rural. While median income is not significantly different for the communities near the facilities (slightly lower than the national average but slightly above or equal to the rural median income), there are more very low-income households in these communities. Additionally, total cancer risk and total respiratory risk is higher than either the rural national average or the overall national average in communities near the facilities. The analysis shows that the risks are higher for those within the 1-mile average radius and decrease at the 3-mile, 5-mile, and 10-mile radii.

EPA notes that the averages may obfuscate potentially large differences in the community characteristics surrounding individual production facilities. Analysis of the demographic characteristics and AirToxScreen data for the 14 identified facilities shows that there are significant differences in the communities near these facilities. The racial, ethnic, and income results are varied but, in almost all cases, total cancer risk and total respiratory risk are higher for the communities in proximity to the sites than to the appropriate (rural or overall) average when compared with the national or State results.

Additionally, some facilities are in communities that are quite different from the aggregate results discussed in this section above. The aggregate results show that the communities near the facilities tend to have slightly fewer neighboring individuals identified as White and more identified as African American or Black and as Hispanic with respect to race, in several cases. In several cases, however, the communities near specific facilities have higher percentages of White individuals than either the State or national averages. This is true for the HFC substitute-producing facilities in San Dimas, CA; Sibley, LA; El Dorado, AR; Gregory and Manvel, TX; along with those in Iowa, Illinois, and West Virginia.

EPA included a demonstration of a microsimulation approach in the RIA addendum to analyze the proximity of communities to potentially affected facilities. Microsimulation is a technique relying upon advanced statistics and data science to combine disparate survey and geospatial data. It has long been used in economic and social science research and by EPA (in the context of understanding the implications of underground storage tank impacts on groundwater). Recent advances in data science and computational power have increased the availability of microsimulation for applications such as environmental justice analysis. The demonstration analysis included in the RIA addendum contributes to understanding communities that may warrant further environmental justice analysis.

In the proposed rule EPA sought comment on the use of microsimulation approaches and techniques for regulatory impact analysis and other program activities. Among other things, EPA sought information on what microsimulation tools are appropriate for better understanding the burdens faced by communities, and in what circumstances. The demonstration analysis presented in the RIA addendum uses a dataset of ''synthetic households'' based on geospatial data combined through microsimulation techniques with information from the U.S. Decennial Census and the American Communities Survey. EPA requested comment on other surveys or other geospatial datasets should be the

[178] TRI tracks the management of certain toxic chemicals that may pose a threat to human health and the environment. U.S. facilities in different industry sectors must report annually how much of each chemical is released to the environment and/or managed through recycling, energy recovery, and treatment. Facilities submit a TRI Form R for each TRI-listed chemical it manufactures, processes, or otherwise uses in quantities above the reporting threshold.

[179] The CDR program, under the Toxic Substances Control Act, requires manufacturers (including importers) to provide EPA with information on the production and use of chemicals in commerce. Under the CDR rule, EPA collects information on the types, quantities, and uses of chemical substances produced domestically and imported into the United States. The information is collected every four years from manufacturers of certain chemicals in commerce generally when production volumes are 25,000 pounds or greater for a specific reporting year.

focus of EPA efforts to combine with the American Communities Survey and/or Decennial Census data; how microsimulation tools supplement other EPA tools for understanding demographics, multiple burdens facing communities, and assessing the impact of EPA programs; and how microsimulation and other techniques to use current survey information can be used to identify data gaps which might be filled with refinements or improvements to existing survey tools.

EPA noted in the Allocation Framework Rule, and reiterates here, that it is not clear the extent to which these baseline risks are directly related to potential future HFC substitute production, but some feedstocks, catalysts, and byproducts are toxic, particularly with respect to potential carcinogenicity (*e.g.,* carbon tetrachloride). All HFC substitute production facilities are near other industrial facilities that could contribute to the cumulative AirToxScreen cancer and respiratory risk, and, at this time, it is not clear how emissions related to HFC substitute production compare to other chemical production at the same or nearby facilities. Because of the limited information regarding where substitutes will be produced and what other factors might affect production and emissions at those locations, it is unclear to what extent this rule may affect baseline risks from hazardous air toxics for communities living near HFC substitute production facilities.

Additionally, as mentioned previously, emissions from facilities producing fluorinated and non-fluorinated substitutes may also be affected by the phasedown of HFCs. For the 2024 Allocation Rule, EPA updated the environmental justice analysis that was previously conducted for the Allocation Framework RIA to help understand how the implementation of the HFC phasedown may affect production and emissions at facilities that produce HFCs. EPA followed the analytical approach used in the Allocation Framework RIA to provide updated data on the total number of TRI facilities near HFC production facilities and the cancer and respiratory risks to surrounding communities. This update included the use of the most recent data available for the AirToxScreen data set from 2019, replacing the 2014 NATA data used in the previous analysis. Additionally, EPA updated the list of HFC production facilities as part of the HFC Allocation analysis to include a ninth facility that reported production of HFCs in 2022. Finally, EPA has updated the list of toxic chemicals potentially used as a feedstock or catalyst or released as a byproduct of HFC production based on information reported to EPA under the Allocation Framework Rule (see 40 CFR 84.31(b)(1)).

Comment: EPA received two comments related to the use of microsimulation in the EJ analysis. The first commenter asserted that it is imperative that the Agency recognize the limitations of any output from microsimulation analyses and ensure such data are utilized within the context of their limitations and that these analyses should be a starting point to inform further dialogue and analysis rather than being used as the sole basis for future regulatory action. The second commenter stated that they appreciate EPA's use of microsimulation models to better model the environmental justice impacts of this rule and encourages EPA to explore longitudinal American Community Survey datasets in any forecasting it attempts. IPUMS may be a helpful resource for tracking this data over time.

Response: EPA continues to explore the use of microsimulation approaches to better understand the characteristics of communities. IPUMS is one of several datasets EPA is considering for additional analyses. The Agency recognizes that these analyses have limitations and is not currently contemplating using them as the sole basis for future regulatory action under the AIM Act.

Comment: One commenter stated that EPA should fully evaluate the health and environmental risks of HFC and HFO usage in addition to the impacts on communities near facilities particularly with regard to PFAS and trifluoroacetic acid (TFA) from HFCs and HFOs as an area of concern.

Response: With regard to PFAS, EPA notes that currently, there is no single commonly agreed definition of PFAS, and whether HFCs or HFOs are classified as PFAS depends on the definition being used. EPA's PFAS roadmap, available at *https://www.epa.gov/pfas,* sets timelines for specific actions and outlines EPA's commitments to new policies to safeguard public health, protect the environment, and hold polluters accountable. This rule does not in any way establish a definition of PFAS, nor do the listing decisions depend on a specific definition. As described in section VI.E, substitutes identified as available for use in the subsectors covered in this rulemaking have, for the most part, also been evaluated under the SNAP program. In evaluating alternatives, SNAP uses a comparative risk framework, and considers potential risks to human health and the environment.

With regard to the commenter's concern regarding atmospheric decomposition of certain HFCs and HFOs to TFA, EPA notes that TFA is a perfluorinated acid. Where TFA has been included in a particular definition of PFAS, it is often part of a class of chemicals containing more than 4,730 substances. According to the United Nations Environment Program's Environmental Effects Assessment Panel (EEAP) about 256 PFAS are in commercial use, with widely differing physical, chemical, and biological properties.[180] An EEAP 2022 Assessment Report [181] explained that one source of TFA in the environment is the degradation of some HFCs, HCFCs, HFOs, and HCFOs, other potential sources of TFA include geogenic sources; effluents and releases from the manufacture of fluorinated chemicals; combustion, and degradation of fluorinated chemicals in commercial and household waste; and biological and environmental degradation of chemicals such as certain pharmaceuticals and pesticides. The 2022 EEAP Report indicates that while TFA ''is unlikely to cause adverse effects in terrestrial and aquatic organisms, [continued] monitoring and assessment are nevertheless advised due to uncertainties in the deposition of TFA and its potential effects on marine organisms.'' The report notes that ''TFA does not bioaccumulate nor is it toxic at the low to moderate exposures currently measured in the environment or those predicted in the distant future.'' Because the HCFCs and HFCs are long-lived in the atmosphere, they distribute globally and TFA from these substances is more evenly deposited. The HFOs and HCFOs have shorter lifetimes in the atmosphere and deposition of TFA from these substances is likely to be more localized. This will result in greater concentrations near the locations of release. This is unlikely to present a risk to humans or the environment in these locations but changes in concentration in surface water (or soil) would respond rapidly to releases. The 2022 EEAP report states, ''[monitoring] of the environment for residues of TFA would provide an early warning if trends in concentration indicate rapid increases.'' EPA reiterates that the SNAP program,

[180] UNEP. 2022 Assessment Report of the Environmental Effects Assessment Panel. Available at: *https://ozone.unep.org/system/files/documents/EEAP-2022-Assessment-Report-May2023.pdf.*

[181] The EEAP is an advisory body to the Montreal Protocol Parties that evaluates the consequences of stratospheric ozone depletion and additional areas of potential importance to the Montreal Protocol.

which is one of the sources the Agency considered when determining availability of alternatives, considers ecotoxicity as a criterion when evaluating alternatives under its comparative risk framework, and the Agency has considered the potential impacts of TFA in past actions where SNAP found HFO–1234yf acceptable in certain end uses. The myriad studies EPA referenced all concluded that the additional TFA from HFO–1234yf did not pose a significant additional risk, even if it were assumed to be used as the only refrigerant in all refrigeration and air conditioning equipment (76 FR 17492–17493, March 29, 2011). The Agency intends to continue its approach to evaluating the potential risks from TFA in future.

Comment: One commenter, echoing comments submitted on the Allocation Rule, noted that EPA should monitor indirect pollution impacts (*e.g.,* increased truck traffic and increased diesel exhaust) on communities impacted by the proposed rule.

Response: This rule promulgated under subsection (i) will require manufacturers to restrict the use of HFCs in certain subsectors. Those restrictions on the use of HFCs will, along with the rule implementing the phasedown under subsection (e), likely have the effect of increasing the production of HFC substitutes. We do not disagree that this increase in production may result in changed traffic conditions near facilities producing HFC substitutes, but EPA did not propose to monitor indirect pollution impacts near facilities producing substitutes, nor are we finalizing such monitoring at this time.

Comment: One commenter suggested that EPA should directly engage with the communities' surrounding facilities that produce HFC substitutes. EPA should hold in-person informational workshops in potentially affected communities, provide for relevant translation services to disseminate information about potential impacts, and ensure that community feedback is representative. This commenter also recommends that after this rule is finalized, EPA should provide effective technical assistance and promote compliance in an equitable manner by holding informational workshops and providing translation services to members of the regulated community, including small businesses in underserved and Tribal communities.

Response: EPA reached out to EJ organizations when developing the proposed rule. EPA specifically invited EJ groups to public meetings on this rule and shared information using established channels. EPA received comments from environmental organizations, States, and other stakeholders raising EJ concerns. As a part of implementation of this rule, EPA will continue outreach to stakeholders to ensure a smooth implementation of this rule.

Comment: A wide range of commenters said that EPA should, as a part of its EJ analysis, assess or consider the potential for a negative impact on the availability and cost of equipment for underserved communities; low- and medium-income households whose ability to purchase and maintain air conditioning may be negatively impacted; and small businesses, especially retailers in rural and urban food deserts, such that they cannot afford to replace equipment. The commenters note that small food retail stores including ''Mom and Pop'' shops have slim profit margins and may be forced to continue to operate old leaky equipment with lower energy efficiency performance or purchase refurbished equipment without energy efficiency and refrigerant upgrades because they cannot afford new equipment. One commenter noted that underserved and Tribal communities could be impacted by losing access to nutritious food as the cost of refrigeration in business increases. Some of these commenters requested that EPA review the potential financial costs of this rulemaking on small or locally owned businesses, such as convenience stores, markets, other small local businesses, and the communities they serve. One commenter requested that EPA should disclose whether small businesses potentially impacted are located in underserved communities and consider financial assistance options for compliance with this rule. Some of these commenters also noted that underserved communities are already experiencing worse health outcomes and increased mortality from climate-change induced extreme heat events and that EPA should assess whether this regulation would result in an increase in cost for cooling homes, schools, and workplaces.

Response: EPA responds to comments regarding potential costs to food retailers in section IV.F.1.c.iv. EPA disagrees that this rule will result in store closures or the loss of access to food. EPA is not requiring the retrofit or early replacement of equipment that operates using GWPs over the thresholds specific in this rule. Rather, it effectively requires that lower-GWP equipment be phased in once existing equipment reaches the end of its useful life. EPA has outlined provisions in this rule allowing for consumers and small businesses to replace components of existing equipment for the purposes of repair and extending the useful life of equipment without having to upgrade to a lower-GWP system. EPA's intention is to permit ordinary servicing and repair of equipment and not to apply restrictions in a way that would prevent such maintenance. Store owners may replace broken or inefficient HFC components and save money by repairing leaks in their existing systems. Further, EPA has revised this rule to clarify that importers and manufacturers can continue to supply components and parts for existing systems so that these systems can be serviced throughout their useful life.

Regarding the opening of new stores, EPA responds that food retailers, especially smaller format stores like convenience stores and markets, can choose the most appropriate design options for their retail footprint (*e.g.,* centralized DX system, cascade system, remote condensing units, stand-alone displays and cases, or combinations thereof). A company's decision to open a new store specifically in underserved communities is based on many socioeconomic factors outside the scope of this rule. The incremental upfront cost of using lower-GWP refrigeration equipment compared to HFC equipment is unlikely to be determinative in that business decision. For most retail food refrigeration equipment, EPA estimates that the transition to lower-GWP alternatives will result in a net cost savings (after accounting for energy efficiency gains and savings on the cost of refrigerant). In the RIA addendum, EPA has provided details on these estimated savings in tables A–4 and A–5. EPA has conducted a small business impact assessment and has not found that a substantial number of small businesses would be significantly impacted.

For transitions in residential air conditioning, EPA estimates that window units that are compliant with this rule will result in moderate cost savings (after accounting for energy savings and refrigerant cost savings) relative to existing equipment, while unitary AC systems that are compliant with this rule will have a moderate cost increase relative to existing systems.

While financial assistance is beyond the scope of this rule and the authority of subsection (i) of the AIM Act, there are multiple programs, rebates, and incentives available for the design and installation of energy efficient

refrigeration and comfort cooling systems using low-GWP refrigerant.[182]

Comment: One commenter noted that retail operations in disadvantaged communities are the most likely to experience supply disruptions and even store closures as a result of the limited availability of equipment and trained personnel and the significant costs associated with bringing existing stores into compliance with the new requirements. The same commenter also noted that disadvantaged communities are already struggling with a technician shortage, and it is impossible to open a store that uses refrigeration and air conditioning equipment that cannot be maintained.

Response: To clarify, this rule does not require any retailers to replace existing equipment with new equipment, nor does it place restrictions on the continued servicing, repair, and maintenance of existing equipment. Rather, when retailers are replacing equipment that has reached the end of its useful life, that equipment must meet the new restrictions, where applicable. In setting those restrictions, and assessing which substitutes are available for use in new equipment in impacted subsectors, EPA considered affordability for small business consumers as well as contractor training costs. In addition, EPA understands that RACHP equipment manufacturers, trade associations, trade schools, unions, and other groups are providing training for technicians for equipment that uses newer refrigerants. EPA monitored previous transitions from ODS refrigerants to HFC refrigerants and in many cases to other alternatives. These transitions did not result in large-scale shortages of equipment or technicians. EPA acknowledges as a general matter that over the past several years the global pandemic has affected supply chain and employment for many economic sectors. However, EPA is not aware, nor did the commenters provide specific information that would indicate that this rule would lead to additional shortages in technicians or create a situation where properly trained RACHP technicians would be unable to service newer equipment.

XI. Judicial Review

The AIM Act provides that certain sections of the CAA ''shall apply to'' the AIM Act and actions ''promulgated by the Administrator of [EPA] pursuant to [the AIM Act] as though [the AIM Act] were expressly included in title VI of [the CAA].'' 42 U.S.C. 7675(k)(1)(C). Among the applicable sections of the CAA is section 307, which includes provisions on judicial review. Section 307(b)(1) provides, in part, that petitions for review must only be filed in the United States Court of Appeals for the District of Columbia Circuit: (i) When the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, but such action is based on 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).

The final action herein noticed is ''nationally applicable'' within the meaning of CAA section 307(b)(1). It defines and interprets terms under the AIM Act, establishes approaches to issuing use restrictions under the AIM Act, and applies nationally applicable regulations for sectors and subsectors using regulated substances as defined by the AIM Act. The rule also establishes regulatory requirements applicable to all entities seeking to submit a petition under subsection (i) of that Act, and nationally applicable regulations for labeling, recordkeeping, and reporting. In the alternative, to the extent a court finds the 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 the action is based on a determination of ''nationwide scope or effect'' within the meaning of CAA section 307(b)(1).[183] In deciding to invoke this exception, the Administrator has taken into account a number of policy considerations, including his judgement 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 implementing EPA's national regulations in 40 CFR part 84. The final action treats all affected entities consistently in how the 40 CFR part 84 regulations are applied. 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 AIM Act and EPA's implementing regulations. The Administrator also finds that consolidated review of the 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 regulated entities. The Administrator also finds that a nationally consistent approach to the issues addressed in this rule constitutes the best use of agency resources. The Administrator is publishing his finding that the action is based on a determination of nationwide scope or effect in the **Federal Register** as part of this 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 the final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1) and is hereby publishing that finding in the **Federal Register**. Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia by December 26, 2023.

XII. Severability

This final rule includes definitions and interpretations of terms under the AIM Act, new regulatory requirements regarding submitting a petition under subsection (i) of that Act, and new restrictions for sectors and subsectors using regulated substances as defined by the AIM Act, many of which were the subject of petitions granted under subsection (i). The rule also establishes labeling and recordkeeping and reporting requirements to support the enforcement of the new restrictions. Therefore, this final rule is multifaceted and addresses many separate issues for independent reasons, as detailed in each respective section of this preamble. Each interpretation, requirement, and use restriction is supported by separate analysis and discussion. While this rule contains separate parts that we intended to operate independently of one another and to be severable from each other, we took the approach of including all the parts in one rulemaking rather than promulgating multiple rules.

XIII. Statutory and Executive Order Review

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

[182] See *https://www.energy.gov/articles/biden-harris-administration-announces-250-million-accelerate-electric-heat-pump.* See also *https://www.energy.gov/articles/doe-announces-46-million-boost-energy-efficiency-and-slash-emissions-residential-and;*

[183] In the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that the ''nationwide scope or effect'' exception applies would be appropriate for any action that has scope or effect beyond a single judicial circuit. See H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is a ''significant regulatory action'' as defined under section 3(f)(1) of Executive Order 12866, as amended by Executive Order 14094. 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 for this action (Docket ID No. EPA–HQ–OAR–2021–0643). EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, ''*Regulatory Impact Analysis Addendum: Impact of the Technology Transitions Rule,*'' is also available in the docket and is briefly summarized in section IX of this preamble.

B. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that EPA prepared has been assigned EPA ICR number 2742.02. You can find a copy of the ICR supporting statement in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

Subsection (k)(1)(C) of the AIM Act states that section 114 of the CAA applies to the AIM Act and rules promulgated under it as if the AIM Act were included in title VI of the CAA. Thus, section 114 of the Clean Air Act, which provides authority to the EPA Administrator to require recordkeeping and reporting in carrying out provisions of the CAA, also applies to and supports this rulemaking.

EPA is establishing labeling requirements to products and specified components that use an HFC, or a blend containing an HFC, in the sectors and subsectors covered by this rule. EPA is also establishing recordkeeping and reporting requirements for any entity that domestically manufactures or imports products or specified components to allow the Agency to review data and identify noncompliance with GWP restrictions and monitor the import and manufacture of such equipment.

Respondents/affected entities: Respondents and affected entities are individuals or companies that manufacture, import, sell, distribute, offer for sale or distribution, or export equipment and install systems within the sectors or subsectors addressed by this rule that uses or is intended to use certain HFCs that are defined as a regulated substance under the AIM Act, or blends that contain a regulated substance.

Respondent's obligation to respond: Mandatory (AIM Act and section 114 of the CAA).

Estimated number of respondents: 51,209,764.

Frequency of response: Annually.

Total estimated burden: 19,715 hours (per year) in the first year; 17,050 hours per year in all following years. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost:[184] $7,170,856 (per year) in the first year, $6,832,015 per year thereafter, includes $5,137,952 annualized capital or operation & maintenance costs.

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

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. The small entities subject to the requirements of this action include manufacturers and importers of equipment and products within the affected subsectors (*e.g.,* manufacturers of stand-alone/self-contained air conditioning and refrigeration equipment, manufacturers of aerosol products, and manufacturers of foam products and appliances containing foam) and end-users of equipment within affected subsectors (*e.g.,* supermarkets, warehouse clubs/superstores, convenience stores). EPA estimates that approximately 162 of the 51,047 potentially affected small businesses could incur costs in excess of one percent of annual sales and that approximately 110 small businesses could incur costs in excess of three percent of annual sales. Because there is not a significant percentage of small businesses that may experience a significant impact, it can be presumed that this action will have no SISNOSE. Details of this analysis are presented in *Economic Impact Screening Analysis for Restrictions on the Use of Hydrofluorocarbons under Subsection (i) of the American Innovation and Manufacturing Act,* which is available in Docket ID No. EPA–HQ–OAR–2021–0643.

D. Unfunded Mandates Reform Act (UMRA)

This action contains a Federal mandate under UMRA, 2 U.S.C. 1531–1538, that may result in expenditures of $100 million or more for the private sector in any one year. This action contains no unfunded Federal mandate for State, local, or Tribal governments as described in UMRA, 2 U.S.C. 1531–1538. Accordingly, EPA has prepared a written statement required under section 202 of UMRA. The statement is included in the docket for this action and is briefly summarized here. This rule is estimated to result in average annual cost to the private sector of $99 million for the period 2025 through 2050. This rule is also estimated to result in average annual savings to the private sector of $430 million over the same time period, for a net average annual savings of approximately $330 million. When adjusted for inflation, the $100 million UMRA threshold established in 1995 is equivalent to approximately $184 million in 2022 dollars, the year dollars for the cost estimates in this final rule. While EPA has estimated net savings for affected subsectors in aggregate, the costs of this rule to some portions of the private sector are estimated to exceed the inflation-adjusted UMRA threshold in some years. This action is not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175. EPA is not aware of Tribal businesses engaged in activities that would be directly affected by this action. Based on the Agency's assessments, EPA also does not believe that potential effects, even if direct,

[184] Costs are provided in 2022 dollars.

would be substantial. Accordingly, this action will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action. EPA periodically updates Tribal officials on air regulations through the monthly meetings of the National Tribal Air Association and will share information on this rulemaking through this and other fora.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is subject to Executive Order 13045 because it is significant under section 3(f)(1) of Executive Order 12866, and the environmental health or safety risk addressed by this action has a disproportionate effect on children. Accordingly, we have evaluated the environmental health or safety effects of climate change on children.

GHGs, including HFCs, contribute to climate change. The GHG emission reductions resulting from implementation of this rule will further improve children's health. The assessment literature cited in EPA's 2009 and 2016 Endangerment Findings concluded that certain populations and life stages, including children, the elderly, and the poor, are most vulnerable to climate-related health effects. The assessment literature since 2016 strengthens these conclusions by providing more detailed findings regarding these groups' vulnerabilities and the projected impacts they may experience.

These assessments describe how children's unique physiological and developmental factors contribute to making them particularly vulnerable to climate change. Impacts to children are expected from heat waves, air pollution, infectious and waterborne illnesses, and mental health effects resulting from extreme weather events. In addition, children are among those especially susceptible to most allergic diseases, as well as health effects associated with heat waves, storms, and floods. Additional health concerns may arise in low-income households, especially those with children, if climate change reduces food availability and increases prices, leading to food insecurity within households. More detailed information on the impacts of climate change to human health and welfare is provided in section III.B of this preamble.

H. Executive Order 13211: Actions 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. This action applies to certain regulated substances and certain subsectors that use regulated substances, none of which are used to supply or distribute energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The 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. EPA carefully evaluated available information on HFC substitute production facilities and the characteristics of nearby communities to evaluate these impacts in the context of this rulemaking. Based on this analysis, EPA finds evidence of environmental justice concerns near facilities that produce substitutes for HFCs from cumulative exposure to existing environmental hazards in these communities. However, the Agency recognizes that the phasedown of HFCs and use restrictions in this final rule may cause significant changes in the location and quantity of production of HFCs and their substitutes, and that these changes may in turn affect emissions of hazardous air pollutants at chemical production facilities. Thus, given uncertainties about where and in what quantities HFC substitutes will be produced, EPA cannot determine the extent to which this rule will exacerbate or reduce existing disproportionate adverse effects.

EPA believes that it is not practicable to assess whether this action is likely to result in new disproportionate and adverse effects on communities with environmental justice concerns. A summary of the Agency's approach for considering potential environmental justice concerns as a result of this rulemaking can be found in Section X of the preamble, and our environmental justice analysis can be found in the RIA addendum, available in the docket. Based on the analysis, EPA determined that this rule will reduce emissions of potent GHGs, which will reduce the effects of climate change on communities with environmental justice concerns, including public health and welfare effects. As noted in Section X of this preamble, the Agency will continue to evaluate the impacts of this program on communities with environmental justice concerns and consider further action, as appropriate, to protect health in communities affected by HFC substitute production.

K. Congressional Review Act (CRA)

This action is subject to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act or CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 84

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Climate change, Emissions, Imports, Reporting and recordkeeping requirements.

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, EPA amends 40 CFR part 84 as follows:

PART 84—PHASEDOWN OF HYDROFLUOROCARBONS

■ 1. The authority citation for part 84 continues to read as follows:

Authority: Public Law 116–260, Division S, Sec. 103.

■ 2. Add subpart B, consisting of §§ 84.50 through 84.64, to read as follows:

Subpart B—Restrictions on the Use of Hydrofluorocarbons

Sec.

84.50 Purpose.
84.52 Definitions.
84.54 Restrictions on the use of hydrofluorocarbons.
84.56 Exemptions.
84.58 Labeling.
84.60 Reporting and recordkeeping.

84.62 Technology transitions petition requirements.
84.64 Global warming potentials.

Subpart B—Restrictions on the Use of Hydrofluorocarbons

§ 84.50 Purpose.

The purpose of the regulations in this subpart is to implement subsection (i) of 42 U.S.C. 7675, with respect to establishing restrictions on the use of a regulated substance in the sector or subsector in which the regulated substance is used, and to provide requirements associated with the submission of petitions seeking such restrictions.

§ 84.52 Definitions.

For the terms not defined in this subpart but that are defined in § 84.3, the definitions in § 84.3 shall apply. For the purposes of this subpart:

Blend containing a regulated substance means any mixture that contains one or more regulated substances.

Export means the transport of a product or specified component using a regulated substance from inside the United States or its territories to persons outside the United States or its territories, excluding United States military bases and ships for onboard use.

Exporter means the person who contracts to sell any product or specified component using a regulated substance for export or transfers a product or specified component using a regulated substance to an affiliate in another country.

Importer means any person who imports any product or specified component using or intended for use with a regulated substance into the United States. Importer includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term also includes:

(1) The consignee;

(2) The importer of record;

(3) The actual owner; or

(4) The transferee, if the right to withdraw merchandise from a bonded warehouse has been transferred.

Install means to complete a field-assembled system's circuit, including charging with a full charge, such that the system can function and is ready for use for its intended purpose.

Manufacture means to complete the manufacturing and assembly processes of a product or specified component such that it is ready for initial sale, distribution, or operation.

Product means an item or category of items manufactured from raw or recycled materials which performs a function or task and is functional upon completion of manufacturing. The term includes, but is not limited to: appliances, foams, fully formulated polyols, self-contained fire suppression devices, aerosols, pressurized dispensers, and wipes.

Retrofit means to upgrade existing equipment where the regulated substance is changed, which—

(1) Includes the conversion of equipment to achieve system compatibility; and

(2) May include changes in lubricants, gaskets, filters, driers, valves, o-rings, or equipment components for that purpose. Examples of equipment subject to retrofit include air-conditioning and refrigeration appliances, fire suppression systems, and foam blowing equipment.

Sector means a broad category of applications including but not limited to: refrigeration, air conditioning and heat pumps; foams; aerosols; chemical manufacturing; cleaning solvents; fire suppression and explosion protection; and semiconductor manufacturing.

Specified component for purposes of equipment in the refrigeration, air conditioning, and heat pump sector means condensing units, condensers, compressors, evaporator units, and evaporators.

Subsector means processes, classes of applications, or specific uses that are related to one another within a single sector or subsector.

Substitute means any substance, blend, or alternative manufacturing process, whether existing or new, that may be used, or is intended for use, in a sector or subsector with a restriction on the use of regulated substances and that has a lower global warming potential than the GWP limit or restricted list of regulated substances and blends in that sector or subsector.

System means an assemblage of separate components that typically are connected and charged in the field with a regulated substance or substitute to perform a function or task.

Use means for any person to take any action with or to a regulated substance, regardless of whether the regulated substance is in bulk, contained within a product, or otherwise, except for the destruction of a regulated substance. Actions include, but are not limited to, the utilization, deployment, sale, distribution, offer for sale or distribution, discharge, incorporation, transformation, or other manipulation.

§ 84.54 Restrictions on the use of hydrofluorocarbons.

(a) No person may manufacture or import any product in the following sectors or subsectors that uses a regulated substance as listed in this paragraph:

(1) Effective January 1, 2025, self-contained residential and light commercial air conditioning and heat pump products using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(2) Effective January 1, 2025, residential dehumidifiers using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(3) Effective January 1, 2025, household refrigerators and freezers using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(4) Effective January 1, 2025, retail food refrigeration—stand-alone units using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(5) Effective January 1, 2025, vending machines using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(6) Effective January 1, 2025, refrigerated transport—intermodal containers with the temperature of the refrigerant entering the evaporator (for direct heat exchange systems) or the temperature of the fluid exiting (for chillers) of −50 °C (−58 °F) or higher using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(7) Effective January 1, 2025, self-contained products in refrigerated transport—road and refrigerated transport—marine subsectors using any of the following: R–402A, R–402B, R–404A, R–407B, R–408A, R–410B, R–417A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–428A, R–434A, R–438A, R–507A, R–125/290/134a/600a (55/1/42.5/1.5), RS–44 (2003 formulation) or GHG–X5;

(8) Self-contained automatic commercial ice machines as follows:

(i) Effective January 1, 2026, ice maker products with a harvest rate as determined in accordance with 10 CFR 431.134, using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater as follows:

(A) Batch type, as defined in 10 CFR 431.132, with a harvest rate less than or equal to 1,000 pounds of ice per 24 hours;

(B) Continuous type, as defined in 10 CFR 431.132, with a harvest rate less than or equal to 1,200 pounds of ice per 24 hours;

(ii) Effective January 1, 2027, batch type ice maker products, as defined in 10 CFR 431.132, with a harvest rate greater than 1,000 pounds of ice per 24 hours, as determined in accordance with 10 CFR 431.134, and continuous type ice machine products, as defined in 10 CFR 431.132, with a harvest rate greater than 1,200 pounds of ice per 24 hours, as determined in accordance with 10 CFR 431.134, using any of the following: R–402A, R–402B, R–404A, R–407A, R–407B, R–407C, R–407F, R–408A, R–410A, R–410B, R–411A, R–411B, R–417A, R–417C, R–420A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–426A, R–428A, R–434A, R–437A, R–438A, R–442A, R–507A, HFC–134a, R–125/290/134a/600a (55/1/42.5/1.5), RB–276, RS–24 (2002 formulation), RS–44 (2003 formulation), GHG–X5, G2018C, or Freeze 12;

(9) Self-contained refrigerated food processing and dispensing products as follows:

(i) Effective January 1, 2027, products outside the scope of UL 621, ''Ice Cream Makers,'' Edition 7, dated May 07, 2010, with revisions through September 16, 2020, as of December 26, 2023, with refrigerant charge sizes less than or equal to 500 g using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(ii) Effective January 1, 2027, products outside the scope of UL 621, ''Ice Cream Makers,'' Edition 7, dated May 7, 2010, with revisions through September 16, 2020, as of December 26, 2023, with refrigerant charge sizes greater than 500 g, using any of the following: R–402A, R–402B, R–404A, R–407A, R–407B, R–407C, R–407F, R–407H, R–408A, R–410A, R–410B, R–411A, R–411B, R–417A, R–417C, R–420A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–426A, R–427A, R–428A, R–434A, R–437A, R–438A, R–507A, HFC–134a, HFC–227ea, R–125/290/134a/600a (55/1/42.5/1.5), RB–276, RS–24 (2002 formulation), RS–44 (2003 formulation), GHG–X5, or Freeze 12; and

(iii) Effective January 1, 2028, for refrigerated food processing and dispensing products within the scope of UL 621, ''Ice Cream Makers,'' Edition 7, dated May 7, 2010, with revisions through September 16, 2020, as of December 26, 2023, using any of the following: R–402A, R–402B, R–404A, R–407A, R–407B, R–407C, R–407F, R–407H, R–408A, R–410A, R–410B, R–411A, R–411B, R–417A, R–417C, R–420A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–426A, R–427A, R–428A, R–434A, R–437A, R–438A, R–507A, HFC–134a, HFC–227ea, R–125/290/134a/600a (55/1/42.5/1.5), RB–276, RS–24 (2002 formulation), RS–44 (2003 formulation), GHG–X5, or Freeze 12.

(10) Chillers, when a stand-alone product, as follows:

(i) Effective January 1, 2025, chillers for comfort cooling using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(ii) Effective January 1, 2025, chillers for ice rinks using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(iii) Effective January 1, 2026, chillers for industrial process refrigeration where the temperature of the fluid exiting the chiller is greater than −22 °F (−30 °C) using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(iv) Effective January 1, 2028, chillers for industrial process refrigeration where the temperature of the fluid exiting the chiller is greater than or equal to −50 °C (−58 °F) and less than or equal to −30 °C (−22 °F) using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(11) Effective January 1, 2027, self-contained products in data center, information technology equipment facility, and computer room cooling using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(12) Industrial process refrigeration products, other than chillers, as follows:

(i) Effective January 1, 2026, products with a refrigerant charge capacity of 200 pounds or greater and with the refrigerant temperature entering the evaporator higher than −30 °C (−22 °F) using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(ii) Effective January 1, 2026, products with a refrigerant charge capacity less than 200 pounds and with the refrigerant temperature entering the evaporator higher than −30 °C (−22 °F), using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 300 or greater;

(iii) Effective January 1, 2028, where the temperature of the refrigerant entering the evaporator is greater than or equal to −50 °C (−58 °F) and is less than or equal to −30 °C (−22 °F), using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(13) Motor vehicle air-conditioning as follows:

(i) Effective October 24, 2024, for Model Year 2025 and subsequent model year light-duty passenger cars and trucks (vehicles with a gross vehicle weight rating less than 8,500 lb) using or intended to use a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(ii) For Model Year 2028 and subsequent model year medium-duty passenger vehicles, heavy-duty pick-up trucks, and complete heavy-duty vans, as defined by the Federal Highway Administration at 40 CFR 86.1803–01, which have air conditioning equipment that will not be modified by upfitters using or intended to use a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(iii) Effective January 1, 2028, certain nonroad vehicles (agricultural tractors greater than 40 horsepower; self-propelled agricultural machinery; compact equipment; construction, forestry, and mining equipment; and commercial utility vehicles) using or intended to use a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(14) Effective January 1, 2025, foam products (but not including foam products in paragraph (a)(15) of this section) in the following subsectors using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater:

(i) Rigid polyurethane appliance foam, commercial refrigeration foam, laminated boardstock, marine flotation foam, sandwich panels, and slabstock;

(ii) Flexible polyurethane;

(iii) Integral skin polyurethane;

(iv) Polystyrene—extruded boardstock, billet, and extruded sheet;

(v) Phenolic insulation board and bunstock;

(vi) Polyisocyanurate laminated boardstock;

(vii) Polyolefin; and

(viii) Rigid polyurethane spray foam (*i.e.,* high-pressure two-component, low-

pressure two-component, and one-component foam sealants).

(15) Effective January 1, 2026, foam products in the formulations specified in paragraphs (a)(14)(i) through (viii) of this section that are for use in space and military applications, except spray and pour foams that are for use in space vehicles as defined in § 84.3, which are not subject to a use restriction.

(16) Aerosol products as follows:

(i) Effective January 1, 2025, all aerosol products using a regulated substance with a global warming potential of 150 or greater, except products that use HFC–43–10mee (1,1,1,2,3,4,4,5,5,5-pentafluoropentane) or HFC–245fa (1,1,1,3,3-pentafluoropropane) as an aerosol solvent or those that use HFC–134a in the following specific uses;

(A) Cleaning products for removal of grease, flux and other soils from electrical equipment or electronics;

(B) Refrigerant flushes;

(C) Products for sensitivity testing of smoke detectors;

(D) Lubricants and freeze sprays for electrical equipment or electronics;

(E) Sprays for aircraft maintenance;

(F) Sprays containing corrosion preventive compounds used in the maintenance of aircraft, electrical equipment or electronics, or military equipment;

(G) Pesticides for use near electrical wires or in aircraft, in total release insecticide foggers, or in certified organic use pesticides for which EPA has specifically disallowed all other lower-GWP propellants;

(H) Mold release agents and mold cleaners;

(I) Lubricants and cleaners for spinnerets for synthetic fabrics;

(J) Duster sprays specifically for removal of dust from photographic negatives, semiconductor chips, specimens under electron microscopes, and energized electrical equipment;

(K) Adhesives and sealants in large canisters;

(L) Document preservation sprays;

(M) Wound care sprays;

(N) Topical coolant sprays for pain relief;

(O) Products for removing bandage adhesives from skin.

(ii) Effective January 1, 2028, all aerosol products using a regulated substance with a global warming potential of 150 or greater.

(b) Effective three years after the dates listed for each subsector in paragraph (a) of this section, no person may sell, distribute, offer for sale or distribution, make available for sale or distribution, purchase or receive for sale or distribution, or attempt to purchase or receive for sale or distribution, or export any product that uses a regulated substance as listed in paragraph (a).

(c) No person may install any system, nor have any such system be installed through their position as a designer, owner, or operator of that system, in the following sectors or subsectors that uses a regulated substance as listed in this paragraph (c):

(1) Effective January 1, 2025, residential or light commercial air-conditioning or heat pump systems using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater, except for variable refrigerant flow air-conditioning and heat pump systems;

(2) Effective January 1, 2026, variable refrigerant flow systems for use as residential and light commercial air-conditioning or heat pumps, using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(3) Effective January 1, 2025, chillers for comfort cooling using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(4) Effective January 1, 2025, ice rinks using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(5) Effective January 1, 2026, chillers for industrial process refrigeration where the temperature of the fluid exiting the chiller is greater than −22 °F (−30 °C) using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(6) Effective January 1, 2028, chillers for industrial process refrigeration where the temperature of the fluid exiting the chiller is greater than or equal to −50 °C (−58 °F) and less than or equal to −30 °C (−22 °F) using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(7) Effective January 1, 2025, refrigerated transport—intermodal containers with the temperature of the refrigerant entering the evaporator (for direct heat exchange systems) or the temperature of the fluid exiting (for chillers) of −50 °C (−58 °F) or higher using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(8) Effective January 1, 2025, refrigerated transport—road or refrigerated transport—marine systems using any of the following: R–402A, R–402B, R–404A, R–407B, R–408A, R–410B, R–417A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–428A, R–434A, R–438A, R–507A, R–125/290/134a/600a (55/1/42.5/1.5), RS–44 (2003 formulation) or GHG–X5;

(9) Effective January 1, 2026, cold storage warehouse systems as follows:

(i) Systems with a refrigerant charge capacity of 200 pounds or greater, that are not the high temperature side of a cascade system, using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(ii) Systems with a refrigerant charge capacity less than 200 pounds, using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 300 or greater;

(iii) Cascade refrigerant systems using a regulated substance, or a blend containing a regulated substance, on the high temperature side of the system with a global warming potential of 300 or greater;

(10) Industrial process refrigeration systems, other than chiller systems, as follows:

(i) Effective January 1, 2026, systems with a refrigerant charge capacity of 200 pounds or greater and with the refrigerant temperature entering the evaporator higher than −30 °C (−22 °F), that are not the high temperature side of a cascade system, using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(ii) Effective January 1, 2026, systems with a refrigerant charge capacity less than 200 pounds and with the refrigerant temperature entering the evaporator higher than −30 °C (−22 °F), using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 300 or greater;

(iii) Effective January 1, 2026, the high temperature side of cascade systems with the refrigerant temperature entering the evaporator higher than −30 °C (−22 °F) using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 300 or greater;

(iv) Effective January 1, 2028, where the temperature of the refrigerant entering the evaporator is greater than or equal to −50 °C (−58 °F) and is less than or equal to −30 °C (−22 °F), using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(11) Effective January 1, 2026, remote condensing units in retail food refrigeration systems as follows:

(i) Systems with a refrigerant charge capacity of 200 pounds or greater, that are not the high temperature side of a cascade system, using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(ii) Systems with a refrigerant charge capacity less than 200 pounds using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 300 or greater;

(iii) Cascade refrigerant systems using a regulated substance, or a blend containing a regulated substance, on the high temperature side of the system with a global warming potential of 300 or greater;

(12) Effective January 1, 2027, supermarket systems as follows:

(i) Systems with a refrigerant charge capacity of 200 pounds or greater, that are not the high temperature side of a cascade system, using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 150 or greater;

(ii) Systems with a refrigerant charge capacity less than 200 pounds using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 300 or greater;

(iii) Cascade refrigerant systems using a regulated substance, or a blend containing a regulated substance, on the high temperature side of the system with a global warming potential of 300 or greater;

(13) Effective January 1, 2027, data center, information technology equipment facility, and computer room cooling systems using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater;

(14) Effective January 1, 2027, automatic commercial ice machines with a remote condenser using any of the following: R–402A, R–402B, R–404A, R–407B, R–408A, R–410B, R–417A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–428A, R–434A, R–438A, R–507A, R–125/290/134a/600a (55/1/42.5/1.5), RS–44 (2003 formulation), or GHG–X5.

(15) Effective January 1, 2027, refrigerated food processing and dispensing equipment with a remote condenser using any of the following: R–402A, R–402B, R–404A, R–407A, R–407B, R–407C, R–407F, R–407H, R–408A, R–410A, R–410B, R–411A, R–411B, R–417A, R–417C, R–420A, R–421A, R–421B, R–422A, R–422B, R–422C, R–422D, R–424A, R–426A, R–427A, R–428A, R–434A, R–437A, R–438A, R–507A, HFC–134a, HFC–227ea, R–125/290/134a/600a (55/1/42.5/1.5), RB–276, RS–24 (2002 formulation), RS–44 (2003 formulation), GHG–X5, or Freeze 12.

(d) The compliance date for the installation of a system in paragraph (c) of this section for the industrial process refrigeration systems with a January 1, 2026, compliance date, retail food—supermarket, cold storage warehouse, and ice rink subsectors is extended one year beyond the specified compliance date when an approved building permit issued prior to October 5, 2023, specifies the use of a restricted regulated substance, or blend containing a regulated substance, in a system detailed in that permit.

(e) The following actions, upon charging the system to full charge, are considered an installation of a refrigeration, air conditioning, and heat pump system under paragraph (c) of this section:

(1) Assembling a system for the first time from used or new components;

(2) Increasing the cooling capacity, in BTU per hour, of an existing system; or

(3) Replacing 75 percent or more of evaporators (by number) and 100 percent of the compressor racks, condensers, and connected evaporator loads of an existing system.

(f) Effective upon the dates listed for each subsector in paragraphs (a) and (c) of this section, no person may manufacture, import, sell, distribute, offer for sale or distribution, make available for sale or distribution, purchase or receive for sale or distribution, or attempt to purchase or receive for sale or distribution, or export any product or specified component that is not labeled in accordance with § 84.58.

(g) Every product or system using or intended to use a regulated substance or blend containing a regulated substance that is manufactured, imported, sold, distributed, offered for sale or distribution, made available for sale or distribution, purchased or received for sale or distribution, or attempted to be purchased or received for sale or distribution, or exported in contravention of paragraphs (a) through (f) of this section constitutes a separate violation of this subpart.

(h) No person may provide false, inaccurate, or misleading information to EPA when reporting or providing any communication required under this subpart.

(i) No person may falsely indicate through marketing, packaging, labeling, or other means that a product or specified component uses or is intended to use a regulated substance, blend containing a regulated substance, or substitute that differs from the regulated substance, blend containing a regulated substance, or substitute that is actually used.

(j) Section (k) of the AIM Act states that sections 113, 114, 304, and 307 of the Clean Air Act (42 U.S.C. 7413, 7414, 7604, 7607) shall apply to this section and any rule, rulemaking, or regulation promulgated by the Administrator pursuant to this section as though this section were expressly included in title VI of that Act (42 U.S.C. 7671 *et seq.*). Violation of this part is subject to Federal enforcement and the penalties laid out in section 113 of the Clean Air Act.

§ 84.56 Exemptions.

(a) The regulations under this subpart, including §§ 84.54, 84.58, 84.60, and 84.62, do not apply to:

(1) Equipment in existence in the United States prior to December 27, 2020; and

(2) Any product using a regulated substance or a blend containing a regulated substance, or intended to use a regulated substance or a blend containing a regulated substance, in an application listed at § 84.13(a), for a year or years for which that application receives an application-specific allowance as defined at § 84.3.

(b) The prohibitions on the manufacture, import, sale, distribution, offer for sale or distribution, or export of products in § 84.54(a) and (b) do not apply to components that use, or are intended to use, any regulated substance.

(c) The prohibitions on the sale, distribution, offer for sale or distribution, or export of products in § 84.54(b) do not apply to:

(1) Products after a period of ordinary utilization or operation by a consumer; or

(2) Products within the disposal or recycling chain.

(d) The prohibition on the import of used products in § 84.54(a) does not apply to:

(1) Systems in use by a conveyance in trade travelling into U.S. jurisdiction including refrigeration, air-conditioning, and heat pump systems in operation aboard ships, planes, motor vehicles, and intermodal containers;

(2) Products in the possession of a consumer for personal use; or

(3) Products imported solely for recycling or disposal.

§ 84.58 Labeling.

(a) Effective upon the dates listed for each subsector in § 84.54(a) and (c), any

product, specified component, or system manufactured, imported, or installed within the refrigeration, air-conditioning, and heat pump sector using any regulated substance, or blend containing any regulated substance, regardless of global warming potential must have a permanent label compliant with paragraph (d) of this section stating:

(1) The chemical name(s) or American Society of Heating, Refrigerating and Air-Conditioning Engineers designation of the regulated substance(s) or blend containing a regulated substance;

(2) The full date, or at minimum the four-digit year, of manufacture. For field-charged system installations, this shall be the date of first charge and the label shall be completed at first charge. For MVACs listed in § 84.54(a)(13)(i) and (ii), the model year may be used instead of the date of manufacture.

(3) An indication of the full refrigerant charge capacity, either as the specific charge size of the system, or the charge size as it relates to the threshold for the relevant subsector. This means an indication that the charge is either two hundred pounds or more, or less than two hundred pounds, in the following subsectors:

(i) Industrial process refrigeration (without chillers);

(ii) Retail food refrigeration—supermarket systems;

(iii) Retail food refrigeration—remote condensing units; and

(iv) Cold storage warehouses.

(4) An indication of the charge size of the equipment or the charge size as it relates to the threshold for self-contained refrigerated food processing and dispensing products. This means an indication that the charge is greater than or equal to 500 grams, or less than 500 grams.

(5) An indication of the harvest rate, either as the specific harvest rate of the equipment, or the harvest rate as it relates to the threshold for self-contained automatic commercial ice machines, and the type of ice machine (either batch or continuous). This means an indication that that harvest rate is either greater than 1,000 pounds of ice per day or less than or equal to 1,000 pounds of ice per day for batch type ice makers, and an indication that the harvest rate is either greater than 1,200 pounds of ice per day or less than or equal to 1,200 pounds of ice per day for continuous type ice makers.

(6) An indication of the designed exiting fluid temperature range for industrial process refrigeration chillers and the designed refrigerant temperature range when it enters the evaporator for industrial process refrigeration systems without chillers.

(b) Effective upon the date listed for each subsector in § 84.54(c), or the earliest date should the specified component be used in multiple subsectors, any specified component manufactured or imported and intended for use in those subsectors that uses or is intended to use any regulated substance, or blend containing any regulated substance, regardless of global warming potential, must have a permanent label compliant with paragraph (c) of this section containing the information in paragraph (a)(1) of this section. For specified components that are intended for use with a regulated substance or blends containing a regulated substance that exceed the applicable GWP limit or HFC restriction, the label must state ''For servicing existing equipment only'' in addition to the other required labeling elements.

(c) Effective upon the dates listed for each subsector in § 84.54(a) and (c), any product manufactured, imported, or installed within the foam or aerosol sectors using any regulated substance, or blend containing any regulated substance, regardless of global warming potential, must have a permanent label compliant with paragraph (d) of this section stating:

(1) The chemical name(s) or American Society of Heating, Refrigerating and Air-Conditioning Engineers designation of any regulated substance(s) or blend containing a regulated substance used;

(2) If an HFC with a GWP higher than the limit is used or if multiple HFCs are used, either the weights of the HFC(s) relative to the other blowing agents, propellants, solvents, or to the other HFCs must be on the label, or the label must state ''GWP<150.''

(3) The full date, or at minimum the four-digit year, of manufacture.

(d) The permanent label must be:

(1) In English;

(2) Durable and printed or otherwise labeled on, or affixed to, an external surface of the product;

(3) Readily visible and legible;

(4) Able to withstand open weather exposure without a substantial reduction in visibility or legibility, if applicable; and

(5) Displayed on a background of contrasting color.

(e) The requirements of this section may be met through the use of existing labels required under other authorities that contain the necessary information. The labeling requirements may also be met by providing the required information in packaging materials or through an on-product QR code. The packaging must be present with the product or specified component at the point of sale and import. The QR code must direct to the required information and meet all the requirements of the on-product label. The QR code must be functional and include adjacent text to indicate the purpose of the QR code.

(f) For products sold or distributed, offered for sale or distribution, or made available electronically through online commerce, the label must be readily visible and legible in either photographs of the products, photographs of packaging materials that contain the required information, or an item description that contains the required information.

(g) Any product or system, using a regulated substance manufactured, imported, or installed after the compliance date for that sector or subsector, that lacks a label will be presumed to use a regulated substance with a global warming potential that exceeds the limit or is specifically listed in § 84.54(a) or (c).

§ 84.60 Reporting and recordkeeping.

(a) *Reporting.* (1) Effective January 1, 2025, any person who imports or manufactures a product or specified component within a sector or subsector listed in § 84.54 that uses or is intended to use a regulated substance or blend containing a regulated substance must comply with the following reporting and recordkeeping requirements:

(i) Reports must be submitted annually to EPA within 90 days of the end of the reporting period;

(ii) Reports must be submitted electronically in a format specified by EPA;

(iii) Each report shall be signed and attested;

(2) Each report must include:

(i) The reporting entity's name, address, contact person, email address, and phone number of the contact person;

(ii) The year covered under the report and the date of submittal;

(iii) All applicable NAICS code(s); and

(iv) A statement of certification that the data are accurate and that the products use regulated substances, or blends containing regulated substances, that meet the requirements of § 84.54, and are labeled in accordance with § 84.58.

(3) Reports for products and specified components in the refrigeration, air-conditioning, and heat pump sector must also include the following information:

(i) For each set of products or specified components with the same

combination of charge size and regulated substance(s), the report must specify the subsector of the product or specified component based on the categorization in § 84.54; the identity of the regulated substance or blend containing a regulated substance, the charge size (including holding charge or no charge, if applicable), and the number of units imported, manufactured, and exported;

(ii) For products and specified components that include closed-cell foam containing a regulated substance, the report must include the identity of the regulated substance(s) in the foam, the mass of the regulated substance(s) in the foam, and the number of products manufactured, imported, or exported with the same combination of mass and identity of regulated substance(s) within the closed-cell foam.

(iii) Total mass in metric tons of each regulated substance or blend containing a regulated substance contained in all products or specified components manufactured, imported, and exported annually.

(4) Reports for products in the foam sector must also include the following information:

(i) For containers or foam blowing products that contain foam blowing agent and are intended for use to blow foam, the report must specify the subsector of the product based on the categorization in § 84.54, the identity of the regulated substance(s) contained in the product, the mass of the regulated substance(s) used, and the number of units manufactured, imported, or exported.

(ii) For each set of products, other than containers described in paragraph (a)(4)(i) of this section, with the same combination of density and identity of regulated substance(s), the report must specify the subsector of the product based on the categorization in § 84.54, the identity of the regulated substance(s) contained in the foam, the volume of foam, and the number of units manufactured, imported, or exported; and

(iii) Total mass in metric tons of each regulated substance contained in all products manufactured, imported, and exported annually.

(5) Reports for products in the aerosol sector must also include the following information:

(i) For each set of products with the same combination of regulated substance(s) and quantity of regulated substance(s), the report must specify the subsector of the product based on the categorization in § 84.54, the identity of the regulated substance(s), their percentages if more than one regulated substance is used, and the number of units manufactured, imported, or exported; and

(ii) Total mass in metric tons of each regulated substance contained in all products manufactured, imported, and exported annually.

(6) Any failure by a domestic manufacturer or importer of a product or specified component that uses or is intended to use a regulated substance or a blend containing a regulated substance to report required information or provide accurate information pursuant to this section shall be considered a violation of this section.

(b) *Recordkeeping.* (1) Each domestic manufacturer or importer of a product or specified component within a sector or subsector listed in § 84.54 that uses or is intended to use a regulated substance or blend containing a regulated substance must retain the following records for a minimum of three years from the date of creation of the record and must make them available to EPA upon request:

(i) Records that form the basis of the reports required in paragraph (a) of this section; and

(ii) The entity to whom the product or specified component using a regulated substance were sold, distributed, or in any way conveyed to.

(2) In addition to the records in paragraph (b)(1) of this section, importers of products and specified components using or intended to use a regulated substance or a blend containing a regulated substance must retain the following records for each import for a minimum of three years from the date of creation of the record and must make them available to EPA upon request:

(i) A copy of the bill of lading;

(ii) The invoice;

(iii) The U.S. Customs and Border Protection entry documentation;

(iv) Port of entry;

(v) Country of origin and the country of shipment to the United States.

§ 84.62 Technology transitions petition requirements.

(a) Each petition sent to the Administrator under subsection (i) of the AIM Act shall include the following elements:

(1) The sector and subsector(s) for which restrictions on use of the regulated substance would apply.

(2) For each sector and subsector identified in a petition, the restriction on the use of a regulated substance through any of the following:

(i) A global warming potential limit that will apply to regulated substances or blends containing regulated substances with global warming potentials at or above that limit;

(ii) Identification of the regulated substance(s) or blend(s) containing a regulated substance to be restricted and its global warming potential according to § 84.64; or

(iii) Another form of restriction with an explanation for why a restriction under paragraph (a)(2)(i) or (ii) of this section would not be appropriate.

(3) For each restriction on the use of a regulated substance contained in a petition, the effective date on which the regulated substance use restriction would commence and information supporting the identified effective date.

(4) Address whether the Administrator negotiate with stakeholders in accordance with the negotiated rulemaking procedure provided for under subchapter III of chapter 5 of title 5, United States Code, including an explanation of their position to support or oppose the use of the negotiated rulemaking procedure.

(5) For each requested restriction, to the extent practicable, information related to the considerations provided in subsection (i)(4) of 42 U.S.C. 7675 to facilitate the Agency's review of the petition.

(b) Any petition submitted to the Administrator must be submitted electronically using the methods prescribed by the Administrator.

§ 84.64 Global warming potentials.

(a) The global warming potential of a regulated substance is the exchange value for the regulated substance listed in subsection (c) of the AIM Act and in appendix A to this part 84.

(b) For blends containing a regulated substance, the global warming potential of the blend is the sum of the global warming potentials of each constituent of the blend multiplied by the nominal mass fraction of that constituent within the blend. The global warming potential of each constituent shall be as follows:

TABLE 1 TO PARAGRAPH (b)

Substance name	100-Year global warming potential
2-chloropropane	1
Acetone	0.5
Acetone/isopentane blend	1
Dimethyl ether	1
Formic acid	5
HCFO–1224yd(Z)	1
HCFO–1233yd(Z)	1
HCFO–1233zd(E)	4
HCO–1130(E)	5
HFE–347pcf2	987
HFE–449s1 (HFE–7100)	297
HFE–569sf2	59
HFO–1234yf	1
HFO–1234ze(E)	1
HFO–1336mzz(E)	26
HFO–1336mzz(Z)	2
Hydrocarbons (C5–C20)	1–2.7
Methoxytridecafluoroheptane (MPHE) isomers	2.5
Methyl formate	13
Methylal (dimethoxymethane)	1
Oxygenated organic solvents (esters, ethers, alcohols, ketones)	1–13
R–170 (ethane)	5.5
R–290 (propane)	3.3
R–600 (butane)	4
R–600a (isobutane)	1
R–717 (ammonia)	1
R–744 (carbon dioxide)	1
R–1150 (ethylene)	3.7
R–1270 (propylene)	1.8
Saturated light hydrocarbons (C3–C6)	1–4

(c) For constituents of a blend containing a regulated substance that do not have a global warming potential as provided in paragraph (b) of this section, the constituent and its nominal mass fraction in the blend shall be excluded from the calculation in paragraph (b).

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